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FCC ISSUES NOI AND NPRM TO OVERHAUL UNIVERSAL SERVICE

On April 21, 2010, the Federal Communications Commission (“FCC”) issued a Notice of Inquiry (“NOI”) and a Notice of Proposed Rulemaking (“NPRM”) to reform the universal service fund. In particular, the NOI and NPRM seek to implement the National Broadband Plan’s recommendations, which include, without limitation, cutting inefficiencies in the current universal service support mechanism and establishing a Connect America Fund (“CAF”) that would directly support broadband without increasing the overall size of the universal service fund.

In the [order](#), the FCC seeks comment on three discrete groups of issues. Specifically, in the NOI, the FCC seeks comment on (1) the use of an economic model to target support for areas where there is no private sector business case for carriers to provide broadband and voice services; and (2) how to quickly provide broadband to consumers in underserved areas while the FCC works to implement the CAF. In the NPRM, the FCC seeks comment on specific proposals to cap and cut the legacy high-cost programs and to realize savings that can be shifted to targeted investment in broadband infrastructure.

Use of an Economic Model: Among other inquiries, the FCC seeks comment on whether it should develop a nationwide broadband model to estimate support levels for the provision of broadband and voice services in areas that are currently served by the high-cost support as well as in underserved areas. The FCC also seeks comment on the cost basis for support, for example, such as whether the CAF should be based on forward-looking costs of an efficient provider, rather than historic, embedded costs.

Rapid Funding of Broadband: The Commission seeks comment on whether some form of competitive procurement auction could be an efficient mechanism to determine subsidies for the extension of a new broadband-capable infrastructure in underserved areas. For example, the FCC seeks comment on whether a competitive process could be used to target one-time subsidies to extend broadband-capable networks in areas where revenues are likely to be sufficient to cover ongoing costs of operation. The FCC also seeks comment on the appropriate scoring function to use if a procurement auction mechanism is adopted for this purpose. Parties are invited to comment on other aspects of the proposal, which are appended to the FCC’s NOI/NPRM.

NPRM: High-Cost Reform: The FCC seeks comment on specific steps to reduce the high-cost support mechanisms. Among other measures, the FCC seeks comment on how the FCC should implement a cap on the high-cost fund and other proposals to ensure that the overall size of the fund stays at or below current levels. The FCC seeks comment on specific steps to cut high-cost support such as whether it should shift rate-of-return carriers to incentive regulation; whether it should implement the voluntary commitments of Sprint and Verizon to reduce high-cost funds; and whether it should phase out the remaining competitive ETC funding under the existing funding mechanisms over a five-year period and target the savings to the deployment of

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broadband and capable networks and other reforms in the plan. The FCC also seeks comment on whether it should ramp down competitive ETC support under legacy programs, and, if so, how that transformation should occur.

Comments are due 60 days after publication in the Federal Register, and Reply comments are due 30 days thereafter.

Please contact a member of the [Communications Practice Group](#) if you have any questions regarding this NOI and NPRM.

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