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October 20, 2015

VIA ELECTRONIC FILING

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

Re: WC Docket Nos. 11-42, 09-197, and 10-90 – In the Matters of Lifeline and Link Up Reform and Modernization; Telecommunications Carriers Eligible for Universal Service Support; Connect America Fund
NOTICE OF EX PARTE PRESENTATION

Dear Ms. Dortch:

This letter is submitted on behalf of TracFone Wireless, Inc. ("TracFone") and is in response to CTIA – The Wireless Association®'s Petition for Partial Reconsideration filed August 13, 2015, comments in support of CTIA's petition filed by the American Cable Association ("ACA) on October 8, 2015, and the (corrected) Opposition filed by the "Privacy PIOs"[1] on October 9, 2015 in the above-captioned proceedings.

In the Commission's recent Lifeline Reform Order,[2] the Commission amended Sections 54.404 and 54.410 of its rules to require Eligible Telecommunications Carriers ("ETCs") providing Lifeline service to retain for three years and make available for audit copies of customer eligibility documentation and documentation that was reviewed to verify subscriber information for the National Lifeline Accountability Database (NLAD) dispute resolution process, as well as personally identifiable information contained therein. This action was taken in response to a proposal put forth by TracFone in 2012. The Commission also expressly stated in the new rule that ETCs must retain the documentation in a secure manner. In adopting the rule change, the Commission indicated its agreement with TracFone and other commenters that such a document retention requirement would be an "important step to significantly reduce waste, fraud and abuse in the Lifeline program."[3] The Commission also noted that the document retention rule would benefit the integrity of the program.[4] TracFone concurs fully with that conclusion.

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[1] The Privacy PIOs include Appalshop, Center for Democracy & Technology, Center for Digital Democracy, Center for Rural Strategies, Consumer Action, Consumer Federation of America, Consumer Watchdog, Free Press, New America's Open Technology Institute, Public Knowledge, United Church of Christ, OC, Inc., and World Privacy Forum.
[2] Lifeline and Link Up Reform and Modernization, *et al.* (Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order), WC Docket No. 11-42 *et al.*, 30 FCC Rcd 7818 (2015).
[3] Lifeline Reform Order, ¶ 224.
[4] *Id.*, ¶ 232.

Adoption of the Lifeline document retention requirement will hasten the availability of Lifeline-supported service to low-income households. Those households need Lifeline-supported service in order to connect with families, employers, healthcare providers, and others. Mandatory retention of Lifeline eligibility documentation will also provide an important vehicle for ensuring that only properly-qualified low-income households receive Lifeline-supported service and will thereby prevent waste, fraud, and abuse. Moreover, retaining the documents securely could provide Lifeline households with the additional assurances of customer privacy protection. No Lifeline-eligible household should be reluctant to enroll in the program out of fear that their personal information regarding the applicant's identity and/or the bases for the applicant's Lifeline eligibility (whether based on income level or on enrollment in a Lifeline-qualifying assistance program) will be divulged by their Lifeline providers.

No one has disputed the public interest benefits of the document retention rule. Nor does anyone question whether it will deter waste, fraud and abuse and enhance the Lifeline program's integrity. However, CTIA has asked the Commission to reconsider the specific data security measures in the Order, specifically asserting that neither Section 222(a) of the Communications Act nor Section 201(b) of the Act empowers the Commission to mandate specific data security practices on telecommunications carriers, including those carriers who are designated ETCs and provide Lifeline service. ACA largely echoes CTIA's request.

The Commission has broad authority to require ETCs to retain the documentation for Lifeline eligibility irrespective of whether it agrees or disagrees with CTIA and ACA about whether Sections 222(a) and 201(b) provide statutory bases for authority over data security practices.

Section 4(i) of the Act authorizes the Commission to "*. . . perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions.*" Promulgation of the changes to Sections 54.404 and 54.410 to require Lifeline eligibility document retention subject to appropriate consumer privacy safeguards is precisely the sort of rulemaking contemplated by Section 4(i). Execution of the Commission's functions includes implementation and enforcement of the provisions of the Communications Act. Section 254 of the Act establishes universal service as a national policy and directs the Commission to establish programs to implement the universal service goals of Section 254. Section 254(b)(3) includes affordable access to telecommunications services by consumers, "**including low-income consumers**." The Commission's Lifeline program implements that statutory directive. Implicit in the Commission's responsibility to implement the universal service provisions of Section 254 is the obligation to ensure that the Universal Service Fund resources are expended prudently, and that waste, fraud and abuse of those resources be prevented.

In promulgating revisions to Sections 54.404 and 54.410, the Commission took an important step toward preventing Lifeline program fraud. Moreover, it does so in a manner which increases the confidence and trust of low-income households in participating in the program by ensuring the privacy and security of consumers' personal information. That action complies fully with the letter and the spirit of the Act. Irrespective of one's views on the limits of the

Commission's authority under Sections 222(a) and 201(b), Sections 4(i) and 254 afforded the Commission broad authority to promulgate that very important rule.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically. If there are questions, please communicate with undersigned counsel for TracFone.

Sincerely,

Mitchell F. Brecher

Mitchell F. Brecher

cc: Mr. Matthew DelNero
Mr. Trent Harkrader
Mr. Ryan Palmer
Jay Schwarz, Ph.D