

Before the
Federal Communications Commission
Washington, DC 20554

In the matter of:

Comments Sought on the Eligibility
Of Bundled Components Under the
Schools and Libraries Program
Adopted April 23, 2013

Schools and Libraries Universal
Support Mechanism

DA 13-592
GN Docket No. 09-51
CC Docket No. 02-6

Comments of Broadcore, Inc

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Broadcore Intro

Broadcore offers business and public sector clients a unified communications platform for voice (VoIP), data, video, and mobility communications. Through our all-in-one communications services and comprehensive client support, we enable organizations to increase staff productivity, accelerate processes, and improve customer care through tight integration of dispersed communications endpoints for office, mobile, or call center employees.

Introductory Comments

The original language in the Bureau's 2010 Gifting Rule Clarification Order carved out an exception in the gifting rules to allow school and libraries to take advantage of the common practice in the cell phone industry, which is to give an allowance of approximately fifty-dollars for a new phone with a two-year contract, or more for a smart phone with a data plan. The language further allowed this exception to cover other similar services if it was common practice in the industry in question, which opened the door for a number of non-cellular service providers to sell their customers on the idea that their particular piece of end-user equipment was covered by this "exception of similarity." Rumors abound about the breadth of different pieces of equipment under discussion, including handsets for Priority One VoIP providers, iPads or other tablets, Codecs, and more. Broadcore notes that it seems unlikely that the FCC intended on creating such a "slippery slope" with its original language, and commends the FCC on clarifying, and thus closing, any further erosion in the line between eligible and ineligible, or Priority One and Priority Two, goods and services.

General Comments

Broadcore supports the FCC's decision to clarify the ineligibility of all bundled end-user equipment. Broadcore comments that the original language in the Bureau's "2010 Gifting Rule Clarification Order" was ambiguous, open-ended, and raised, ultimately, issues of transparency and fairness that were not adequately addressed in the original Order.

Broadcore agrees with SECA that there is significant upward pressure on the aggregate funding requests for Priority One services, that bundling ineligible end-user equipment will not relieve this pressure in any way, and may have the opposite effect. Broadcore further comments that while there are some services or practices that represent cost efficiencies to the program in Priority One, simply allowing ineligible goods to be bundled in is not such a practice. Broadcore comments that if the growth of Priority One funding is not curbed, not only will there be no Priority Two funding available, but there will no longer be enough Priority One funding for all eligible requests. While a review of the overall fund is not within the scope of this proceeding, commenting on the cost-effectiveness of policy in question and its effect on the overall fund is appropriate.

Decision Timing

Broadcore respectfully comments that there is no reason for the FCC to make this decision prospective for Funding Year 2014, and urges the FCC to instead make the decision prospective for Funding Year 2013. Broadcore comments that to do otherwise would reward those service providers that took advantage of an uneven competitive playing field, and would have the effect of encouraging such behavior in the future. Any handsets bundled into pending applications can be easily cost-allocated out, correcting the issue.

Technology Neutrality

Broadcore comments that, in addition to the effect on the overall fund, there are issues of technology neutrality as well. Broadcore comments that the language in the latest FCC request for comment that proposes prospectively ruling that no end-user equipment can be bundled without cost-allocation in a Priority One service does not specifically address the previous ruling on cell phones. In short, does the latest ruling reverse the earlier ruling on cell phones, or does that exception remain in force?

Broadcore comments that while it understands the FCC's rationale behind the original exception, in the interest of technology neutrality, that is, maintaining a level playing field for all vendors and not giving favorable treatment to any single industry or service provider, allowing cellular providers to bundle handsets in, and not allow other similar, competing

technologies to do the same, gives cellular providers an advantage over hosted VoIP providers.

While Broadcore is sensitive to SECA's assertion that "*the Bureau's decision to exempt free cell phones... has simplified the application process,*" Broadcore comments that such simplification cannot take precedence over a fair, technologically neutral playing field for all service providers.

Broadcore therefore recommends that the FCC reverse its earlier clarification, and disallow cellular providers from bundling cell phones or smart phones as well, or at least either clearly reaffirm or retract it's previous stance.

Gifting Rules

Broadcore also comments that it supports a fair and uniform enforcement of the Federal Gifting Rules. Broadcore comments that if the rules state that any such bundled services must be offered to a class of users outside of K12 specifically, how the practice of some Priority 2 manufacturers to offer the first year of their particular manufacturer's warranty to their E-Rate customers only is permissible?

Summary

Broadcore thanks the FCC for providing this opportunity for comment, and recaps its cardinal points:

- Broadcore supports the FCC's decision to rule that end-user equipment is ineligible to be bundled into a Priority One service.
- Broadcore urges the FCC to reverse its earlier order regarding cellular service and cell phones; it creates an uneven playing field, and gives the cellular phone industry an unfair competitive advantage.
- Broadcore recommends the ruling take effect for FY2013, not FY2014; perpetuating an unfair competitive playing field for an additional year helps no one.