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March 1, 2015

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

**Re: IMMEDIATE RELIEF REQUESTED**

**Notice of Written Ex Parte Presentation Regarding National Lifeline  
Accountability Database Production Duplicates Resolution Process; WC  
Docket No. 11-42**

Dear Ms. Dortch:

The Lifeline Reform 2.0 Coalition (“Coalition”),<sup>1</sup> the members of which are many of the nation’s largest wireless Lifeline providers, hereby opposes, and respectfully requests that the Commission or the Wireline Competition Bureau (“Bureau”) compel the Universal Service Administrative Company (“USAC”) to cease and desist from implementing, the recently announced decision to commence de-enrollment of all Michigan and Arizona “production duplicate” subscribers that did not perfectly match the identity information in the Lexis Nexis third party identity verification (“TPIV”) system used in the National Lifeline Accountability Database (“NLAD”) and were therefore enrolled using the NLAD’s mandatory TPIV dispute resolution process in place at the time.<sup>2</sup> The Coalition agrees that any duplicate enrollments must be removed, but the process by which that is done must be fair and equitable. Mandating the de-enrollment of all “production duplicates” that did not pass the initial TPIV check, rather than using the previously announced and established duplicate resolution process utilized in 2014 and in each and every inter-carrier duplicate scrubbing process since 2011, is fundamentally unfair to Lifeline providers that followed the Commission’s rules and USAC’s processes required at the time for TPIV. Further, the

<sup>1</sup> The Coalition is comprised of i-wireless, LLC, Telrite Corporation, Blue Jay Wireless, LLC and Global Connection Inc. of America.

<sup>2</sup> See NLAD Bulletin released Feb. 25, 2015.

Marlene Dortch, Secretary  
March 1, 2015  
Page Two

announced process is contrary to the requirements of the *Lifeline Reform Order* and disrespects customer choice in the Lifeline service selection process. For the reasons set forth herein, USAC should be compelled to revert to the established process for addressing duplicate enrollments.

### **The Commission's and USAC's NLAD Process and Policies Created "Production Duplicates"**

In December 2014, the Commission and USAC announced that a substantial number of "production duplicates" had been identified in the NLAD.<sup>3</sup> These are subscriber accounts that the Commission and USAC believe are duplicates even though they were approved by the NLAD for enrollment. These production duplicates apparently were found by USAC by applying a different definition of duplicate to the existing subscribers in NLAD than had been applied at enrollment. This new definition of a duplicate remains a secret and, according to USAC, will not be included in the front-end NLAD verification or enrollment process until later this month. Of course, this means that the Commission and USAC will continue to allow duplicate subscribers to be enrolled in NLAD, which they likely will later force ETCs to de-enroll after they have already expended significant customer acquisition resources. This backward adjustment process harms both ETCs and the integrity of the Lifeline program. The Commission and USAC should of course be free to adjust and tighten the definition of a duplicate to ensure that only one benefit is received per household, and the Coalition and the industry enthusiastically support such endeavors. However, the adjustments must be initially made to the front-end verification and enrollment process so that attempted duplicate enrollments can be blocked, rather than applying the changes to subscribers that have already been enrolled.

The production duplicates are a result of Commission and USAC policies, not ETC actions. The Commission and USAC set the confirmation standards for TPIV verification in Lexis Nexis so high that all information had to match,<sup>4</sup> which forced all Lifeline applicants for which the identity information did not exactly match into the TPIV dispute resolution process.<sup>5</sup> If the NLAD had instead used the "LexID" (a number assigned by Lexis Nexis to an identified individual) for

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<sup>3</sup> See NLAD Bulletin released Dec. 1, 2014.

<sup>4</sup> Lexis Nexis will readily admit that not all information in its database is correct. Rather, the Lexis Nexis process looks for enough information to confirm the person's identity. Lexis Nexis does not require an exact match on all data fields to identify someone, but NLAD does.

<sup>5</sup> This issue was compounded by the fact that the NLAD did not provide error codes to ETCs to indicate why the identity could not be verified as required by the *Lifeline Reform Order* until February 2015. 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 No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11, ¶ 201 (2012) ("*Lifeline Reform Order*").

Marlene Dortch, Secretary  
March 1, 2015  
Page Three

duplicate detection, as the industry suggested, the production duplicates would not have been permitted to enroll into NLAD or would have resulted in a benefit transfer (and only a single benefit).

For example, assume that John Doe enrolled with ETC 1 and the enrollment passed the NLAD Lexis Nexis TPIV check. A LexID would be assigned to John Doe. Assume then that John Doe subsequently sought to enroll in Lifeline service with ETC 2 using slightly different identity information and ETC 2 received a notice from NLAD of a TPIV failure in the NLAD “verify” step. Even without all matching fields, Lexis Nexis would have been able to assign a LexID to John Doe and recognized Mr. Doe as the subscriber that had already enrolled. The NLAD could have blocked that enrollment as a duplicate based on the LexID, or more likely required a benefit transfer to ETC 2. Instead, because the FCC and USAC set the TPIV verification standard too high and apparently did not utilize the LexID, Mr. Doe’s second enrollment attempt failed the TPIV check and was forced into the TPIV dispute resolution process. If Mr. Doe produced one of the prescribed identity documents (T Codes), ETC 2 was obligated to accept that identity verification and enroll Mr. Doe in NLAD. Assuming the information that Mr. Doe changed (or corrected) was last name, date of birth or last four digits of his social security number, Mr. Doe would have passed the NLAD duplicate check and been enrolled, thus creating a production duplicate.

### **The Commission Has Established an Equitable and Fair Process to Resolve Duplicates in NLAD**

When the Commission and USAC announced the existence of production duplicates in December 2014, they indicated that they would be removed according to the standard “Track 1” (same subscriber) duplicate resolution process that was used in 2014 and prior to address the duplicate subscribers that had originally been loaded into NLAD. That process randomly but equally assigns default Lifeline ETCs to subscribers that have multiple Lifeline benefits and allows customers to choose a service provider or remain with the default provider. The logic to that assignment system is that, prior to the NLAD, neither ETC that served an inter-company duplicate Lifeline subscriber knew about each other’s service and therefore were not to blame for the duplicate. The implementation of the NLAD allowed USAC to identify the duplicates, but a fair and equitable system had to be developed to allocate Lifeline subscribers to a single ETC while respecting customer choices. Thus was born the Track 1 duplicate resolution process that was used in 2014 and prior. The same process should be used to resolve the “production duplicates” because, once again, neither ETC is at fault for the duplicate enrollment if the Commission’s rules and USAC’s processes were followed for enrollments.

Marlene Dortch, Secretary  
March 1, 2015  
Page Four

**The Commission and USAC Have Decided to Instead Utilize a Duplicate Resolution Process That Unfairly Favors Some ETCs, Violates the *Lifeline Reform Order* and Disrespects Consumer Choice in Service Provider**

On February 25, 2015, USAC announced through an “NLAD Bulletin” that it will begin on March 2, 2015 the process of de-enrolling from NLAD subscribers in Michigan and Arizona that “have been determined as failing the third party identity verification (TPIV) check” and that Lifeline ETCs must de-enroll those subscribers from their internal company listings by March 9, 2015. This change in duplicates resolution policy appears to be at the behest of TracFone, which filed an Emergency Motion for Stay or Other Appropriate Interim Relief on January 16, 2015 arguing that the standard duplicate resolution process “will reward providers for improperly enrolling subscribers in their Lifeline programs.”<sup>6</sup> TracFone touted its TPIV process, but failed to discuss the fact that the Lifeline rules do not impose a TPIV obligation on ETCs. Rather, the TPIV obligation identified in the *Lifeline Reform Order* falls on the NLAD.<sup>7</sup> ETCs are obligated to follow the Commission’s and USAC’s process for verification and enrollment through the NLAD, which includes following the TPIV requirements and processes.<sup>8</sup>

ETCs that submitted applications that passed TPIV and ETCs that submitted applications that failed the strict TPIV standards set by NLAD, but used the prescribed and required TPIV dispute resolution process both followed the rules and requirements set forth by the Commission and USAC at the time of the enrollments. The ETCs did not have a choice regarding whether to utilize the TPIV dispute resolution process established by USAC. ETCs are required to enroll subscribers that are eligible pursuant to the rules at the time. If an applicant failed the strict TPIV check, but provided one of the forms of identification posted by USAC (i.e., the T Codes), Lifeline ETCs were obligated to utilize the dispute resolution process by viewing one of the identity verification documents (T Codes) and setting the TPIV “flag” in NLAD to enroll the applicant. In fact, many ETCs, through their representatives, asked Telecommunications Access Policy Division (“TAPD”) staff to allow ETCs to refuse to accept some of the T Code identity verification documents because the ETCs believed documents such as employer ID were not robust and reliable enough. However, the specific guidance from TAPD staff was that ETCs were not permitted to pick and choose the T Codes they liked, but rather had to accept all of them. Viewing the required identity verification documents and using the required TPIV dispute resolution process is not “improperly enrolling subscribers in their Lifeline programs” and those ETCs should not be

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<sup>6</sup> TracFone Emergency Motion for Stay or Other Appropriate Interim Relief, WC Docket No. 11-42 at 1 (filed Jan. 16, 2015).

<sup>7</sup> See *Lifeline Reform Order*, ¶ 201.

<sup>8</sup> See *Wireline Competition Bureau Reminds Eligible Telecommunications Carriers of NLAD Processes Regarding Benefits Transfers, Exceptions Management and Dispute Resolution*, WC Docket No. 11-42, Public Notice, DA 14-1390 (rel. Sept. 25, 2014).

Marlene Dortch, Secretary  
March 1, 2015  
Page Five

punished for following the FCC rules and guidance and USAC-established processes in effect at the time.

The apparent decision to de-enroll all subscribers that failed TPIV if there is an application for the same subscriber that passed TPIV will not remove bad data from the NLAD because in many cases we understand there was no TPIV pass. Therefore, TAPD and USAC will have to resolve production duplicates among applications with TPIV fails that used the dispute resolution process using the standard Track 1 duplicate resolution process. Therefore, the idea that the Commission and USAC are flushing “bad data” out of NLAD by de-enrolling subscribers that used the TPIV dispute resolution process is a red herring.

Further, automatically de-enrolling all subscribers that have not passed the strict TPIV check established for the NLAD violates the *Lifeline Reform Order*, which requires that “[t]o ensure that subscribers are not mistakenly denied benefits, USAC must establish a process...so that those consumers who failed the identification verification are able to either provide additional information to verify their identity, or correct errors in the information utilized to validate the subscriber’s identification.”<sup>9</sup> By automatically de-enrolling subscribers that did not pass the TPIV check, the Commission and USAC are violating the *Lifeline Reform Order* by not allowing those subscribers to provide additional information to verify their identity or correct errors in the information utilized by Lexis Nexis to validate their identity. In fact, those subscribers did provide additional information to validate their identity (the T Codes required by the Commission and USAC), but the Commission and USAC are now choosing to ignore that information. This cannot be squared with the commands of the *Lifeline Reform Order*.

Finally, whether the information contained in the Lexis Nexis database for the applicant is correct or the information provided by the applicant is correct for identity verification purposes is not determinative of which ETC the consumer would choose to retain for Lifeline service. In fact, if the information that was used to pass TPIV was provided first and slightly different information was provided subsequently to apply for Lifeline service with a second ETC, it is likely that the consumer would choose Lifeline service from the second ETC. Many ETCs have included benefit transfer consent language in all Lifeline enrollment applications stating that the customer chooses the new ETC if there is a duplicate found in the NLAD verification process. Subscribers that complete applications containing that consent language have certified that they understand they will lose service from any previous Lifeline providers. Therefore, those ETCs’ subscribers have chosen those ETCs even if they are subsequently determined to be the second ETC to provide Lifeline service to the subscriber as part of the duplicate resolution process. That is a binding contract between the ETC and the Lifeline subscriber. In any situation where the Commission and USAC de-enroll subscribers that were enrolled by a second (or third)

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<sup>9</sup> *Lifeline Reform Order*, ¶ 201.

KELLEY DRYE & WARREN LLP

Marlene Dortch, Secretary  
March 1, 2015  
Page Six

ETC using the TPIV dispute resolution process, they are abrogating that contract and damaging the chosen ETC.

The only fair process for resolving duplicates found within the NLAD is to use the established process that was previously used in 2014 and prior – proportionally assign default ETCs and allow customers the opportunity to choose their Lifeline provider. That established process complies with the requirements of the *Lifeline Reform Order* and respects consumer choice in Lifeline service providers.

For all of the foregoing reasons, the Commission and USAC should cease and desist from implementing the recently announced decision to commence de-enrollment of all Michigan and Arizona “production duplicate” subscribers that did not perfectly match the identity information in the Lexis Nexis TPIV system used in the NLAD and were therefore enrolled using the NLAD’s mandatory TPIV dispute resolution process in place at the time.

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

Respectfully submitted,



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