

TESTIMONY OF ANGIE KRONENBERG

**PRESIDENT
INCOMPAS**

**before the
United States Senate
Subcommittee on Communications, Media and Broadband**

“The State of Universal Service”

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Introduction

Good morning, Chairman Lujan, Ranking Member Thune, and members of the Subcommittee. My name is Angie Kronenberg, and I am the President of INCOMPAS—the internet and competitive networks association. Thank you for the opportunity to testify on the importance and future of this nation’s critical connectivity program, the Universal Service Fund (“USF”). I have had the honor and privilege to work on USF for a significant portion of my career, including as an advisor to former FCC Commissioner Mignon Clyburn when she was Chair of the Federal-State Joint Board on Universal Service and when the FCC modernized the USF to support broadband network availability and affordable service in its USF programs.

INCOMPAS is the leading trade association advocating for competition and innovation in the communications marketplace. We represent new network builders, internet innovators, and the world’s leading companies offering video streaming, social media, cloud services, and data centers.¹ Our competitive broadband² companies are building networks of the future, including fiber, fixed wireless, mobile (5G), and satellite networks that connect homes, businesses, government agencies, and community anchor institutions. Our leading streaming and internet innovators are investing in network infrastructure and producing new creative content, online services, and applications, which are driving consumer and business demand for more robust broadband networks. In addition to building fiber to some of the most rural corners of America, our members’ achievements include providing business service to 75% of Fortune 500 companies, building the fastest speed network on record, and being awarded the number one

¹ See INCOMPAS’ Website, available at <https://www.incompas.org/memberlist.asp>.

² For purposes of this testimony, the term “broadband” means all broadband services and/or infrastructure that is used to deliver advanced services.

ranking for customer service in America. Our members help deliver better services resulting in more choice, lower prices, and faster broadband speeds that also attract new jobs and private sector investment.

Background and Importance of the USF

While universal service has long been a principle of the Communications Act of 1934, it was a bipartisan Congress that created the USF in the Telecommunications Act of 1996 to help ensure that basic and advanced telecom services (voice and broadband) are available and affordable throughout the United States.³ As a result, the USF has become one of our nation's most critical connectivity programs. Since its creation, the USF has become a program that millions of families, community anchor institutions, and small businesses rely on to get connected. It has been especially valuable for families and businesses that rely on it for work, school, and telehealth.

The USF spends about \$8.5 billion annually to help fund affordable connectivity in rural and urban communities across the nation. It is comprised of four programs:

- (1) The High-Cost Fund helps support connectivity in rural areas by offering subsidies to providers. This is the largest of the USF programs, and approximately 1.2 million households are in the geographic areas served by these providers. In 2021, over \$5.1 billion was spent on this program.
- (2) Lifeline helps low-income households purchase connectivity services by supporting a monthly subsidy of less than \$10 per month. Over seven million low-income households use this subsidy, and over 90% of them use it to purchase mobile connectivity. In 2021, \$724 million was spent on this program.
- (3) E-rate offers affordable broadband service for schools and libraries. There are over 128,000 schools and libraries in the E-rate program. In 2021, the USF spent \$2.1 billion on this program.

³ The implicit subsidies to promote universal service had to be made explicit once local competition was permitted in the telecommunications market as a result of the 1996 Act.

(4) Rural Health Care keeps rural hospitals and clinics connected and serves over 9,000 rural health care facilities. In 2021, \$557 million was spent on this program.

Today, the USF is working to make high-speed broadband networks as ubiquitous as telephone service, and broadband is the essential communications technology the USF now supports in all four USF programs—as was recommended by the National Broadband Plan in 2010.⁴

The USF is extremely important to INCOMPAS’ members. The majority of INCOMPAS’ network provider members participate in at least one USF program—mostly E-rate and Rural Health Care—and so our members have a strong interest in the USF and ensuring that it can survive and thrive and meet its goal to ensure affordable broadband service across the nation. In addition, our members are required to contribute to the USF based on their end user interstate and international telecom revenues. Like the vast majority of providers, most of our members pass through the USF fee to their customers. As such, our members and their customers have been dealing with the increasing contribution factor, which has been difficult for customer relations, but also is making the opportunities for arbitrage as customers are seeking non-assessable services to avoid the high fee of about 30%.

Connecting the Nation Will Require the USF, Congressional Funding, and Private Investment.

While the USF is critical to connecting this nation in an ever-increasing connected world, the digital divide still persists as millions of Americans remain unconnected to high-speed

⁴ See *Connecting America: The National Broadband Plan*, at 147 (2010) (“the FCC should identify near-term opportunities to shift funding from existing programs to advance the universalization of broadband”), available at <https://transition.fcc.gov/national-broadband-plan/national-broadband-plan.pdf>.

internet or any connection at all.⁵ And too many Americans have limited or no choice. For example, the FCC’s 2022 Communications Marketplace Report shows that most consumers only have one or two options of home internet providers, and the higher the speed, the fewer the options.⁶ Be it for lower prices, better customer service, more innovation, or faster speeds—consumers want more competition. Competition is the law and is key to tackling our nation’s connectivity challenges as it is the leading driver for these consumer benefits.

Connecting the nation will take an all-of-the-above approach with help from both the public and private sectors. INCOMPAS supports congressional funding that has been allocated for deployment and affordability because too many people are still not connected despite significant efforts and investment by both the public and private sectors.

INCOMPAS recognizes the importance of the USF, congressional funding, and private investment all working together to achieve our nation’s shared goal of bringing high-speed internet to everyone—what the Administration calls “Internet for All”—and ensuring that everyone can access the lawful online content, services, and applications of their choice. I want to take the opportunity to thank Congress on behalf of INCOMPAS and our members for its focus and hard work to improve connectivity for today and the future. Congress wisely understood the significance of the nation’s connectivity gap, especially during the COVID-19 pandemic, and as a result appropriated tens of billions of dollars through the CARES Act, American Rescue Plan Act, and Infrastructure Investment and Jobs Act. This is once-in-a-generation type funding for

⁵ NTIA recently stated that there are 8 million locations without 25/3 Mbps service. *See Internet For All, How the FCC National Broadband Map Impacts the BEAD Program, Part 1 of 3: Allocation of Funds*, available at <https://www.internetforall.gov/blog/how-fcc-national-broadband-map-impacts-bead-program-part-1-3-allocation-funds>.

⁶ *See 2022 Communications Marketplace Report* (Dec. 30, 2022), at 50 (Fig.II.A.33).

deploying broadband networks to all unserved and underserved locations as well as community anchor institutions, and Congress understood that competition in its funding programs is especially important in driving down costs for taxpayers and enabling the delivery of robust and scalable network capacity.

INCOMPAS believes that we must be making these investments in robust, reliable, and scalable networks that can offer greater connectivity today and higher speeds in the future—this is important for our nation to compete in the global marketplace as many countries around the world also are committed to universal connectivity to high-speed networks. Such an approach will best meet consumer, business, community anchor institution, and government agency needs over time. Accordingly, congressional funding will work in conjunction with the USF and private sector investment to further connect families and small businesses to affordable, high-speed connectivity services.

To that end, INCOMPAS and its members also have been actively working to address the numerous barriers to fast and affordable broadband deployment. INCOMPAS' member companies work directly with local communities to ensure that the infrastructure being deployed will meet their needs, yet in some situations our members face unreasonable, costly demands, and/or significant delays. There is no national framework that affords broadband infrastructure builders a uniform or standardized process, and as a result providers must often navigate a complex, time-consuming, and costly process to deploy their networks. These costs do not reflect rational and reasonable costs. Accordingly, INCOMPAS has advocated for lower costs to pole access, including unreasonable and costly pole replacements, and more affordable railroad

crossings, among other issues.⁷ Without appropriate resolution, these issues distort the market and interfere with broadband deployment nationwide.

Online content and the large technology companies that INCOMPAS represents are also investing heavily in our communications networks to deliver a modern internet. Our members are investing billions of dollars each year in the global network to bring a better online experience to customers and providers. In fact, an Analysys Mason Report conservatively estimates that in the last decade the world's largest online content companies invested \$883 billion in global digital infrastructure including hosting, transport, and delivery networks, and in 2018-2021, these companies increased their investments by over 50% and invested over \$120 billion in digital infrastructure annually.⁸ This is in addition to the billions of dollars that these companies spend annually on content and applications for consumers. Their investments in global digital infrastructure not only support the delivery of their own content and services, which is driving higher demand for broadband, but it also supports the broadband providers' business case. In fact, these pro-consumer investments bring traffic closer to end users, improve quality of experience for broadband users, and save broadband providers over \$5-6.4 billion annually in network and transit fees.

Even with Congressional Funding, We Will Still Need the USF.

Now that Congress has allocated tens of billions of dollars for broadband deployment and affordability, some are questioning whether we still need the USF at all, and the short answer is

⁷ See INCOMPAS, *Leadership Blog* (April 21, 2023), available at <https://www.incompas.org/content.asp?admin=Y&contentid=767>.

⁸ See Analysys Mason, *The Impact of Tech Companies' Network Investment on the Economics of Broadband ISPs* (Oct. 2022), at 4, available at <https://www.analysysmason.com/contentassets/b891ca583e084468baa0b829ced38799/main-report--infra-investment-2022.pdf>.

“Yes, we do.” Most of the money recently allocated by Congress is targeted for broadband deployment, yet three out of the four USF programs focus on affordability of service to households and community anchor institutions. We must continue to ensure that communities can afford to subscribe to these essential services, and the FCC recently affirmed this in its recent Future of USF Report that it issued in response to the Infrastructure Act’s requirements.⁹

However, when we are dealing with taxpayer dollars and the USF fee on customers, we need to be responsible. As such, it is important for the FCC to do a deep-dive analysis into the four USF programs to see how much funding is still needed as a result. Essentially, the FCC agreed it should do this in its Future of USF Report.¹⁰ There are certain USF programs that have overlapping goals with recently allocated congressional funding—for example, the BEAD and High-Cost Programs both help with deployment in hard-to-serve areas, and the Affordable Connectivity and Lifeline Programs both help connect low-income households to affordable broadband service. While the USF programs need further examination to properly consider whether the recent influx of congressional dollars requires modifications to the program to ensure improved efficiency and effectiveness, INCOMPAS believes that there will still be a role for the USF in the future, and we must secure it so that it can meet the long-term connectivity needs of the nation.¹¹

⁹ See *Report on the Future of the Universal Fund*, Report (rel. Aug. 15, 2022), at para. 22 (“[w]e affirm that our universal service goals for broadband cannot be achieved without our existing USF programs”).

¹⁰ See *id.* at para 42 (“[w]e recommend, in parallel with the rollout and completion of BEAD-funded projects, that the Commission evaluate the funding needs of existing and future providers. . .”).

¹¹ INCOMPAS has provided the FCC its recommendations to ensure the USF is effective and efficient. See, e.g., INCOMPAS Comments, WC Docket Nos. 21-476 & 06-122 (Feb. 17, 2022), available at <https://www.fcc.gov/ecfs/document/1021789341563/1>; INCOMPAS Reply

The USF is in a Crisis.

While the USF remains vital in an ever-increasing connected world, it is in serious jeopardy of surviving. The telecom revenues that fund the USF have declined over 60% in the last two decades, and as a result the contribution factor has skyrocketed from 6.9% in 2001 to a historic high of about 30% today. Without intervention, the contribution factor is predicted to rise to 40% by 2025.¹² This is unsustainable and puts the stability of the entire USF at risk.¹³ Historically, services eligible to directly receive USF funding pay into the fund. Broadband internet access service (“BIAS”) and the networks that deliver it are eligible to directly receive USF support, but in a break with historic practice the FCC has not yet modernized its funding mechanism to require BIAS to pay into the fund. The USF contribution factor would be more reasonable and sustain the fund for the future just by correcting this anomaly and following historic practice of assessing services eligible to receive support.

INCOMPAS has been working with the USForward Coalition, which consists of over 340 diverse organizations including civil society, trade associations, and broadband providers across the nation that agree with the recommendation set forth in the USForward Report written

Comments (March 17, 2022), *available at* <https://www.fcc.gov/ecfs/document/103170825528025/1>; INCOMPAS Ex Parte Letter (June 22, 2022), *available at* <https://www.fcc.gov/ecfs/document/10622448730471/1> (discussing the lower operating costs of modern networks.)

¹² See Carol Matthey, *USForward* (Sept. 2021), at 13, *available at* https://www.mattheyconsult.com/files/ugd/179aad_d610eca6ebd54082829f245229ec8c0e.pdf.

¹³ Due to the increasingly high contribution factor, the constitutionality of the entire USF is being litigated. *Consumers Research v. FCC* has been brought in the 5th, 6th, 11th, and D.C. Circuits. So far, the FCC has won both cases in the 5th and 6th Circuits. Decisions for the other two circuits are still forthcoming.

by USF-expert Carol Matthey.¹⁴ The Report recommends that the FCC expand the contribution base to include BIAS revenues and estimates that doing so would immediately bring the contribution factor down to less than 4%. It also explains that assessing BIAS revenues is a logical, easy, and equitable solution that the FCC already has the authority to implement.¹⁵

Conclusion

Congress gave the FCC statutory responsibility under Section 254 of the Communications Act to ensure that the USF is specific, predictable, and sufficient in order to preserve and advance universal service.¹⁶ As such, INCOMPAS stands ready to work with Congress and the FCC to ensure that that the USF is sustained, preserved, and advanced in our nation's pursuit of Internet for All.

¹⁴ See Carol Matthey, *USForward*; see also USForward Coalition, *Call to Action* (Feb. 14, 2022), available at <https://www.incompas.org/Files/filings/2022/02-14-22%20USForward%20Call%20to%20Action%20FCC%20Letter.pdf>.

¹⁵ In general, expanding the base would not reduce adoption rates. See NTCA-USF Study (May 7, 2020), available at <https://www.ntca.org/sites/default/files/documents/2020-05/2020-05-07%20-%20Williams-Zhao%20report%20Final.pdf>; see also NTCA-USF Study (Dec. 13, 2022), available at <https://www.fcc.gov/ecfs/document/12130687900947/2>. Also, the FCC has exempted Lifeline customers from the USF fee, and it can do so for ACP customers.

¹⁶ 47 U.S.C. § 254.