

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Affordable Connectivity Program)	WC Docket No. 21-450
)	

COMMENTS OF COMMON SENSE, PUBLIC KNOWLEDGE

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TABLE OF CONTENTS

I.	SUMMARY	3
II.	BACKGROUND	3
III.	WHAT DATA SHOULD BE COLLECTED	4
	A. Pricing	5
	B. Subscription Rates	6
	C. Demographic Data	6
	D. Plan Characteristics	7
	E. Program Performance Metrics	7
IV.	DATA COLLECTION PROCESS	8
V.	PRIVACY AND SECURITY	9
	A. Transparency	9
	B. Personally Identifiable Information	9
	C. Data Sharing	10
VI.	PUBLICATION	10
VII.	OTHER CONSIDERATIONS RELATED TO EQUITY AND INCLUSION	11
	A. Enrollment Process	11
	B. Device Offerings	12
	C. Other ISP Programs for Low-Income Customers	12
VIII.	CONCLUSION	13

I. SUMMARY

Common Sense Media (“Common Sense”) and Public Knowledge hereby respectfully submit comments on the Federal Communications Commission (“Commission” or “FCC”) Wireline Competition Bureau request for comment on the Affordable Connectivity Program (“ACP”) transparency data collection process.¹

II. BACKGROUND

Common Sense is the nation’s leading independent nonprofit organization dedicated to helping kids and families thrive in a world of media and technology. Common Sense has a long and established track record of advocating for broadband connectivity for all children and families, in schools and at home, regardless of their socioeconomic status and geographic location. Public Knowledge is a DC based consumer advocacy group that promotes freedom of expression, an open internet, and access to affordable communications tools and creative works.

Internet access is a necessity for school-age children to complete schoolwork, but many children are left behind by insufficient internet service and a lack of internet-connected devices.² In 2020, between 15 million and 16 million K-12 public school students lacked adequate internet and/or device access to sustain effective home learning.³ The ACP helps alleviate this problem by working with Internet Service Providers (ISPs) to provide affordable internet service to low-income households who otherwise might not be able to afford sufficient internet access.

¹ Affordable Connectivity Program, 87 Fed. Reg. 37,459 (June 23, 2022) (to be codified at 47 C.F.R. 54) [hereinafter Proposed Rule].

² See SUMIT CHANDRA, AMY CHANG, LAUREN DAY, AMINA FAZLULLAH, JACK LIU, LANE MCBRIDE, THISAL MUDALIGE, DANNY WEISS, CLOSING THE K-12 DIGITAL DIVIDE IN THE AGE OF DISTANCE LEARNING 16 (2020) https://www.common sense media.org/sites/default/files/featured-content/files/common_sense_media_report_final_7_1_3pm_web.pdf.

³ *Id.* at 3.

Common Sense plans to run an outreach campaign to increase enrollment in the ACP.⁴ Precise and comprehensive data collection and publication would allow us to better tailor its outreach activities to reach underserved populations. ACP transparency data collection should demonstrate how many people are benefiting from the program and what quality of service they receive. Illuminating the benefits of the program will make enrollment in the program more appealing to potential subscribers. Information on ISP offerings will allow us to steer potential subscribers towards plans that best suit their needs. The Commission's data collection practices should be designed to identify geographic and demographic populations that are currently underserved by the ACP program, so that the Commission can improve the program and increase enrollment over time.

III. WHAT DATA SHOULD BE COLLECTED

The Commission should collect relevant data necessary to evaluate the ACP's success and identify areas in need of improvement. Relevant data includes pricing information, subscription rates, demographic data, geographic information, plan characteristics, and quality of service metrics. To avoid unnecessarily burdening households' privacy, the Commission should only collect information necessary to maintain and monitor the success of the ACP.⁵ For example, household demographic information such as citizenship and immigration status are irrelevant to the successful administration of the ACP and should not be collected.

⁴ See e.g., *Do You Need Help Paying For Internet?*, COMMON SENSE MEDIA, <https://www.common sense media.org/affordable-connectivity-program> (last visited July 18, 2022).

⁵ See THE WHITE HOUSE, CONSUMER DATA PRIVACY IN A NETWORKED WORLD 21 (Feb. 2012) [hereinafter Consumer Data Privacy], <https://permanent.access.gpo.gov/gpo24557/privacy-final.pdf>.

A. Pricing

The Commission should collect data on the price of internet services and devices purchased with the ACP. This data should reflect the actual cost (i.e. the cost after all promotions have ended) as well as any promotional rates and their durations.

Many ISPs offer promotional pricing and introductory rates, resulting in shifting plan pricing for individual households when the promotions end. In addition to collecting data on the regular base costs of an internet service plan, the Commission should collect data on any promotional price offerings. Data on promotional offerings should include: promotional pricing, duration of the promotion, eligibility requirements, where the promotional offerings are available, and how many subscribers receive promotional price offerings. In addition to the ACP, some ISPs may have their own programs to provide free or low-cost internet service to low-income subscribers. The Commission should collect information on such programs including: pricing, number of subscribers, eligibility requirements, and whether subscribers to these programs also receive ACP benefits.

The Commission should also collect data on additional costs beyond the base plan pricing. Additional data should include: taxes, fees, overage costs, and the cost of any associated devices and equipment, such as modems or routers. Collecting this data is necessary to fully understand the real prices that households pay for internet access before and after applying their ACP credit. Extra costs for households that exceed their monthly data cap should be included. An affordable internet service plan should provide households with appropriate data allowances, and if households do exceed their data cap the extra costs should be reasonably affordable. The Commission should collect this information to determine whether insufficient data caps and/or burdensome overage charges are widespread issues that need to be addressed.

B. Subscription Rates

We agree with the Commission's interpretation of subscription rates as “the total program subscribership to a unique internet service offering over time.”⁶ The Commission should collect the number of households subscribed to a particular internet service each month. Because many plans offer subscribers the ability to cancel their plan at a monthly interval, collecting subscriber rates over a longer period of time, such as yearly or quarterly, would be insufficient to accurately track changes in subscriber rates over time.

C. Demographic Data

The Commission should collect relevant demographic data, including the enrollee's race, ethnicity, income, languages spoken, and household size. This data will help understand the ACP's impact on digital equity and support efforts to address digital discrimination. For example, an analysis by John Horrigan at the Benton Institute found that Hispanic households are less likely to enroll in ACP.⁷ This kind of insight will allow organizations like Common Sense and Public Knowledge to tailor their outreach to underenrolled communities.

To protect subscriber privacy, the Commission should allow subscribers to opt out of sharing demographic information. The Commission should not collect data on citizenship and immigration status. Citizenship and immigration status are not relevant factors in ACP eligibility and collecting such information would burden subscriber privacy without providing any meaningful benefit to the ACP or the Commission. The Commission should not share any collected demographic data with U.S. Immigrations and Customs Enforcement (ICE); sharing data with ICE could discourage subscribers from enrollment in the ACP.

⁶ Proposed Rule, *supra* note 1, at 37,460.

⁷ John Horrigan, *Affordable Connectivity Plan Enrollment and Digital Equity Planning*, BENTON INSTITUTE FOR BROADBAND AND SOCIETY (June 16, 2022), <https://www.benton.org/blog/affordable-connectivity-plan-enrollment-and-digital-equity-planning>.

D. Plan Characteristics

The Commission should collect data on plan characteristics to determine what options are available for low-income households. The Commission should collect data on service quality, including upload and download speeds, connection reliability, data allowances, and co-payments. The Commission should also collect data on features or bonuses included with service plans, such as security services, promotional giveaways, and bundling with cable or phone subscriptions. The Commission should collect data on any service plan eligibility requirements.

In addition to collecting data on advertised plan characteristics, the Commission should collect performance data on the actual quality of internet service received, including the service's average speed and reliability. This data will allow the Commission to compare advertised speed with actual speed, and it will help ensure that public money obtains the intended services.

The Commission should collect data on whether plans include the option to receive, purchase, or rent associated devices such as computers, monitors, routers, or modems. The Commission should collect information including: what types of devices are offered, the price options for each type of device, whether the provider has any programs to provide free or low-cost devices to low-income households, and the eligibility requirements for such programs. The Commission should collect data on how many devices are distributed and at what price.

E. Program Performance Metrics

The Commission should collect data that shows how many households are using the ACP to subscribe to internet service for the first time, and how many households are using the ACP to upgrade and/or discount their existing service. The Commission should collect data on whether a customer is a first-time subscriber to the provider or a first-time subscriber to fixed or mobile broadband. For subscribers who are not first-time subscribers to a provider, the Commission

should collect data on the subscribers' plan characteristics before and after enrolling in the ACP. The Commission should collect data on subscriber retention to track whether the ACP enables subscribers to maintain their internet service over time, and for how long.

The Commission should collect information concerning how a customer became aware of the ACP. This information will help us determine which outreach methods are most effective, so that we can increase effective outreach methods and reconsider or improve ineffective outreach methods.

IV. DATA COLLECTION PROCESS

Currently, the Commission requires ISPs to submit subscriber-level data to the National Lifeline Accountability Database (NLAD) at the point of enrollment in the ACP. We agree with the Commission that continuing to collect subscriber data through the NLAD would ease administrative burdens on the Commission and ISPs.⁸ To properly assess the success of the ACP, the Commission must regularly collect new subscriber data to track changes over time.

The Commission's data collection process must properly account for multiple dwelling units, which may contain multiple ACP eligible households at the same address, by allowing multiple data submissions for the same address. The Commission seeks to prevent multiple members of the same household from receiving ACP benefits, but that should not be done at the expense of households that share the same address as another ACP eligible household.⁹

The Commission should collect subscriber information at a household level and then aggregate that data itself, rather than requiring ISPs to aggregate the data before submitting it to the Commission. This approach will provide the Commission with the most complete data set and leave flexibility for the Commission to later aggregate data as necessary for publication.

⁸ See *id.* at 37,461.

⁹ See *id.*

V. PRIVACY AND SECURITY

A. Transparency

Households have a right to easily understandable and accessible information about the Commission’s privacy and security practices.¹⁰ The Commission, and ISPs collecting data on the Commission’s behalf, should provide households with clear explanations of what data is being collected, why the Commission is collecting that data, how often data is collected, how the data will be used, what data will be published or shared with third parties, and when the data will be deleted.¹¹ The Commission should issue a privacy notice to a household each time the Commission collects information on that household, and require ISPs to issue notices when collecting information on the Commission’s behalf.¹² To ensure comprehension, these privacy notices should be clear, short, standardized, and offered in multiple languages.¹³

B. Personally Identifiable Information

The FCC should establish, implement, and maintain reasonable administrative, technical, and physical data security measures and procedures to protect and secure personally identifiable data against unauthorized access. The Commission should adopt a definition of “personally identifiable information” consistent with the definition of “personal information” used by the California Consumer Privacy Act (CCPA).¹⁴ CCPA defines “personal information” as: “information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household.”¹⁵

¹⁰ See Consumer Data Privacy, *supra* note 5, at 1.

¹¹ See *id.* at 47.

¹² See FED. TRADE COMM’N, PROTECTING CONSUMER PRIVACY IN AN ERA OF RAPID CHANGE 61 (Mar. 2012), <https://www.ftc.gov/sites/default/files/documents/reports/federal-trade-commission-report-protecting-consumer-privacy-era-rapid-change-recommendations/120326privacyreport.pdf>.

¹³ See *id.*

¹⁴ See Cal. Civ. Code § 1798.140(v).

¹⁵ *Id.*

C. Data Sharing

The Commission should not share households' personally identifiable information with third-parties. Additionally, the Commission should not share any collected demographic data with U.S. Immigrations and Customs Enforcement (ICE). If the Commission does share households' personally identifiable data with any third-parties, the Commission must notify households in the privacy notice issued when the data is collected. Sharing personally identifiable data with third-parties or ICE may discourage household participation in the ACP.

VI. PUBLICATION

The Commission should publish all ACP data collected, with the exception of “personally identifiable information or proprietary information” as specified by the Infrastructure Act.¹⁶ Information on plan prices, subscription rates, plan characteristics, and performance metrics would help Common Sense and Public Knowledge to provide potential consumers with accurate information on the benefits they would receive through the ACP. The Commission should publish updated ACP data at regular intervals, as frequently as feasibly possible. Published data should be published in a format that is easy to understand and use.

To protect consumer privacy and compliance with the data collection program, the Commission should not publish data on individual households.¹⁷ Instead the Commission should aggregate data for publication based on geographic areas. Aggregating data by the smallest feasible geographic area will protect the privacy of individual households while providing the most accurate possible information regarding regional disparities in internet access. Digital

¹⁶ See Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 § 60502(c)(4) (2021) [hereinafter Infrastructure Act],

<https://www.govinfo.gov/content/pkg/PLAW-117publ58/pdf/PLAW-117publ58.pdf>.

¹⁷ Individual household data should be covered by the definition of “personally identifiable data” that the FCC chooses, and thus cannot be shared under the Infrastructure Act. *Id.*

discrimination creates disparities in internet access across small geographic areas, with adjacent neighborhoods or blocks frequently receiving different quality of service.¹⁸ Aggregating published ACP data by neighborhood or individual blocks will better account for disparities caused by digital redlining.

VII. OTHER CONSIDERATIONS RELATED TO EQUITY AND INCLUSION

A. Enrollment Process

Many consumers simultaneously work, learn, and raise families. Thus, every additional step required to participate in the subsidy program makes it more difficult for these consumers to enroll in the ACP. ISP customer service practices are not standardized, which may lead to inequitable enrollment. Problems such as long wait times, language barriers, and lack of disability support all create barriers against enrollment that may disproportionately impact low-income consumers. Enrollment in the ACP must be made equitable and inclusive. To facilitate this goal, the Commission should collect information on the enrollment process that may be used to better streamline and standardize enrollment.

The Commission should collect information on the enrollment process and ISP customer service practices including:

1. How much of the enrollment process is automated.
2. How long it takes consumers to progress through automated customer service processes before being able to speak with a representative.
3. What language options ISPs provide for enrollment and customer service.
4. What additional support services ISPs provide consumers with disabilities, if any.

¹⁸ See e.g., NATIONAL DIGITAL INCLUSION ALLIANCE, AT&T'S DIGITAL REDLINING: LEAVING COMMUNITIES BEHIND FOR PROFIT 4 (Oct. 2020), https://www.digitalinclusion.org/wp-content/uploads/dlm_uploads/2020/10/ATTs-Digital-Redlining-Leaving-Communities-Behind-for-Profit.pdf.

5. The total length of time between a consumer initiating the enrollment process and their actual enrollment.

B. Device Offerings

Home internet usage requires access to multiple devices, including computers, routers, and modems, which can be costly for low-income households.¹⁹ For families, multiple family members often need internet access at the same time to complete school and work assignments, requiring multiple computers. Many low-income students lack the devices necessary to complete distance learning and other homework assignments.²⁰ To alleviate this problem, many organizations and ISPs distribute free or low-cost devices to low-income households. The Commission should collect data on providers' device offerings, including the types of devices offered and the price options for each type of device. The Commission should collect data on how many devices are distributed and at what price to consumers. If the data shows that the number of devices distributed is insufficient, the Commission should create a device voucher program to address any shortages.²¹

C. Other ISP Programs for Low-Income Customers

Some ISPs have additional special plans for low-income subscribers.²² ISPs use eligibility requirements to ensure that subscribers are sufficiently "low-income" to qualify for these low-cost plans.²³ The Commission should collect data on any additional special plans ISPs

¹⁹ See CHANDRA, *supra* note 2.

²⁰ *Id.* at 3.

²¹ See also Public Knowledge, *Comments on the Report on the Future of the Universal Service Fund*, WC Docket No. 21-476 (Feb. 12, 2022), <https://publicknowledge.org/policy/public-knowledge-usf-report-fcc-comments/>.

²² See e.g. XFINITY INTERNET ESSENTIALS FROM COMCAST, <https://www.internetessentials.com/> (last visited July 18, 2022).

²³ For example, to qualify for Comcast's Internet Essentials plan, subscribers must submit documentation of enrollment in a government program such as Medicaid, Public Housing Assistance, or SNAP. *Frequently Asked Questions*, XFINITY INTERNET ESSENTIALS FROM COMCAST, <https://www.internetessentials.com/get-help#application&Documentsneeded> (last visited July 18, 2022).

offer for low-income households. If possible, the Commission should collect data on plan pricing, subscription rates, plan characteristics (including any eligibility requirements), and performance metrics. The Commission should collect data on whether subscribers are receiving both ACP plan offerings and other low-income plan offerings. This data would help the Commission to more accurately assess the success of the ACP. This data would also allow Common Sense and Public Knowledge to provide prospective subscribers with more accurate comparisons of available plan offerings.

VIII. CONCLUSION

Internet access is an increasingly necessary part of daily life, particularly for school-age children who require internet access to use educational applications and complete assignments. Congress designed the ACP to provide affordable internet service to low-income households who would not otherwise have been able to afford sufficient internet access. Congress required the Commission to collect data on the administration of the ACP program, to assess the program's success and to identify any issues. We urge the Commission to implement data collection practices that balance the need for comprehensive data collection and publication against the privacy interests of ACP subscribers. To achieve this goal, the Commission should collect subscriber-level data including pricing information, subscription rates, plan characteristics, and quality of service metrics, and aggregate this data for publication by geographic area. The Commission should implement robust and transparent security protections for stored subscriber data. To better ensure equitable access to the ACP program, the Commission should collect additional data on the program enrollment process, ISP customer service practices, ISP device offerings, and additional ISP programs providing benefits to low-income subscribers.