

July 19, 2013

VIA ELECTRONIC FILING

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

**Re: WC Docket No. 11-42 - Lifeline and Link Up Reform and Modernization
WC Docket No. 03-109 - Lifeline and Link Up
CC Docket No. 96-45 - Federal-State Joint Board on Universal Service**

Dear Ms. Dortch:

On July 18, 2013, Javier Rosado, Senior Vice President, TracFone Wireless, Inc., and I met with Kimberly Scardino, Chief, Telecommunications Access Policy Division, Wireline Competition Bureau, Radhika Karmarkar, Deputy Chief, Telecommunications Access Policy Division, Wireline Competition Bureau, and with Jonathan Lechter, and Michelle Schaefer, Attorney-Advisors, Telecommunications Access Policy Division, Wireline Competition Bureau. During this meeting, we discussed TracFone's petition for rulemaking to prohibit in-person distribution of handsets to prospective Lifeline customers. Specifically, we described the basis for that petition and addressed certain matters which had been raised by commenters who had opposed the petition.

We reiterated why a prohibition on in-person handset distribution is a necessary action to prevent fraudulent Lifeline enrollment pending availability of duplicates and eligibility databases and why such a prohibition would address concerns which have been raised by persons who seek abolition of the Lifeline program. Views expressed during this meeting are consistent with those set forth in TracFone's petition and in its reply comments filed in this proceeding. During the meeting, a list of presentation points was provided to each attendee. A copy of that list is enclosed herewith.

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,



Mitchell F. Brecher

Cc: Ms. Kimberly Scardino
Ms. Radhika Karmarkar
Mr. Jonathan Lechter
Ms. Michelle Schaefer

Enclosure

Enclosure

**PRESENTATION OF TRACFONE WIRELESS, INC. TO WIRELINE
COMPETITION BUREAU ON PETITION TO PROHIBIT
IN-PERSON DISTRIBUTION OF HANDSETS ASSOCIATED WITH
LIFELINE-SUPPORTED SERVICE
JULY 18, 2013**

1. Primary purpose for proposal to prohibit in-person handset distribution is to ensure program integrity by precluding practices which have been the subject of much criticism.
2. Database access is the ultimate solution to Lifeline fraud. However, until such time as both a duplicates database (the NLAD) and comprehensive eligibility databases (federal and/or state) are available, other measures will be necessary.
3. The only commenters who opposed the handset distribution prohibition were those ETCs who utilize in-person handset distribution (but there were a lot of them).
4. All state commissions (except for CA) who commented favored the prohibition citing problems they have experienced with improper Lifeline enrollment in those states (*e.g.*, Wisconsin PSC comments).
5. In person handset distribution does not by itself cause fraud and improper enrollment, but it makes such fraud possible and is difficult to protect against.
6. The fact that some companies distribute phones in person but only after properly verifying customer eligibility does not change the fact that in-person handset distribution creates opportunities for fraud, including handing out activated handsets with little or no information obtained from the customer and with no assurances that required information (such as the one-per-household limit and the prohibition against reselling the phone) has been provided to the customer.
7. Proposal to prohibit handset distribution is not about favoring one business model or marketing strategy over another but is about eliminating 1) opportunity for fraud; and 2) a practice which feeds into the biases of program critics, including those in Congress who want to end the program (*e.g.*, Sen. Vitter, Sen. McCaskill), Reps. Griffin, Blackburn).

8. Prohibiting in-person handset distribution has no First Amendment implications as no speech is being curtailed.
9. The recent (6/25) actions of the Enforcement Bureau and the Wireline Competition Bureau are important steps but do not obviate the need for a prohibition on in-person handset distribution:
 - a. Enforcement Bureau “reminder” that Lifeline providers are responsible for the conduct of their agents and representatives merely restates longstanding Commission law – that regulated entities are responsible for the conduct of their agents. That reminder does not address the fundamental problem that agents compensated based on commissions have incentives to maximize their revenues by distributing as many Lifeline phones as possible, and it is difficult for providers – and more difficult for the Commission – to enforce rules against agents.
 - b. Amending 54.410(a) to explicitly prohibit ETCs from providing consumers with activated devices represented to be Lifeline-supported service until they have (1) confirmed that the consumer is qualified and (2) completed the eligibility determination and certification process, does not solve the problem of overzealous agents handing out phones with minimal supervision.
10. If in-person handset distribution is to be permitted at so-called “brick and mortar” stores, it should be limited to stores owned and operated by ETCs. Independent agents should not be permitted to hand out phones anywhere – not out of car trunks, not on street corners, not at kiosks, not in church parking lots, not in shopping malls, not in stores other than those owned and operated by Lifeline providers.

Key Point: It is not the permanence of the facility from where the phone is distributed but the accountability of the ETC which should determine whether handsets may be distributed in person.

11. Disaster situations such as Katrina, superstorm Sandy and other natural disasters, and tribal communities are unique situations. Unique circumstances should be addressed through waivers of codified exceptions to

general rules. It is not wise public policy to base a rule of general applicability on such unique and limited circumstances.