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COVID-19: Federal Broadband Policy Update

In response to the coronavirus pandemic, the Federal Communications Commission (FCC) recently waived the gift rules for the E-Rate and Rural Healthcare (RHC) programs, as well as extended the RHC application window. The action now permits communications service providers to offer, and eligible E-Rate and RHC program participants to solicit and accept gifts, such as improved capacity, Wi-Fi hotspots, networking gear, or other things of value to assist health care providers, schools, and libraries through September 30, 2020. The Commission also waived the recertification and reverification requirements for Lifeline program eligibility, which provides discount communications service to low-income subscribers. The FCC also granted temporary spectrum access to wireless broadband providers to meet increased high-speed Internet needs in rural areas.

FCC Waives Gift Rules for E-Rate and Rural Healthcare

Schools & Libraries

Since most school districts have closed nationwide, the ability to provide instruction to students at home through remote learning applications has become essential. The FCC reports that “some service providers are partnering with schools and libraries to provide mobile hotspots and other wireless broadband-enabled devices to students without broadband access at home.”

The FCC’s Wireline Bureau, acting on its own motion, took action to [waive](#) the gift rules for communication service providers to offer, and E-Rate eligible schools and libraries to solicit and accept a variety of donations, including “broadband connections, devices, networking equipment, or other things of value that could help students, teachers, and patrons affected by school and library closures.” The Commission is taking a more “liberal” policy position as it contemplates what is considered in the “public interest.” For example, it said it would “waive any other requirement, to the extent that is necessary, in these special circumstances to effectuate the relief granted.”

In a statement released after the bureau’s action, Commissioner Jessica Rosenworcel said a national plan is needed to ensure every student is connected.

“This should include using our universal service powers to provide hotspots for loan for students caught in the Homework Gap so that no child is offline. Teachers and school administrators are asking for this right now and we can help” said the commissioner.

The bureau noted that the waiver will remain in effect through September 30, 2020 to “provide flexibility to schools and libraries as they deal with COVID-19-related closures.”

Meanwhile, the Software & Information Industry Association (SIIA) in partnership with the White House Office of Science and Technology Policy, has launched [Tech for Learners](#) to make online learning resources more accessible to schools, teachers, administrators, students, and the workforce, as they all navigate educational challenges during the COVID-19 outbreak.

This week on Capitol Hill, Senators Amy Klobuchar (D-MN) and Kevin Cramer (R-ND) [introduced](#) the *Keeping Critical Connections Act*, which would appropriate \$2 billion to ensure that students and their families in rural areas maintain broadband connectivity during the pandemic. The bill would establish a *Keeping Critical Connections Fund* at the FCC, which would compensate rural broadband providers with fewer than 250,000 customers, if they provided free or discounted broadband services or upgrades for low-income families who could not afford to pay their bills or provided distance learning capability for students. Reps. Peter Welch (D-VT) and Roger Marshall (R-KS) are planning to introduce companion legislation in the House.

And Senators Ed Markey (D-MA), Dick Durbin (D-IL), and Richard Blumenthal (D-CT) sent a [letter](#) to the Federal Trade Commission and the Department of Education requesting the agencies issue joint guidance to ensure that the same privacy protections students are afforded while using software and online tools in schools also apply to at-home remote learning during the coronavirus pandemic.

Rural Healthcare

In light of the “compelling and unique circumstances” caused by the pandemic, and to support telemedicine services, the Wireline Competition Bureau also [waived](#) the Rural Healthcare (RHC) program gift rules. Examples of gifts include free upgrades to connections, connected devices, equipment and other services for RHC program participants who provide care via telemedicine.

The waiver “is limited to health care providers involved in the screening and treatment of patients for COVID-19 and for providing services to other patients in an effort to both help mitigate the spread of COVID-19 and devote limited on-site medical resources towards treatment of COVID-19.” The bureau said it would waive any other requirement, to the extent necessary, “to effectuate the relief granted, including restrictions on certification requirements.”

The bureau also noted that “the increased demand on rural health care providers will put them under great strain, and demand for telemedicine and telehealth services to effectively screen and treat COVID-19 will require increased connectivity and broadband services.”

Commenting on the bureau’s action, FCC Chairman Ajit Pai said the coronavirus is challenging America’s hospitals and health care providers.

“Telemedicine will play an increasingly critical part in treating patients and helping health care providers maximize their impact on their communities,” said Pai.

In addition to the gift waiver, the FCC also [action](#) to: extend the RHC program application window until June 30, 2020; eased competitive bidding requirements for health care providers with expiring evergreen contracts; and provided an extension of several procedural deadlines.

FCC Waives Lifeline Program Requirements

The Wireline Competition Bureau also [waived](#) the Lifeline eligibility reverification and recertification requirements in an effort to ease burdens on low-income households during the pandemic. The Lifeline

program provides a \$9.25 monthly discount on the cost of wireless and wireline phone and internet service for eligible subscribers. The bureau said requiring Lifeline subscribers to respond to recertification or reverification efforts over the next 60 days would be “an unreasonable burden on low-income households.”

Reverification is a one-time process to confirm that a subscriber is [eligible](#) for Lifeline service. Subscribers are recertified one year after the date that they are successfully reverified and then annually. If a subscriber’s eligibility cannot be verified using automated data sources during the recertification and reverification process, the subscriber is given 60 days to demonstrate his or her continued eligibility.

“We will continue to monitor the situation to determine whether any additional waiver of these rules and deadlines is needed beyond the 60-day waiver period and will otherwise direct USAC [Universal Service Administrative Company] to promptly send or re-send recertification and reverification notices, as needed, to subscribers impacted by the waiver at the end of the 60-day waiver period,” the bureau said.

In a [letter](#) to FCC Chairman Pai, Senators Richard Blumenthal (D-CT), Ed Markey (D-MA), Michael Bennet (D-CO), and Brian Schatz (D-HI) urged the Commission to use its authority “to take every action necessary to ensure that Lifeline is available and fits the needs of subscribers.”

Rep. Doris Matsui (D-CA) also sent a [letter](#) to Chairman Pai requesting the FCC ensure that eligible subscribers can access the Lifeline program “as quickly as possible” and take additional measures to promote awareness of the Lifeline program.

The National Digital Inclusion Alliance (NDIA) has compiled a [list](#) of free and low-cost Internet plans offered by service providers. The list includes established, nationally available low-cost plans offered by nonprofit organizations. Most have eligibility limitations linked to income or program enrollment.

FCC Grants Temporary Spectrum Access for Rural Broadband

The FCC’s Wireless Telecommunications Bureau has also recently [granted](#) wireless Internet service providers (WISPs) temporary access to use the lower 45 MHz of spectrum in the 5.9 GHz band for 60 days. These WISPs serve 300 counties in 29 states and the bureau’s action will assist these providers in meeting increased broadband needs during the coronavirus pandemic.

The Special Temporary Authorities granted will help serve communities in Arizona, California, Colorado, Florida, Idaho, Illinois, Indiana, Kansas, Kentucky, Massachusetts, Maryland, Maine, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Mexico, Ohio, Oklahoma, Oregon, Pennsylvania, Texas, Virginia, Vermont, Washington, Wisconsin, and West Virginia. The Commission said a list of individual companies and the counties they serve will be posted on FCC.gov in the near future.

“Like everybody else, rural Americans are facing an increased need for broadband service as more and more workers, students, and families stay home during this national emergency,” said Chairman Pai. “Fixed wireless broadband providers deliver this service for many communities, especially those hardest for other providers to reach. Giving them access to the 5.9 GHz band will help them meet their customers’ needs during these challenging times.”

President Trump Signs Broadband Mapping Bill

President Trump [signed](#) into law the *Broadband Deployment Accuracy and Technological Availability (DATA) Act* ([S. 1822](#)), which requires the FCC to collect and disseminate granular broadband service availability data

(broadband maps) from wired, fixed-wireless, satellite, and mobile broadband providers. The bill also sets strong parameters for service availability data collected from mobile broadband providers to ensure accuracy. It also creates a process for consumers; state, local, and tribal governments; and other groups to challenge FCC maps with their own data, and requires the FCC to determine how to structure that process without making it overly burdensome on challengers.

Next Steps

NATaT will continue to monitor and provide updates on any federal legislative and regulatory broadband actions related to the COVID-19 pandemic and any resulting impacts on its members. If you have any questions, please contact NATaT Senior Advisor David Hoover at (703) 919-2994 or dhoover@tfgnet.com.