

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

In the Matter of)	
)	
Lifeline and Link Up Reform and Modernization)	WC Docket No. 11-42
)	
Lifeline and Link Up)	WC Docket No. 03-109
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Advancing Broadband Availability Through Digital Literacy Training)	WC Docket No. 12-23
)	

**OPPOSITION OF LEAP WIRELESS INTERNATIONAL, INC.
AND CRICKET COMMUNICATIONS, INC.**

Leap Wireless International, Inc. and Cricket Communications, Inc. (together, “Cricket”) respectfully submit this opposition to the petition for reconsideration filed by TracFone Wireless, Inc. (“TracFone”).¹ TracFone asks the Commission to undo several of its recent reforms to the Lifeline support mechanism, including in particular the requirement to review documentation of program-based eligibility where no verification database yet exists.² But the rules about which TracFone complains are important and provide a practical means of improving the integrity and effectiveness of the Lifeline program. Nor do the rules at issue unduly burden eligible telecommunications carriers (“ETCs”) or, more importantly, the low-income consumers who are the intended beneficiaries of this support. The

¹ Petition for Reconsideration and Clarification of TracFone Wireless, Inc., WC Docket No. 11-42 *et al.* (filed Apr. 2, 2012) (“Petition”); *see also* Public Notice, *Pleading Cycle Established for Oppositions and Replies to Oppositions to Petitions for Reconsideration of the Lifeline Reform Order*, WC Docket No. 11-42 *et al.*, DA 12-655 (rel. Apr. 25, 2012).

² *Lifeline and Link Up Reform and Modernization*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 11-42 *et al.*, FCC 12-11 (rel. Feb. 6, 2012) (“Report & Order”).

Commission should reject TracFone’s arguments and continue its laudable efforts to eliminate waste, abuse, and fraud in connection with Lifeline funding.

DISCUSSION

THE COMMISSION SHOULD CONTINUE TO REQUIRE DOCUMENTATION OF PROGRAM-BASED ELIGIBILITY

TracFone devotes the bulk of its petition to an unpersuasive attack on what it deems the “most problematic aspect” of the Commission’s reform order—the requirement that ETCs review documentation to verify program-based eligibility as part of the initial Lifeline enrollment process, where eligibility databases are not available.³ TracFone asks the Commission either to rescind this rule entirely or, at a minimum, to defer its implementation for at least 12 months.⁴ But TracFone fails to justify eliminating or suspending this important new safeguard.

TracFone begins its critique with the startling claim that a documentation requirement “is not an effective way to prevent enrollment in Lifeline programs” by ineligible customers, but instead represents “the antithesis of reasoned decision making.”⁵ To the contrary, requiring actual proof of eligibility was amply justified by record evidence demonstrating that self-certification and similar procedures have resulted in wasteful expenditures or, at a minimum, significant doubts about program integrity. And TracFone cannot deny that requiring documentation of program-based eligibility is a routine and widely accepted practice. Indeed, the Commission’s rules already include a documentation requirement in connection with income-based eligibility,⁶ consistent with the enrollment requirements of many other federal benefits programs (including some that are qualifying programs for

³ Petition at 3; *see also* Report & Order ¶¶ 100-01 (describing documentation requirements).

⁴ *See generally* Petition at 3-15.

⁵ *Id.* at 5.

⁶ 47 C.F.R. § 54.410(a).

Lifeline).⁷ Moreover, a number of states independently require documentation of enrollment in qualifying programs.⁸ Extending such procedures to address program-based eligibility under the Lifeline program was eminently sensible and, if anything, overdue. While TracFone quibbles with the precise number of states that rely on this practice,⁹ the fact remains that a documentation requirement is an accepted, conventional method of confirming eligibility for support.

TracFone further asserts that the documentation requirement is unnecessary, but the relevant data undercut its claims. Despite characterizing the well-documented concerns about ineligible customers' receipt of Lifeline benefits as purely speculative,¹⁰ TracFone's own "proof" points to an unacceptably high incidence of errors or fraud. For instance, TracFone states that 88 percent of its Lifeline customers in Washington state who self-certified that they were enrolled in qualifying programs were shown (through state databases) to be enrolled in those programs one year later.¹¹ But the same data also suggest that up to 12 percent of TracFone's customers may have received benefits improperly—a figure that is consistent with the Commission's own estimates.¹² Far from casting doubt on the Commission's observations concerning the inherent limitations of self-certification as a

⁷ Report & Order ¶ 105.

⁸ *Id.* ¶ 94.

⁹ Petition at 5-6.

¹⁰ *Id.* at 9 (claiming that the Commission's concerns "about unqualified persons receiving Lifeline benefits are based on little more than speculation and potential suggestions").

¹¹ *Id.*

¹² Report & Order ¶ 102 (estimating that 15 percent of existing Lifeline subscribers are not eligible for such benefits).

means of confirming Lifeline eligibility,¹³ TracFone's statistics reinforce the Commission's conclusion that additional safeguards are necessary.

Even if TracFone's optimistic assessment of current error and fraud rates were accepted, that by no means would foreclose the Commission from adopting additional protections aimed at further reducing those rates. Particularly given the escalating demands for Lifeline funds and the related budgetary pressures, the record in this proceeding firmly establishes the need to improve on existing procedures for making eligibility determinations, and even TracFone has supported many of the Commission's efforts in that respect.¹⁴ Although TracFone repeats its concern that a documentation requirement may have the countervailing effect of discouraging many customers from enrolling in Lifeline,¹⁵ that has not been Cricket's experience. In any event, the Commission already has rejected those specific arguments and TracFone provides no new grounds to revisit that decision.¹⁶

At bottom, TracFone's objection to requiring documentation of program-based eligibility is premised on the theory that a level of errors or fraud should be tolerated to prevent the imposition of compliance burdens TracFone deems onerous. But TracFone's concerns about its bottom line are insufficient to outweigh the public interest in preventing expenditures on ineligible customers, and its failure to build appropriate verification procedures into its enrollment process is its own responsibility. In particular, while TracFone has chosen not to operate through retail stores, there are a variety of other means available for

¹³ See, e.g., *id.* ¶ 104 (noting that self-certification “does little to guard against” those who may intentionally defraud the Lifeline programs or who may inadvertently do so by mistakenly enrolling based on their misunderstanding of the eligibility requirements).

¹⁴ See, e.g., Petition at 2.

¹⁵ *Id.* at 13.

¹⁶ Report & Order ¶ 106.

obtaining documentation from consumers. In short, TracFone offers no legitimate reason why the Commission should reconsider its adoption of this important requirement.

CONCLUSION

As an active participant in the Lifeline program, Cricket has strongly supported the Commission's efforts to improve this support mechanism to ensure that all Americans have access to basic telecommunications services, regardless of their income. Consistent with that overarching goal and based on the record, the Commission should reject TracFone's request for reconsideration as described above.

Respectfully submitted,

LEAP WIRELESS INTERNATIONAL, INC.
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CERTIFICATE OF SERVICE

I hereby certify that on May 7, 2012, a copy of the foregoing was sent via United

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