



**COMMENTS OF
THE EDUCATION AND LIBRARIES NETWORKS COALITION
FOR
COMMISSIONER ABERNATHY'S E-RATE INITIATIVE FORUM**

The Education and Libraries Networks Coalition (EdLiNC), which consists of the leading national public and private school and public library associations in this country, appreciates Commissioner Abernathy holding this forum to discuss issues related to the operation of the E-Rate program. Formed in 1995 to advocate for the interests of the school and library communities during the consideration and passage of the Telecommunications Act of 1996, which contained provisions authorizing the E-Rate program, EdLiNC has been intimately involved with virtually every Commission proceeding bearing on the program's regulations and has been a strong and consistent voice in support of the program on Capitol Hill, at the White House and key executive agencies, and nationwide. Just last year, EdLiNC collectively and many of its members individually filed detailed comments in response to the Commission's Notice of Proposed Rulemaking that sought input on a wide-array of E-Rate procedural and administrative issues. Today, EdLiNC continues its tradition of providing constructive comments on the program by making proposals on three issues central to the program's integrity and continued success: 1) the availability of internal connections discounts; 2) the Form 470 electronic posting process; and 3) the current rules governing sanctions for rule transgressions.

The Success of the E-Rate

EdLiNC has always been a strong believer in the E-Rate and its faith has been borne out in the past 5 years by the program's extraordinary success in connecting schools and libraries nationwide to the Internet. Through disbursement of over \$10 billion in discounted services since 1997, the E-Rate has helped wire the vast majority of America's schools and libraries: as of 2001, 87 % of all public school instructional classrooms (including 81% of all instructional classrooms in schools with 50 percent or higher minority enrollment) have been connected to the Internet; as of 2002 and 95% of all public libraries provide public Internet access. Large numbers of private schools have also increased their access to the Internet as a result of E-Rate discounts. We were especially pleased to hear each and every FCC Commissioner tout the program's success during the Commission's April 23 Open Meeting. We agree fervently with Chairman Powell's conclusion that the E-Rate "has done a great deal to strengthen our Nation's network of schools and libraries."

As each Commissioner noted two weeks ago, continuing this success depends upon careful attention to the program's processes and continuous efforts to refine them. We agree with Commissioner Abernathy's comments that, "The challenge is to remove unnecessary impediments to the flow of support, while continuing to ensure that adequate safeguards are in place to prevent waste, fraud, and abuse." It is in the spirit of maintaining and perhaps augmenting the E-Rate's success that EdLiNC offers these comments.

The Availability of Internal Connections Discounts

Since the Commission established the ground rules for the E-Rate in 1996, applicants for both Priority I (telecommunications and Internet access services) and Priority II (internal connections) services have been eligible to receive discounts that range between 20% and 90%, with the deepest discount rates allocated to those applicants with the greatest economic need. Because of Commission rules requiring that the Universal Service Administrative Company (USAC), the E-Rate's administrator, fill all eligible Priority I service requests before providing Priority II discounts and mandating that USAC prioritize based on need all Priority II service requests, there have been insufficient funds available under the program's \$2.25 billion annual cap to satisfy the Priority II discount requests of all, and sometimes even most, applicants seeking internal connections support. Indeed, in the last three program years, USAC has been unable to supply internal connections discounts to applicants eligible for below 80% discount rates.

The inability of many economically disadvantaged schools and libraries, particularly those in high cost rural areas, to obtain internal connections funding for the past three years concerns EdLiNC greatly. EdLiNC believes that it is vital both to the health of the program and to the fulfillment of the E-Rate's mission of delivering advanced services to communities nationwide that the Commission take reasonable steps to ensure that more applicants are able to obtain much-needed internal connections discounts.

We are aware of a number of proposals addressing this issue that have been circulating. In general, EdLiNC sees merit in those proposals that attempt to achieve the goal of greater access to internal connections discounts by adjusting the discount matrix or otherwise altering the E-Rate priority rules. EdLiNC calls upon the Commission to initiate a rulemaking to consider the panoply of proposals on this issue that have been advanced at this hearing as well as in response to the Commission's Notice of Proposed Rulemaking of last year. We submit that the critical issue of the availability of internal connections discounts is one that the Commission can and should address as soon as possible.

Form 470 Electronic Posting Process

Currently, the E-Rate's program rules require that, in addition to following state and local procurement rules, applicants post requests for eligible services online for a minimum of 28-days before accepting bids from vendors to provide those services. The aim of this rule is to ensure a fair competitive bidding process, where applicants receive multiple

bids for E-Rate eligible services and can choose the bid that best serves their needs. While this process has its merits and many believe that it fills the competitive bidding void for those E-Rate eligible institutions that are not subject to state or local procurement rules, some applicants have begun to question the efficacy of this system. EdLiNC's members have received complaints from many applicants that the posting process has become another unuseful obstacle in an already cumbersome applications process because posting rarely yields multiple vendor bids. Since these reports are anecdotal and no hard data exists on this matter, EdLiNC is unable to take a position on the efficacy of the current 470 posting process. However, we do believe that this issue bears exploring and, therefore, recommend that the Commission launch a survey of applicants and providers to determine: 1) whether the posting process is yielding competitive bids; 2) if it is, how many bids, on average, are applicants receiving through it; 3) whether the applicants believe that the process provides other substantial benefits; and 4) whether the service providers believe that the process provides substantial benefits.

Sanctions

Since the E-Rate program's inception, EdLiNC's members have understood the importance of program integrity and have actively supported efforts to prevent waste, fraud, and abuse. Thus, EdLiNC was gratified by the Commission's recent order that allows the Commission to debar from program participation for three years those entities convicted of a criminal violation or found criminally liable for actions relating to the program. We were also pleased to see that the Commission's accompanying Further Notice of Proposed Rulemaking indicates that the Commission is actively considering barring entities that repeatedly and willfully violate program rules. With that said, EdLiNC suggests that the new rules protect the due process rights of entities subject to debarment and are appropriately drawn to ensure that institutions are not unfairly disbarred because of the wrongful actions of one or two individuals or employees acting as agents of that institution. EdLiNC and many of its individual members plan to comment more fully in the upcoming FNPRM proceeding.

Conclusion

EdLiNC applauds Commissioner Abernathy for convening this forum to consider these and other issues related to the E-Rate program. We hope that this forum marks the beginning of the Commission's efforts to steadily improve E-Rate administrative procedures and refine program priorities. EdLiNC looks forward to working with the Commission to build upon E-Rate's previous success and to fulfill its mission of delivering the benefits of the Internet to communities throughout America.

American Association of School Administrators
American Federation of Teachers
Association of Education Service Agencies
American Library Association

Consortium for School Networking
International Society for Technology in Education
National Association of Elementary School Principals
National Association of Secondary School Principals
National Association of State Boards of Education
National Association of Independent Schools
National Catholic Education Association
National Education Association
National Education Knowledge Industry Association
National Rural Education Association
National School Boards Association
United States Conference of Catholic Bishops