

August 18, 2022

Ms. Radha Sekar
Chief Executive Officer
Universal Service Administrative Company
700 12th Street, NW, Suite 900
Washington, DC 20005

Dear Ms. Sekar:

Over the past two years, we have seen a significant increase in school districts purchasing laptops, tablets, and other connected devices—as well as the Internet services to power them—and making them available for use by children.¹ Given that many schools shifted to virtual or hybrid learning in light of Covid-19, it is no surprise that more devices than ever are making it into students' hands. As you know, many of the school districts that are purchasing these devices and services are doing so through one of two federal programs that offer discounts on those acquisitions: namely, the E-Rate and Emergency Connectivity Fund (ECF) programs that the Universal Service Administrative Co. (USAC) administers.

In 2000, due to concerns about children being exposed to obscene or harmful content online, Congress passed the Children's Internet Protection Act (CIPA) requiring the federal government to apply relevant safeguards to the E-Rate, and later, the ECF programs. In particular, no school district may obtain an E-Rate or ECF discount on a purchase unless they certify that they have an Internet safety policy in place that includes technology protection measures. Those technology protection measures must prevent students from being exposed to visual depictions that are obscene, child pornography, or otherwise harmful to minors. Under CIPA, the safety policy adopted by school districts must also address access by minors to inappropriate matter on the Internet; the safety and security of minors when using electronic mail, chat rooms and other forms of direct electronic communications; unauthorized access, including "hacking," and other unlawful activities; unauthorized disclosure, use, and dissemination of personal information regarding minors; and measures restricting minors' access to materials harmful to them.² As the statute makes clear, there is nothing in CIPA that requires CIPA-compliant technology to operate in a manner that would allow bad actors to surveil children or for anyone to take advantage of their data.

These longstanding federal safeguards play a vital role in empowering and supporting parents in their roles as guardians of their children. Nonetheless, it appears that a significant percentage of the millions of connected devices recently purchased with federal E-Rate and ECF discounts may not be CIPA-compliant.³ This is concerning because it leaves children unprotected from online predators,

¹ See, e.g., Benjamin Herold, *Schools Handed Out Millions of Digital Devices Under COVID-19. Now, Thousands are Missing*, Education Week, July 23, 2020, <https://www.edweek.org/technology/schools-handed-out-millions-of-digital-devices-under-covid-19-now-thousands-are-missing/2020/07>; Kathryn de Wit & Anna Read, Pew Trusts, *States Tap Federal CARES Act to Expand Broadband*, Nov. 16, 2020, <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2020/11/states-tap-federal-cares-act-to-expand-broadband>.

² Pub. L. No. 106-554.

³ See, e.g., Center for Democracy and Technology, *Survey, Views on Student Activity Monitoring Software* (indicating that only 71% of surveyed teachers responded that, yes, online activity monitoring software, which includes technology that blocks inappropriate material, is being used on school-issued devices), <https://cdt.org/wp-content/uploads/2021/09/Student-Activity-Monitoring-Software-Polling-Research-Slides.pdf>.

pornography, and materials that are otherwise harmful to children and results in abuse of universal service fund dollars where the FCC's rules are not followed.

The FCC's rules that apply to school districts purchasing covered devices and connections with E-Rate and ECF dollars task USAC with obtaining certifications from schools of their CIPA compliance. We therefore write to ensure that USAC is making certain that every covered E-Rate and ECF purchase has safeguards in place to protect children from online harms as required by CIPA. To that end, please respond to us by September 2, 2022, with the following information:

- 1) How many laptops and other connected devices and Internet connections have been purchased with E-Rate or ECF discounts since February 2020?
- 2) Of those purchases, how many are required by federal law to have CIPA-compliant technology protection measures in place?
- 3) What is your estimate for the percentage of covered purchases that have failed to comply with CIPA despite being required to do so by the FCC and federal law?
- 4) Beyond determining whether a school or school district has checked a box certifying that their covered devices and connections are CIPA-compliant, has USAC used its ability to conduct audits of the documentation each school is required to retain to show CIPA compliance? Has USAC taken any other action to enforce CIPA compliance? If devices are found to not be in CIPA compliance, what options are available to ensure children's security is protected?
- 5) Are there any gaps in USAC's authority to monitor CIPA compliance? Are there any legal or regulatory challenges associated with E-Rate or ECF that make it difficult to ensure compliance?
- 6) Given that CIPA generally does not apply outside the context of the E-Rate and ECF programs and given that school districts may have been purchasing connected devices and Internet services without E-Rate or ECF discounts, do you see a gap in safeguards for children – meaning, are school districts supplying children with devices or connections without technology protection measures in place and potentially allowing children to be exposed to obscene or harmful online content because CIPA does not apply to all devices and connections that school districts supply to children?
- 7) How many laptops and other connected devices and Internet connections have been purchased with E-Rate discounts between February 2018 and February 2020 (pre-ECF)?

Sincerely,



Brendan Carr
Commissioner
Federal Communications Commission



Marsha Blackburn
United States Senator