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April 4, 2019

**By ECFS**

Marlene Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: **National Lifeline Association Notice of Oral *Ex Parte* Presentation,  
WC Docket Nos. 17-287, 11-42 and 09-197**

Dear Ms. Dortch:

On April 2, 2019, Brandt Mensh, President of Prepaid Wireless Group, LLC and Kim Lehrman, President of Boomerang Wireless, LLC, along with John Heitmann and Joshua Guyan of Kelley Drye & Warren LLP, met on behalf of the National Lifeline Association (NaLA) with Evan Swartrauber, Policy Advisor to Commissioner Brendan Carr; Arielle Roth, Wireline Legal Advisor to Commissioner Michael O’Rielly; Nirali Patel, Wireline Advisor to Chairman Ajit Pai; Randy Clarke, Legal Advisor to Commissioner Geoffrey Starks; Travis Litman, Chief of Staff and Senior Legal Advisor to Commissioner Jessica Rosenworcel; and Kris Monteith, Trent Harkrader, Ryan Palmer, Jodie Griffin, Allison Baker, Jessica Campbell, Allison Jones and Nicholas Page from the Wireline Competition Bureau (Bureau) to discuss a number of pending Lifeline program issues raised in the above-referenced proceedings.<sup>1</sup> The discussion was consistent with the attached exhibits.

In the meeting, we conveyed that NaLA and its member companies share Chairman Pai’s view that Lifeline has a very important role to play in closing the digital divide. Further, we also explained that NaLA shares and enthusiastically supports the Chairman’s stated goal to “make

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<sup>1</sup> See *Bridging the Digital Divide for Low-Income Consumers, Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support*, WC Docket Nos. 17-287, 11-42, 09-197, Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 17-155 (rel. Dec. 1, 2017).

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sure that every American who needs help through the Lifeline program is able to get it.”<sup>2</sup> We expressed appreciation for the Commission’s recent efforts toward making improvements in the implementation of the Lifeline eligibility National Verifier. However, we emphasized that the Commission should continue to work with service providers and other stakeholders to promptly make additional improvements as discussed below. Further, the Commission should freeze or waive the scheduled increases in the minimum service standards for Lifeline broadband and the voice support phase-out that threaten to deny consumers access to affordable choices that best meet their needs.

**The Commission Should Incorporate a Service Provider API and More Robust Access to Eligibility Databases to Reduce Barriers for Eligible Consumers, Minimize Program Costs and Eliminate Waste, Fraud and Abuse**

We noted the unanimous industry support for the Commission’s implementation of an efficient and effective National Verifier. To be successful in meeting the stated goals for the National Verifier,<sup>3</sup> the Commission must promptly take two important actions at this stage of development and implementation of the National Verifier.

First, the Commission must continue to work with the Universal Service Administrative Company (USAC) and Lifeline stakeholders, including service providers, to develop and implement service provider application programming interface (API) connectivity to the National Verifier.<sup>4</sup> We appreciate the efforts of the Bureau to work with USAC and Lifeline service providers on an API.<sup>5</sup> However, the API must allow service providers assisting

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<sup>2</sup> See *Oversight of the Federal Communications Commission: Hearing Before the S. Committee on Commerce, Science and Transportation*, 115th Cong. (2018).

<sup>3</sup> See *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38, ¶¶ 128-131 (2016) (2016 Lifeline Modernization Order).

<sup>4</sup> Without an API: (1) consumers will be forced to enter personal information twice creating a substantial burden and barrier to participation as well as potential data integrity issues that will further increase costs by forcing manual National Verifier review of exceptions and higher call center volumes; (2) the National Verifier will need to screen 100 percent of all applicants, rather than avoiding a substantial portion of these costs by taking advantage of ETC screening tools; (3) ETCs will be unable to offer online enrollment, making it more difficult and costly to enroll eligible subscribers, especially in rural areas; (4) ETCs will be unable to monitor their agents through the enrollment process to prevent attempts at fraud or abuse.

<sup>5</sup> See CTIA Notice of Oral *Ex Parte* Presentation, WC Docket No. 17-287, 11-42 (filed Mar. 13, 2019).

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applicants through the eligibility determination and enrollment process to receive error codes so that service providers can help applicants to identify and upload the documentation required to complete the process successfully.

Second, the Commission must act to require USAC to secure access to the appropriate eligibility databases before hard launch of the National Verifier in any additional states. Because the vast majority of Lifeline applicants demonstrate eligibility through participation in Medicaid and Supplemental Nutrition Assistance Program (SNAP),<sup>6</sup> the Commission should order USAC not to move to hard launch of the National Verifier in any state until access to both Medicaid and SNAP databases has been secured.<sup>7</sup>

We described NaLA members' experience from the first waves of hard launch that conducting reverification without access to both Medicaid and SNAP databases results in requiring far too many subscribers to respond to an unduly burdensome manual reverification process that is not well designed for the consumers served by the Lifeline program. For example, in Pennsylvania and Colorado where the National Verifier had access to both SNAP and Medicaid databases, the failure rates (subscribers not found in the databases) were 20 percent and 29 percent respectively. In Mississippi, where the National Verifier had access to the SNAP database, but not the Medicaid database, the failure rate was 56 percent. Finally, in states like Wyoming, Idaho and the Dakotas where the National Verifier does not have access to either SNAP or Medicaid databases, the failure rates were over 90 percent. Such failure rates push thousands of eligible Lifeline subscribers into an unduly burdensome manual reverification process that requires them to mail or upload a new lengthy application form and proof of eligibility documentation, and potentially proof of address and identity. We noted that requiring proof of eligibility documentation is contrary to the requirements of the Commission's Lifeline

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<sup>6</sup> The January 2019 National Verifier Plan notes that 61 percent of enrollments used Medicaid or SNAP, but that data was skewed by inclusion of eligibility programs that were removed in 2016. *See* National Verifier Plan (January 2019) at 12. More recent data from a NaLA member shows that 90 percent of its subscriber base enrolled through participation in Medicaid or SNAP.

<sup>7</sup> *See* Comments of NaLA on the Emergency Petition of TracFone Wireless, Inc. for an Order Directing USAC to Alter the Implementation of the National Verifier to Optimize the Automated and Manual Eligibility Verification Processes, WC Docket Nos. 11-42, 09-197 (Sept. 12, 2018). For example, in the following hard launch and soft launch states (which represents a majority of them), USAC has secured access only to the HUD database: Alaska, American Samoa, District of Columbia, Delaware, Guam, Hawaii, Idaho, Maine, New Hampshire, North Dakota, Northern Mariana Islands, Rhode Island, South Dakota, US Virgin Islands and Wyoming. This database accounts for less than 1 percent of all Lifeline enrollees nationwide.

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recertification rules, which reflected a well-reasoned balancing of program access and integrity.<sup>8</sup> NaLA members find that no more than 1 in 10 subscribers can complete the manual reverification process, which means that the process does not work well for this population and instead serves as a barrier blocking eligible subscribers from program participation.

In addition, to allow Lifeline subscribers and applicants to demonstrate eligibility, the Commission should work with USAC and service providers on a solution that would allow the continued use of SNAP cards as eligibility proof. USAC abruptly announced a change in policy requiring either an issue or expiration date on SNAP cards, which is not done in 45 of 50 states.<sup>9</sup> NaLA supports the proposal that the Commission and USAC accept SNAP cards accompanied by a receipt showing a recent food purchase using that card where the receipt contains the last 4 digits of the SNAP recipients account number so that it can be matched to the card.<sup>10</sup>

We understand that the National Verifier will be building access to the national Centers for Medicare and Medicaid Services (CMS) Medicaid database, but that process will take several months to build and operationalize. This integration should be completed as soon as possible and then all subscribers not previously verified should be “dipped” against that database before the Commission or USAC considers requiring de-enrollment of such subscribers. Prior to proceeding further, the Commission and USAC should study the success or failure rate of both electronic and manual reverification efforts by state and make adjustments necessary to ensure that eligible Lifeline subscribers are not disenrolled due to inadequate database access or manual processes that are not well designed for this vulnerable class of consumers.

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<sup>8</sup> See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11, ¶¶ 134, 139 (2012); Lifeline Industry Written *Ex Parte* Presentation, WC Docket Nos. 09-197, 10-90, 11-42 (filed June 16, 2017) (explaining that the Lifeline rules require proof of eligibility at enrollment, not at recertification and nothing in the 2016 Lifeline Modernization Order changed the determination not to require proof at recertification or gave the Bureau or USAC the authority to require Lifeline subscribers to re-verify their eligibility to be migrated into the National Verifier); TracFone Wireless Written *Ex Parte* Presentation, WC Docket Nos. 09-197, 10-90, 11-42 (filed June 12, 2017).

<sup>9</sup> See Sprint Written *Ex Parte* Presentation, WC Docket Nos. 17-287, 11-42, 09-197 at 5 (filed Mar. 18, 2019).

<sup>10</sup> See TracFone Wireless, Inc. Notice of Oral *Ex Parte* Presentation, WC Docket Nos. 17-287, 11-42, 09-197 at 2 (filed Mar. 22, 2019).

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**The Commission Should Prioritize Access and Affordability for Consumers by Stopping the Voice Support Phase Out and Freezing Minimum Service Standards**

We explained that putting consumers first involves stopping the phase-out of support for essential voice service, which will begin as of December 1, 2019 and has no support in the record.<sup>11</sup> Similarly, near term action is necessary to prevent massive price increases on Lifeline subscribers. Without relief from the Commission, on December 1, 2019, the reimbursement for 1,000 minutes of voice will be reduced from \$9.25 to \$7.25. Further, based on the mobile broadband formula in Section 54.408(c)(2)(ii) of the Commission's rules, on December 1, 2019 we expect the mobile broadband minimum requirement to rise from the current 2 GB to 9.75 GB of data.<sup>12</sup> Today, 10 GB plans typically retail for \$40 or more. Therefore, if left unchanged, the December 2019 minimum service standards will effectively impose a **\$30 per month price increase on Lifeline subscribers**, which they cannot afford. We explained that this already is causing ETCs to pull back on enrollment efforts as they increasingly see no way to make themselves whole on subscribers prior to December 2019.

We further explained that the minimum service standards have been a major cause of the reduced Lifeline participation in the last two years, especially in states where no additional subsidies are available (i.e., the \$9.25 states). Along with regulatory uncertainty, the Lifeline minimum service standards imposed by the Commission in 2016 have been a major cause of the reduced Lifeline participation rate to about 23 percent of those eligible (approximately 9 million subscribers) because carriers cannot see the necessary return on investment from the cost of acquiring new Lifeline subscribers and of providing prescribed levels of service to them. Rather than perpetuating the paternalistically prescribed family-sized service plans and phase-out and elimination of support for critical voice services, the Commission should waive automatically escalating minimum service standards and allow consumers to choose among options of voice

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<sup>11</sup> See Joint Lifeline ETC Petitioners' Petition for Partial Reconsideration and Clarification, WC Docket Nos. 11-42, 09-197, 10-90 (June 23, 2016) (seeking reconsideration of the voice support phase-down and the broadband minimum service standards). See also Petition for Reconsideration of CTIA, WC Docket Nos. 11-42, 09-197, 10-90 (June 23, 2016) (seeking reconsideration of the mobile broadband minimum service standards).

<sup>12</sup>  $400 \text{ million mobile-cellular subscriptions} / 127,586,000 \text{ households (Census)} = 3.14 \times 85\%$  (Americans that own a smartphone)  $= 2.67 \times 5.1 \text{ GB (average data used per mobile smartphone subscriber)} = 13.62 \times 70\% = 9.534$ , which is rounded up (per the rule) to 9.75 GB.

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and data, including bundles, that strike the best balance between affordability and access for each consumer.<sup>13</sup>

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically.

Respectfully submitted,



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Enclosure

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<sup>13</sup> See Comments of NaLA on Petitions of TracFone and NTCA Regarding the Lifeline Minimum Service Standards, WC Docket Nos. 11-42, 09-197, 10-90 (filed Aug. 30, 2018).

## **EXHIBITS**

## Lifeline National Verifier Implementation: Getting It Right by Putting Low-Income Consumers First

### The National Verifier Must Incorporate a Service Provider API and More Robust Access to Eligibility Databases to Reduce Barriers for Eligible Consumers, Minimize Program Costs and Eliminate Waste, Fraud and Abuse

- A **service provider API** is essential to facilitating consumer access to Lifeline and minimizing waste, fraud and abuse
  - A service provider API must enable ETCs to help consumers identify and submit documentation required when any element of electronic verification is not successful
  - A service provider API is essential for both online and in-person distribution models
  - Until a service provider API solution is implemented, the FCC should grant all ETCs a waiver to enable batch submission of consumer documentation for an eligibility determination by the National Verifier
  - USAC should publish enrollment data by month and state, for periods before and after National Verifier launch to ensure that stated goals are met
- **Adequate database access** is essential to a successful National Verifier that achieves stated goals
  - Soft launch status should be maintained in each state until the National Verifier has implemented electronic/automated access to SNAP and Medicaid databases
  - USAC and the Commission should expedite implementation of access to the nationwide CMS/Medicaid database
  - USAC should secure access to all state SNAP databases that are reasonably accessible, while exploring solutions and alternatives for states in which such access will be delayed

### The Reverification Should Be Adjusted Based on Lessons Learned

- Reverification should not be completed – and reenrollments should not occur – in any state prior to gaining electronic/automated access to SNAP and Medicaid databases
- USAC should provide reverification failure cause reports to enable ETCs to improve reverification outreach efforts
- Database search criteria should be refined to guard against false negative eligibility determinations
- Recertification should be suspended for 2019 and restarted in 2020 to mitigate unnecessary burdens on and confusion for consumers
- For SNAP participants, EBT card plus current receipt showing a food transaction should be acceptable proof of eligibility where the EBT card does not have an issue or expiration date
- USAC and the FCC should study the success/failure rate of both electronic and manual reverification efforts by state and make adjustments necessary to ensure that eligible Lifeline subscribers are not reenrolled due to inadequate database access or manual processes that are not well designed for the vulnerable class of consumers eligible for and served by the Lifeline program





## The FCC Should Prioritize Access and Affordability for Consumers by Freezing Minimum Service Standards and Stopping the Voice Support Phase Out

The FCC should freeze the **minimum service standards** and stop the **voice support phase-out** that threaten to deny consumers access to affordable choices that best meet their needs.

- The December 1, 2019 rule changes will reduce the reimbursement for 1,000 minutes of voice to \$7.25 and increase the broadband data minimum to 9.75 GB
- If not waived, these two rule changes will undermine the program's goals of **access** (by making Lifeline service less available and by sun-setting support for voice) and **affordability** (by effectively imposing a \$30 price increase on mobile broadband Lifeline service)
- Full support for voice services should be available everywhere – not just in rural America
  - There is no support for the voice phase out in the record
  - Those specifically supporting retaining full voice support include AARP, NAACP, several major cities, the Oklahoma, Pennsylvania, Michigan, Minnesota, Missouri, Nebraska, Florida and California public service commissions, GVNW, NASUCA, NARUC, Sacred Wind, GCI, NTCA and WTA, the Leadership Conference on Human Rights, and TracFone
- The FCC should act now to prevent unintended minimum service standards-driven price increases on Lifeline broadband subscribers
  - The December 1, 2019 the minimum service standard formula-based increases will require 9.75 GB of broadband data
  - Today 10 GB plans typically retail for \$40 and higher, making these “household” sized plans too expensive for consumers based on the current Lifeline subsidy level
  - If left unchanged, the December 2019 minimum service standards will ***effectively impose a \$30/month price increase on Lifeline subscribers – a price increase that these subscribers cannot afford***
- The Lifeline minimum service standards have been a major cause of the reduced Lifeline participation in the last two years, especially in states where no additional subsidies can be combined with the standard Lifeline subsidy of \$9.25
  - From 12.7 million to just over 9 million subscribers, a decline of 3.7 million subscribers (or 29%)
  - Participation rate decline from an estimated 32% to 23% of those eligible
  - Because carriers cannot see the necessary return on investment from the cost of acquiring new Lifeline subscribers and of providing prescribed levels of service to them
- Waiving automatically escalating Lifeline minimum service standards will allow consumers to choose among options of voice and data, including bundles, that strike the best balance between affordability and access for each consumer