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April 3, 2006

VIA ELECTRONIC FILING

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

Re: Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 98-270, 05-68
EX PARTE PRESENTATION

Dear Ms. Dortch:

This letter is submitted on behalf of TracFone Wireless, Inc. (TracFone). Recently, a letter was filed in the above-captioned docketed proceedings which made certain statements regarding the impact of proposed changes to the Universal Service Fund (USF) contribution methodology on users of prepaid telecommunications services, including prepaid wireless services. It was suggested that the revenues-based contribution methodology somehow has a regressive impact on low income consumers who rely on prepaid services, including wireless services. That letter contained no explanation and provided no supporting data for that conclusion -- a conclusion which is inherently implausible and which is contradicted by abundant information which has been filed throughout these proceedings by TracFone and by others.

TracFone is the nation's leading provider of prepaid wireless service, with more than six million customers, located in all states. As TracFone has described in numerous prior filings, its customers tend to be low volume users of interstate service and are often lower income consumers. Based on TracFone's experience, replacement of the revenues-based contribution methodology with a methodology based on working telephone numbers would be highly regressive and would jeopardize the ability of TracFone, and presumably other prepaid wireless providers, to offer affordable "pay-as-you-go" wireless service to low-volume, emergency users for whom wireless service would otherwise be unavailable, or, if available, unaffordable. Under the current revenues-based contribution methodology, TracFone reports its actual interstate telecommunications service revenues and contributes to USF based on its actual interstate revenues. It does not utilize the Commission's 28.5% safe harbor currently relied upon by many

wireless carriers to limit their USF contributions today. Based on its actual interstate revenues, TracFone's USF assessments are approximately \$0.06 per customer per month. This results from the fact that TracFone customers average fewer than ten interstate minutes of use per month. Under a numbers-based plan, TracFone's monthly per customer USF assessment would increase from \$0.06 per month to \$1.00 per month (assuming a \$1.00 per number charge) -- an increase of more than 1,600 percent with no increase in its customers' interstate usage and no increase in its interstate revenues. At 6 minutes of interstate usage a month, the current system costs TracFone approximately \$0.01 per minute. Under a \$1.00 per working number monthly charge, TracFone's USF contribution costs would be increased to approximately \$0.17 per minute. Ultimately, that increase would be borne by TracFone's low volume, often low income, consumers, including those who rely upon their wireless service in emergency situations. It is difficult to imagine any contribution methodology which would be more regressive in its impact.

While there may be differences in the demographic profiles and usage characteristics of prepaid wireless providers, in general, prepaid wireless services are most attractive to customers who are low volume users, who are low income consumers, who do not want to or cannot commit to the term and volume requirements of a service contract, or who cannot qualify for such contracts without paying steep advance deposits based on their credit history. Not only has the party submitting the aforementioned letter not explained the basis for the conclusion that a revenues-based methodology has a regressive impact on low volume prepaid wireless customers, TracFone does not believe that there is any basis for such a conclusion. It is counterintuitive and unsupported by any record evidence.

TracFone acknowledges that the manner in which the revenues-based methodology is implemented with respect to prepaid wireline calling card services may result in excessive USF contribution obligations on providers of those services. This is due to the Commission's requirement that such providers report their revenues based on the face value of their calling cards rather than on the prices actually paid for those cards and the revenues actually received by providers from sales of those cards. This is an inequity which can and should be addressed without abandoning the revenues-based system which has worked well and which, despite what its critics may claim (some of whom wish to sharply reduce or entirely eliminate their USF contribution obligations), continues to work well.

One other important point needs to be made: a numbers-based methodology would not be an appropriate way to assess USF contributions on providers of prepaid wireline calling card services. Such providers use very few working telephone numbers to provide their services. The only numbers which they use in providing their services are the local and toll-free access numbers which their millions of customers use to initiate calls. Indeed, the party submitting the letter referenced herein claims to sell more than one billion dollars worth of prepaid calling cards annually. A provider of prepaid calling card services could use only a few toll-free numbers which would be used by thousands of revenue-paying customers to place calls. Unlike wireline local exchange service and Commercial Mobile Radio Service (post-paid and prepaid) which require assignment of separate telephone numbers to each customer, prepaid calling card services

are provided without assignment of telephone numbers to customers. The disparity of this situation is illustrated by the following example:

A wireless carrier has 10,000 customers. It earns \$1,000,000 in interstate revenues in a year. Under a numbers-based plan (assuming a \$1.00 per number per month USF charge), it would contribute \$120,000 per year to the USF (10,000 customers with assigned numbers x \$1.00 per month x 12 months). In contrast, a prepaid wireline carrier which has 10,000 customers and which also earns \$1,000,000 in interstate revenues in a year, but which has only 5 access numbers would contribute \$60.00 per year to USF (5 access lines x \$1.00 per month x 12 months). Any system which would impose \$60.00 in USF contributions on one carrier earning \$1,000,000 in interstate revenues while imposing \$120,000 on another carrier earning the same \$1,000,000 in interstate revenues would not meet the statutory requirement that the contribution methodology be equitable and non-discriminatory (47 U.S.C. § 254(d)).

As TracFone and others have pointed out in prior submissions, a numbers-based plan would relieve certain classes of providers of virtually all USF contribution obligations. Stated simply, any provider of interstate telecommunications service which provides such service without assigning working telephone numbers to each of its customers, and which derives revenues from its interstate telecommunications service would enjoy those revenues free of any USF contribution obligation. Clearly, such exceptional and preferential treatment cannot be reconciled with the statutory requirements that "every" provider of interstate telecommunications service contribute to the support of universal service and that they do so in an equitable and nondiscriminatory manner. In an *ex parte* letter filed on October 21, 2005, TracFone raised this issue and offered a solution. TracFone suggested that providers of interstate telecommunications service who do not have the ability to recover USF contributions from their customers through billing surcharges (including, *e.g.*, prepaid wireless providers and prepaid wireline calling card companies) should be allowed to continue to contribute based on their interstate revenues. The recent filing by a major prepaid wireline calling card company demonstrates why TracFone's proposed solution is appropriate and should be adopted by the Commission.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'MFB', with a long horizontal line extending to the right.

Mitchell F. Brecher

Ms. Marlene H. Dortch
April 3, 2006
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cc: Mr. Ian Dillner
Mr. Aaron Goldberger
Mr. Scott Bergmann
Ms. Jessica Rosenworcel
Mr. Thomas Navin
Ms. Narda Jones
Ms. Cathy Carpino
Ms. Carol Pomponio
Mr. Greg Guice