

June 12, 2015

***Filed in ECFS***

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

**Re: Notice of Ex Parte Presentation, *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42**

Dear Ms. Dortch,

On June 10, 2015, Justin Brookman, Director of the Center for Democracy & Technology's (CDT's) Consumer Privacy Project, and the undersigned spoke by telephone with Daniel Alvarez, Legal Advisor to Chairman Wheeler. We expressed our support for the Commission's ongoing efforts to protect consumer privacy and raised concerns that the ten-year record retention requirement the Commission is considering in the above-referenced proceeding may run counter to those efforts.

The Commission's current rules require eligible telecommunications carriers participating in the Lifeline and Link Up program to "maintain records to document compliance with all Commission and state requirements" governing that program.<sup>1</sup> This requirement does not apply to documentation demonstrating eligibility based on participation in another federal assistance program, such as the Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF).<sup>2</sup> However, the retention requirement does apply to documentation used to verify income-based eligibility for the Lifeline program. Such documentation may include tax returns, pay stubs, divorce decrees, and other documents containing sensitive personal information.<sup>3</sup>

According to a recent fact sheet, the Commission is considering extending the record retention requirement to documentation of program-based eligibility and also considering

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<sup>1</sup> 47 C.F.R. § 54.417(a).

<sup>2</sup> 47 C.F.R. §§ 54.409(a)(2), 54.410(c)(ii).

<sup>3</sup> 47 C.F.R. § 54.410(b)(1)(i)(B).

extending the length of the recordkeeping requirement from three to ten years.<sup>4</sup> While CDT expresses no view about including documentation of program-based eligibility, we have serious concerns about a ten-year record retention requirement.

Prolonged retention of consumers' personal information would exacerbate the risk of data breach or other misuse of that information. Records retained for Lifeline eligibility may be incredibly sensitive, including Social Security numbers and individual tax records. However strong the data security requirements the Commission applies to the collection and retention of those records, those requirements will not obviate the risk of potential breach and misuse. Many of the entities whose networks were compromised in recent mass-scale data breaches, including both private and government databases, were likewise subject to legal data security mandates. The surest way to reduce the risk of a data breach is either to not collect information in the first instance or to place reasonable limits on data retention.

CDT shares the Commission's goal of modernizing and combatting fraud in the Lifeline program. However, we believe that this risk of exposure of personal information outweighs the marginal benefit of detecting older fraud cases. Fraud investigations are more likely to be spurred by allegations of recent wrongdoing. At the very least, we recommend retaining the Commission's current three-year recordkeeping requirement for income-based eligibility documentation that may contain consumers' personal information. Evidence of participation in SNAP or TANF likely poses less risk of subsequent identity theft, though we still question whether the value of ten-year retention outweighs the potential risk of exposure.

In accordance with Section 1.1206(b)(2) of the Commission's rules, this letter is being filed electronically with your office. Please let us know if you have any questions.

Sincerely,

/s/ Erik Stallman

Erik Stallman

*Director, Open Internet Project*

*Center for Democracy & Technology*

Cc: Daniel Alvarez

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<sup>4</sup> "FCC Chairman Wheeler Seeks Comment on Modernizing Lifeline to Make 21<sup>st</sup> Century Broadband Affordable for Low-Income Households" (May 28, 2015), available at <https://www.fcc.gov/document/chairman-seeks-comment-modernizing-reforming-lifeline-broadband>.