

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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
	)	

To: The Commission

**OPPOSITION AND COMMENTS OF CTIA–THE  
WIRELESS ASSOCIATION®**

**I. INTRODUCTION AND SUMMARY**

CTIA–The Wireless Association® (“CTIA”) submits this consolidated Opposition and Comments in response to the petitions for reconsideration filed on the Commission’s order reforming the low-income universal service programs.<sup>1</sup> CTIA’s members, as providers of Lifeline services to millions of consumers, share the Commission’s interest in modernizing the program to meet changing consumer needs in a cost-effective and responsible manner. While CTIA supports many of the rule changes adopted in the *Lifeline Reform Order* (“Order”), CTIA also agrees with some of the challenges raised in petitions for reconsideration, but opposes others. CTIA asks the Commission to reconsider its order to improve the administration of the program by eliminating the temporary address re-verification and new biennial audit requirements, and revising the advertising disclosure and “full certification requirements.”

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<sup>1</sup> *Lifeline and Link Up Reform and Modernization, et al.*, WC Docket Nos. 11-42 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11, ¶¶ 399-506 (rel. Feb. 6, 2012) (“*Lifeline Reform Order*”).

Specifically, petitioners argue credibly that the temporary address re-verification rule is flawed in a number of respects and should be abandoned. Petitioners also correctly point out that extensive advertising disclosure requirements are counterproductive and should be modified to permit carriers to provide full disclosures through a web link or toll-free number. CTIA also agrees with petitioners who assert that the new biennial audit requirement for entities drawing \$5 million or more annually in Lifeline support is overly burdensome and unnecessary, and that requiring carriers to submit drafts of audit reports will inject uncertainty and confusion into the audit process. CTIA observes that the Commission’s development of a national verification and eligibility database necessitates reconsideration of a near-term, “full certification” requirement in states where ETCs cannot access a state consumer eligibility database.

Finally, CTIA opposes USTelecom’s request for the Commission to adopt a single-speed benchmark for the Low-Income Broadband Pilot Program, which would ignore both the operating constraints of wireless broadband networks and the benefits of mobility for low-income customers. Accordingly, CTIA urges the Commission to reject this request.

## **II. THE COMMISSION SHOULD RECONSIDER THE TEMPORARY ADDRESS RE-VERIFICATION RULE**

In the Order, the Commission imposed numerous new information collection and retention requirements on carriers in connection with its new rule restricting Lifeline support to a single connection per eligible household (the “one-per-household rule”). To enforce the rule, carriers will be required to collect a large amount of information about Lifeline subscribers which will be fed into a centralized database to identify households receiving duplicate benefits. This information includes subscribers’ full names, addresses, dates of birth, and the last four digits of their social security numbers.<sup>2</sup> The rules also require carriers to obtain certifications

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<sup>2</sup> *Lifeline Reform Order* at App. A, 47 C.F.R. § 54.410(d)(2).

from Lifeline subscribers that they understand the one-per-household rule and will inform the carrier of any change of address within 30 days.<sup>3</sup> Carriers must verify this information and renew these certifications from every Lifeline subscriber every year.<sup>4</sup>

Nevertheless, the new rules also require the carrier to identify and track any subscribers whose addresses are “temporary,” and re-verify their addresses every 90 days.<sup>5</sup> GCI, Sprint, TracFone, and USTelecom are correct that the Commission should reconsider this requirement.<sup>6</sup> Although this rule is not yet effective because the Commission withdrew it from its request for OMB approval, the rule is duplicative, will not achieve its objectives, and should be eliminated.

As GCI points out, the rule will address only a very narrow situation despite its extensive burden – Lifeline customers with temporary addresses that move to the same address as another Lifeline customer *and* form a household together (*i.e.*, begin sharing income and expenses).<sup>7</sup> While not inconceivable, this outcome is unlikely – and certainly not probable enough to justify the enormous burden that the re-certification rule imposes.<sup>8</sup>

The rule also would create an enormous burden given the transient nature of the population at issue, requiring extensive and costly follow-up by eligible telecommunications

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<sup>3</sup> *Id.* at § 54.410(d)(3)(iii).

<sup>4</sup> *Id.* at § 54.410(f).

<sup>5</sup> *Id.* at § 54.410(d)(3)(iv).

<sup>6</sup> *See* Petition for Reconsideration and Clarification of General Communication, Inc. at 3-9 (filed Apr. 2, 2012) (“GCI PFR”); Petition for Reconsideration of Sprint Nextel Corporation at 2-6 (filed Apr. 2, 2012) (“Sprint PFR”); TracFone Petition for Reconsideration and Clarification at 22-24 (filed Apr. 2, 2012) (“TracFone PFR”); Petition for Reconsideration and Clarification of the United States Telecom Association at 2-4 (filed Apr. 2, 2012) (“USTelecom PFR”).

<sup>7</sup> GCI PFR at 5-6.

<sup>8</sup> *Id.*

carriers (“ETCs”).<sup>9</sup> To comply with the rule, carriers will have to: (1) identify temporary addresses (an ambiguous term the Order does not define); (2) develop and deploy systems to track subscribers with temporary addresses; and (perhaps most significantly) (3) contact such subscribers every 90 days to complete the re-verification process. As TracFone has observed, many of these customers will not respond to initial inquiries, and carriers will expend resources on repeated attempts through multiple channels to reach the subscriber – who otherwise will lose the Lifeline discount.<sup>10</sup> In addition, marketing to and initiating service is expensive, and it will be uneconomic for carriers to reach out to customers with temporary addresses if there is a significant risk they will have to discontinue service after just 90 days.

In short, the requirement that carriers re-verify, every 90 days, the addresses of any Lifeline subscriber with a “temporary” address is unnecessary, overly burdensome and redundant. These repeated re-certifications will be repetitive of the initial certification that the customers provided, repetitive of the annual verification requirement, and repetitive of the customers’ certification that they will inform the carrier within 30 days in the event of any change of address. The Commission was correct to remove this requirement from OMB consideration, but it also should be removed from the rule books.

### **III. THE ADVERTISING DISCLOSURE REQUIREMENTS ARE IMPRACTICAL**

The Order’s requirements that ETCs include a lengthy list of disclosures in all materials pertaining to Lifeline, including all Lifeline advertising materials, are impractical, overly burdensome, and unnecessary, and should be modified. While CTIA agrees that Lifeline consumers should be informed about which plans are subject to the Lifeline rules and what those

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<sup>9</sup> See GCI PFR at 7-8; Sprint PFR at 4-5; TracFone PFR at 23-24.

<sup>10</sup> TracFone PFR at 23.

rules require, it is not necessary to provide the entire full disclosure in all advertising because the same disclosures are required in all Lifeline application materials.<sup>11</sup>

By all accounts, the required disclosures are so extensive that it is impossible to provide them in some covered media formats, such as 30-second radio spots or some signage.<sup>12</sup> Indeed, the rules are so burdensome they may actually deter carriers from marketing and publicizing Lifeline to eligible customers, contrary to the Commission's long-standing goals.<sup>13</sup> To ameliorate this situation, ETCs should be allowed to provide the key disclosure that a plan is Lifeline supported, and the fact that significant restrictions apply, and then provide the rest of the information via a cross-reference to a web link or toll-free number.<sup>14</sup> This approach will avoid the problems of a more expansive disclosure requirement and enable carriers to bring the benefits of Lifeline service to more customers.

#### **IV. THE BIENNIAL OUTSIDE AUDIT REQUIREMENT IS OVERLY BURDENSOME**

Petitioners are correct that the new biennial audit requirement for entities drawing \$5 million or more annually in Lifeline support is overly burdensome and unnecessary. The Order generally fails to articulate a coherent framework for these audits. As a result, such audits will be enormously difficult given the complexity of the rules and the limited ability of auditors to render opinions on legal issues.<sup>15</sup> The requirement also is redundant of other rules. ETCs that receive \$5 million or more in Lifeline support will be public companies that are subject to

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<sup>11</sup> *Lifeline Reform Order* at App. A, 47 C.F.R. § 54.504(c).

<sup>12</sup> *See* GCI PFR at 15-16; USTelecom PFR at 13-14.

<sup>13</sup> *See* USTelecom PFR at 13.

<sup>14</sup> *See* GCI PFR at 16; USTelecom PFR at 13.

<sup>15</sup> *See* GCI PFR at 10.

financial auditing obligations, as well as USAC audits and potential FCC enforcement in the event of rule violations, which act as a deterrent to wrongdoing.<sup>16</sup>

At minimum, Petitioners have raised significant questions about the requirement to submit drafts of audit reports. This requirement will not advance the goal of ensuring compliance because a draft report is by definition incomplete and/or tentative – thus there is no obvious value in providing it to the Commission or USAC. The filing of draft reports will only engender confusion and mistaken impressions (potentially positive or negative) regarding compliance.<sup>17</sup> If nothing else, the Commission should eliminate this aspect of the rule.

#### **V. MANDATORY DOCUMENTATION OF PROGRAM-BASED ELIGIBILITY SHOULD AWAIT ACCESS TO ELIGIBILITY DATABASES**

The Order adopts a “full certification” requirement in states where ETCs cannot access a state consumer eligibility database. Requiring all ETCs to verify documentation of eligibility – particularly as soon as June 1, 2012 – will deny Lifeline benefits to a large number of eligible consumers, is not necessary to meet the Commission’s fiscal goals, and ignores the Commission’s decision to move toward automated eligibility verification approaches.

As an initial matter, it is significant that the Commission has signaled its intent to quickly deploy automated solutions to duplicate subscriptions and eligibility issues.<sup>18</sup> In response to the Commission’s FNPRM regarding additional reforms to the Lifeline program, CTIA expressed its support for the development, through a collaborative process, of an integrated national database

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<sup>16</sup> *Id.* at 9.

<sup>17</sup> *See* GCI PFR at 11; USTelecom PFR at 9.

<sup>18</sup> *Lifeline Reform Order* ¶ 403.

to address duplicate and eligibility issues that includes state and local programs.<sup>19</sup> In doing so, CTIA described the challenges and costs for carriers navigating existing state processes and systems, and encouraged the Commission to facilitate the deployment of a single interface for Lifeline providers in a timely manner.

TracFone's petition for reconsideration underscores the need for the Commission to focus its efforts on getting an integrated eligibility database up and running as soon as possible. TracFone's extensive experience with the Lifeline program indicates that many Lifeline-eligible customers simply are not able to produce the required documentation necessary for a full certification regime to function properly.<sup>20</sup> In fact, available data suggests that a full certification requirement may discourage customer participation in Lifeline in states that currently require full documentation.<sup>21</sup> Furthermore, the data cited by the Commission suggesting that nearly half of all states already require full documentation appears to be erroneous.<sup>22</sup>

To ensure that its regulations do not suppress or otherwise skew Lifeline participation, the Commission should avoid imposing new verification burdens and compliance costs on carriers and low-income customers as it undertakes the process of developing an integrated database. In the meantime, the Commission can accomplish its savings goals through other measures it has already adopted, and should focus its efforts on the critical task of developing automated means of determining eligibility.<sup>23</sup>

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<sup>19</sup> Comments of CTIA-The Wireless Association®, WC Docket Nos. 11-42 *et al.*, at 2-4 (filed Apr. 2, 2012).

<sup>20</sup> *See* TracFone PFR at 7-8.

<sup>21</sup> *Id.* at 4, n.2.

<sup>22</sup> *Id.* at 5-6.

<sup>23</sup> *Id.* at 3-4.

## **VI. THE PILOT PROGRAM SPEED BENCHMARKS ARE APPROPRIATE AS ADOPTED**

In its petition for reconsideration, USTelecom urges the Commission to modify the Low-Income Broadband Pilot Program (“Pilot Program”) by replacing technology-specific speed benchmarks with a single-speed benchmark of 3 Mbps downstream.<sup>24</sup> CTIA opposes this request. In setting out the services that will be supported in the Pilot Program, the Commission simply required participants to meet the same broadband speed thresholds required in the Connect America Fund (“CAF”) – 4 Mbps down and 1 Mbps up for fixed service, 768 kbps down and 200 kbps up for 4G service, and 200 kbps down and 50 kbps up for 3G service.<sup>25</sup>

Contrary to USTelecom’s assertion,<sup>26</sup> this approach is entirely competitively neutral. As CTIA pointed out in the CAF proceeding, where these standards were adopted, wireless broadband networks face different operating constraints than fixed networks, and therefore would be disproportionately affected by speed or capacity requirements that were based on fixed networks.<sup>27</sup> In addition, mobile networks provide the enormous benefit of mobility, which fixed networks lack.<sup>28</sup> The Commission’s decision to consistently apply the CAF broadband speed benchmarks for the Pilot Program was appropriate, consistent with Commission precedent, and should stand.

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<sup>24</sup> See USTelecom PFR at 17-20.

<sup>25</sup> *Lifeline Reform Order* ¶ 341.

<sup>26</sup> See USTelecom PFR at 17.

<sup>27</sup> See Comments of CTIA-The Wireless Association®, WC Docket Nos. 10-90 *et al.*, at 9-10 (filed Jan. 18, 2012).

<sup>28</sup> *Id.*

## VII. CONCLUSION

CTIA urges the Commission to grant the petitions for reconsideration of GCI, Sprint, TracFone, and USTelecom to the extent described herein, and deny the USTelecom petition to the extent it urges changes to the speed benchmarks for the Lifeline Broadband Pilot Program.

Respectfully submitted,

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