

September 26, 2017

**Ex Parte Notice**

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

Re: *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42 – TracFone  
Wireless, Inc. Request for Clarification of Minimum Service Standards

Dear Ms. Dortch:

Q LINK WIRELESS LLC (“Q LINK”) supports TracFone Wireless, Inc.’s (“TracFone”) request for the Commission to clarify that a “units” plan that allows, but does not compel, Lifeline consumers to use data at or above the required minimum requirements meets the minimum service standards as established in the 2016 Lifeline Modernization Order.<sup>1</sup> Indeed, this very question is currently pending before the Wireline Competition Bureau as a result of Q LINK’s October 28, 2016 Petition for Reconsideration.<sup>2</sup>

As Q LINK explained in its Petition, the *Order*’s minimum service requirements permit consumers to trade voice for broadband usage, and vice versa.<sup>3</sup> The Order and sections 54.408(a)(1) and (b)(2) of the Commission’s rules<sup>4</sup> require that, for mobile service, an ETC “provide” service meeting the mandatory minimum standard. In the *Lifeline Modernization Order*, the Commission interprets “provide” as “make available.”<sup>5</sup> A units plan “makes available” the required amount of data, even if in a given month the consumer chooses to use less than the minimum number of standalone because he or she chose to substitute voice usage.<sup>6</sup> The full data allotment was nonetheless “made available” by the ETC to the Lifeline consumers as

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<sup>1</sup> See Ex Parte Letter of TracFone Wireless, Inc., WC Docket No. 11-42 (filed Sept. 20, 2017) (“TracFone Letter”). See *Lifeline and Link Up Reform and Modernization; Telecommunications Carriers Eligible for Universal Service Support; Connect America Fund*, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38, 31 FCC Rcd. 3962 (2016) (“*Lifeline Modernization Order*” or “*Order*”).

<sup>2</sup> Q Link Wireless LLC’s Petition for Reconsideration, WC Docket Nos. 11-42, 09-197, 10-90 (filed Oct. 28, 2016) (“Q LINK Petition”).

<sup>3</sup> See *id.* at 6.

<sup>4</sup> 47 C.F.R. § 54.408(a)(1), (b)(2).

<sup>5</sup> See *Lifeline Modernization Order* at ¶ 263, n.710.

<sup>6</sup> See Q LINK Petition at 6.


part of the consumer's Lifeline plan. Thus, according to the plain language of the *Order*, this plan meets the minimum standards for broadband.

Despite the plain language of the *Order*, in its September 30, 2016 Public Notice, the Wireline Competition Bureau nonetheless declared that Eligible Telecommunications Carriers ("ETC") do not meet the broadband minimum service standard with service offerings that decrement based on subscriber voice or broadband usage, if decrementing (i.e., the consumer's choice to substitute voice for data) can result in the customer actually utilizing less than the minimum required amount of data.<sup>7</sup> The Bureau provided no explanation of why this was a rational result, how it complied with the plain language of the *Lifeline Modernization Order*, or why it was in the public interest to force low income consumers to obtain more data than they need if they also want to be able to place voice calls. As TracFone points out, this proposal "would afford Lifeline customers flexibility to utilize their wireless Lifeline service as they choose based upon their own needs . . ."<sup>8</sup>

TracFone correctly observes that no new rulemaking is necessary for the Bureau to articulate a more reasonable and consumer-friendly interpretation of the *Lifeline Modernization Order*. The Bureau simply needs to grant Q LINK's October 28, 2016 Petition for Reconsideration. It should do this without delay, particularly with the approach of the change in mandatory minimum service levels as of December 1, 2017.

Please contact me if there are any questions.

Sincerely,



John T. Nakahata  
Counsel to Q LINK Wireless LLC  
jnakahata@hwglaw.com  
(202) 730-1320

cc: Trent Harkrader                      Ryan Palmer  
Christian Hoefly                          Jodie Griffin

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<sup>7</sup> *Wireline Competition Bureau Provides Guidance Regarding Designation as a Lifeline Broadband Provider and Lifeline Broadband Minimum Service Standards*, Public Notice, DA 16-1118, WC Docket Nos. 11-42, 09-197 ¶ 15 (Wireline Comp. Bur. Sept. 30, 2016) (the "*Public Notice*") (clarifying "that 'substitution' or 'decremented' bundled offerings do not fulfill the requirements of the Lifeline minimum service standards if they restrict a customer's access to the supported service for which the provider is claiming Lifeline reimbursement below the minimum service standard applicable to that supported service as a result of the customer's usage of some other service included in the bundled offering") (citing 47 CFR § 54.408(a)(1)).

<sup>8</sup> *Id.*