

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554**

<b>In the Matter of</b>	)	
	)	
<b>Petition for Rulemaking to Prohibit In-Person Distribution of Handsets to Prospective Lifeline Customers</b>	)	
	)	
<b>Lifeline and Link Up Reform And Modernization</b>	)	<b>WC Docket No. 11-42</b>
	)	
<b>Lifeline and Link Up</b>	)	<b>WC Docket No. 03-109</b>
	)	
<b>Federal-State Joint Board on Universal Service</b>	)	<b>CC Docket No. 96-45</b>
	)	

**COMPTTEL’S REPLY COMMENTS ON  
TRACFONE’S PETITION FOR RULEMAKING**

COMPTTEL, through counsel, hereby replies to the comments filed in response to TracFone Wireless, Inc.’s (“TracFone”) Petition for Rulemaking requesting that the Commission adopt a rule prohibiting the in- person distribution of handsets to Lifeline customers. Those opposing TracFone’s proposal persuasively demonstrate that such a rule is not only unnecessary to prevent waste and inefficiencies in the use of Lifeline funds, but that it would also frustrate the ability of many eligible Lifeline customers to obtain service.<sup>1</sup> In contrast, those supporting TracFone’s proposed rule merely reiterate the Commission’s requirement that eligible telecommunications companies (“ETCs”) verify consumers’ eligibility for Lifeline service

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<sup>1</sup> See e.g., Comments of the California Public Utility Commission and The People of California on TracFone Wireless, Inc.’s Petition for Rulemaking; Comments of Smith Bagley, Inc.; Navajo Nation Telecommunications Regulatory Commission Comments Concerning TracFone Petition; Joint Comments of Absolute Mobile, Assist Wireless, Blue Jay Wireless, Boomerang Wireless, Easy Wireless, Global Connection, i-wireless and Telrite; Comments of Budget Prepay; Comments of i-wireless, LLC; Comments of Leap Wireless International, Inc. and Cricket Communications, Inc.; General Communications, Inc.’s (“GCI”) Opposition to TracFone’s Petition for Rulemaking; Comments of the United States Telecom Association; COMPTTEL’s Opposition to TracFone’s Petition for Rulemaking.

before enrolling them in the program and then, like TracFone, make the unsupported allegation that in-person distribution of handsets is somehow incompatible with verifying eligibility.<sup>2</sup>

Subsequent to the filing of comments in this proceeding, the Commission took further action to strengthen its Lifeline rules and that action provides an additional basis for denying TracFone's Petition for Rulemaking. On June 25, 2013, the Wireline Competition Bureau issued an Order adding language to Section 54.410(a) of the Commission's rules, 47 C.F.R. § 54.410(a), that prohibits ETCs from activating any device "that the ETC indicates will be used for Lifeline service" or from activating any service "that it represents to be Lifeline service" until they have confirmed a consumer's eligibility for Lifeline service, completed all the necessary enrollment steps and obtained the necessary certifications from the consumer. *In the Matter of Lifeline and Link Up Modernization and Reform*, WC Docket No. 11-42, Order, DA 13-1441 (rel. June 25, 2013) at Appendix. This prohibition complements and reinforces Commission's reforms, including the already existing prohibitions in Sections 54.410(b) and 54.410(c) of the Commission's rules, which bar ETCs from seeking reimbursement from the Universal Service Administration Company ("USAC") for providing Lifeline service to a consumer before verifying the consumer's eligibility and obtaining the necessary certifications. Together these prohibitions constitute a far more effective means of ensuring that only eligible consumers receive Lifeline service than TracFone's proposed prohibition on the in-person distribution of wireless handsets. Given that TracFone's proposed rule would raise the bar for providing

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<sup>2</sup> See Comments of The Free State Foundation; June 17, 2013 Letter to Marlene Dortch from the Community Action Partnership, Consumer Action, Maryland CASH Campaign, National Association of American Veterans, Inc. and National Consumers League; June 17, 2013 Letter to Marlene Dortch from the Public Services Commission of the District of Columbia, Indiana Utility Regulatory Commission, Nebraska Public Service Commission, Mississippi Public Service Commission, Public Utility Company of Ohio, Vermont Public Service Board and West Virginia Public Service Commission; Comments of the National Grange.

service to Lifeline consumers and make it more difficult to reach those who are homeless and transient, the Commission should deny TracFone's Petition.

As opposed to TracFone's request that the Commission ban all in-person distribution of handsets to Lifeline customers, Nexus Communications, Inc. requests that the Commission limit in-person distribution of handsets to "brick-and-mortar locations, such as retail stores."<sup>3</sup> Nexus' proposal is as ill-considered as TracFone's and should be rejected for similar reasons.

A brick-and-mortar distribution only rule would negatively impact all low-income consumers who do not have ready access to retail electronic or wireless distribution outlets. In this regard, the Commission should pay special attention to the Comments of the Navajo Nation Telecommunications Regulatory Commission ("NNTRC").<sup>4</sup> NNTRC demonstrates how discriminatory limiting in-person distribution of Lifeline handsets to brick-and-mortar locations would be to low-income consumers residing in the Navajo Nation because of the lack of traditional electronics dealers and wireless retail stores doing business there.<sup>5</sup> Adopting a rule that would require low-income consumers to pick up their wireless handsets at brick-and-mortar retail stores may not only perversely succeed in discouraging residents of tribal lands from subscribing to Lifeline service, but it would also frustrate the Commission's goal of "advanc [ing] the availability of Lifeline support for low-income consumers living on or near Tribal lands."<sup>6</sup> Plain old wireline telephone service ("POTS") is available on only 70 percent

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<sup>3</sup> Comments of Nexus Communications, Inc. at 8.

<sup>4</sup> Comments of the Navajo Nation Telecommunications Regulatory Commission (NNTRC) In Response To TracFone's Petition and Nexus Communications' *Ex Parte* Submission.

<sup>5</sup> *Id.* at 4-6.

<sup>6</sup> *In the Matter of Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 at ¶149 (rel. Feb. 6, 2012).

of tribal lands,<sup>7</sup> making access to wireless service imperative to ensure that low-income tribal residents get connected.

Nexus' proposal totally disregards the needs of, and would discriminate against, all low-income consumers who do not live near or have transportation to brick-and-mortar retail distribution outlets that offer Lifeline service. Requiring such consumers to pick up their handsets at brick-and-mortar stores as a condition of receiving Lifeline service would create just another significant barrier to achieving the statutory objective of making telecommunications services available to all Americans without discrimination.<sup>8</sup>

COMPTEL supports the Commission's recent effort to further strengthen its rules to combat inefficiency and abuse in the Lifeline program. In reforming its Lifeline regulations, the Commission in the past has been sensitive to the needs of low-income consumers and the importance of facilitating their ability to obtain service. The Commission should continue on that path by declining Nexus' invitation to establish an unnecessary hurdle for low-income consumers to obtain Lifeline service.

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<sup>7</sup> Comments of the NNTRC at 2.

<sup>8</sup> 47 U.S.C. §§ 151, 254.

**Conclusion**

For the forgoing reasons, and those stated in its Comments, COMPTTEL respectfully requests that the Commission deny TracFone's Petition For Rulemaking to ban in-person distribution of Lifeline handsets and reject Nexus' proposal to ban the in-person distribution of Lifeline handsets other than in brick-and-mortar retail locations.

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Respectfully submitted,

/s/

Mary C. Albert  
COMPTTEL  
900 17<sup>th</sup> Street N.W., Suite 400  
Washington, D.C. 20006  
(202) 296-6650