

September 23, 2009

**VIA ELECTRONIC FILING**

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

Re: CC Docket No. 96-45  
NOTICE OF EX PARTE PRESENTATION

Dear Ms. Dortch:

On September 23, 2009, F.J. Pollak, President and Chief Executive Officer, TracFone Wireless, Inc., Cesar Conda of Navigators Global, LLC, and I met with Paul de Sa, Chief, Office of Strategic Planning and Policy Analysis. During this meeting, we introduced Mr. de Sa to TracFone and its business operations, and discussed several pending matters before the Commission involving TracFone's provision of Lifeline service as an Eligible Telecommunications Carrier. TracFone's positions expressed during the meeting were consistent with those previously expressed in filed comments. A written presentation document was provided. A copy of that presentation is enclosed herewith.

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

Sincerely,



Mitchell F. Brecher

Enclosure

cc: Mr. Paul de Sa

# TracFone Wireless Overview

**TRACFONE®**

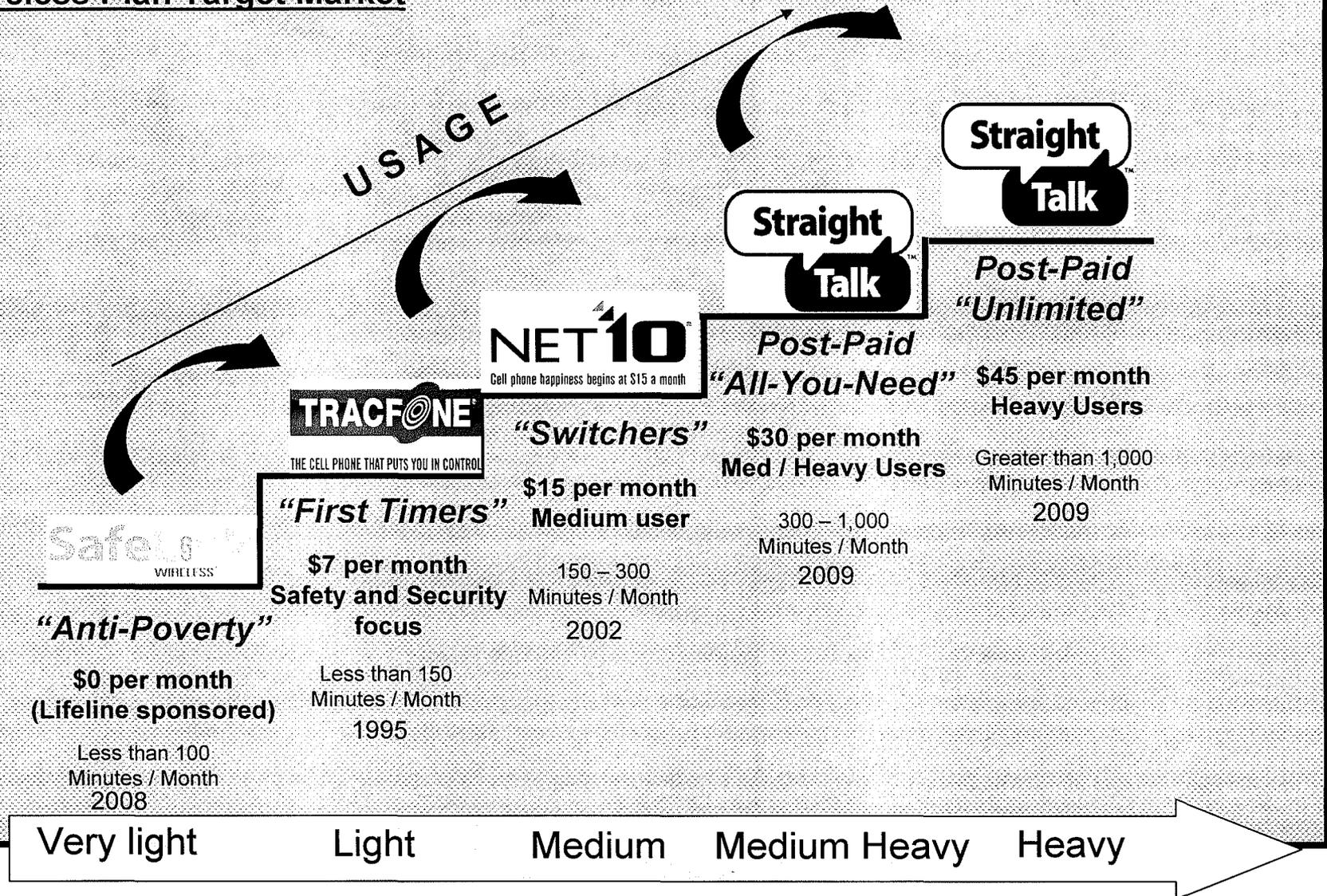
# TracFone Wireless, Inc. – Our History

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- **Who We Were**
  - Handset Based technology – you actually “track” your minutes
  - Originally partnered with 71 carriers
- **Who We Are Today**
  - 98% owned by America Movil (NYSE:AMX) and Carlos Slim
  - Based in Miami. 600+ full time employees
  - **We’ve Grown to over 12,000,000 customers we are one of the fastest growing wireless carriers today**
    - TracFone Wireless Inc. is the largest no-contract cell phone provider in the US, and has been since its inception 12 years ago
    - We have over 2x as many customers as our nearest competitor in the no-contract space
  - **Where We Are Today**
    - TracFone’s brands are available in more than 80,000 retail locations nationwide. It has long been the leading cell phone sold at Walmart, Kmart, Dollar General, Family Dollar and many other chains
  - **What We Stand For**
    - TracFone believes cell phone ownership is a right, and a modern necessity, not a privilege, and it is committed to making cell phones available to everyone
    - We believe that people should not have to overpay for their wireless phone service and we subscribe to the Wal-Mart philosophy “Save Money, Live Better” or Target’s – “Expect More, Pay Less”
    - TracFone’s four brands deliver unparalleled access for the underserved

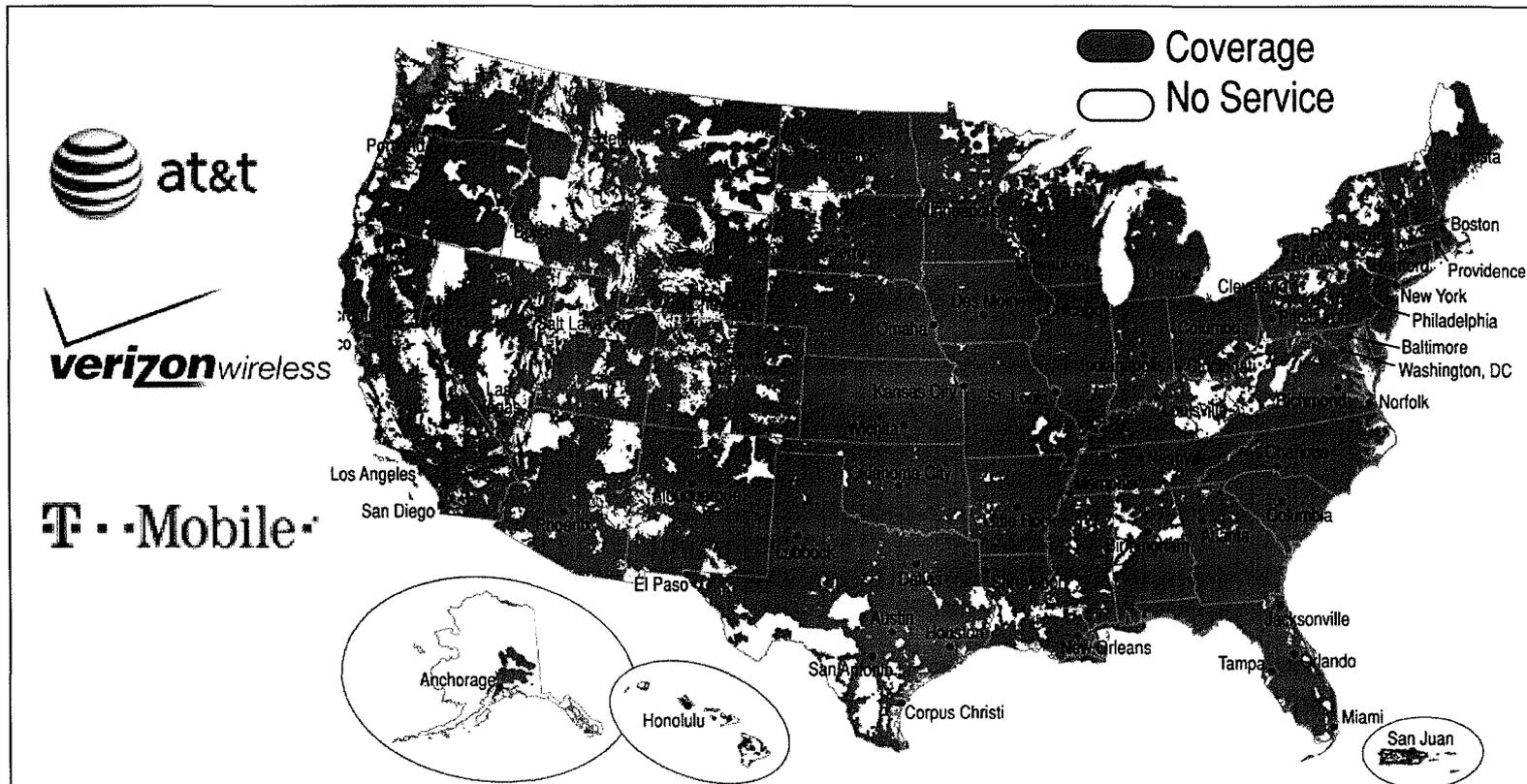
# TracFone Brands Now Serve Every Type of Cell Phone User

## Wireless Plan Target Market



# TracFone Provides Cell Phones in More of the US Than Any Other Carrier

- MVNO – We use everyone else's cell towers and they get credit for our activations
- TracFone works in close partnership with AT&T, Verizon Wireless, T-Mobile and other major carriers, who carry its signals. Because of its aggregated distribution network, TracFone is able to provide cell phone service in more ZIP codes than any other carrier
- With no towers to maintain, TracFone is able to maintain a lean infrastructure and thereby provide cell phone service to a very large segment of the population who would otherwise not be able to afford cell phone access
  - We can profit from customers that spend \$10 a month



# SafeLink Wireless – Lifeline Service

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- SafeLink Wireless offers qualifying Lifeline Households a Free Cell Phone and 68\* Free minutes a month. This unique version of Lifeline has been a tremendous success in the states that have launched the service.
  - SafeLink Wireless is available in 18 states today and in DC
  - SafeLink Wireless has been approved in 4 other states that should launch later this year
  - Applications are pending in almost every other state and in Puerto Rico
- Operational / Program Challenges
  - Before SafeLink Wireless, most Lifeline programs were provided solely by the incumbent telephone companies who are regulated by the state PUCs
  - SafeLink Wireless is a wireless program, not regulated by states, funded from a Federal Universal Service Fund, but ETC approvals are granted by the states who by nature want to impose regulations and do not always recognize Federal Law
  - SafeLink Wireless is a new concept for Lifeline and current rules and/or ones imposed on TracFone by the FCC do not make sense, or are operationally challenging at best
  - The success of SafeLink Wireless is in part a by-product of TracFone's ability to keep costs low, so it can offer a totally free service and advertise this service aggressively. Self-Certification is critical to keep enrollment costs low.

# SafeLink Wireless – Pending FCC Matters

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1. Petition to uncouple the amount of Lifeline support TracFone can receive from the ILEC's SLC.
  - This rule may have made sense when the only provider of Lifeline was the ILEC but no longer makes sense in an era of ETCs providing Lifeline who are not ILECs and not subject to Subscriber Line Charge requirements.
  - SafeLink Wireless is a national program and its maximum funding should be based on the program's merits, not on any ILEC's SLC.
  - TracFone has petitioned the FCC to modify Section 54.403 of its rules. Under the proposed rule change, all ETCs would be entitled to the full Tier One support of \$6.50 (the capped SLC amount) without regard to any ILEC's SLC, provided that the ETC provides an additional Lifeline benefit of \$3.50. TracFone also requested waiver of the rule pending the rulemaking proceeding.
  - This rule change or waiver will permit TracFone to provide a \$13.50 Lifeline benefit (68 minutes per month) to customers everywhere.
  
2. Petition to Modify Annual Verification Condition
  - All ETCs are required to verify annually their Lifeline customers' continued eligibility for Lifeline based on a statistically-valid sample of their Lifeline customers (Section 54.401(c)(2)).
  - TracFone is also subject to a special condition that it verify annually that each of its Lifeline customers are i) head of household and ii) receive Lifeline-supported services only from TracFone ([TracFone Forbearance Order](#), September 2005).
  - In April 2009, TracFone petitioned to modify its annual verification condition to make it consistent with the annual verification rule applicable to all ETCs, i.e., that TracFone should be allowed to verify that its customers remain head of household and receive Lifeline-supported services only from TracFone, based on a statistically-valid sample of its customers.
  - By making the annual verification requirements consistent, the Commission would "level the playing field" and avoid subjecting singled out providers such as TracFone to a burdensome requirement to contact all of their millions of customers (in TracFone's case, more than 2.2 million, and growing daily).

# SafeLink Wireless – Pending FCC Matters

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## 3. Petitions Challenging TracFone's Compliance with State 911 Laws

- For the 10 states for which TracFone has been designated as an ETC by the Commission, TracFone is required to certify that it is in compliance with state 911 laws, including laws regarding 911 funding.
- Recently, TracFone learned in the course of a deposition that the state certification requirement was the result of false information provided to the Commission – information which has been acknowledged as such by the Pennsylvania official who made the false statements. TracFone has petitioned for removal of that condition.
- TracFone has filed such certifications for each of its FCC ETC-designated states.
- Groups in two of those states – Pennsylvania and Alabama – have petitioned to “reject” those certifications. Those petitions result from disputes which have arisen between TracFone and state 911 authorities. In neither case has any state court concluded either that the state's 911 funding laws are applicable to TracFone or that TracFone is not in compliance with the state law.
- Recently, CTIA filed comments explaining to the Commission that collection of 911 fees from customers of prepaid wireless services (where there are no bills and no exchange of money between the customer and the service provider) is not a “TracFone problem,” it is an industry problem, which cries out for a comprehensive solution – such as the point-of-sale collection method now in place in several states with more states considering it.

## 4. Should 911 Fees be Applicable to Prepaid Wireless Lifeline Service?

- 911 fees are obligations imposed on end users and are collected through surcharges on customer bills.
- With TracFone's SafeLink Wireless service, there are no customer bills. The service is paid for, not by the Lifeline customers, but by the federal Universal Service Fund (i.e., the payments come from USAC).
- This raises a question: who should pay the 911 fees?
  - The customer?
  - USAC?
  - TracFone?
- Solution: Do not assess 911 fees on Lifeline service provided at no charge to the consumers (similar to the universal service fund – Lifeline customers are not subject to subscriber line charges and therefore no USF-assessable revenue is derived from Lifeline customers).