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November 13, 2019

By ECFS

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **National Lifeline Association and Q Link Wireless LLC Joint Notice
of Oral *Ex Parte* Presentation, WC Docket Nos. 17-287, 11-42, 09-197
and 10-90**

Dear Ms. Dortch:

On Tuesday, November 12, 2019, John Heitmann and Joshua Guyan of Kelley Drye & Warren LLP met on behalf of the National Lifeline Association (NaLA) and Q Link Wireless LLC (Q Link) with Commissioner Michael O’Rielly and Erin McGrath, his Legal Advisor, Wireless, Public Safety and International, and Joseph Calascione, Legal Advisor to Commissioner Brendan Carr. We continued to urge the Commission to grant the pending Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study filed by CTIA, the National Consumer Law Center, National Hispanic Media Coalition, OCA – The Asian Pacific American Advocates, and United Church of Christ, OC, Inc.¹ **as filed** for the reasons detailed in NaLA’s recent *ex parte* letters and comments filed on the Joint Petition,² and Q Link’s *ex parte* letter and comments filed on the

¹ See Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study, WC Docket Nos. 11-42, 09-197, 10-90 (June 27, 2019) (Joint Petition to Pause Implementation).

² See National Lifeline Association Notice of Oral *Ex Parte* Presentations, WC Docket Nos. 17-287, 11-42, 09-197 and 10-90 at 10 (filed Aug. 29, 22 and 16, 2019); National Lifeline Association Comments on Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study, WC Docket Nos. 11-42, 09-197, 10-90 (filed July 31, 2019).

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Joint Petition.³ Further, the Commission should grant the Joint Petition to Pause Implementation so that it can: (1) fully consider and act on the pending petitions for reconsideration of the 2016 Lifeline Modernization Order's adoption of minimum service standards (MSS) without proper consideration of access and affordability; and (2) study the Lifeline service offerings and other retail offerings in the wireless marketplace and issue the State of the Lifeline Marketplace Report.⁴ Such considerations and deliberations would allow the Commission to effectively balance the goals of reasonable comparability and affordability set forth in the 2016 Lifeline Modernization Order.⁵

However, to the extent Commission is considering partially granting the Joint Petition to Pause Implementation and increasing the mobile broadband MSS, we have argued that the Commission should support three minimum service options as of December 1, 2019 to avoid imposing a price increase on existing Lifeline subscribers and to ensure the availability of affordable service offerings for all Lifeline-eligible consumers in all states:⁶

³ See Q Link Wireless LLC Notice of Oral *Ex Parte* Presentation, WC Docket Nos. 17-287, 11-42, 09-197 and 10-90 (filed Aug. 29 and 22, 2019); Q Link Wireless Comments on Joint Petition to Pause Implementation of December 2019 Lifeline Minimum Service Standards Pending Forthcoming Marketplace Study, WC Docket Nos. 11-42, 09-197, 10-90 (filed July 31, 2019).

⁴ See Joint Lifeline ETC Petitioners' Petition for Partial Reconsideration and Clarification, WC Docket No. 11-42 et al. (filed June 23, 2016); Petition for Reconsideration of TracFone Wireless, Inc., WC Docket No. 11-42 et al. (filed June 23, 2016); Petition for Reconsideration of CTIA, WC Docket No. 11-42 et al. (filed June 23, 2016).

⁵ *Lifeline and Link Up Reform and Modernization*, WC Docket Nos. 11-42, 09-197, 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38, ¶ 71 (2016) ("The minimum standards we establish will also account for the need for Lifeline service offerings to be affordable. As we noted, 'the Lifeline program is specifically targeted at affordability' and it is necessary to establish minimum service levels that are both affordable and reasonably comparable...The minimum standards that we establish strike a balance between the demands of affordability and reasonable comparability by providing consumers with services that allow them to experience many of the Internet's offerings, but not mandating the purchase of prohibitively expensive service offerings."). The formula for December 1, 2019 does not consider the demands of affordability and strike this balance, and the Commission must study the Lifeline marketplace before it can do so.

⁶ See National Lifeline Association and Q Link Wireless LLC Notice of Oral *Ex Parte* Presentation, WC Docket Nos. 17-287, 11-42, 09-197 and 10-90 (filed Nov. 1 and 6, 2019).

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Plan Type	Minimum Standard	Subsidy Support Amount
Broadband	3 GB	\$9.25
Broadband and Voice Bundle	2 GB + 1,000 minutes	\$9.25
Voice	1,000 minutes	\$7.25

Under a partial grant scenario, these three standards should remain effective until the Commission decides pending petitions for reconsideration and issues the State of the Lifeline Marketplace Report (which could be moved forward from June 2021).

As was explained in the Q Link and NaLA October 30, 2019, November 1, 2019 and November 6, 2019 *ex parte* filings, this proposal incorporates TracFone’s 3 GB proposal⁷ while also adding a broadband and voice bundle MSS that provides consumers with the bundled mix of service offerings they overwhelmingly prefer,⁸ while providing ETCs with an option that will make enrollment of new Lifeline subscribers outside of California and Tribal lands (i.e., states without substantial subsidies that can be combined with the basic federal Lifeline subsidy of \$9.25 – “\$9.25 states”) possible on the same no co-pay basis as existing subscribers.

Q Link enrolls subscribers broadly in \$9.25 states, and is the top Lifeline provider in 25 out of the 29 states in which it offers service.⁹ Q Link emphasizes serving low-income Americans residing in rural areas – 67 percent of its enrollments are in non-urban areas. Therefore, **Q Link is prepared to offer the 2 GB plus 1,000 minute bundle to existing and new subscribers across its designated ETC footprint. Without this third option, active enrollment of new Lifeline subscribers will be further diminished if not virtually eliminated in \$9.25 states.** By contrast, the record contains no evidence that 3 GB mobile broadband plans will be offered by ETCs outside of California or Tribal areas to existing and new Lifeline subscribers without imposing a price increase over current mobile broadband MSS-compliant plans, which makes the supported service less affordable for Lifeline-eligible low-income

⁷ See TracFone Wireless, Inc. *Ex Parte* Presentation, WC Docket Nos. 11-42, 09-197, 10-90 at 2 (filed Oct. 30, 2019).

⁸ Support for Lifeline voice services remains essential to keep low-income consumers connected and to promote public safety.

⁹ See Exhibit map showing the states in red where Q Link is the number one Lifeline service provider.

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Americans.¹⁰

This 2 GB plus 1,000 minute bundle MSS option also has the following benefits:

- (a) it does not take any minutes away from the 42 percent of Lifeline subscribers currently receiving the voice minimum of 1,000 minutes and gives them an additional 2 GB of broadband data; and**
- (b) it does not take any megabytes away from the 58 percent of Lifeline subscribers currently receiving the mobile broadband minimum of 2 GB and gives them an additional 1,000 minutes of voice service.**

Finally, the 2 GB plus 1,000 minute bundle MSS **has the support of 10 out of the top 13 wireless Lifeline service providers**. The carriers supporting this proposal include CTIA members such as Q Link, Telrite, Boomerang and Assist, as well as TruConnect, Amerimex, Global Connection, i-wireless and Easy Wireless. None of the top 13 wireless Lifeline service providers have opposed the 2 GB plus 1,000 minute bundle MSS. The three who have not weighed in so far include the two largest Lifeline service providers (TracFone and Sprint/Assurance¹¹) each of which have California as their largest market and each of which already offers at least 3 GB of mobile broadband to their subscribers in those markets.

¹⁰ The Commission must find that the Lifeline service is affordable for low-income Americans. As the Court of Appeals for the D.C. Circuit referenced in *NaLA v. FCC*, “Congress established in the 1996 Act the principles underlying the universal service program as making ‘[q]uality services’ ‘available at just, reasonable, and affordable rates.’ 47 U.S.C. § 254(b)(1).” *Nat’l Lifeline Ass’n v. FCC*, 921 F.3d 19, 28 (D.C. Cir. 2019). The Commission recognized this Congressional directive in the introduction to the 2016 Lifeline Modernization Order when it noted that “Congress expressed its intent in the Communications Act of 1934 to make available communications service to ‘all the people of the United States’ and, more recently, in the Telecommunications Act of 1996, Congress asserted the principle that rates should be ‘affordable,’ and that access should be provided to low-income consumers in all regions of the nation.” *Lifeline and Link Up Reform and Modernization, Third Report and Order, Further Report and Order, and Order on Reconsideration*, FCC 16-38, ¶ 4 (2016).

¹¹ Sprint/Assurance has not actually filed in support of any particular proposal.

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

Respectfully submitted,



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Enclosure

cc: Commissioner Michael O'Rielly
Erin McGrath
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Chairman Ajit Pai
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Q LINK WIRELESS IS THE #1 LIFELINE PROVIDER IN 25 STATES

