

THE FREE STATE FOUNDATION

A Free Market Think Tank for Maryland...Because Ideas Matter

MEDIA ADVISORY

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[FSF's Randolph May Submits Comments on the FCC's Lifeline Proposals](#)

Free State Foundation President Randolph May submitted comments yesterday in response to the Federal Communications Commission's request for comments regarding proposed changes to the Lifeline program.

Below are the **Introduction and Summary** and **Conclusion** of the Free State Foundation's comments submitted yesterday.

A PDF of the complete FSF comments, with footnotes, is [here](#).

Introduction and Summary

These comments are submitted in response to the *Notice of Proposed Rulemaking* released by the Commission on December 1, 2017. The *Notice* proposes changes to the Lifeline program which, however well-intentioned, would alter the program in a way that risks frustrating its primary purpose. As an important part of the Commission's overall Universal Service programs, the primary purpose of the Lifeline program is to ensure that low-income persons have access to communications services. Of course, without access to such services, low-income persons necessarily may encounter more difficulties taking advantage of educational and job opportunities that are crucial to improving their lives, as well as availing themselves of important health and safety services. With the primary purpose of the Lifeline program in mind, these initial comments focus primarily on two aspects of the Notice: (1) the proposal to discontinue Lifeline support for service provided over non-facilities-based networks; and (2) the proposal to adopt a self-enforcing "hard cap" budget mechanism. While I understand the impulse that motivates both of them, I oppose adoption of these proposals without a further convincing demonstration of need. At the same time, I support the pro-consumer, pro-empowerment proposal to allow providers to meet the minimum service standard through plans that

provide subscribers with a particular number of "units" that can be used either for voice minutes or broadband service. I commend the Commission for seeking comment on this proposal.

Before addressing the proposals specifically, however, it is important to understand the context in which the proposals ought to be considered. The principle of promoting "universal service," that is, promoting access to communications services for all Americans, has been central to federal and state communications policy for many decades. Lifeline service is an important means of effectuating the policy of promoting universal service through a "safety net" mechanism. In 2015, the Commission said: "The purpose of the Lifeline program is to provide a hand up, not a hand out, to those low-income consumers who truly need assistance connecting to and remaining connected to telecommunications and information services." If Lifeline service is properly formulated and implemented, so that it aids low-income persons who "truly need assistance," and if it does so in an efficient and effective manner free from fraud and waste, then it should remain a cornerstone of the nation's universal service policy. Indeed, if run properly, Lifeline is the most targeted means of providing subsidies to those truly in need of assistance. But note that the USF surcharge that all consumers pay for all interstate and international calls currently stands at 19.5%. This surcharge has the effect of depressing usage for *all* consumers, *including those at the lower end of the income scale*.

Importantly, keeping all members of society connected, regardless of income, redounds to the benefit of those who can afford to pay as well as those who cannot afford to pay for access to the network. This result is attributable to the "network effects" principle: The larger the number of people a network reaches, the more valuable the network is to each user.

My free market-oriented philosophical and policy preferences are long-standing and well known. At the same time, I have been a long-time supporter of a properly formulated and implemented Lifeline program that operates, within boundaries, as a "safety net" to aid those *truly* in need. This means it should not be just another federal program that is structured, or that evolves, in a way so that its subsidies inexorably expand to subsidize those further up the income scale who are not truly in need. While I have actively supported measures to further reform the subsidy program to reduce waste and fraud so it remains viable and sustains public support, I do not believe support for an important safety net program, properly run to eliminate waste and fraud to the maximum extent possible, is inconsistent with my free market orientation. It is in this context that I offer these comments.

Conclusion

In announcing the Commission's consideration of the pending Section 706 broadband deployment report, Chairman Pai declared: "Far too many Americans still lack access to high-speed Internet, and that's why the FCC's top priority under my leadership remains bridging the digital divide and bringing digital opportunity to all Americans." Chairman Pai's focus on bridging whatever digital divide remains is commendable, and he already has taken important steps in this regard. Maintaining a sound Lifeline program that meets its primary objective of ensuring that low-income persons have access to affordable communications services is an important element in achieving Chairman Pai's priority. The positions articulated in these comments are consistent with achieving that priority.

A PDF of the complete FSF comments, with footnotes, is [here](#).

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Randolph J. May, President of the Free State Foundation, is a former FCC Associate General

Counsel and a former Chairman of the American Bar Association's Section of Administrative Law and Regulatory Practice. Mr. May is a past Public Member and current Senior Fellow of the Administrative Conference of the United States, and a Fellow at the National Academy of Public Administration.

Mr. May is a nationally recognized expert in communications law, Internet law and policy, and administrative law and regulatory practice. He is the author of more than 200 scholarly articles and essays on communications law and policy, administrative law, and constitutional law. Most recently, Mr. May is the co-author, with FSF Senior Fellow Seth Cooper, of the recently released, [#CommActUpdate - A Communications Law Fit for the Digital Age](#) as well as [The Constitutional Foundations of Intellectual Property](#), and is the editor of the book, [Communications Law and Policy in the Digital Age: The Next Five Years](#). He is the author of *A Call for a Radical New Communications Policy: Proposals for Free Market Reform*. And he is the editor of the book, *New Directions in Communications Policy* and co-editor of other two books on communications law and policy: *Net Neutrality or Net Neutering: Should Broadband Internet Services Be Regulated And Communications Deregulation and FCC Reform*.

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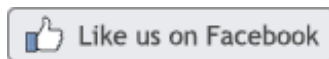
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