

December 3, 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 – In the Matter of Lifeline and Link Up
Reform and Modernization
NOTICE OF EX PARTE PRESENTATION

Dear Ms. Dortch:

On December 3, 2013, F.J. Pollak, President and Chief Executive Officer, TracFone Wireless, Inc., Javier Rosado, Senior Officer – Alternative Business Units, TracFone Wireless, Inc., Charles Shipp of SC Partners, and I met with Commissioner Mignon Clyburn and with Rebekah Goodheart, Commissioner Clyburn's Legal Advisor – Wireline. During the meeting, we discussed TracFone and its array of prepaid wireless telecommunications services. We also discussed its SafeLink Wireless[®] Lifeline program and the efforts which TracFone has undertaken to prevent waste, fraud, and abuse of Universal Service Fund resources in connection with Lifeline. These efforts included several fraud prevention proposals of TracFone which were included in the Commission's 2012 Lifeline Reform order as well as several pending TracFone proposals. Those pending proposals to prevent Lifeline fraud include its petition to require Lifeline providers to retain copies of program-based eligibility documentation provided to them by applicants for Lifeline service, and its petition to prohibit the in-person distribution of handsets. In addition, we discussed a recent TracFone Lifeline service called SafeLink Health[®] - a program which TracFone offers in cooperation with various health maintenance organizations. In addition to the normal benefits and features of SafeLink Wireless[®] Lifeline service, SafeLink Health[®] provides enrolled consumers with unlimited texts and unlimited voice calls with their healthcare providers.

Finally, we discussed the notice of apparent liability for forfeiture (File No. EB-IHD-13-00010668) issued by the Commission on September 30, 2013. We explained that TracFone would be submitting to the Enforcement Bureau a detailed response to the NAL on December 4. We briefly explained why the alleged violations in the NAL were erroneous and that the proposed forfeiture amount was inconsistent with applicable Commission forfeiture jurisprudence and that such forfeitures would not have the deterrent effect anticipated in the NAL. Rather, they would damage the Lifeline program by driving well-run, responsible Lifeline providers from the market since the potential risks far outweighed any benefit from providing Lifeline service. During the meeting, we provided a written presentation, a copy of which is enclosed with this letter.

Ms. Marlene H. Dortch
December 3, 2013
Page 2 of 2

Pursuant to Section 1.1206 of the Commission's rules, this letter is being filed electronically. If there are questions, please communicate directly with undersigned counsel for TracFone.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Brecher", written over a horizontal line.

Mitchell F. Brecher

Cc: Hon. Mignon Clyburn
Ms. Rebekah Goodheart

Enclosure

Enclosure

TracFone Wireless, Inc.

FCC Presentation

December 2013

TRACFONE®

TracFone Wireless, Inc.

- **Who We Are**
 - Handset Based technology – you actually “track” your minutes
 - 5th Largest Wireless provider in the US
 - Based in Miami. 800+ full time employees
- **We’ve Grown to over 23 million customers in 17 years**
 - TracFone Wireless Inc. is the largest no-contract cell phone provider in the US, and has been since its inception 16 years ago.
- **What We Stand For**
 - TracFone believes cell phone ownership is a need, not a privilege, and is committed to making cell phones available to everyone
 - Our six brands deliver unparalleled access for the underserved
 - Consumer Reports recently rated wireless phone service. The 3 highest rated brands were:
 1. TracFone®
 2. Straight Talk®
 3. NET10®

All are TracFone brands

SafeLink Wireless®

- **SafeLink Wireless®**
- Requested ETC approval upon invitation by the FCC
- Approved as an ETC in 2008
- Pioneered “free” service
- Stand alone Lifeline brand
- Customers get the best TracFone rates on any card - \$0.10 per minute or less
- Operates in 39 states
- Currently has 4.2 million active customers
- SafeLink Wireless® has serviced 11 million accounts since inception

- **Our systems minimize waste, fraud and abuse**
 - Have always requested last 4 digits of SS and Date of Birth
 - Pioneered and voluntarily have always had 60 days non usage disconnection
 - Have always had yearly verification of the entire base
 - Have never handed phones in person
- **PQA Results**
 - Of the 1.3 million customers audited by USAC since 2009, which represent \$13.5 million on FORM 497, USAC identified 303 errors for a recovery of \$3,013.
- **Audit Results**
 - After 48 PQAs and 7.5 million customers audited which represent \$72.8 million on FORM 497, USAC identified 238 errors for a recovery of \$2,342.
- **IDV Results**
 - After 27 IDVs and 4.0 million customers audited which represent \$39.1 million on FORM 497, USAC identified and requested for immediate de-enrollment 301,849 duplicate customers. Approximately a 7.382% rate.

- **Outstanding issues**
- **Document retention** -- while we opposed full certification, it was adopted; however, the FCC created an enormous loophole by requiring only that ETCs “view” documentation with no requirement that they retain documentation to prove that the applicants have produced it. In May 2012, TracFone filed a petition to close this loophole. That petition received wide industry support and no opposition. Still, the proposal has been pending for 18 months
- **Real time in-person handset distribution** -- has been the basis for almost all the negative stories in the media. That practice should be stopped. We are not saying that every company that distributes handsets in person cheats; we are saying that the practice creates an opportunity to cheat and has been a source of much program criticism. The perception of companies and their agents handing out phones on street corners, out of car trunks, from tents or other temporary structures, has damaged the perception of Lifeline and created opportunities for abuse.
- **Minimum charges** -- a bad idea, which the FCC wisely rejected in February and there is no reason to change its position on such charges. However, the issue has now shifted to the states. Georgia already has adopted a minimum \$5 charge rule, not to prevent fraud, but to kill the wireless part of the program (note that one PSC commissioner said publicly that he does not believe that the government should be subsidizing “luxury items” such as cell phones).

- **Notice of Apparent Liability**

On Sept. 30, the Enforcement Bureau issued a notice of apparent liability for forfeiture of \$4,573,356 for alleged violation of Lifeline rules.

- TracFone's response is due Dec. 4. That response will explain why no rules were violated and why the proposed forfeiture amount, even if there were violations, is grossly excessive and unprecedented.
- NAL alleged 842 intra-company duplicates (discovered by USAC, not by the Commission); that number is incorrect – 181 were not duplicates at all, but were separate and unrelated Lifeline subscribers – a USAC/FCC error rate of 21.6%.
- NAL alleges that TracFone received \$7,992 in overpayments. This is incorrect as all overpayments discovered through the USAC In-Depth Validation process are recaptured so that TracFone derives no gain and the USF is made whole.
- The total number of duplicates is miniscule – 0.03% (3/10ths of 1 percent).

- The NAL accuses TracFone of “ignor[ing]” rules and “exploit[ing]” the Lifeline program. This is untrue. TracFone has gone to considerable expense to invest in personnel and systems which detect and prevent duplicate enrollment, including state-of-the-art LexisNexis™ products
 - When the Commission imposes large forfeitures (e.g., \$1 million or more), the following factors are always present
 - Unjust enrichment by the wrongdoer
 - Loss or damage to consumers
 - Deprivation of funding to the USF
 - Harm to public safety
- None of those factors exist in the TracFone NAL situation.
- The Commission should respond to public and congressional critics of Lifeline by adopting rules to tighten the program and prevent fraud, not by imposing multimillion dollar penalties for minor enrollment problems which were identified and corrected, and which neither benefitted the ETCs nor harmed the USF.
 - Rather than deterring bad conduct, these penalties will drive Lifeline providers out of the program by making the costs and risks far beyond any benefit.