

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	
Universal Service)	CC Docket No. 96-45
)	
Compliance Plan Regarding)	
Petition of TracFone Wireless, Inc. for)	
Forbearance from 47 U.S.C. § 214(e)(1)(A) and)	
47 C.F.R. § 54.201(i))	

COMMENTS OF THE UNITED STATES TELECOM ASSOCIATION

As TracFone has pointed out in the contribution proceeding, because it does not send monthly bills to customers for its prepaid calling card products, it will have difficulty complying with rules from a universal service system that is administered on a monthly or quarterly basis. However, TracFone’s Compliance Plan fails to explain how it will report and pass through monthly Lifeline benefits to its customers if it is granted eligible telecommunications carrier (“ETC”) status. The Commission should require TracFone to amend its Compliance Plan to specify the manner in which it would report its customers to the Universal Service Administrative Company (“USAC”), and distribute universal service Lifeline support to its customers, if it were to receive ETC status. If TracFone does obtain ETC status for any state, the Commission should give USAC clear direction on how to distribute Lifeline support for prepaid services.

I. The Commission Should Require TracFone To Amend Its Compliance Plan To Explain How It Will Report and Distribute Lifeline Support

In the contribution proceeding, TracFone has stated that if the Commission were to move to a numbers-based system of assessment, TracFone would have “no mechanism” for recovering

the costs of its contributions from end-user customers.¹ The problem apparently stems from the fact a telephone numbers-based system of assessment would be calculated on a monthly bill, while TracFone – which offers only a prepaid product – does not bill its customers on a monthly basis. See October 21 Letter, at 2.

However, the same concern that TracFone raises in the contribution proceeding would apply equally to any Lifeline support it would receive if the Commission were to grant its petitions for ETC status. In other words, any problem it would have in passing through monthly universal service *charges* to its customers presumably would also present the same challenges in making sure customers received monthly universal service *support*. USAC currently pays Lifeline support to carriers on a quarterly basis, based on the number of subscribers reported by the carrier each month.² The worksheet for reporting the amount of eligible support requires carriers to certify that they will “pass through the full amount of all . . . federal Lifeline support for which [the] company seeks reimbursement, as well as all applicable intrastate Lifeline support, to all qualifying low-income subscribers by an equivalent *reduction in the subscriber’s monthly bill* for local telephone service.”³ As currently structured, USAC does not have a mechanism for addressing TracFone’s prepaid service arrangements.

¹ For example, last month TracFone argued that prepaid wireless carriers are like prepaid wireline calling card companies, because “neither has the opportunity nor the ability to recover their USF contributions from their customers through billing surcharges.” See Letter from Mitchell Brecher, Greenberg Traurig, Counsel for TracFone Wireless, Inc., to Marlene Dortch, FCC, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, and NSD File No. L-00-72, at 3 (filed Oct. 21, 2005) (“October 21 Letter”).

² See *Federal-State Joint Board on Universal Service, Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(c)(1)(A) and 47 C.F.R. § 54.201(i)*, Order, 20 FCC Rcd 15095, at n.17 (2005) (“*Forbearance Order*”).

³ See Lifeline and Link-Up Worksheet, p.2, at 2 (emphasis added), available at <http://www.universalservice.org/li/forms/default.asp>.

TracFone has proposed two types of services that would be eligible for Lifeline support.

As the Commission summarized in the *Forbearance Order*:

The first plan, the “Pay-As-You-Go” Lifeline Plan, provides Lifeline customers with access to the network for one year and 30 minutes of airtime each month. Under TracFone’s proposal, the cost of this plan would be completely subsidized by the Lifeline support. The second plan, the “Net10 Pay-As-You-Go” Lifeline Plan, would require the Lifeline customer to purchase buckets of minutes to be used in an identified period of time that are discounted from TracFone’s retail price to reflect the Lifeline subsidy. One variation under this plan would require Lifeline customers to redeem coupons monthly.⁴

As the *Forbearance Order* noted, in prior *ex partes*, TracFone represented that “under any plan, the Administrator would provide support to TracFone as it does to all other recipients of Lifeline support; that is, TracFone’s support will be calculated on a monthly basis and distributed on a quarterly basis.” *Id.* However, nothing in the *Forbearance Order* or Compliance Plan addresses how TracFone will report customers to USAC, or how it will pass through the discounts to its customers.

For example, for customers ordering under the “Pay-As-You-Go Wireless Lifeline Plan,” TracFone has stated that it would offer a customer 300 minutes of service that could be utilized over a one-year period.⁵ However, it does not address how it would claim Lifeline support for a customer that used all of those minutes in one month. Would it request reimbursement for only the one month in which the customer used the minutes? Or would it continue to request support for twelve months, reasoning that the customer had received a Lifeline credit for “one year’s worth” of service?

⁴ *Forbearance Order* at n.17 (internal citations omitted).

⁵ See TracFone’s Ex Parte Supplement to Petition for Forbearance and Petitions for Designation as an Eligible Telecommunications Carrier, CC Docket No. 96-45 (filed July 15, 2005).

In another one of TracFone's plans – the Net10-Pay-As-You-Go Wireless Lifeline Plan, Option 2 – TracFone has stated that customers would receive monthly \$10 discount coupons, which they could then redeem for discounts off of TracFone services. However, TracFone's filing says nothing about what it would do in the case of customers that received, but failed to redeem, their monthly discount coupons. Presumably, TracFone would not be entitled to support unless and until the customer actually redeemed the coupon. However, these are exactly the types of details that should be addressed in any Compliance Plan.

II. Conclusion

The Commission should require TracFone to amend its Compliance Plan for the reasons stated above.

Respectfully submitted,

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