

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

In the Matter of)	
)	
Petition for Rulemaking to Further Reform The Lifeline Program)	WC Docket No. _____
)	
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
)	

**COMMENTS OF TRACFONE WIRELESS, INC. ON
LIFELINE REFORM 2.0 COALITION'S PETITION FOR RULEMAKING**

Mitchell F. Brecher
GREENBERG TRAURIG, LLP
2101 L Street, NW, Suite 1000
Washington, DC 20037
(202) 331-3100

Its Attorneys

August 14, 2013

TABLE OF CONTENTS

SUMMARY	i
Introduction.....	1
I. Mandatory Review of Lifeline Applicants’ Photo Identification Will Not Prevent Fraudulent Enrollment.....	4
II. ETCs should be Required to Retain Copies of Program-Based Eligibility Documents Provided by Lifeline Applicants	5
III. Non-Commission-Based Personnel Should Oversee and Review All Lifeline Enrollments. However, More Information is Needed as to How The Lifeline Coalition Proposal Would Work	7
IV. Requiring ETCs to Identify All Other Lifeline Providers by Name at the Time of Enrollment Would be Unenforceable, Unworkable and Ineffective as a Means to Prevent Fraudulent Enrollment	8
V. Improved ETC Control at Enrollment Locations should be Required, but By Itself, Will Not Reduce Waste, Fraud, and Abuse of USF Resources	10
VI. There is No Need for the Proposal to Prohibit the Resale or Transfer of Lifeline-Supported Service Since Such Resale and Transfers Already are Prohibited by the Commission’s Rules	11
VII. The Lifeline Coalition’s Remaining Suggestions Will Have Little to No Impact on Preventing Improper Enrollment or on Otherwise Abusing the Lifeline Program or Wasting the USF Resources Which Support the Program.....	13
Conclusion	15

SUMMARY

TracFone commends the Lifeline Reform 2.0 Coalition for bringing to the Commission a series of proposals for preventing waste, fraud and abuse in the Lifeline program. As described in these comments, TracFone agrees with some of the Coalition's proposals, disagrees with others, and neither favors nor disfavors still others but does not believe that they will prevent waste, fraud and abuse. In evaluating these proposals (as well as others), TracFone was guided by several principles: 1) Eligibility and duplicates databases are the ultimate solution for fraud prevention and the Commission's, the states' and the industry's focus must be on database development and implementation; 2) the perception of Lifeline as a well-run, efficient program is essential to its survival as program critics, including Members of Congress, continue to criticize the program and call for its abolition; 3) agents and other commission-incentivized personnel must have no role in the Lifeline application eligibility determination, approval and enrollment process; and 4) whatever other Lifeline reforms are adopted, the practice of distributing handsets associated with Lifeline-supported service on a real time basis must be prohibited as that practice is susceptible to abuse, difficult to police, and is frequently identified by program critics in their opposition to the program.

TracFone does not oppose mandatory production of photo identification but questions whether it would be an effective fraud prevention measure. However, it agrees that some further customer identification requirement would be appropriate. TracFone and others use third party sources to confirm applicant identities and that method has proven effective.

TracFone agrees with the Coalition that ETCs should be required to retain copies of program-based eligibility documentation provided by applicants. Such documents should be secured so that private consumer information is protected. Subject to appropriate privacy

protections, retained documentation should be available to the Commission, state commissions, and USAC for audit purposes.

Review of enrollment applications and supporting documentation and approval decisions should be the responsibility of non-commission-based personnel who are not involved in the marketing of Lifeline service or the solicitation of applicants for enrollment, except in those states where Lifeline enrollment approvals are performed by the state or by third party administrators selected by the state.

The proposal to require ETCs to identify to Lifeline applicants the names of all other Lifeline providers should be rejected as being unworkable. Companies utilize multiple corporate and brand names, and availability of specific Lifeline services varies from state to state, and sometimes from study area to study area within a state. There is no practicable way that any ETC could be expected or required to have available current and accurate lists of other providers for each area where they seek to enroll Lifeline customers.

The Coalition's proposals to impose new control requirements at enrollment locations seem unlikely to have any impact on preventing fraudulent enrollment. Neither is there any need for a rule specifically prohibiting the resale of Lifeline service since the transfer of Lifeline service already is specifically prohibited.

Lifeline providers should offer customer service because it is a good business practice, not because it will prevent waste, fraud and abuse. Therefore it should not be a Lifeline requirement. Neither should the Commission require that Lifeline customers be de-enrolled from Lifeline upon request as such customers already have that right as no consumer may be required to remain in a federal benefits program against his/her will. Finally, expanded auditing of Lifeline providers should be implemented if the Commission determines that it will detect

program fraud and conserve fund resources. However, the Commission should be mindful that increased auditing will entail increased costs, and that auditing may uncover previous fraud, but will not prevent fraud from occurring.

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

In the Matter of)	
)	
Petition for Rulemaking to Further Reform The Lifeline Program)	WC Docket No. _____
)	
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
)	

**COMMENTS OF TRACFONE WIRELESS, INC. ON
LIFELINE REFORM 2.0 COALITION’S PETITION FOR RULEMAKING**

TracFone Wireless, Inc. (“TracFone”), by its attorneys, hereby comments on the petition for rulemaking to further reform the Lifeline program filed June 28, 2013 by the Lifeline Reform 2.0 Coalition (“Lifeline Coalition”). In its petition, the Lifeline Coalition proposes a series of rule changes which it asserts will further reduce waste, fraud and abuse in the Lifeline program. These comments are being filed pursuant to the public notice issued July 15, 2013.¹

Introduction

With more than 3.8 million low-income households currently enrolled in its SafeLink Wireless[®] Lifeline program, TracFone is the nation’s leading provider of Lifeline service. TracFone has been at the forefront of efforts to reform the Lifeline rules so as to facilitate the detection and prevention of waste, fraud and abuse of Universal Service Fund (“USF”) resources in connection with the Lifeline program. Many of those proposals were included in the reforms

¹ Public Notice – Wireline Competition Bureau Seeks Comment on Lifeline Reform 2.0 Coalition’s Petition for Rulemaking to Further Reform the Lifeline Program, DA 13-1576, released July 15, 2013.

promulgated by the Commission in its 2012 Lifeline Reform Order.² Other TracFone fraud prevention proposals are the subject of pending petitions.³

TracFone concurs with the Lifeline Coalition that further reforms would be appropriate and commends the Lifeline Coalition for presenting a series of reform proposals to the Commission. As will be explained in these comments, TracFone agrees with certain of the Lifeline Coalition's proposals, but disagrees with others. TracFone's evaluation of these proposals as well as other reform proposals, including its own, is driven by several important principles.

First, the availability of effective, current, and reliable databases for confirming customer eligibility and identifying duplicate enrollment is the ultimate Lifeline fraud prevention solution. The Commission's, the states', and the industry's focus must remain on the prompt implementation and use of such databases. However, until such time as eligibility databases and a National Lifeline Accountability Database (*i.e.*, the "duplicates" database) become available, alternative fraud prevention and detection measures will remain necessary.

Second, in considering Lifeline reform proposals, the Commission must remain mindful that the perception of the Lifeline program as well as actual fraud prevention is critical. It has been well-documented that critics of Lifeline in general and wireless Lifeline services in particular abound. News media sources have reported repeatedly on perceived Lifeline abuses. Program critics, including several Members of Congress, have advocated elimination of Lifeline, or at least elimination of Lifeline support for wireless services – a program that some

² Lifeline and Link Up Reform and Modernization, et al (Report and Order and Further Notice of Proposed Rulemaking), 27 FCC Rcd 6656 (2012).

³ See, *e.g.*, Petition for Rulemaking to Prohibit In-Person Distribution of Handsets to Prospective Lifeline Customers, filed May 13, 2013; Supplement to Petition for Reconsideration and Emergency Petition to Require Retention of Program-Based Eligibility Documentation, filed May 30, 2012.

pejoratively and inaccurately call “Obamaphone.” Lifeline advances an important public interest goal codified in the Communications Act – that affordable telecommunications service be available to all consumers, including low-income consumers.⁴ Low-income households rely upon Lifeline. As recently noted by Acting Chairwoman Clyburn, the Lifeline program must be preserved “for the less fortunate among us who rely on Lifeline to reach emergency services, jobs, and loved ones.”⁵ It is a program that must be preserved and reformed as necessary to protect it from critics who have sought to abolish the program to advance a political agenda.

Third, while many Lifeline providers, including TracFone, utilize third party sources, including agents and other representatives, to identify potential Lifeline customers and to assist in the promotion and marketing of Lifeline services, the Lifeline enrollment process, including determinations of applicants’ eligibility for Lifeline assistance, must remain the responsibility of the Eligible Telecommunications Carrier (“ETC”) providing Lifeline service. Moreover, under no circumstances should anyone whose compensation is based on sales or enrollments be allowed to make eligibility determinations. Specifically, the “back office” functions of application review and completion of the enrollment process should be separate from the marketing of Lifeline service and the solicitation of applicants for enrollment.

Finally, nothing has caused more damage to the Lifeline program, undermined the program’s credibility, and fed into the biases of program critics as much as the practice of handing out activated Lifeline-supported handsets on a real time basis, especially by persons who are not employed by Lifeline providers. Several of the proposals of the Lifeline Coalition are meritorious suggestions and deserve careful consideration and possible adoption. However,

⁴ 47 U.S.C. § 254(b)(3).

⁵ News – FCC Takes Further Steps to Ensure Compliance with Rules Protecting Lifeline Program Against Waste, Fraud, and Abuse, released June 25, 2013.

none of those suggestions individually or in the aggregate are substitutes for the prompt prohibition of in-person handset distribution – a practice which is difficult to control, is susceptible to abuse, has besmirched the entire Lifeline program, and which has become the “poster child” for program critics who repeatedly point to such practices in their calls to abolish the program.⁶

It is with those considerations in mind that TracFone considers and evaluates all proposals for Lifeline reform, including its own proposals, as well as those of other stakeholders such as the Lifeline Coalition.

I. Mandatory Review of Lifeline Applicants’ Photo Identification Will Not Prevent Fraudulent Enrollment

TracFone does not object to requiring applicants to produce photo identification. However, it questions whether such a requirement is necessary and whether it would be an effective means to verify applicant identity. TracFone uses the services of a third party vendor, Lexis-Nexis, to verify applicant identity. That vendor has no economic incentive to determine applicants to be Lifeline-eligible and that method has worked well. Under no circumstances should the Commission allow photo identification reviews to be made by agents or representatives of the Lifeline provider or by employees involved in the marketing of Lifeline service and the solicitation of applicants. That responsibility should be borne either by non-commission-based employees of the provider or by independent third party vendors who have no role in the marketing of the service or distribution of handsets and who have no economic incentives (such as commission-based compensation) to find applicants to be Lifeline-eligible.

⁶ In its reply comments filed on July 2, 2012 in response to criticisms of its in-person handset distribution proposal, TracFone addressed in detail many of those criticisms and reiterated its call for such a prohibition. TracFone will not repeat those points here but incorporates those reply comments by reference.

Further, TracFone questions whether merely viewing what is purported to be a photo identification will be an effective fraud detection and prevention mechanism. Anyone who has spent any time on a college campus should be well-aware that creation of computer-generated photo identification cards (such as fake driver licenses) has become a cottage industry. Producing such “fake IDs” is easy and they are widely available. There is no reason to assume that such bogus identification documents could not similarly be created and provided for the purpose of facilitating Lifeline enrollment by persons who are not Lifeline-eligible.

Whether or not a mandatory photo ID viewing requirement is appropriate, TracFone concurs with the Lifeline Coalition that there should be some codified requirement that ETCs confirm the identity of those who apply for Lifeline benefits. As noted above, TracFone has used a well-regarded third party vendor to verify the identity of its Lifeline applicants by accessing various sources of identification information. That system has worked well. There may be others. All ETCs should be required to implement processes which enable them to accurately and reliably verify that their applicants for Lifeline-supported services are who they purport to be.

II. ETCs should be Required to Retain Copies of Program-Based Eligibility Documents Provided by Lifeline Applicants

TracFone concurs fully with the Lifeline Coalition’s proposal that ETCs be permitted to retain copies of program-based eligibility documents provided to them by Lifeline applicants. In fact, such document retention should not only be permitted, it should be required. The need for mandatory retention and availability for audit of program-based eligibility documents was raised with the Commission by TracFone in its May 2012 supplement to petition for reconsideration and emergency petition to require retention of program-based eligibility documentation. That petition was filed for the purpose of closing an enormous loophole in the current rule requiring

Lifeline applicants to present proof that they are enrolled in qualifying programs (except in situations where access to eligibility databases is available). Under the current rule, ETCs are only required to have “reviewed” such documentation.⁷ It is little more than an “honor system” with no means by which the Commission, state commissions, or the Universal Service Administrative Company (“USAC”) can verify whether or not applicants have, in fact, provided the documentation which ETCs – or their commission-based agents – have claimed to have “reviewed.” Requiring ETCs to retain and make available for audit such program-based eligibility documentation will ensure that Lifeline applicants actually have presented such documentation to their chosen Lifeline providers before being permitted to enroll in the provider’s Lifeline program.

Virtually all Lifeline providers who commented on the petition, including several who are members of the Lifeline Coalition, supported the document retention proposal. Such documents should be maintained by ETCs in a safe and secure manner such that consumer privacy is protected.

Of course, it is imperative that Lifeline applicants’ program-based eligibility documentation be retained by ETCs in a manner that consumer privacy protections are respected and ensured. While all ETCs would be required to comply with applicable federal and state privacy laws, the Commission may want to promulgate a data encryption standard which would prevent unauthorized persons from accessing such documentation.

⁷ 47 C.F.R. § 54.410(c)(1)(i)(B).

III. Non-Commission-Based Personnel Should Oversee and Review All Lifeline Enrollments. However, More Information is Needed as to How The Lifeline Coalition Proposal Would Work

TracFone agrees with the Lifeline Coalition proposal that all applications for Lifeline enrollment, including all supporting documentation, must be reviewed and approved by the ETC, specifically, by non-commission-based employees of the ETC, prior to enrollment in the ETC's Lifeline program.⁸ If an ETC elects to utilize the services of a third party vendor to review Lifeline enrollment applications and supporting documentation, and make eligibility determinations, such third party vendors should not be affiliated with any agents or other representatives involved in the marketing and promotion of Lifeline service or in the solicitation of applicants for Lifeline enrollment. Furthermore, no employees of such third party vendors involved in the review of Lifeline enrollment applications, including eligibility documentation, and/or in the approval process should be compensated based on numbers of enrolled applicants. All review of Lifeline enrollment applications and supporting documentation, and confirmation of applicant Lifeline eligibility must be completed before the applicant is enrolled in the ETC's Lifeline program and before the applicant is provided with any service and any device such as a wireless handset represented to be associated with Lifeline-supported service.

There are questions as to how such a system would work. For example, if an ETC has agents purporting to enroll Lifeline applicants and handing out phones on street corners, shopping malls, out of car trunks, or in neighborhood convenience stores, how would the ETC itself be able to receive and view the applicants' program-based eligibility documentation before handing out the phone and before completing the enrollment process? By what means would a

⁸ In some states, review and approval of Lifeline enrollment applications is performed by a third party administrator selected by the state. In such circumstances, those third party administrators, rather than ETC employees, will be reviewing applications so a rule requiring non-commission-compensated ETC employees to review the applications and supporting documentation would not be necessary.

field agent transmit the completed application and documentation to the ETC's headquarters or other location where the non-commission-based employees would receive and review the documentation? Would they be delivered via express mail? Would they be scanned and sent via e-mail? Would they be faxed? How would the ETC's non-commission-based employee be assured that the application, photo ID (if required), and program-based eligibility documentation were all for the same person? And were all authentic? These are important questions which require answers.

Until such time as the Commission can be assured that only non-commission-based employees either of the ETC or of a third party enrollment verification vendor will review such applications and documents and make eligibility determinations based on those materials before any applicant is enrolled in Lifeline and before any applicant is provided with a handset represented to be usable with Lifeline-supported service, such a requirement would not be workable and should not be adopted.

IV. Requiring ETCs to Identify All Other Lifeline Providers by Name at the Time of Enrollment Would be Unenforceable, Unworkable and Ineffective as a Means to Prevent Fraudulent Enrollment

The proposal to require ETCs to identify by name during the enrollment process all other providers of Lifeline is a well-intentioned effort to implement the one-per-household limit on Lifeline-supported service. Unfortunately, such a requirement would not be workable, would not be enforceable, and would not prevent fraudulent enrollment. It would also place a virtually insurmountable burden on each ETC to know – and to ensure that all of its employees, agents,

and representatives involved in the enrollment process – know for each geographic area the names of every other ETC which provides Lifeline service in that area.⁹

In addition, many Lifeline providers utilize and are known by multiple names. TracFone's Lifeline program is marketed under the name SafeLink Wireless[®] (or SafeLink[®]); Sprint's wireless Lifeline product's brand name is Assurance Wireless (or Assurance); it is provided by Sprint's subsidiary, Virgin Mobile; Sprint was recently acquired by SoftBank. Prior to that transaction, the company was known as Sprint Nextel. Under the Lifeline Coalition's provider identification proposal which of those names would have to be communicated to the applicant? Some of them? All of them? The corporate names? The brand names?¹⁰ Also, not all ETCs provide Lifeline service in all states or in all markets. How would any ETC employee, agent or representative know which list to read? How would the ETC keep the lists current so that all Lifeline providers and all providers' brands available in each market would be identified and that providers whose Lifeline service is not available to a specific applicant based on the applicant's residence would not be identified?

Another problem with the provider identification proposal would be how the list must be communicated. Would it be communicated orally? Would the applicant receive a written list of all ETCs? If orally communicated, how could this requirement be enforced? How would the Commission, USAC, state commissions, or competing ETCs know that an accurate, current list of providers was read to each applicant?

⁹ This problem would be further complicated by the fact that in some states, ETC designations are limited to those Study Areas where the ETC is able to serve the entire Study Area. Expecting ETC employees, agents and representatives to know the geographic boundaries of every telephone company Study Area, as well as the names of every ETC which serves each Study Area is wholly unrealistic.

¹⁰ Certain of the Lifeline Coalition members operate under various names. For example, Telrite – a Lifeline Coalition member – markets its Lifeline service under the name Life Wireless.

For these and other reasons, the suggested requirement that ETCs provide each Lifeline applicant with a list of available Lifeline providers at the time of enrollment should be rejected.

V. Improved ETC Control at Enrollment Locations should be Required, but By Itself, Will Not Reduce Waste, Fraud, and Abuse of USF Resources

The Lifeline Coalition proposes to require ETCs to i) track the location of Lifeline enrollment events; ii) require agent check-in prior to enrolling customers; iii) conduct photo audits of enrollment events; and iv) conduct (unspecified) post-event checks for irregularities. It proposes that similar requirements for enrollments conducted at “brick and mortar” locations. How such requirements could possibly be enforced is questionable. Whether they would prevent enrollment abuses and the perception of improper practices is doubtful.

Whether a commission-based compensation agent “checks in” at a Lifeline enrollment event would be wholly irrelevant to the unassailable fact that such agents have a financial incentive to “enroll” as many Lifeline applicants as possible or, more specifically, to hand out as many handsets associated with Lifeline-supported service as possible. An ETC or its agents can snap as many pictures at such events as they like. None of those pictures will indicate whether or not Lifeline applicants’ applications and supporting documentation have been properly reviewed by non-commission-based ETC employees who, in most cases, will not be present at the event.

The efficacy of such requirements at brick and mortar locations as a fraud prevention measure is even more dubious. Whether or not an ETC maintains a current and complete list of retail locations where Lifeline customers are enrolled would not provide any information as to what transpires at those locations, whether and how those persons involved in the Lifeline enrollment process are being supervised, or whether such enrollments are being done lawfully. Requiring “agent check-in” would accomplish nothing. With whom would the agent “check in?”

– the ETC, the owner of the retail location, or perhaps another agent? In some instances, the agent may be the store owner. Would the agent in such situations check in with himself or herself? In its July 2 reply comments on its handset distribution petition, TracFone described the reported situation of a store in Louisiana which had placed in its window a sign which read: “FREE GOVERNMENT CELL PHONES IN STOCK.” Nowhere does the Lifeline Coalition explain how “checking in,” maintaining a list of retail locations, or taking photos of the retail locations would prevent such deceptive signage from being placed in store windows. In short, the proposed “control” requirements would not solve the problems of real time handset distribution, improper enrollment, and misrepresenting the nature of the Lifeline program.

VI. There is No Need for the Proposal to Prohibit the Resale or Transfer of Lifeline-Supported Service Since Such Resale and Transfers Already are Prohibited by the Commission’s Rules

The Lifeline Coalition recommends that the Commission ban the resale or transfer of handsets used for Lifeline service and recommends further that Lifeline applicants be required to certify as to their understanding that such resale or transfer is prohibited. While this is unquestionably a good idea, adopting it as a new requirement is not necessary. Promulgation of such a requirement is not necessary for one simple reason: the requirement already exists. Section 54.410(d)(1)(vi) of the Commission’s rules¹¹ requires ETCs (and state administrators responsible for initial subscriber Lifeline eligibility determinations) to provide Lifeline applicants with certification forms which, *inter alia*, state in “clear, easily understood language,” that “Lifeline is a non-transferable benefit and the subscriber may not transfer his or her benefit to any other person.”

¹¹ 47 C.F.R. § 54.410(d)(1)(vi). That rule was among those established in February 2012 by the Lifeline Reform Order.

The codified requirement at Section 54.410(d)(1)(vi) is explicit and unequivocal: Lifeline providers must have their applicants certify that they understand that their Lifeline benefit is non-transferable and may not be transferred to any other person. “Transfer” is not a complex or esoteric term of art, nor is it telecom jargon. There is no reason to doubt that most persons, including Lifeline applicants, know what transfer means. It means to provide to someone else, whether by sale, lease, gift, loan or otherwise.¹² The Commission may decide to further refine the language of Section 54.410(d)(1)(vi) to explicitly mention resale. TracFone would have no objection to such a revision. However, it questions whether adding the word “resale” to a rule which already prohibits any transfer of benefits would have any impact on preventing such improper transfer of Lifeline-supported service, including transfers by means of resale.

A matter of far greater urgency than revising Section 54.410(d)(1)(vi) is the prevention of oral misrepresentations made by overzealous agents and ETC representatives during the enrollment and handset distribution process. Published reports of such misrepresentations were noted by TracFone in its July 2, 2013 reply comments. At n. 13 of those comments, TracFone referenced published articles which described one situation in which a consumer was able to acquire a Lifeline handset after telling the sales representative that the consumer intended to sell the phone to obtain money to buy drugs. It described another published report in which another

¹² Webster’s II New Riverside University Dictionary, Riverside Publishing Company, 1984, contains the following definitions of “transfer”: 1) “To carry, remove, or shift from one person, position or place to another.” 2) “To convey or make over the possession or legal title.”

consumer obtained a Lifeline handset from another ETC after informing the ETC's agent that the consumer intended to sell the phone and use the proceeds to buy an "awesome pair of shoes."¹³

VII. The Lifeline Coalition's Remaining Suggestions Will Have Little to No Impact on Preventing Improper Enrollment or on Otherwise Abusing the Lifeline Program or Wasting the USF Resources Which Support the Program

The Lifeline Coalition's remaining proposals may improve the quality of Lifeline service and enhance the performance of Lifeline providers. However, they will not strengthen the protections against waste, fraud and abuse. First, the Lifeline Coalition proposes that the Commission require that Lifeline providers make available customer service representatives during business hours. TracFone, the nation's leading Lifeline provider, has made available access to customer service, staffed by live human beings, since the inception of its Lifeline program in 2008. So far as it is aware, other ETCs do the same. Calls to customer service using the 611 dialing code incur no charges or minute decrements.¹⁴ The reason why Lifeline providers provide access to customer service is not because it is a regulatory requirement. They do so because it is a good business practice. By definition, the telecommunications service

¹³ On July 23, 2013, Global Connection Inc. of America d/b/a Stand Up Wireless – the company mentioned in the article as providing a Lifeline phone to a consumer who planned to use the money to buy drugs – submitted an ex parte letter in which it denied that the event occurred. TracFone has no firsthand knowledge of the event and has no reason to doubt Stand Up Wireless's denial. However, the point is that such occurrences have been reported and have involved multiple providers, and reports of such conduct contribute immeasurably to the adverse perception of Lifeline being advanced by program critics. It is imperative that the Commission and Lifeline providers work cooperatively to prevent opportunities for such incidents to occur. Until such time as eligibility and duplicate enrollment databases become available and use of those databases required, limiting the conduct of agents and prohibiting real time handset distribution by agents and other representatives will prevent such incidents. Such a prohibition will be a far more effective fraud prevention measure than merely tweaking the wording of Section 54.410(d)(1)(vi) to mention resale as well as transfer of Lifeline service.

¹⁴ Calls to customer service at no charge to the consumer is an explicit ETC designation condition imposed by various state commissions including, for example, Oregon, Washington, New Mexico, Indiana, and Arizona.

business is a service business. Consumers, including Lifeline consumers, expect and deserve that their carriers will provide customer service that they will be available to address their service problems. Any carrier wishing to succeed in the increasingly competitive market for Lifeline service must be responsive to customer needs and desires. Accessible customer service is an important part of that responsiveness. No regulatory requirement is necessary for service providers to provide the levels of service which their customers expect and deserve.

Neither is there any need or purpose for the proposed requirement that Lifeline providers de-enroll Lifeline customers upon request. Any Lifeline customer is free to de-enroll at any time simply by notifying the provider. Whether a customer's reason for de-enrolling is that they no longer want the service, that they are no longer Lifeline-eligible (in which case, they are required to de-enroll¹⁵), or that they wish to enroll in another provider's Lifeline program, makes no difference. Consumers cannot be forced to remain in a federal benefit program against their will and it does not take an additional Commission regulation to codify that right.

The Lifeline Coalition next proposes that the auditing of Lifeline providers be expanded so that all ETCs receiving USF Lifeline support be audited regularly – not just those ETCs whose support receipts exceed specified levels. TracFone agrees that expanded auditing would be beneficial. It further agrees with the Lifeline Coalition that misconduct and fraud by smaller providers can damage the perception of the Lifeline program just as such conduct by larger providers damages the perception of the program, even though the financial impact on the USF may be less. However, the role of audits and their costs need to be considered. Comprehensive audits take resources. USAC does not have unlimited resources. If the Commission expands the audit obligations of USAC, USAC will need more financial resources to support that increased

¹⁵ 47 C.F.R. § 54.410(d)(3)(ii).

audit responsibility. That will mean greater contributions from the USF. TracFone does not oppose expanded auditing if the Commission concludes that it will achieve the intended benefit of conserving USF resources and preventing waste, fraud and abuse. However, it urges the Commission and others to be mindful of the fact that there will be a financial consequence to such expanded auditing.

Further, the auditing process enables USAC and ultimately the Commission to identify where misconduct occurred in the past, and provides an opportunity for USAC to recover payments which resulted from such misconduct. What auditing will not do is prevent such misconduct from occurring. For that reason, strengthening and expanding the USAC auditing requirements will not by itself prevent continued recurrence of the kinds of improper enrollment and handset distribution practices which have led to abuses and provided cannon fodder to program critics. Even with expanded auditing, proactive steps to prevent such improper enrollment practices must be implemented.

Conclusion

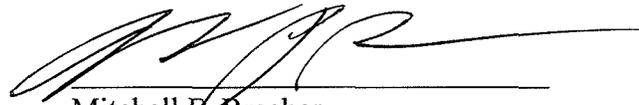
The Lifeline Coalition has put forth a series of constructive proposals to reform Lifeline and to strengthen protections against waste, fraud and abuse of USF resources. It should be commended for doing so. As TracFone stated in the introduction to these comments, it agrees with some of those proposals, disagrees with others, and neither agrees nor disagrees with still others but does not believe that such proposals will have any significant impact on preventing waste, fraud and abuse within the Lifeline program. Whether or not the Commission adopts some or all of these proposals, significant problems with the Lifeline enrollment process will remain and meaningful reforms to address those remaining problems need to be implemented to prevent waste, fraud, and abuse of finite USF resources and to address the concerns so often noted by those who oppose Lifeline and who advocate its elimination. It is in the interest of all

Lifeline providers without regard to their business models and preferred marketing strategies, and, more importantly, to millions of low-income households who rely upon Lifeline-supported telecommunications service on a daily basis, that those remaining problems be addressed and resolved.

As noted in its May 2013 petition, much of the improper enrollment of unqualified persons and provision of Lifeline-supported service to persons who neither need it nor want it (other than to sell the service for the purpose of obtaining drug and “awesome shoe” money) is directly attributable to the irresponsible distribution of handsets associated with Lifeline service with few, if any, questions asked. Prohibition of such handset distribution will materially reduce, if not eliminate, the opportunity for improper Lifeline enrollment pending implementation of eligibility and duplicates databases which everyone agrees is the long-term solution.

Respectfully submitted,

TRACFONE WIRELESS, INC.



Mitchell E. Brecher
GREENBERG TRAURIG, LLP
2101 L Street, NW, Suite 1000
Washington, DC 20037
(202) 331-3100

Its Attorneys

August 14, 2013