As E-rate Reform Approaches, Chairman Wheeler Unveils His Proposed Revisions

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After a year of broad pronouncements about the need for reforming the E-rate program, the FCC is poised to adopt new E-rate rules at its open meeting in July. Concurrent with his circulation of the E-rate item to his fellow Commissioners, FCC Chairman Wheeler issued a blog post and accompanying fact sheet describing his reform proposals. As expected, the Chairman's proposal directs a significant, short-term boost to fund wireless connections within schools and proposes to focus E-rate funds to broadband services. The proposal also has a surprise reduction in the highest discount rate, a move that is sure to be unwelcomed by the schools and libraries affected. The Chairman's proposal is outlined in a blog post on the FCC blog and an accompanying fact sheet. In the blog post, the Chairman announced that he had circulated an E-rate reform order to the full Commission in advance of the agency's July 11 open meeting. The Chairman had previously declared his intention to reform E-rate rules in time for the FY 2015 bidding cycle, which will begin this fall. In the blog post, the Chairman declared that his draft order "will close th[e] Wi-Fi gap and provide more support for high-capacity wireless broadband for every school and library in America." He claims that his proposal will bring digital learning benefits to 10 million students (compared to only 4 million that could be reached under the existing rules). Among the highlights in the Chairman's proposal:

- The order will set aside $1 billion per year to Wi-Fi in each of the next two years. This is consistent with prior estimates of the overall amount that could be re-directed to E-rate. However, the Chairman's proposal would devote all of the money toward Wi-Fi (and presumably, wired internal connections).

- The maximum discount for E-rate will drop from 90% to 80%. Specifically, the Chairman proposes a 4-to-1 match of E-rate dollars: for every $1 spent by the schools, $4 will be contributed by the USF. Thus, the school pays 1 in 5 dollars (20%).

- The fund will move to phase-out non-broadband support. The details of this phase-out were not disclosed. Presumably, the phase-out would affect all voice service (including VoIP) and lower speed connections.

- Multi-year applications will be permitted.

- Although not stated explicitly, the proposal will not increase the annual cap on E-rate expenditures (of about $2.3 billion). This annual amount will be spent -- principally on Priority 1 services -- plus the temporary Wi-Fi boost provided by re-allocating unspent funds from prior years.

The Chairman's proposal also includes changes to make the processing of E-rate applications faster, including electronic filing of all documents, faster processing of multi-year applications, an expedited process for smaller dollar applications and "simplified" discount calculations. Moreover, the proposal

includes "leveraging" of the GSA schedule for purchases, which suggests that the competitive bidding process may be altered (or could be bypassed altogether) for purchases that from the GSA schedule for federal contracts. Finally, the proposal declares a "zero tolerance" policy for fraud or abuse. As we've noted in previous posts, the FCC and USAC have strictly enforced the competitive bidding rules in the past, often denying applications for failures to follow the competitive bidding process. The Chairman's proposal suggests a tougher application of these rules, making it critically important that service providers strictly adhere to the gift rules and other competitive bidding restrictions. The Chairman's proposal is subject to change in the next three weeks, as the remaining Commissioners have an opportunity to make edits. Past pronouncements show that several Commissioners are deeply interested in E-rate reform. We would expect there to be a vigorous discussion and like several changes in the proposal leading up to the July 11 meeting.