

Senate Committee on Commerce, Science, and Transportation  
“The State of Universal Service”

Thursday, May 11, 2023 at 10:00a in SR-253

Questions for the Record  
Senator Dan Sullivan

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- 1) **Following the recent historic funding made available for broadband deployment, there are important discussions to be had on reforms to USF – including contribution reform, improving transparency, and ensuring the programs are efficient and effective – but this is also an opportunity to discuss potential reforms to the broader ecosystem of federal broadband programs. A GAO report from last year found that there are currently at least 133 programs across 15 different agencies that could be used for broadband.**

**The report highlighted numerous concerns with this fragmented approach to federal broadband policy, including varying project criteria, challenges with agency coordination, and administrative complexities for applicants. The report concluded that “this patchwork of programs could lead to wasteful duplication of funding and effort”. This patchwork of federal broadband programs identified by the GAO could be diverting funding and focus away from truly unserved areas like in Alaska.**

**How should Congress be looking more comprehensively at all of these programs across agencies to look for potential redundancies and areas for alignment in order to maximize effectiveness for the unserved?**

The GAO Report made a number of recommendations which would potentially help guide Congress in further understanding where there are redundancies for broadband programs and potentially where the programs and agencies could be better aligned to meet the mission of connecting consumers and businesses to affordable broadband service. The GAO Report recommended that the Administration take a lead role in coordinating and setting forth a broadband strategy for the nation. It has been over a decade since the FCC first set forth a National Broadband Plan as required by Congress. That Plan has been instrumental in the progress made for the last decade; however, a new mandate from Congress for the FCC or NTIA to set forth a new broadband strategy may be in order. Other nations have engaged in similar efforts to ensure that their nation is connected to high-speed broadband networks in the near future.

In the meantime, the current coordination that the agencies are engaging in for the deployment programs is a very good start. But it also is important for the agencies to evaluate the effectiveness of the programs and advise Congress concerning the potential adjustments that are needed, and where the agencies already have authority to make adjustments, to do so in consultation with Congress. For example, the FCC’s authority to ensure universal service under Section 254 of the Communications Act has allowed it to

modify the programs by moving from support of phone service to broadband service (per the National Broadband Plan's recommendations) and to create several new programs to deliver broadband networks to unserved locations in rural America, among other broadband-centric modifications. INCOMPAS believes that the USF programs have been critical to delivering affordable broadband connectivity, but their future is in jeopardy without the FCC moving forward on contribution reform. I recently published an [expert piece](#) on the importance of the agency moving forward on reform. It will provide you with further explanation of why USF contribution reform is necessary and additional information on the path forward recommended by the USForward Coalition, which consists of a diverse set of organizations across the nation.

INCOMPAS also supports adding the inter-agency [Broadband Funding Map](#) as a layer to the FCC's [National Broadband Map](#), which shows the federal programs that are funding deployment of broadband networks. We believe it is important to closely track the funding amounts, entities funded, and when locations are served by the funding. Improving on the FCC's mapping efforts would help address the concern that the various funding programs for deployment are coordinated, better ensure they are not duplicative, and lend further insight into areas that lack adequate network deployment and may still need funding.

The Commission may not need to go through a rulemaking process to implement this proposal. It could add a layer to its broadband maps, reflecting those areas that are being built with broadband funding that has already been allocated through the various programs funding network deployment. Doing so would potentially address any concern that the various funding programs for deployment be coordinated, better ensure they are not duplicative, and lend further insight into areas that lack adequate network deployment and still need funding. And increased transparency—including sharing grant information among the federal agencies—will help ensure that Congress, the FCC, and the other federal agencies know exactly where federal funding is going and be in the position to better assess where funding is still needed. Transparency is very important for the public and for policymakers, and requiring that the broadband map include this layer in the broadband map would enable more transparency in the deployment funding programs.

## Senator Cruz Questions for the Record for Angie Kronenberg, INCOMPAS

1. **At the hearing, you stated that you were opposed to assessing the Universal Service Fund (USF) tax on Big Tech and streaming services. You stated: “no one’s talking about how a potential USF fee on these streamers is going to tilt the marketplace in a way that’s going to make it less attractive for customers to be willing to take that streaming service.” At the same time, you have advocated in support of assessing the USF tax on broadband service.**
  - a. **Imposing a USF tax on broadband service would make broadband more expensive, particularly for lower- and middle- income consumers. Moreover, it would involve taxing the very service the subsidies are meant to promote. Yes or no: Doesn’t your argument about a USF fee on streamers tilting the marketplace also apply to broadband service? If no, why?**

No. The argument about tilting the marketplace does not apply to assessing broadband internet access service (BIAS) revenues because assessing BIAS revenues for purposes of USF means that *every* provider offering BIAS service would be required to contribute to USF based on their revenues—as is done for interstate telecom services today. The proposal to assess BIAS revenues does not target certain providers based on their size or business model, unlike proposals that argue for certain tech and streaming companies to be assessed. For example, one paper seeks to impose a fee on only certain streamers, and another seeks a fee only on two companies’ advertising revenue.

There are serious competitive risks associated with targeting specific online content or edge companies in the context of USF. For example, assessing a USF fee on certain streaming companies, but not on all streaming companies, would be unfair and harm a competitive streaming market. In addition, assessing streamers, but not their video market competitors—cable, broadcast, and direct broadcast satellite (DBS)—would skew the video market as consumers could avoid the USF fee by choosing services that do not have USF obligations. Moreover, every consumer and business use their broadband connection for different and often multiple reasons, and charging only some online companies but not others could impact which online services are used as well as interfere with the free market to determine which online services succeed. It also potentially leads to discrimination by the government with respect to some online services.

One reason INCOMPAS supports expanding the USF contribution base to include BIAS revenues is that doing so does not impact how consumers/businesses may use their connection—whether it is to stream video, cloud compute, play video games, or have a video conference call. The USForward Coalition’s proposal for USF reform to include BIAS revenues will not skew the online marketplace in unfair and uncompetitive ways. In fact, capturing the value of broadband

at the network access point via BIAS revenues is fairer and more predictable than targeting particular online companies.

We also have a concern that the USF contribution reform needs to be sustainable for the long term, and BIAS revenue is expected to be very stable over time. Broadband subscriber growth has been strong in recent years, which is not surprising, and the expectation is that it will continue to grow slightly over time. However, it is not predictable as to which online services may be used over time which could destabilize the base of revenue for the USF in the future if the services assessed lose users (i.e., if popular services today are not popular in the future). Moreover, the FCC has diverged from its practice of including all revenue for every type of service that is supported by USF. BIAS providers receive direct support from the USF, but BIAS revenues are currently excluded from contributing.

Assessing BIAS revenues would increase the pool of revenues to USF and would bring the USF fee down to less than 4%. This means that assessing BIAS revenues would significantly decrease the cost for individuals who only subscribe to voice services, including elderly Americans. These individuals are currently paying around 30% on a portion of their telephone bills each month (for interstate service). If the FCC includes BIAS revenues in the USF contribution base means they would instead pay less than 4% , resulting in significant savings for these consumers. And as noted above, it will make the USF system fairer and more consistent with the FCC's USF practices.

Any resulting price increase for BIAS service would be nominal—\$2-\$3 for broadband in the \$50-\$70 subscription range. BIAS prices are also expected to decrease over time, which potentially could lower the USF fee in the future. The FCC can also exempt low-income customers from paying a USF fee on BIAS just as it does today for voice services in the Lifeline program. In addition, an [NTCA Report](#) (and [recent update](#)) show that expanding the contribution base would not impact broadband adoption. Thus, FCC action to expand the contribution base to include BIAS revenues is the best path forward for addressing the high contribution factor, and many diverse stakeholders agree.

**You stated that according to Carol Matthey's USForward report that expanding the contribution base to include broadband revenues would bring the contribution factor down from almost 30% to 4%.**

- b. Do you agree that a 4% tax is contingent on FCC forecasts of USF program demand, and that the burden would increase if the FCC decided to expand its current USF programs or USF spending levels?**

The USF fee calculated in the [USForward Report](#) written by USF-expert Carol Matthey is based on the FCC's ten-year forecast, which keeps the program demand consistent and stable (page 11, Table 1.1). This also is consistent with the USF program demand over time. If you consider the [Universal Service Monitoring Report](#), the USF spending has been very stable in the last decade (page 23, Table 1.10).

INCOMPAS is not aware that the FCC plans to expand its total current USF spending levels, and INCOMPAS has advocated that the FCC must reform the contribution system so that the contribution factor does not continue to skyrocket and that the FCC should not expand total spending in the USF without first doing so.

It is difficult to determine the exact impact on the contribution factor should the FCC increase its spending in the USF without knowing (1) how much the spending increase is and (2) whether the FCC expands the contribution base to include other revenues beyond BIAS (which some have proposed in the docket). Keeping in mind that if the expansion only includes adding BIAS revenues to the contribution base—that revenue is expected to continue growing; thus, it is not necessarily the case that you would see significant changes in the contribution factor should USF spending increase. It will depend on how much spending increases and how much USF-assessed revenue increases.

- c. You do not state how many customers would go from paying 0% to 4%. How many additional customer payments are needed to bring the contribution factor from 30% to 4%?**

In the [USForward Report](#), Carol Matthey estimates the contribution factor if BIAS revenues were assessed based on data from several sources as there is no single authoritative source for the revenues derived from the sale of BIAS (pages 14-16). These sources include Raymond James, New Street Research, and the FCC's Form 499-A (where companies report their non-telecom revenues). These are conservative estimates as they are based on reported and projected revenues of the larger publicly traded companies and do not capture revenues from numerous smaller potential contributors. Based on these inputs, Matthey estimates that between fixed and mobile broadband revenues, the total assumed assessable BIAS revenues in 2023 would be \$250 billion and in 2024 would be \$260.6 billion (page 16, Table 5). Including the BIAS revenues along with the current telecom revenues would then bring the contribution factor down to less than 4%.

Unfortunately, we do not have estimates of the number of customers (residential or business) who purchase only BIAS service and who therefore contribute nothing to USF today because they do not purchase any interstate telecom services. However, given that most consumers and businesses have a mobile or fixed phone service in the U.S. that contributes into the USF, we expect that the number of new USF payors would be minimal.

- 2. In response a question during the hearing, you stated that “the FCC doesn’t have authority over edge providers and changing the statute to give them such authority really, I think, could open a pandora’s box.”**

**a. Can you please expand on the unintended consequences of giving this additional authority to the FCC?**

While the USF contribution factor continues to skyrocket (it is currently about 30%), the FCC has the jurisdiction to follow its historic precedent of expanding the contribution base to include services that receive direct subsidies from the USF, which includes BIAS. Accordingly, the FCC can act with its authority today and expand the base to include BIAS revenues, which would bring the contribution factor down to less than 4%. However, the FCC has concluded that it does not have the authority over online companies (which it calls “edge providers”), and so it would need to get the authority to assess these companies from Congress. INCOMPAS believes that requiring this type of act from Congress would result in significant delays, while the USF fee on consumers and businesses continues to increase. (We cannot stress enough that a 30% fee on any service is really unreasonable.) And opening up Section 254 of the Communications Act to give the FCC new regulatory authority over edge providers would also open up the foundational statute of the FCC to potentially creating a “pandora’s box” with unintended expansive regulatory consequences. Granting the FCC authority through legislation over edge providers would vastly expand FCC power and regulation over all online content services. Today we are talking about USF reform, but it is unclear how the FCC would use this new regulatory power in the future—potentially creating a “pandora’s box” filled with unintended consequences.

Nearly every consumer and business today has an online presence. Determining which online companies’ revenues are subject to assessment would be a monumental task and nearly impossible. And as described above in response to question 1, targeting certain online companies could invite opportunistic arbitrage and risks skewing online competition in unfair and harmful ways. Thus, the FCC would have to ensure that it is not advantaging some services over others so as not to skew competition in markets unfairly by imposing the USF fee on some and not on others.

Another unintended consequence may be potentially increasing the size of the USF. Given that the USF traditionally has supported services that are assessed—it could be the case that the FCC could consider expanding the USF program to support edge provider services and investments. This could mean an expansion of USF in spending and reach that is much greater than its current mission.

There is also a global perspective that is critical in this context as well. If certain online content companies are required to subsidize BIAS providers’ business models through the USF, we can expect that other countries around the globe will follow, and U.S. companies will be asked to subsidize broadband providers around the world.

*To Ms. Angie Kronenberg, President, INCOMPAS, Silver Spring, Maryland  
Questions for the record from Senator Marsha Blackburn (R-TN)*

*Do you see a reason to favor fiber providers in the Universal Service Program or other programs, like the Broadband Equity, Access, and Deployment program? Or should these be technology neutral?*

INCOMPAS believes it is important for our nation's competitiveness to be striving towards high-speed, affordable broadband to every location in the U.S. Investing and deploying networks that can meet our needs today and in the future is critical, and Americans need access to both high-speed fixed and mobile 5G networks. INCOMPAS is a proponent that fiber serves as the foundation because every technology in the broadband ecosystem needs access to fiber—including fixed broadband, cable, cellular (mobile & 5G), fixed wireless, and satellite. Building more fiber helps all, and fiber densification throughout the U.S. is critical for winning the race to 5G. INCOMPAS also acknowledges that fiber may not be technically and geographically possible in certain locations. As such, INCOMPAS supports encouraging recipients to prioritize investments in fiber infrastructure wherever feasible. In those situations where fiber is not practicable to deploy because of the extremely high cost of the project, geography, or topography of the area to be served, projects must reliably meet or exceed 100/20 Mbps as the standard and be scalable to a minimum of symmetrical 100 Mbps download and upload speeds. INCOMPAS has encouraged agencies that are funding new broadband networks to reach unserved/underserved locations to set speeds at a level that spurs competition specifically by retaining the standard set of at least 100/20 Mbps while also encouraging scalability up to 100/100 Mbps to help deliver reliable home broadband in a time-efficient way that does not leave Americans on the wrong side of the digital divide in the future.

Congressional appropriated funding represents a historic opportunity to provide every American with reliable, affordable broadband, and INCOMPAS has encouraged states to set their state-specific "Extremely High Cost Per Location Threshold" judiciously in order to guarantee that the allotted BEAD funds are going towards the appropriate mix of fiber and other cost-effective alternative technologies—such as next generation Fixed Wireless Access solutions—to ensure that all the unserved and underserved families and communities are granted access to high quality broadband.

Questions for the Record Submitted by  
The Honorable John Thune  
For Ms. Angie Kronenberg

**Question 1. In the state of South Dakota alone, the high-cost program has enabled broadband services to over 115,000 locations, including the most rural and remote areas of the state. As I mentioned in my opening statement, the FCC has taken meaningful reforms to update the high-cost program to ensure predictable and sufficient support to providers.**

**Are there additional reforms Congress or the FCC should take as it relates to the high-cost program today?**

Under the Infrastructure Investment and Jobs Act, the FCC was required to conduct an analysis of how the recent congressional funding for broadband will impact the USF and whether the USF programs will need to be modified as a result. We agree with this approach. With the recent congressional funding allocated for broadband deployment, it is important for the FCC to do a deep-dive analysis into the USF programs to see how much funding is still needed as a result, especially for the High-Cost program.

Unlike the other USF programs, the High-Cost program focuses mostly on deployment costs versus affordability. The High-Cost program has overlapping goals with much of the recent congressional funding to help with deployment in hard-to-serve areas, including the BEAD Program. As such, no new funding should be committed in the High-Cost program for new broadband deployment before the FCC analyzes whether and where there are remaining gaps once all the federal grants have been awarded for new builds.

For providers that receive ongoing High-Cost support, it is time for the FCC to comprehensively evaluate whether such support will need to continue. The FCC should no longer assume providers require additional funding to operate without a demonstration that this is the case. Many of the companies receiving High-Cost support have deployed fiber to the home. The most expensive part of running a broadband network is deployment, not operations, and fiber and all IP networks are cheaper to operate. The FCC can better understand the economics of networks in high-cost areas by conducting a first-of-its-kind analysis of network operating costs and revenues.

**Question 2. There are a number of permitting barriers that slow down the deployment of broadband networks. What measures should Congress take to address these concerns?**

As the leading trade association for innovation and competition, INCOMPAS recognizes that broadband deployment is a necessary investment now and for our country's future to help Americans stay connected. To close the digital divide, deploying broadband infrastructure is needed now and should be expedited to ensure availability to all consumers and businesses in the United States.

With our membership consisting of competitive network companies who are building the next generation of communications networks across the country using fiber, fixed wireless, mobile,



and satellite broadband networks, we encourage Congress to keep pushing for state and local review guidelines that enable faster processing that will allow the deployment of broadband infrastructure more quickly, including small cells and other wireless equipment and fiber that is used by both fixed and mobile providers to connect their networks.

It is also important for Congress to ensure that both utility commissions and state governments encourage local jurisdictions to expedite permitting, allow for batch permitting, keep permitting and franchise fees low, and require that these fees be publicly disclosed, competitively and technology neutral, and non-discriminatory based on actual and direct costs.

To help resolve barriers to deployment, INCOMPAS supports legislative measures that would:

- Implement certain timing standards and flexibility on waivers for how long state and local governments have for processing applications and permits in gaining access to public rights-of-way and for deploying broadband to their communities.
- Extend rights-of-way protections to other entities including pole attachments, highways, and railroad crossings that manage rights-of-way that providers must access to deploy their infrastructure, as well as offer protections to those providers who only offer broadband internet access service so they can have the same rights as cable providers and telecommunications carriers.
- Promote new construction technologies that speed deployment and to allow for simpler, more transparent, and fair engineering standards to be established by utility commissions and/or state and local governments.
- Use the federal funding being allocated for infrastructure and broadband investment to help incentivize local jurisdictions to streamline permitting and/or franchise requirements to speed broadband deployment. Local jurisdictions may need funding assistance to hire, train, and/or expand their capability to process broadband infrastructure permitting and approval processes.
  - INCOMPAS endorses Rep. Lizzie Fletcher's [Broadband Incentives for Communities Act](#).

If INCOMPAS and our members can be of any future assistance or a resource in helping your office by providing examples or sharing their experiences on broadband deployment, please let us know.