BRINGING THE FCC'S LIFELINE PROGRAM INTO THE 21ST CENTURY

IIA White Paper
November 6 , 2014

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OVERVIEW

The Internet Innovation Alliance ("IIA") is publishing this white paper to provide historical background on the Federal Communications Commission's ("FCC") Lifeline Program and to demonstrate that the program is outdated in today's highly competitive broadband environment.

This white paper outlines the IIA's call for retooling the Lifeline Program into an efficient, effective program laser-focused on helping low-income consumers in the United States access modern communications services. Specifically, the IIA calls for policymakers and Lifeline Program stakeholders to:

1. Bring the Lifeline Program into the 21st Century by making broadband a key part of the program's rubric;

2. Empower consumers by providing the subsidy directly to eligible people instead of companies;

3. Level the playing field to broaden consumer choice and stimulate competition for their purchasing power;

4. Safeguard and simplify the program by taking administration away from companies that are not accountable to the American public and vesting that governmental responsibility with an appropriate agency, such as a state agency or the Universal Service Administrative Company ("USAC").

IIA believes that now is the right time to tackle the difficult challenge of providing millions of low-income consumers in the United States with access to the most modern communications services available, and of meeting this challenge in a responsible way.

I. EXECUTIVE SUMMARY

The FCC's Lifeline Program is a 20th Century government program aimed at spreading a 19th Century technology, voice service. IIA seeks to initiate a new public conversation on how best to provide America's low income communities with greater access to 21st Century broadband communications services.

- Lifeline service looks backwards to the voice service developed in the 19th Century. Because it only funds **voice service,** the Lifeline Program traps low-income consumers in the past. Today, while 96% of households have voice telephone service in the United States, *millions* continue to lack access to modern high-speed wired and wireless broadband services. Re-tooling the Lifeline Program to include broadband will empower consumers of limited economic means with the modern tools necessary to tackle the challenges of modern life.

- **Because money is not paid directly to low-income consumers, the Lifeline Program ignores the current reality of consumer power in the communications marketplace.** Instead, telecommunications service providers who participate in Lifeline — called "Eligible Telecommunications Carriers" or "Lifeline-only ETCs" — are reimbursed from the Federal Universal Service Fund (USF) for the $9.25/month discounts they provide to eligible consumers. In 2012, the USF paid **$2.19 billion** to provide discounts to **over 18.5 million customers.**

- **Participation in the Lifeline Program does not apply equally to all providers of voice service.** Because the Lifeline Program looks backwards to the 1980s, wireline telephone providers are required to act as ETCs and participate in Lifeline wherever they provide service. **Wireless providers, however, can choose to enter or exit the Lifeline market wherever and whenever it makes economic sense, while Voice-over-IP providers, and broadband providers are exempt from obligations to serve and have chosen not to participate.** No rational justification exists for maintaining this market imbalance; especially at a time when consumers are increasingly dropping wireline phone service, yet these carriers remain the only service providers obligated to maintain the administrative systems and processes required to operate the Lifeline Program.

- The current structure of the Lifeline Program is antiquated, cumbersome, and complex. In essence, **the Lifeline Program is built like an upside-down Food Stamps program that pays grocery stores to allow consumers to shop at their stores.** By contrast, the Food Stamps program provides debit cards directly to consumers so they have the purchasing power.

The opportunity exists to overhaul the Lifeline Program to keep pace with 21st Century needs.

- **Re-tool the Lifeline Program to help low-income consumers access modern communications services.** Expanding the program to focus on broadband will help millions of people in the United States access modern communications services. Targeting broadband will require leveling the playing field so that all service providers are treated equally.

- **Streamline and modernize the Lifeline Program to make it more attractive to *both* low-income consumers *and* all communications service providers.** Red-tape deters both low income consumers and many service providers from wanting to participate or expand their partnership in the Lifeline Program. Modernization designed to broaden participation among various communications platforms and providers will help bring the benefits of competition to low-income consumers — more innovation, better service, lower prices — while also lowering overall administrative costs. **Make the Lifeline Program more consumer-focused by providing eligible consumers with a "Lifeline Benefit Card" that can be used as a voucher to buy a range of communications services, including broadband, wireline, or wireless voice service.**

- **Empower consumers and level the playing field between service providers.** Competition among communications service providers is intense, but not all service providers participate in the FCC's Lifeline Program. Empowering consumers, simplifying the program, and offering flexibility will help draw service providers and expand the range of services and benefits offered to low income consumers. Updating the Lifeline Program rules to level the playing field will help bring the benefits of competition and innovation to low-income consumers. **Update the FCC's "Eligible Telecommunications Carrier" designation system and delink it from the Lifeline Program to level the playing field, broaden participation, and help empower consumer choice.**

- **Balance the role of government with the private sector.** Determining the eligibility of people to participate in a government assistance program is an inherently governmental function and should be performed under direct government supervision — for example, state agencies or the Universal Service Administrative Company (USAC) could determine eligibility of consumers. **Service providers with financial incentives to increase enrollment should not be given responsibility for administering a government assistance program.** That role should be performed directly by a governmental agency.

II. BACKGROUND

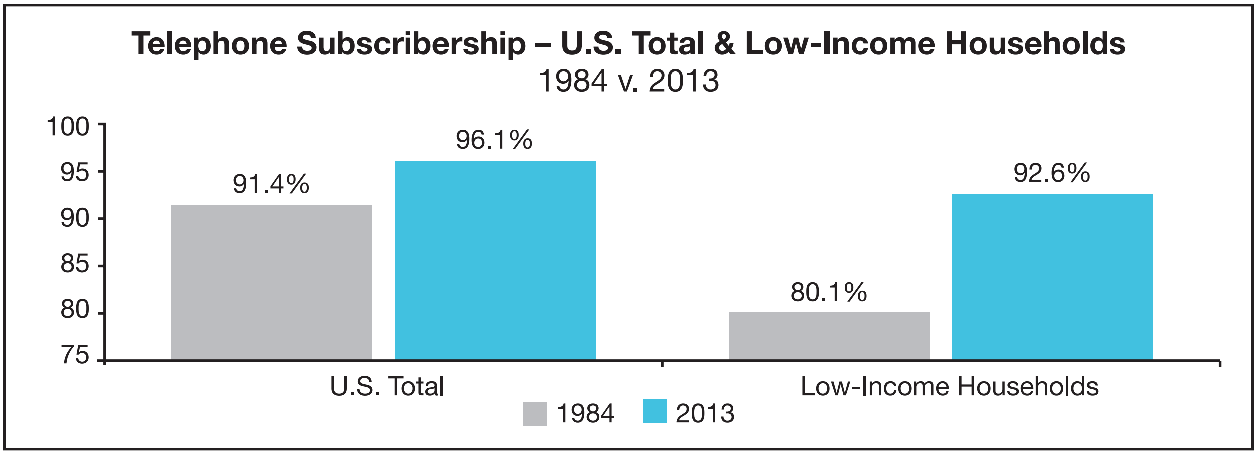
Established in the 1980s, the FCC's Lifeline Program was designed to help low-income consumers access voice telephone service at a time when wireline "Plain Old Telephone Service" (POTS) was the only option widely available to the public. The agency established the Lifeline program to help defray the costs associated with telephone connectivity in response to concerns that potential rate increases could result in decreased telephone subscribership by low-income consumers following the AT&T divestiture. The program provided reimbursements directly to telephone carriers for low-income consumer connectivity and service.

Changes in law and the competitive communications marketplace have prompted revisions to the Lifeline Program. In the Telecommunications Act of 1996, Congress codified into law the principle of serving low-income consumers, and the FCC (acting on the recommendations of the Federal-State Joint Board on Universal Service) revised and expanded the Lifeline program.[1] Later, in 2005, the FCC authorized telecommunications providers without facilities to participate as eligible telecommunications carriers ("ETCs") in the Lifeline program as opt-in providers — this decision helped fuel the significant growth that accelerated in 2009.[2]

When the FCC first adopted the Lifeline Program in the 1980s, nationwide telephone subscribership stood at approximately 91.4%, with 8.6% of American households without telephone service. By comparison, in 1984, only 80.1% of low-income households (defined by the FCC as households with annual income of $9,999 or less) had telephone service. As shown in the chart below, significant increases in telephone subscribership occurred for low-income households after the Lifeline Program's inception.

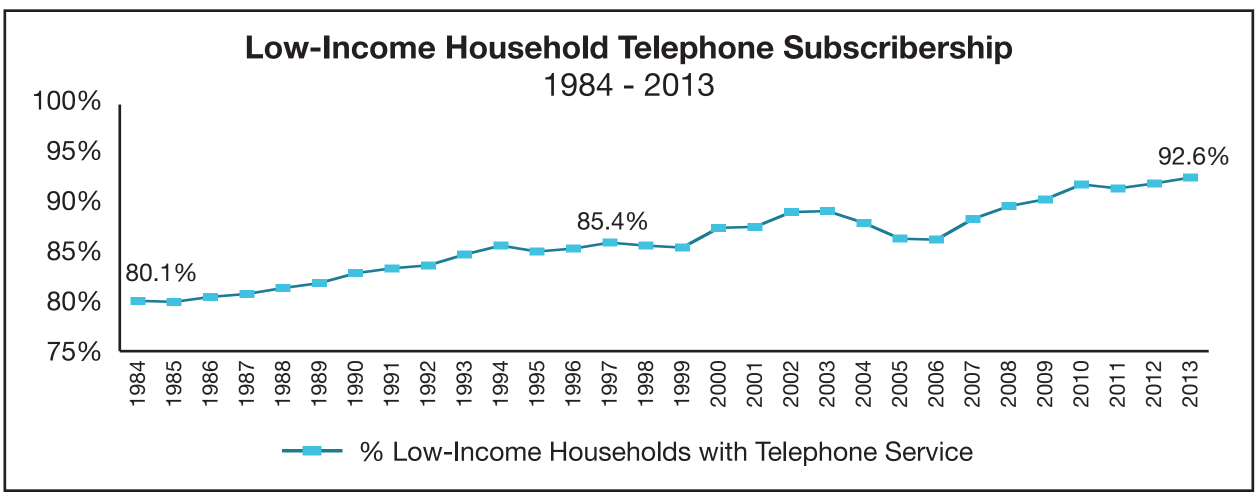
1 *See* 47 U.S.C. §254; *see also* Federal State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order,* 12 FCC Rcd 8776, 8952 (1997) (subsequent history omitted).

2 *See* Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. §214(e)(1)(A) and 47 C.F.R. §54.201(i), CC Docket No. 96-45, *Order,* 20 FCC Rcd 15095 (2005) (*"Tracfone Forbearance Order"*).



SOURCE: FCC 2013 Universal Service Fund Monitoring Report, Table 3.1, 3.2 (Dec. 2013); FCC 2010 Universal Service Fund Monitoring Report, Table 6.14 (Dec. 2013). FCC reports note that the total number of households increased by more than 35 million during this period, from 87.4 million households in 1984 to 123.1 million in 2013.

While competition has helped promote widespread voice subscribership, the FCC's Lifeline Program has played an important role in bringing voice telephone service to low income Americans. According to FCC data, access to telephone service has steadily increased for low-income households throughout the country since the Lifeline Program's inception. As of 2013, **92.6% of low-income households now have access to telephone service** — a significant increase over the 80% of low-income households with telephone service at the advent of the Lifeline Program (particularly in light of the U.S. population growth over the past thirty years). The chart below highlights the increase in telephone service subscribership for people of limited economic means between 1984 and 2013.

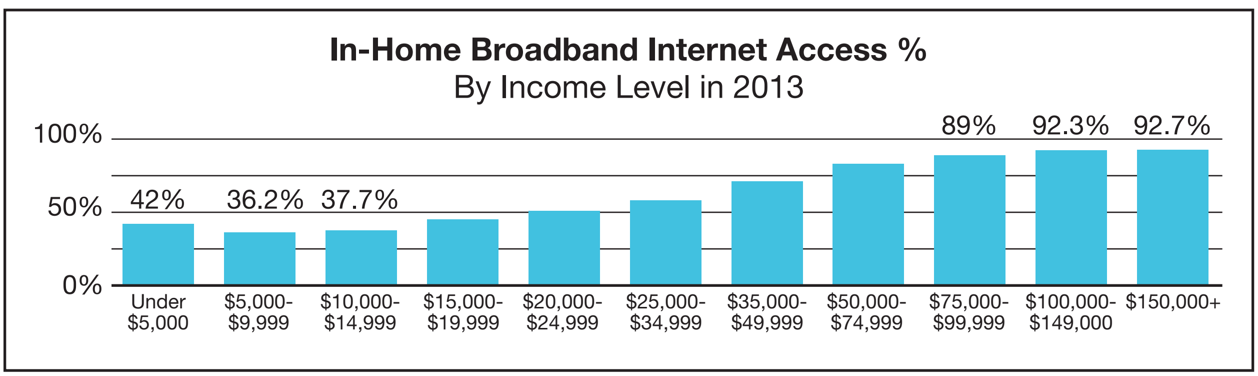


SOURCE: FCC 2013 Universal Service Fund Monitoring Report, Table 3.2 (Dec. 2013) (using annual household incomes of $9,999 or less to indicate low income); FCC 2010 Universal Service Fund Monitoring Report, Table 6.14 (Dec. 2010).

As currently structured, the Lifeline Program provides monthly discounts on either wired or wireless telecommunications voice service provided to eligible low-income consumers. To qualify for the program, consumers must have income at or below 135% of the Federal Poverty Guidelines or participate in one of eleven Federal assistance programs like Medicaid, the Supplemental Nutrition Assistance Program (referred to as "SNAP" or "Food Stamps/SNAP"), or the National School Lunch Program. Under FCC rules, states may add additional government assistance programs to these criteria, which increases the administrative and compliance burden on service providers.

Under the current program, low-income consumers do not directly receive a Lifeline subsidy. Instead, telecommunications service providers who participate in Lifeline — called "Eligible Telecommunications Carriers" or "Lifeline-only ETCs" — are reimbursed from the Federal Universal Service Fund (USF) for the $9.25/month discounts that they, in turn, provide to eligible consumers.[3] This stands in contrast to the Department of Agriculture's Food Stamps/SNAP program, which provides for "Electronic Benefits Transfer" (EBT) Cards to be issued directly to eligible consumers.[4]

Despite the overall success in increasing access, millions of low-income consumers still face obstacles in obtaining affordable communications services. In 2013, for example, approximately 14.1 million people relied on the Lifeline Program to access basic voice communications services. And broadband continues to remain unaffordable for many low-income consumers. As shown in the chart below, people of limited means are substantially less likely than other Americans to have in-home broadband access to the Internet.

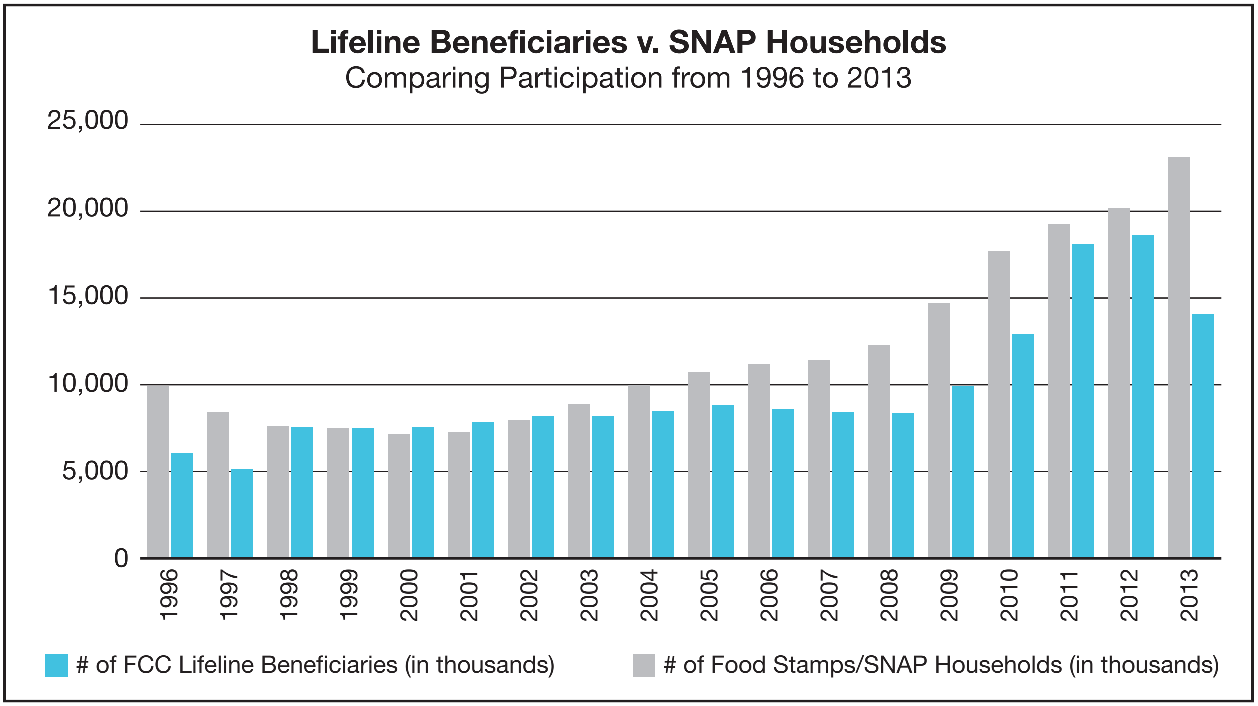


SOURCE: FCC 2013 Universal Service Fund Monitoring Report, Table 3.9 (Dec. 2013).

3 The FCC publishes a guidebook for low-income consumers and makes it available on its Internet site. *See* FCC, Consumer Guide, *Lifeline: Affordable Telephone Service for Income-Eligible Subscribers* (Apr. 1, 2014) (available at http://transition.fcc.gov/cgb/consumerfacts/lllu.pdf).

4 *See*, e.g., United States Department of Agriculture, *SNAP: The Supplemental Nutrition Assistance Program, Training Guide for Retailers* at 11-19 (Apr. 2014) (describing operation of EBT Cards in the program).

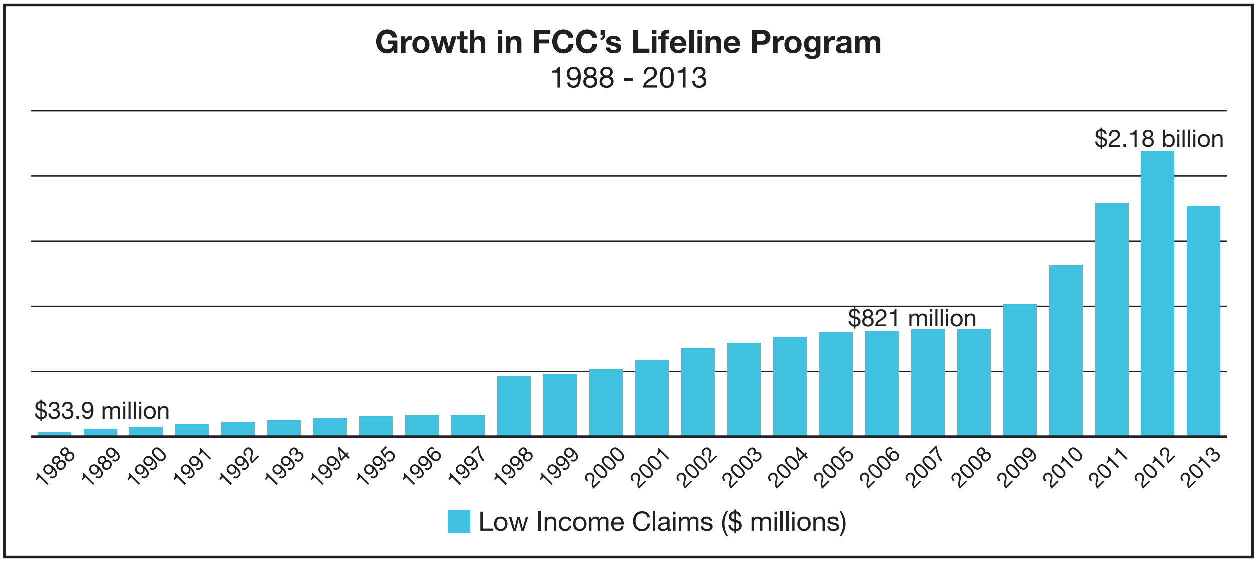
One area that may warrant further investigation is whether the FCC's Lifeline Program is reaching the people who need help the most. For example, in 2013 the Lifeline Program served approximately 14.1 million beneficiaries — by comparison, Federal reports show that approximately 23.1 million households participated in the Food Stamps/SNAP program during fiscal year 2013. In fact, a comparison between the number of beneficiaries participating in the FCC's Lifeline Program and the number of households participating in Food Stamps/SNAP program — the program used by the FCC to establish eligibility criteria for participating in the Lifeline Program — suggests that many low-income consumers may not be taking advantage of the benefits offered under the program. The chart below compares Lifeline Program participation with household participation in Food Stamps/SNAP.



SOURCE: FCC 2013 Universal Service Fund Monitoring Report, Table 3.2 (Dec. 2013); FCC 2010 Universal Service Fund Monitoring Report, Table 6.14 (Dec. 2010); USDA Trends in Supplemental Nutrition Assistance Program Participation Rates: Fiscal Year 2010 to Fiscal Year 2012, Table 2 (July 2014); USDA Trends in Supplemental Nutrition Assistance Program Participation Rates: Fiscal Year 2010 to Fiscal Year 2012, Table 2 (Feb. 2014); USDA SNAP Monthly Report (Aug. 8, 2014). The FCC reports its Lifeline Program data on a calendar year basis while USDA reports its SNAP data on a fiscal year basis, which may account for certain variances.

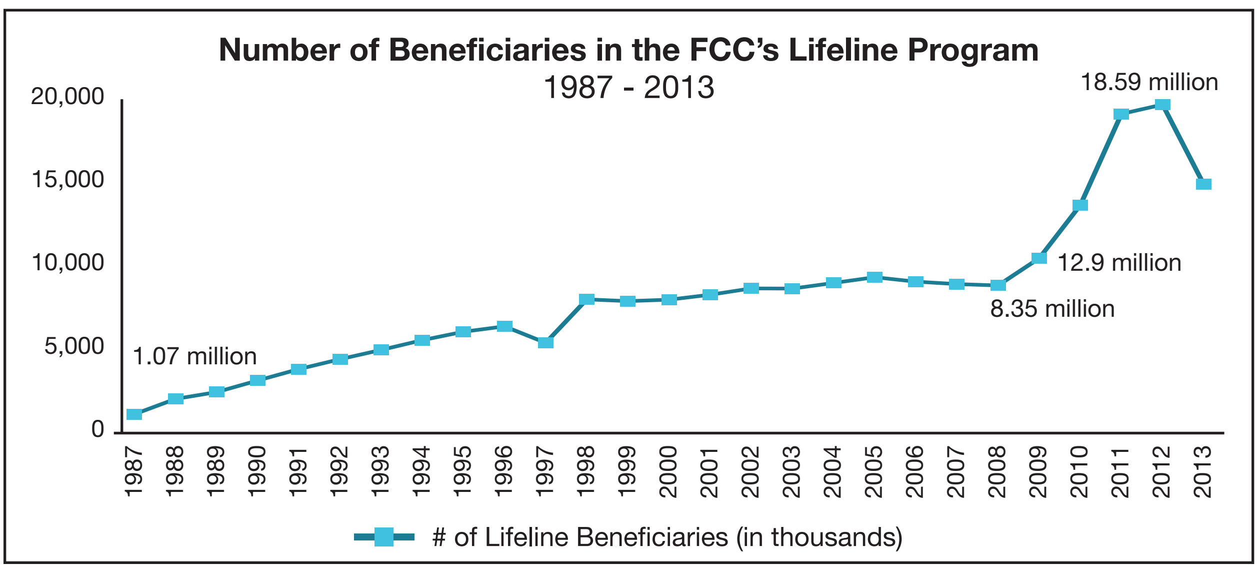
III. LIFELINE PROGRAM GROWTH

The FCC's Lifeline Program has grown significantly — between 2008 and 2011 alone, the Lifeline Program more than doubled, jumping from approximately $822 million in annual subsidy payments to roughly $1.8 *billion*. In 2012, the size of the fund soared to approximately $2.18 billion, nearly triple the size of the fund in 2008.



SOURCE: FCC 2013 Universal Service Fund Monitoring Report, Table 2.2 (Dec. 2013)

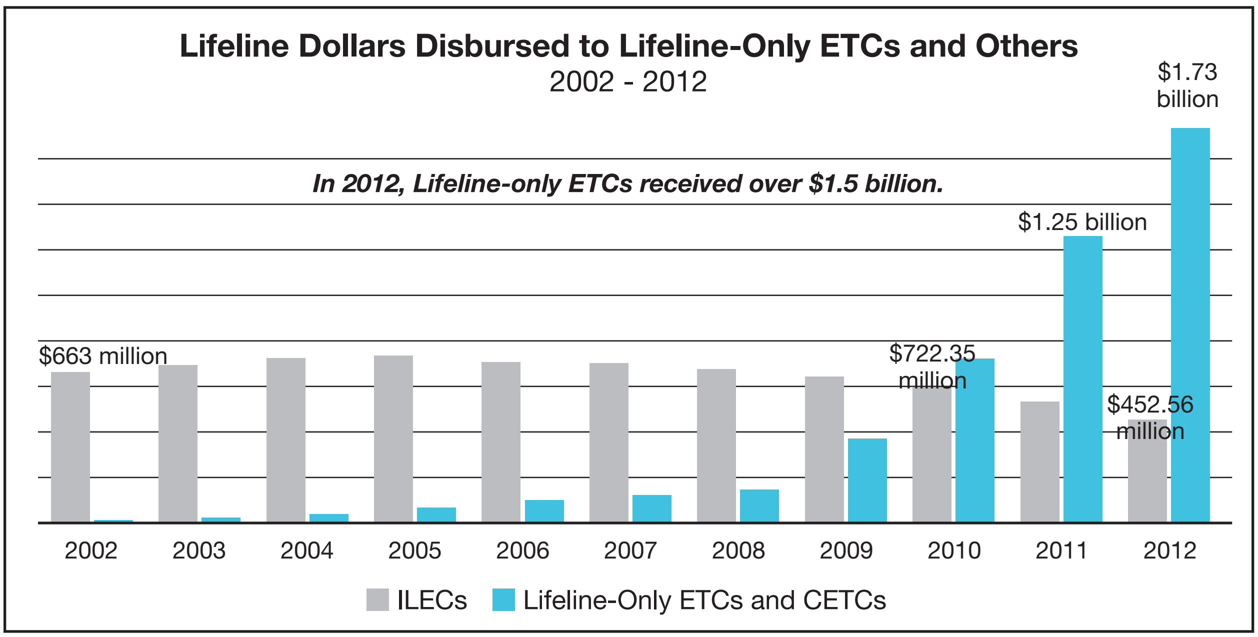
In 2012, the USF paid $2.19 billion to provide discounts to over 18.5 million customers – substantially more than the 1.07 million customers served in 1987.



SOURCE: FCC 2013 Universal Service Fund Monitoring Report, Table 2.1 (Dec. 2013).

Because it pre-dated the growth of competition in the communications industry, the Lifeline Program subsidies were paid almost exclusively to incumbent local exchange carriers ("ILECs") for nearly two decades. After adoption of the 1996 Act, new service providers — referred to as Competitive Eligible Telecommunications Carriers ("CETCs") — entered the market and started serving Lifeline-eligible consumers. By 2004 CETCs received approximately $39.35 million for serving customers through the Lifeline Program, which amounted to approximately 5.2% of the total $762.92 million in Lifeline funds disbursed in 2004. Traditional telephone carriers received the remaining 94.8% of Lifeline Program funds.

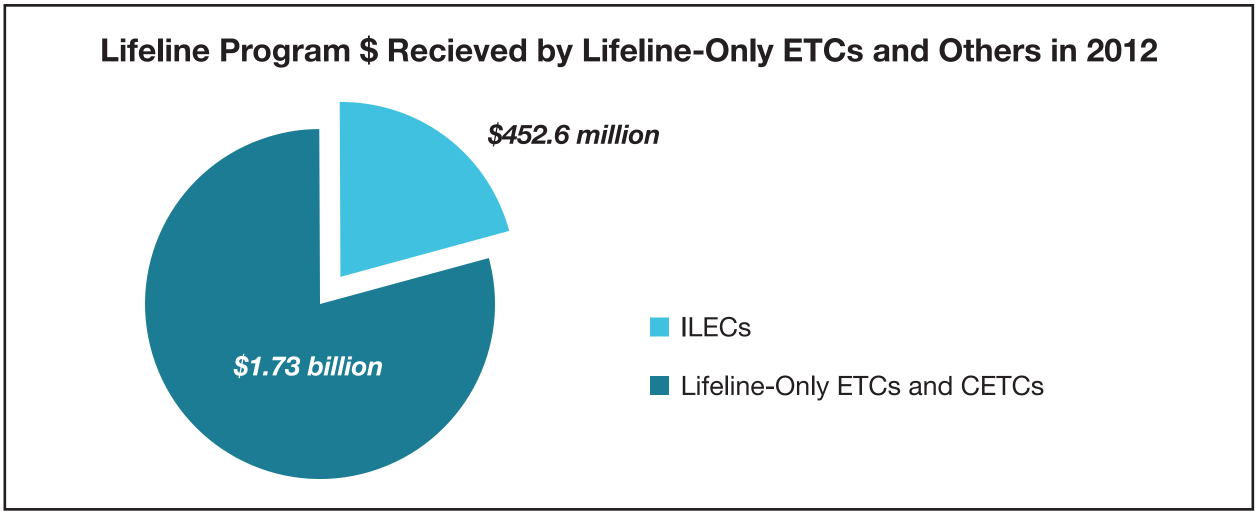
This changed in 2005 when the FCC revised its rules to allow wireless service providers to opt-in to the Lifeline Program through a "Lifeline-only" ETC designation. Specifically, the FCC authorized telecommunications providers without facilities to participate as ETCs in the Lifeline program as opt-in providers.[5] Expanding participation in this way fueled substantial growth in the Lifeline Program. The chart below shows how the distribution of Lifeline Program dollars has changed as a result of these decisions — in recent years, Lifeline-only ETCs have received the vast majority of Lifeline Program funding.



SOURCE: FCC 2013 Universal Service Fund Monitoring Report, Table 2.7 (Dec. 2013). The FCC does not routinely publish sufficiently detailed data to isolate precisely the amount of Lifeline Program funds disbursed to Lifeline-only ETCs. The category "Lifeline-only ETCs" and "CETCs" in this chart includes both wireline and wireless providers, including those providers designated as "Lifeline-only ETCs" consistent with the FCC's 2005 TracPhone Forbearance Order.

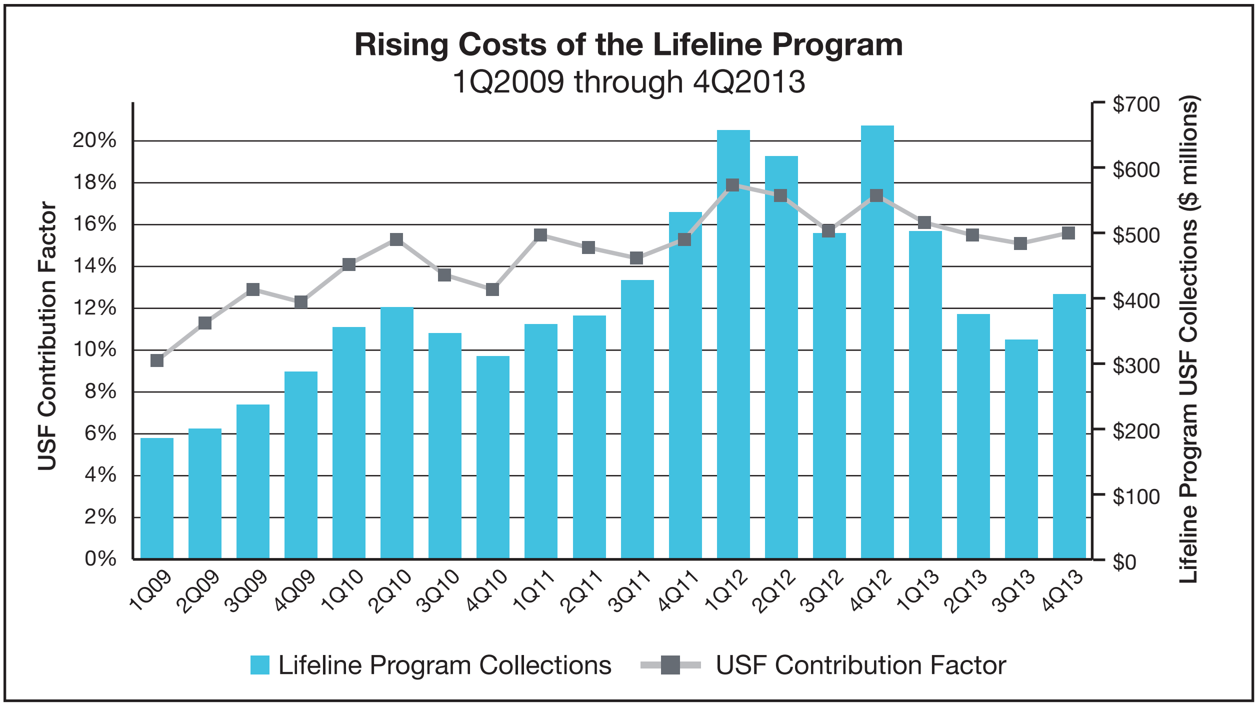
5 *See TracFone Forbearance Order, supra,* note 2.

In 2012, CETCs participating in the Lifeline Program (most of which are opt-in service providers) received approximately $1.8 billion, or about 80% of all Lifeline Program funds.



SOURCE: FCC 2013 Universal Service Fund Monitoring Report, Table 2.7 (Dec. 2013).

The increasing cost of the Lifeline Program has resulted in higher fees passed along to consumers. The Lifeline Program is funded through the Universal Service Fund, which is paid for by fees assessed on interstate communications service that appear on consumer's monthly wireline and wireless telephone bills. In 2007, the FCC — through the Universal Service Administrative Company ("USAC") collected between $168.5 million and $221.7 million each quarter to operate the Lifeline Program. By the end of 2012, the FCC was collecting more than $664 million quarterly to fund the Lifeline Program. These increased Lifeline Program costs resulted in higher fees, represented by the rising quarterly USF Contribution Factor. The chart below illustrates the rising fees paid by consumers during this time period.



SOURCE: FCC 2013 Universal Service Fund Monitoring Report, Table 1.11 (Dec. 2013). For 2009 through 2011, the FCC published program expense data in Table 1.9, 1.10 of the Universal Service Fund Monitoring Report.

Expanding Lifeline Program participation rates positively affected low-income telephone subscribership, which increased from 86.4% in 2005 to 92.6% in 2013. Reports from the Centers for Disease Control and Prevention (CDC) demonstrate that wireless service is particularly important for low-income consumers. Specifically, the CDC's July 2014 report revealed that adults living in poverty were more likely than higher-income adults "to be living in households with only wireless telephones."[6] As noted below, however, increased participation in the Lifeline Program has also been accompanied by increased risk of waste, fraud, and abuse which eventually spurred the FCC to implement some initial oversight reforms.

6 Centers for Disease Control and Prevention, Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July – December 2013, 3 (rel. July 2014).

IV. FCC OVERSIGHT & REFORMS

Concerns about waste, fraud, and abuse grew as the size of the Lifeline Program rapidly expanded. Starting in 2005, the FCC ramped up its Universal Service Fund oversight efforts in general (including those aimed at safeguarding the Lifeline Program), resulting in the FCC Inspector General conducting hundreds of in-depth audits and investigations. In 2008, the FCC Inspector General released the results of these audits, warned of the risk of fraud, and recommended updating the Lifeline Program.[7] In 2010, the Government Accountability Office (GAO) issued a detailed report presenting recommendations for the FCC to improve oversight and management of the Lifeline Program.[8]

The program's run-away growth — the Lifeline Program more than doubled between 2008 and 2012 — and recommendations from the GAO and others helped spur the FCC to increase its oversight efforts and substantially modify the Lifeline program in 2012.[9] The FCC's Lifeline Program reforms included:

- Requiring proof of a consumer's eligibility to participate in the program;
- Requiring consumers to certify (and annual recertify) that they understand the rules;
- Limiting the benefit to one per household;
- Eliminating most Link Up support except for certain providers serving Tribal Lands;[10]
- Establishing a uniform floor for consumers to be eligible for program participation;
- Enhancing marketing and advertising practices of ETCs;
- Requiring audits for providers receiving more than $5 million in Lifeline Program funds.

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7 *See* FCC Office of Inspector General, *Assessment of Payments Made Under the Universal Service Fund's Low Income Program* (Dec. 12, 2008) (finding substantial risk of "erroneous payments" and recommending that the FCC "re-examine the assumptions" underlying the Lifeline Program light of the considerable time that has passed since the program's inception).

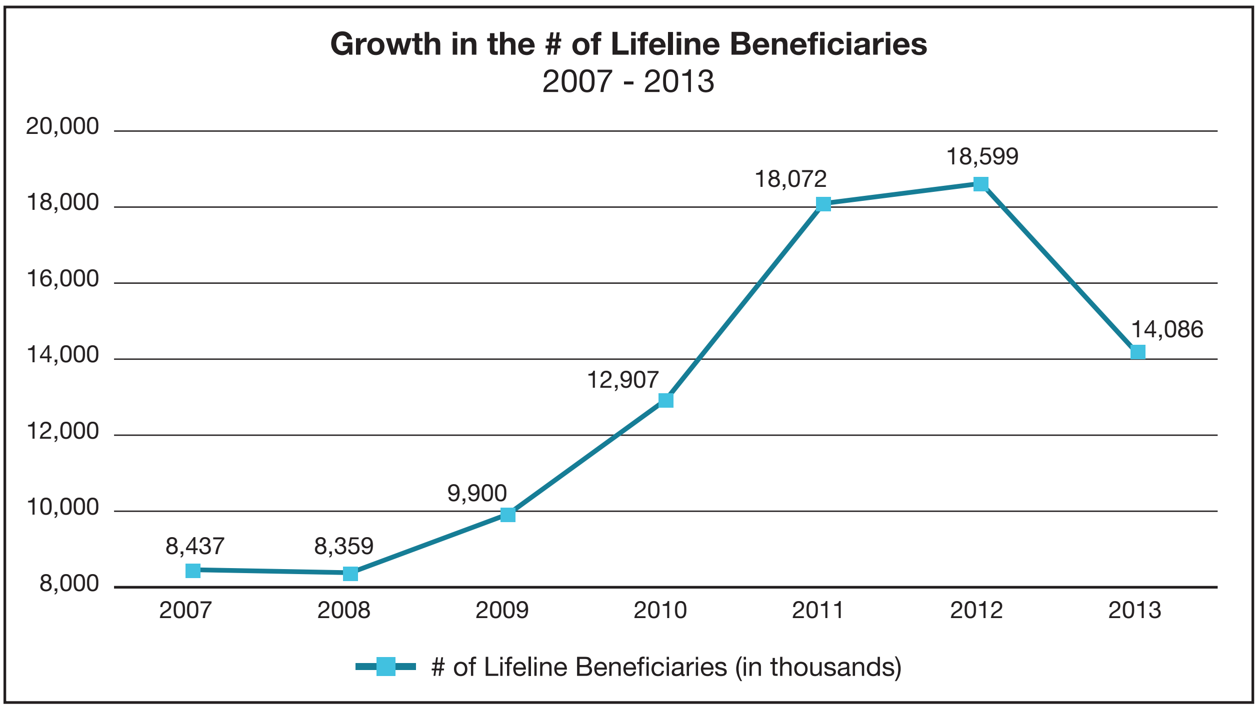
8 *See* Government Accountability Office, *Improved Management Can Enhance FCC Decision Making for the Universal Service Low-Income Program* (Oct. 2010).

9 *See* Lifeline and Link Up Reform and Modernization, WC Docket Nos. 11-42 et al., *Report and Order and Further Notice of Proposed Rulemaking,* 27 FCC Rcd 6656 (2012) (*Lifeline Reform Order*).

10 As a companion to the Lifeline Program, the FCC's "Link Up Program" was adopted in the 1980s to defray the installation costs associated with voice telephone service – in other words, the cost to "link up" the customer to the telephone network. In its 2012 *Lifeline Reform Order,* the FCC concluded that (except in certain cases involving Tribal Lands) competition and declining costs warranted eliminating the Link Up program. *See Lifeline Reform Order* at paras. 245-254.

The FCC also established a National Lifeline Accountability Database so that service providers are prevented from enrolling consumers who already participate in Lifeline with another provider; adopted clear performance goals to measure the Lifeline Program's effectiveness; and established a Lifeline Broadband Pilot Program to gather information about restricting the program to support broadband. In addition, the FCC stepped up its enforcement efforts, fining companies nearly $100 million and issuing citations to hundreds of individuals trying to harm the program.

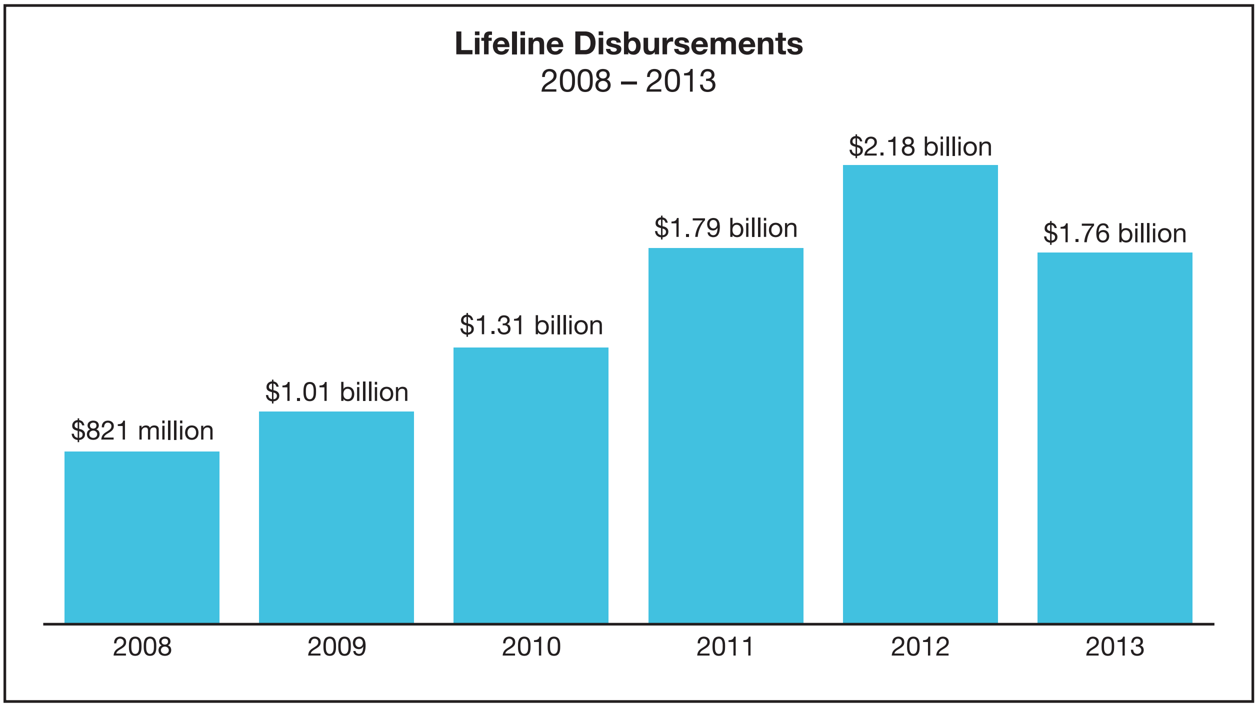
By 2013, the FCC's reforms yielded substantial savings.[11] The chart below demonstrates how FCC anti-waste measures like 100% annual recertification and requiring processes to decrease duplicate enrollments have already identified millions of ineligible Lifeline subscriptions — resulted in total Lifeline claims falling from 18.59 million in 2012 to 14.08 million in 2013.



SOURCE: FCC 2013 Universal Service Fund Monitoring Report, Table 2.1 (Dec. 2013)

11 Wireline Competition Bureau Issues Final Report on Lifeline Program Savings Target, *Public Notice,* WC Docket No. 11-42, DA 13-130 (Jan. 31, 2013) (announcing that *Lifeline Reform Order* resulted in "over $213 million in savings" to the Universal Service Fund).

A reduction in Lifeline Program claims has resulted in lower program costs. Under the FCC's recent reforms, total disbursements in the FCC's Lifeline Program decreased — from $2.18 billion in 2012 to $1.76 billion in 2013.



SOURCE: FCC 2013 Universal Service Fund Monitoring Report, Table 2.2 (Dec. 2013).

V. CHANGES IN THE COMMUNICATIONS MARKET

Innovation and competition have transformed the communications market since the FCC established the Lifeline Program in the mid-1980s. At that time, monopoly telephone providers served consumers with a limited range of voice telephony service. Today, the communications market is highly competitive and dynamic, with consumers increasingly dropping outdated services and driving on-going marketplace change. Together, innovation and competition have created a market that is dominated by consumer power and consumer choice.

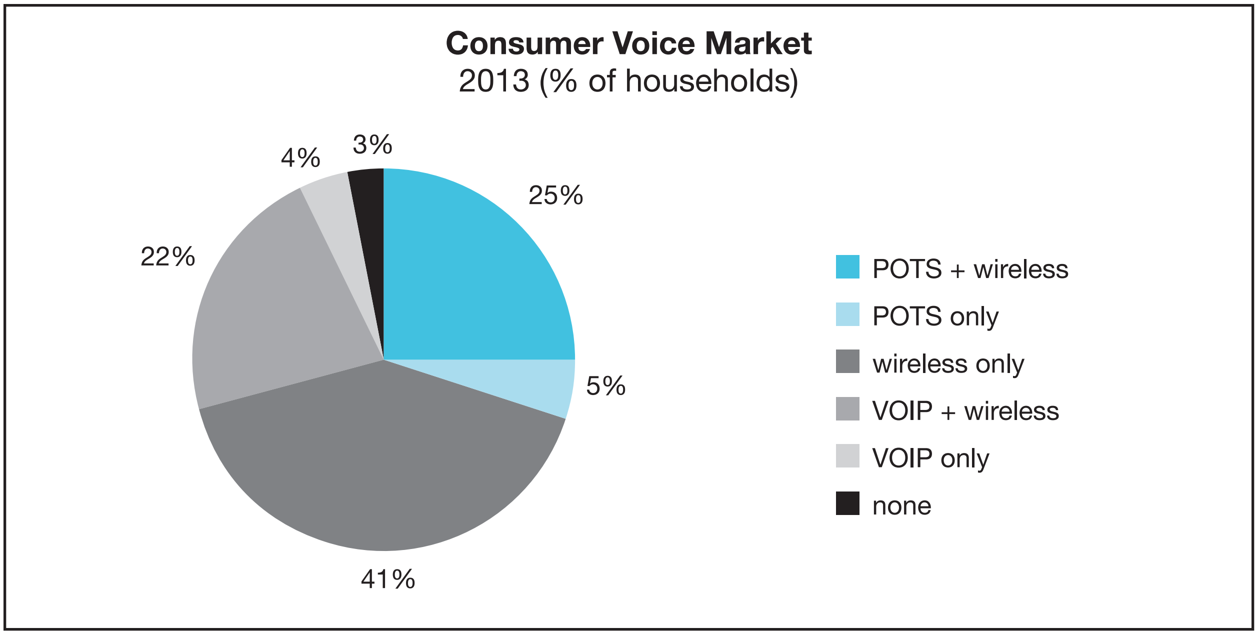
The power of consumers in the communications marketplace was recently described in an IIA study authored by Dr. Anna-Maria Kovacs:

> *Thanks to technological innovation and the choices it has made available to them, consumers have gained tremendous power relative to both regulators and network providers. Consumers are no longer passive beneficiaries of uniform and universal services designed by regulators and produced by carriers, as they were for most of the Twentieth Century.*[12]

Today's communications marketplace looks nothing like the POTS-dominated world that existed when the FCC established the Lifeline Program in the mid-1980s. Wireless service has become so ubiquitous that it is now commonplace for consumers to drop landline voice service altogether. According to the Centers for Disease Control and Prevention most recent wireless substitution report, "[t]wo in every five American homes (41.0%) had only wireless telephones…."[13] As shown in the chart below, consumers now enjoy a wide-range of choice in technology to deliver their voice communications — and as a result, over two-thirds of consumers today rely on wireless, Voice-over-Internet-Protocol ("VOIP"), or a combination or wireless and VOIP for their communications needs, while a mere 5% continue to rely exclusively on traditional POTS.

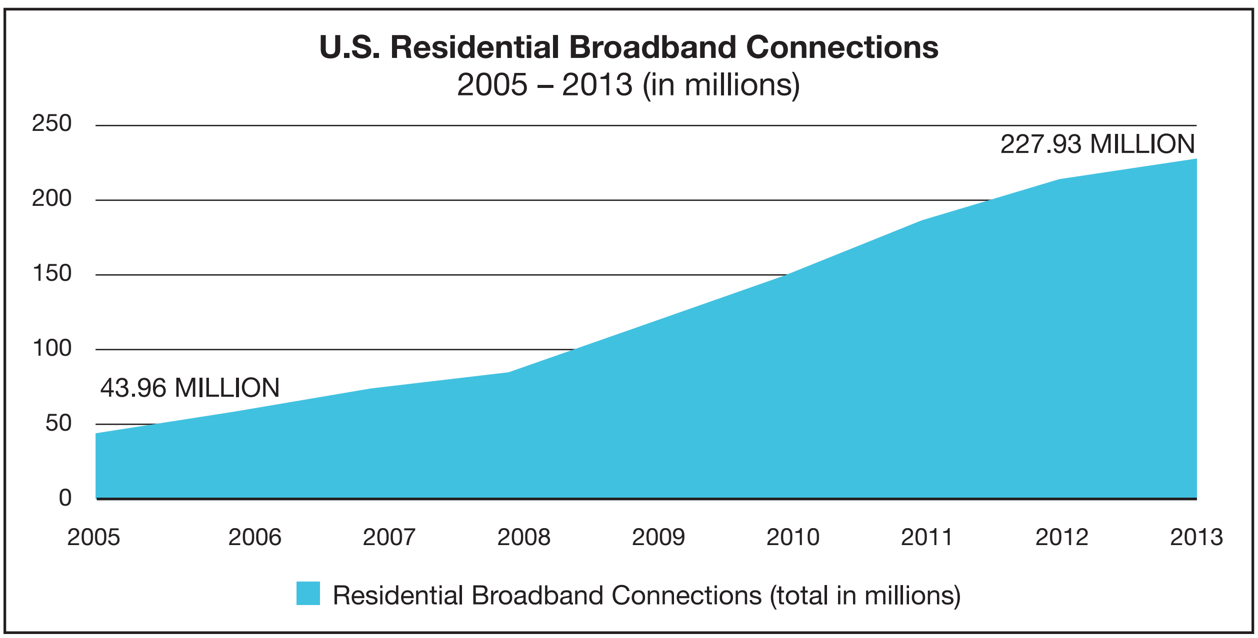
12 Kovacs, Anna-Maria, Ph.D., CFA, *The New Network Compact: Consumers Are in Charge,* 5 (Aug. 2014) (*"The New Network Compact"*).

13 Centers for Disease Control and Prevention, *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July – December 2013,* 1 (Jul. 2014) (*CDC July 2014 Wireless Substitution Report*).



SOURCE: *The New Network Compact at 12, Fig. 1 (relying on data from the FCC and the CDC).*

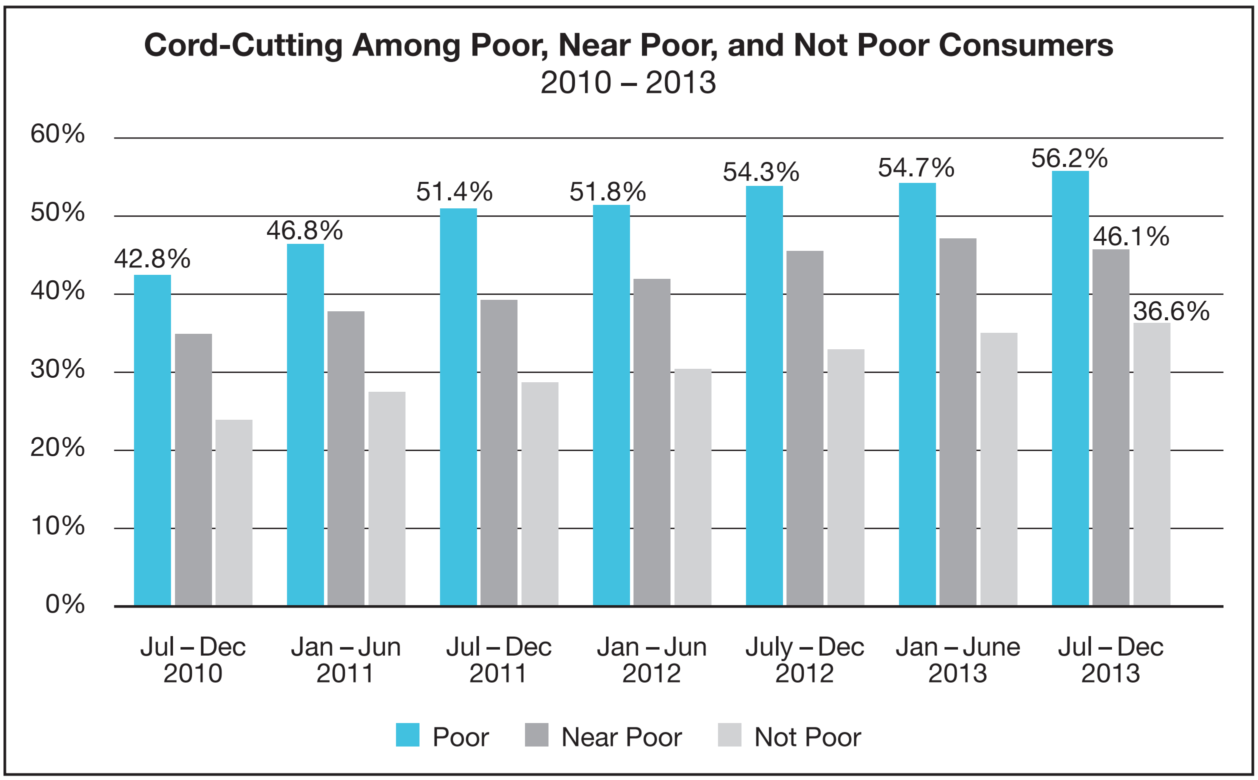
The rise of broadband has also transformed our nation's communications landscape. As highlighted below, by June 2013 approximately 230 million residential broadband connections were in service, more than five times the number that existed nationwide in 2005.



SOURCE: FCC Internet Access Services Report: Status as of June 30, 2013, Table 6 (Jun. 2014); FCC Internet Access Services Report: Status as of December 31, 2009, Table 8 (Dec. 2010). Total connections shown are as indicated at year-end, except for 2013, which uses June as the most recent available.

Broadband speed capability has also become more robust in recent years. As indicated in FCC data, the number of broadband connections with downstream speeds of at least 10 Mbps has steadily increased to 103 million connections by mid-2013.[14]

In some respects, the low-income community best illustrates the impact that innovation and competition have had on the communications and consumer marketplace. Low-income consumers, for example, are more likely to drop landline telephone service altogether. The CDC has documented cord-cutting — i.e., the use of wireless-only within a household — by various demographic criteria, including income and poverty status. As the following chart makes clear, consumers who consider themselves poor or "near poor" are more likely to cut the POTS cord. In fact, the CDC reports that 56% of low-income consumers are likely to rely only on wireless as compared to 36% of the more financially fortunate.



SOURCE: CDC July 2014 Wireless Substitution Report, Table 2.

Dr. Kovacs' research also underscored the important role that wireless access and smartphone use have played in providing Internet access to minority communities. Citing research from the Pew Research Center's Internet & American Life Project, Dr. Kovacs concluded: "[w]ireless broadband is key as a form of Internet access

14 FCC Internet Access Report: Status as of June 30, 2013 at Chart 12.

to minorities. Among those who use a cellphone to access the Internet, 60% of Hispanics describe themselves as going online using their cellphone, 43% of non-Hispanic Blacks do so, and only 27% of non-Hispanic Whites do so."[15]

Unfortunately, the Lifeline Program has failed to fully keep pace with the market. The Commission has taken initial steps toward reform, such as the Lifeline Broadband Pilot Program announced in February 2013, that is designed to collect data regarding increasing broadband adoption among low-income Americans. Yet, the slow pace in launching the Pilot Program, and the limited nature of the Commission's effort underscores the challenge that regulators face in trying to keep up with the rapid pace of innovation and service deployment in today's market.

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15 Kovacs, Anna-Maria, Ph.D., CFA, *Telecommunications Competition: The Infrastructure Investment Race,* 39 (Oct. 2013) ("*The Infrastructure Investment Race*") (citing Pew Research Center, Cell Internet Use 2013, 9 (Sept. 16, 2013)).

VI. MOVING FORWARD

20th Century communications regulations are fast becoming outmoded as a result of technology and innovations that have provided consumers with a plethora of 21st Century communications services made available in an ever-changing and dynamic broadband marketplace. For policymakers seeking to advance a network compact that emphasizes and ensures next-generation broadband access for low-income consumers, it is essential to modernize and re-tool the Lifeline Program.[16]

To further that goal, IIA recommends the following actions:

1. **Updating the Lifeline Program to help low-income consumers access modern broadband communications services.**

   Only 5% of U.S. consumers are choosing to rely solely on the antiquated circuit switched telephone network for their communications needs. Not surprisingly, this trend is reflected in the FCC's Lifeline Program — low income Americans are choosing wireless service as their preferred communications service. Thus, by 2012, approximately 80% of Lifeline Program dollars paid were for wireless service. Even with the migration to wireless service, the Lifeline Program still reflects an outmoded program adopted during the era of monopoly telephone regulation that is not fully adaptive to a mobile and broadband world.

   ⇨ Expanding the program to focus on broadband will help millions of people in the United States access modern communications services.

2. **Streamlining and modernizing the Lifeline Program to make it more attractive for low-income consumer participation.**

   Modernization designed to broaden participation among various communications platforms and providers will help bring the benefits of competition to low-income consumers — more innovation, better service, lower prices — while also lowering overall administrative program costs.

   The current structure of the Lifeline Program is antiquated, cumbersome, and complex. In essence, the service provider-centric Lifeline Program is built like an upside-down Food Stamps program that limits consumer choice by paying a grocery store to allow consumers to shop only at that store. By contrast, the

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16 FCC Commissioner Jessica Rosenworcel has recently called for updating the Lifeline Program. In a September 16, 2014 speech, Commissioner Rosenworcel said about the Lifeline Program that "we need to…update it for the broadband age" and "modernize it" so that the program supports broadband. See Remarks of Commissioner Jessica Rosenworcel at Latino 2.0: Latinos in Tech Innovation & Social Media (Sep. 16, 2014).

existing Food Stamps/SNAP program empowers consumers by providing a debit card that provides low-income shoppers with the freedom to choose among various service providers for a variety of items.

Burdensome red tape not only deters low-income consumers from participating in the Lifeline Program, these administrative burdens also deter service providers from participating. Simplifying the FCC's Lifeline Program and providing more flexibility will make the program more attractive for all service providers, who will then compete more vigorously to serve low-income consumers.

⇨ Adopting a voucher program modeled after the more consumer-focused Food Stamps/SNAP program will help empower consumers. Consumers who meet the program's eligibility criteria could be issued a debit card — a "Lifeline Benefit Card" — for use with authorized and registered providers of communications services. Today, consumers can only access the Lifeline Program for basic voice service. Under a user- directed subsidy, consumers could apply the benefit to broadband or to basic voice service and could choose from a wide array of service providers.

3. **Empowering consumers and leveling the playing field by updating the FCC's criteria for service provider participation in the Lifeline Program.**

Consumer choice now dominates the communications marketplace. The FCC's Lifeline Program, however, does not yet recognize that new reality. In fact, while innovation and competition have transformed the communications market, the outdated Lifeline Program rules prevent low-income consumers from realizing the full range of services and benefits now available.

Participation in the Lifeline Program does not apply equally to all providers of voice service. Because the Lifeline Program looks backwards to the 1980s, wireline telephone providers are required to act as ETCs and participate in Lifeline wherever they provide service. Wireless providers, however, can choose to enter or exit the Lifeline market wherever and whenever it makes economic sense, while VOIP providers and broadband providers are exempt from obligations to serve and have chosen not to participate. No rational justification exists for maintaining this market imbalance — especially at a time when consumers are increasingly dropping wireline phone service — yet wireline telephone companies remain the only entities obligated to administratively maintain the systems and processes required for the Lifeline Program.

The ETC designation was established almost two decades ago and has failed to keep pace with the tidal wave of innovation and change that has swept the industry. Established in the Telecommunications Act of 1996, the ETC designation applied to "common carriers" to determine eligibility for receiving Federal

USF support, such as High Cost subsidies.[17] The FCC built upon the statutory designation by laying a requirement for common carriers designated as ETCs to participate in the Lifeline Program. Almost twenty years later, discrepancies in regulatory treatment apply in a communications marketplace unrecognizable in 1996. For example, no ETC designation is needed for service providers to participate in the E-Rate Program and receive program funds. Similarly, in 2005, the FCC created a new designation for “Lifeline-only ETCs,” which allows service providers to opt-in to the Lifeline Program and receive these program funds.

The ETC designation is not necessary to help deliver communications service to low-income consumers in a world no longer dominated by common carriers. In fact, the Lifeline Program pre-dated the statutory definition of “eligible telecommunications carrier” by more than a decade. And in the 1996 Act, Congress expressly carved out and protected the FCC’s Lifeline Program.[18] A “Lifeline Provider” designation would allow consumers to obtain service from any provider they desire, whether or not that service provider is a common carrier or otherwise designated as an ETC. Providing the benefit directly to consumers through a Lifeline Benefit Card will facilitate choice and competition. In addition, a consumer-focused approach will recognize that the challenges posed by serving high cost areas are different from those of serving low-income consumers. Similar to the E-Rate Program, all service providers in the Lifeline Program should have a designation similar to the existing Lifeline-only category — effectively severing the Lifeline Program from ETC status. Delinking the ETC designation from the Lifeline Program will help focus all stakeholders on serving those with limited means.[19]

Finally, delinking the ETC designation from the Lifeline Program will broaden participation by removing some of the red tape that prevents consumers from applying these benefits to broadband. In many parts of the country, service providers that are not common carriers or ETCs provide broadband service, **and continuing to link Lifeline Program participation to the ETC designation**

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17 The statute states in pertinent part that a “common carrier designated as an eligible telecommunications carrier…shall receive universal service support.…” *See* 47 U.S.C. §254(e(1).

18 *See* 47 U.S.C. §254(j) (stating in pertinent part that nothing in section 254 “shall affect the collection, distribution, or administration of the Lifeline Assistance Program . . . .”).

19 Delinking the ETC designation from the Lifeline Program empowers consumers by paving the way to choose Lifeline-supported service from any provider (not just ETCs) – the purpose of this change is not to enable carriers to stop serving low-income consumers. For example, current regulatory roadblocks prevent low-income consumers from choosing (through the Lifeline Program) voice service offered by non-ETCs like cable operators. Delinking the ETC designation will help broaden participation by removing these regulatory roadblocks. In those rural and insular areas that lack multiple communications providers, low-income consumers will be able to take advantage of the direct-to-consumer subsidy offered through the Lifeline Benefit Card to get any service offered by their local provider. When coupled with empowering consumers with the Lifeline Benefit Card, the separation of the ETC designation from the Lifeline Program will fully enable the program to more clearly focus on providing consumers with available service options rather than keeping the program tethered to particular service providers.

process would exclude broadband. According to the FCC's most recent reports, 31.4% — **or nearly a third** — of all residential broadband connections (defined as "at least 3 Mbps downstream and 768 kbps upstream") are through cable modems, which are offered by non-ETC cable providers.[20] Instead of expanding access to broadband, limiting Lifeline Program participation only to ETCs would deter millions of Americans access to a major broadband technology.

⇨ Harnessing the power of consumer choice and targeting broadband will require leveling the playing field so that all service providers are treated equally — updating the ETC designation and providing greater flexibility will help level the playing field.

4. Balancing the role of government with the private sector.

Determining the eligibility of people to participate in a government assistance program is an inherently governmental function and should be performed by, and/or under direct government supervision — for example, state agencies or the Univeral Service Administrative Company ("USAC") could determine consumer eligibility for the LifeLine program. Service providers, that today have an economic incentive to increase enrollment, should not have the core responsibilities to administer and oversee a government assistance program.

The FCC today places too much reliance on service providers to perform an inherently governmental function. Unlike Food Stamps, Social Security, and other governmental assistance programs, the Lifeline Program requires service providers to determine a consumer's eligibility. This is similar to requiring grocery stores to verify that customers using Food Stamps/SNAP debit cards are actually eligible to shop at that retail location. And because the government program pays for serving each low-income consumer, service providers have a financial incentive to establish a review process that rapidly approves eligibility determinations.[21] The number of Lifeline Program claims has skyrocketed — leaping from 8.35 million to over 18.5 million claims in just four years

⇨ Eliminating service providers from the inherently governmental role of screening eligibility in a government benefits program will both reduce waste, fraud and simplify program administration.

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20 FCC Internet Access Report: Status as of June 30, 2013, Table 8 (Jun. 2014)

21 *See*, e.g., Icon Telecom, Inc., *Notice of Apparent Liability for Forfeiture,* FCC 13-130 (Sep. 30, 2012). FCC Commissioner Pai recently described some egregious carrier misconduct, in this case by Icon Telecom: "The company's vendor had employees go through phone books in order to find names and addresses and register unsuspecting people for the Lifeline program. Then, they sold the phone registered to those fake customers on the street for $5 each." *See* Remarks of FCC Commissioner Ajit Pai at the Citizens Against Government Waste Policy Breakfast (Jul. 28, 2014).

In conclusion, two straightforward changes in the Lifeline Program will simultaneously achieve the broadly supported goal of enabling program funds to be expended for broadband service and place program administration in the hands of a governmental agency with an incentive to lessen fraud and waste:

1. Amend the Lifeline Program to provide the subsidy directly to eligible recipients who can then choose the communications service — broadband or basic voice service — that will best meet each person's needs.

2. Remove program administration from the service providers who have economic incentives to increase enrollment and instead place the responsibility in the hands of a governmental agency, such as a state commission or the Universal Service Administrative Company.

These changes will render the program far more usable for consumers who can then for the first time apply the subsidy to broadband and make program administration less costly.