

**STATEMENT OF
COMMISSIONER NATHAN SIMINGTON
APPROVING IN PART, CONCURRING IN PART**

Re: *Affordable Connectivity Program, Emergency Broadband Benefit Program*; WC Docket No. 21-450, 20-44, Report and Order and Further Notice of Proposed Rulemaking (January 14, 2022).

I want to thank the Bureau staff and Chairwoman Rosenworcel's office for working tirelessly to get this item done in a short amount of time. This is the second Christmas season in a row that the Bureau staff sacrificed to a tight statutory deadline, having done something similar for the Emergency Broadband Benefit program one year ago. Especially given the accelerated timeline, this rulemaking process was a model of cooperation within the Commission and transparency with the outside world. For the most part, I am very satisfied with the resulting order, which incorporated extensive feedback from all commissioners' offices, industry, and other groups outside of the FCC.

I vote to approve this item, but I concur in part in order to draw attention to two issues.

Most importantly, I am troubled that ACP recipients will not be required to provide any portion of their Social Security numbers. Social Security numbers are required for the FCC's other consumer benefit program, Lifeline. In that program, the requirement serves two important purposes. First, it allows USAC to cross-reference enrollments with other databases and make sure that those looking to enroll in Lifeline are who they say they are. Second, it prevents non-qualified aliens—who are generally not eligible to receive certain federal public benefits—from enrolling in the program. By not requiring at least some portion of a Social Security number, our order today takes a step backward on both fronts. USAC will have more difficulty verifying the identities of ACP recipients, and nothing will stop non-qualified aliens from enrolling in the program and receiving taxpayer funds that they may not be entitled to receive. It is true that we did not require any portion of a Social Security number for enrollment in the Emergency Broadband Benefit (EBB), the predecessor to ACP, but that program was adopted as a short-term emergency disaster relief measure. When we adopted EBB, the goal of providing that emergency relief as fast as possible dominated other considerations. But ACP is neither short-term nor an emergency disaster relief program.

I am also concerned that another avenue for waste, fraud, and abuse remains open. Under this order, it is impossible to prevent a consumer from endlessly enrolling in high-cost plans for which such customer has no intention of paying their share of the bill. This arises out of the interaction of a few statutory requirements—the ban on the use of credit checks to determine which plan an ACP recipient can enroll in, the ban on declining to enroll a household due to past or present arrearages with a broadband provider, and the 90-day period that providers must wait before disconnecting non-paying ACP recipients. Our decision to allow providers to force non-paying ACP recipients onto fully subsidized plans does mitigate the problem to some extent, but nothing prevents that consumer from leaving that provider and enrolling in another provider's high-cost plan. The second provider has no way of acquiring actionable knowledge of the consumer's non-payment status with first provider because of the statutory ban on using credit checks to determine for which plan a customer is eligible. One way of preventing this without running afoul of the statute would be to turn USAC itself into a credit bureau of sorts, having it keep track of which ACP recipients have supposedly failed to pay their bills as well requiring it to adjudicate whether such non-payment has in fact occurred and whether the consumer was justified in it. But this would be impractical and wasteful, especially since allowing providers to use credit checks for at least this narrow purpose would be a much simpler solution. Chairwoman Rosenworcel's office worked with me in earnest to find a way to address this issue, but under present law, we could find no solution, so the issue remains unresolved. I hope that Congress revisits the program with an eye to empowering providers and the Commission to prevent this kind of abuse.