
**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
)
Federal-State Joint Board on Universal Service) CC Docket No. 96-45
)
Lifeline and Link-Up) WC Docket No. 03-109
)

REPLY COMMENTS OF CTIA–THE WIRELESS ASSOCIATION®

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I. INTRODUCTION AND SUMMARY

CTIA–The Wireless Association® (“CTIA”) submits these reply comments in response to the Joint Board’s request for comment¹ on the Commission’s order referring a number of issues related to the Commission’s eligibility, verification, and outreach rules for the Lifeline and Link-Up universal service programs for low-income consumers.² CTIA applauds the Commission and the Joint Board for seeking comment on ways to improve the eligibility, verification, and outreach associated with these important programs. In these reply comments, CTIA adds its support for commenter proposals to revise the eligibility, verification and outreach rules to better reflect the evolving nature of the low income program and the appropriate role of service providers. In particular, CTIA supports proposals to:

¹ *Federal-State Joint Board on Universal Service Seeks Comment on Lifeline and Link-Up Eligibility, Verification, and Outreach Issues Referred to the Joint Board*, CC Docket No. 96-45 and WC Docket No. 03-109, Public Notice, FCC 10J-2 (rel. June 15, 2010) (“*Public Notice*”).

² *Federal-State Joint Board on Universal Service, Lifeline and Link-Up*, CC Docket No. 96-45 and WC Docket No. 03-109, Order, FCC 10-72 (rel. May 4, 2010) (“*Referral Order*”).

- Simplify and improve the eligibility determination and verification process by assigning these duties to a neutral non-service provider entity; and
- Improve outreach and participation in low-income programs by promoting additional entry and competition among service providers and increasing the outreach activities of state social service agencies.

CTIA also urges the Joint Board and the Commission to decline misguided proposals for additional mandatory standards that are outside the scope of this proceeding. These proposals are unnecessary and more likely to have a negative impact on provider participation and consumer choice.

II. A NEUTRAL ELIGIBILITY SYSTEM WILL BEST ADDRESS ADMINISTRATIVE AND PRIVACY CONCERNS.

The initial comments amply demonstrate that the current system for determining and verifying customers' eligibility for Lifeline or Link-Up, which relies on service providers to check subscriber eligibility, should be replaced with a centralized system managed by a neutral third party.³ Under the current rules, every eligible telecommunications carrier ("ETC") is essentially required to act as an independent verification agency. Carriers are required to determine whether prospective customers are eligible for Lifeline or Link-Up, ensure that they are not receiving low-income benefits from another ETC, and regularly verify that customers continue to be eligible for the benefits of the program. This imposes a number of responsibilities on ETCs that are fundamentally different from their core functions as telecommunications

³ See, e.g., AT&T comments at 14-16; PR Wireless comments at 9-11; Smith Bagley comments at 9-11; TracFone comments at 9-10; USTelecom comments at 5-7; Verizon comments at 2-7. Unless otherwise noted, all reference in this reply to parties' comments refer to initial comments in this docket filed on or about July 15, 2010.

carriers and that they are ill-equipped to undertake. Ultimately, customer eligibility is too important to be handled in such a decentralized fashion.

The current eligibility rules impose responsibilities on carriers that are outside their core competencies. Carriers must ascertain the eligibility rules that apply in each state in which they operate and train all of their customer-facing personnel in how to apply the rules in particular situations. Carriers' sales staffs must interpret and apply the rules for each new Lifeline subscriber who applies for service. All of these activities are well outside the normal purview of telecommunications carrier personnel, who are otherwise focused on networks, devices, customer care, and coverage areas.⁴ And the significant human element in this process raises the risk that different ETCs may interpret or apply the eligibility rules differently in specific instances. The burden is exacerbated for carriers – like most wireless carriers – that operate in multiple states.

The current carrier-focused verification requirement also makes it impossible to effectively enforce the Commission's "one-per-household" limit on Lifeline and Link-Up support.⁵ The infirmities of the current system are accurately illustrated by Verizon's example of its experience in a Lifeline audit. According to Verizon, "USAC and its auditors identified a small number of former Alltel wireless Lifeline customers that also received a duplicative wireline Lifeline discount from another provider, which prompted USAC to propose that the various carriers collaborate to determine which provider should 'claim' the Lifeline

⁴ It is important to remember that these compliance costs are not recoverable from the fund – the Lifeline and Link-Up programs reimburse ETCs only for direct discounts provided to consumers. 47 C.F.R. §§ 54.407, 54.413. The Lifeline advertising requirement imposes an additional unreimbursed burden on ETCs.

⁵ See Referral Order at ¶ 21 and n.53.

beneficiaries.”⁶ However, as Verizon observes, a “Lifeline provider has no way of knowing if a beneficiary is inappropriately receiving subsidized service from another provider.”⁷ USAC’s proposal, while creative, has no basis in the rules, and is entirely impractical: as Verizon points out, “Lifeline providers cannot be expected to ... make a judgment as to which provider should extend Lifeline benefits to an eligible program participant.”⁸

In addition, the current system places private companies in the position of handling sensitive financial information from prospective Lifeline or Link-Up customers, such as tax forms, pay stubs, Social Security benefits statements, or divorce decrees.⁹ While wireless carriers are equipped to handle confidential information pertaining to the provision of communications service,¹⁰ the type of information required to establish Lifeline eligibility is fundamentally different in character. This information is commonly handled by social welfare agencies, but not by telecommunications carriers. Thus, the current approach is awkward under the best of circumstances, but is often complicated by the fact that wireless carriers operate in retail environments (*e.g.*, mall kiosks) that are convenient for consumers but not conducive to the exchange of sensitive, confidential financial information. The requirement to disclose this sensitive information to carrier personnel also likely acts as a deterrent to prospective Lifeline-eligible customers, undermining the program’s potential for success.

As several commenters persuasively argue, it no longer makes sense to retain this inefficient and flawed system. Instead of carriers, a neutral third party should certify and verify

⁶ Verizon comments at 4.

⁷ *Id.* at 5.

⁸ *Id.*

⁹ *See, e.g.*, 47 C.F.R. §§ 54.410(a)(2), 54.410(c)(2). Many states’ rules impose similar verification requirements.

¹⁰ *See, e.g.*, 47 U.S.C. § 222.

low-income consumers' eligibility for the Lifeline and Link-Up programs. Some states have already moved away from carrier-based eligibility determinations. For example, the California Public Utilities Commission has retained a "third party Lifeline Certification Agent to enroll new California Lifeline customers and to verify the continued eligibility of existing California Lifeline customers."¹¹

CTIA encourages the Joint Board to explore proposals to revamp the eligibility determination and verification process in a manner that best promotes the efficient operation of the program, minimizes the potential for waste, fraud, and abuse, and recognizes the unique strengths and roles of the various program participants. For example, AT&T proffered a specific proposal involving certification by a state agency and the use of a PIN verification system.¹² In a similar vein, commenters such as the Nebraska Public Service Commission ("Nebraska PSC") and Verizon have suggested that a centralized database of Lifeline-eligible customers should be maintained by USAC or some other central administrator.¹³

The Commission, in its Referral Order, correctly noted several important changes in the low income program, including new providers participating in the program and recent expansion of subscriber participation and, correspondingly, fund size.¹⁴ These trends only underscore the need for the development of a centralized eligibility determination and verification system that

¹¹ California PUC comments at 5.

¹² See AT&T comments at 5-7. See also Advocates for Basic Legal Equality *et al.* comments at 27 (proposing a PIN-based verification approach).

¹³ See Nebraska PSC comments at 6 ("A national database maintained by USAC or other designated body with a goal toward 'real time' verification, would be more efficient both initially and on an on-going basis."); Verizon comments at 2-7. See also Referral Order at ¶ 20 (discussing proposals by AT&T and NARUC).

¹⁴ Referral Order at ¶¶ 10-12.

operates in a competitively neutral fashion.¹⁵ Simplification of verification rules would also foster new entrants, thereby creating more competition and improving service offerings.¹⁶ For all these reasons, the Joint Board should explore commenters' proposals to streamline the eligibility determination and verification process.

III. THE BEST WAY TO PROMOTE CONSUMER AWARENESS OF AND PARTICIPATION IN THE LOW INCOME PROGRAMS IS TO PROMOTE ENTRY AND COMPETITION AMONG SERVICE PROVIDERS.

Just as competition has led to widespread adoption and consumer satisfaction with wireless services generally, competition should be a key part of the strategy to improve outreach in the Lifeline program. In addition, because of state agencies' other extensive contacts with qualifying low-income subscribers, the Joint Board should recommend that they play an increased role in Lifeline outreach.

The best way to promote awareness of the low income programs and participation by eligible consumers is to lower the barriers to service provider participation. Carriers in a competitive market are more likely to be motivated to advertise the availability of a product. Such incentives are particularly important given that, under the current rules, ETCs are not allowed to recover their Lifeline marketing costs.¹⁷ Competition among eligible service providers also will drive providers to expand their marketing and outreach, and innovate in their service offerings, which will make low income services more desirable to consumers. A healthy incentive structure also reduces the need for regulation and oversight.

¹⁵ *Cf., e.g.*, Ohio PUC comments at 8 (automatic enrollment system includes only "large landline ETCs").

¹⁶ *See infra* Sections III-IV.

¹⁷ The Lifeline and Link-Up programs reimburse ETCs only for direct discounts provided to consumers. 47 C.F.R. §§ 54.407, 54.413.

As the Commission has recognized, competition in the wireless industry has led to steady increases in telephone service availability and subscribership. According to the Commission's *Fourteenth Report* on mobile wireless competition, 95.8% of Americans have a choice of three or more facilities-based wireless carriers, 90.9% of Americans have a choice of four or more facilities-based wireless carriers, while 73.8% have a choice of five or more¹⁸ – with each offering a different combination of services and features. This does not even count the presence of mobile virtual network provider (“MVNO”) competition in markets large and small. As a result of the intense competition in the wireless market, and as the Commission noted in the Referral Order, there has been a “55 percent increase in the penetration of mobile phones in the United States between June 2000 and June 2009.”¹⁹

Given this enormous success, there is every reason to believe that competition in the Lifeline arena will lead to similar consumer awareness of services and similar consumer benefits. As a result, the Joint Board and the Commission should focus on ways to reduce barriers to carrier participation in the low income programs.²⁰ Indeed, as more Lifeline providers enter the

¹⁸ *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, WT Docket No. 09-66, Fourteenth Report, FCC 10-81 (rel. May 20, 2010) at ¶ 42, tbl. 4 (“*Fourteenth Report*”).

¹⁹ Referral Order at ¶ 10.

²⁰ As the Commission has recognized, there is no reason to believe additional Lifeline competition will have a negative impact on the size of the fund. As the Commission has consistently recognized in the case of low-income universal service designations, the size of the fund is limited by the number of consumers in a given geographic area. *Federal-State Joint Board on Universal Service Telecommunications Carriers Eligible for Universal Service Support, i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, CC Docket No. 94-45, WC Docket No. 09-197, Order, DA 10-117, at ¶ 19 (rel. June 25, 2010); *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095, 15103-04 ¶ 17 (2005).

market, it will become less likely that consumers will purchase service from a given provider unless that provider's Lifeline offering is truly valuable to the consumer.²¹

In addition, the outreach requirements should remain flexible so that ETCs can adapt outreach to the needs of a particular community. ETCs must be allowed to innovate with their marketing strategies in order to foster competition for Lifeline subscribers. By contrast, detailed outreach rules may dissuade new ETC entry and stifle competition, resulting in less desirable service offerings for low income consumers.²²

Outreach also would benefit from greater participation by state social service agencies that deal directly with low-income consumers. As the National Broadband Plan concluded, "State social service agencies should take a more active role in consumer outreach."²³ Such agencies already administer eligibility for the programs that determine Lifeline eligibility, such as LIHEAP and TANF; thus, they have regular access to large pools of potential Lifeline customers. The Joint Board would miss an enormous potential for efficient and effective outreach if it did not urge greater participation by state social service agencies.

²¹ *See also infra* Section IV.

²² Perhaps the best example of a counterproductive outreach rule is USAC's current requirement, applied in Lifeline audits, that ETCs list each Lifeline supported service – such as "dual-tone multifrequency signaling or its functional equivalent" – separately in its advertisements. *See* Letter from Richard A. Belden, USAC, to Julie Veach, FCC, WC Docket No. 05-337 (filed Aug. 24, 2009); *Comment Sought on Request for Universal Service Fund Policy Guidance Requested by the Universal Service Administrative Company*, WC Docket Nos. 05-337, 06-122, CC Docket No. 96-45, Public Notice, 24 FCC Rcd 12093 (2009).

²³ *Connecting America: The National Broadband Plan* at 172, Rec. 9.1. *See also, e.g.,* Advocates for Basic Legal Equality *et al.* comments at 33.

IV. COMPETITION, NOT BURDENSOME REGULATION, WILL BEST ENSURE THE UTILITY OF LIFELINE OFFERINGS.

Although not specifically addressed in the public notice or Referral Order, some commenters have argued for the establishment of new standards for pre-paid wireless ETCs' Lifeline service plans.²⁴ These proposals are clearly outside the scope of the Commission's Referral Order, which asks the Joint Board to focus on eligibility, verification, and outreach rules. While that alone is sufficient reason for the Joint Board to decline these misguided entreaties, these proposals are also fundamentally at odds with the Commission's long-standing pro-competitive approach to wireless services generally and to Lifeline services specifically.

Even in the Lifeline context, the FCC has correctly recognized the important role that competition plays in providing the highest value services for consumers. For example, in the order granting the regulatory forbearance necessary to allow the ETC designation of the first prepaid wireless Lifeline provider, the Commission concluded that:

[A]s a reseller, [TracFone] is by definition subject to competition and that this competition ensures that its rates are just and reasonable and not unjustly or unreasonably discriminatory. We note that *TracFone's Lifeline offering will compete with at least one other Lifeline offering whether from the underlying CMRS provider, if an ETC, or from the incumbent wireline carrier. We also believe that this competition will spur innovation amongst carriers in their Lifeline offerings, expanding the choice of Lifeline products for eligible consumers.* We note that TracFone has created a wireless prepaid product that is neither dependent upon the retail service offerings of its underlying carriers nor simply a

²⁴ See, e.g., NASUCA comments at 4-6 (calling for minimum standards for prepaid wireless Lifeline service plans); Community Voicemail National Office comments at 2-3 (endorsing NASUCA proposal).

rebranding of the underlying carrier's retail service offering which may provide a valuable alternative to eligible consumers.²⁵

The Commission's reliance on competitive forces in this context is well-founded. As the Commission has long recognized, the robustly competitive market for wireless services in the U.S. has resulted in enormous benefits to consumers. This value is demonstrated in the Commission's *Fourteenth Report*, which notes that "[t]he annual Cellular CPI decreased by approximately 0.2 percent from 2007 to 2008, while the overall CPI increased by 3.8 percent during this period."²⁶ Thus, while the cost of average consumer goods *increased* almost 4%, mobile carriers delivered their services at a *lower* price. Indeed, the average revenue per minute of U.S. wireless service ranks as the lowest among the 26 Organization for Economic Co-Operation and Development ("OECD") countries monitored by Bank of America Merrill Lynch ("BofA Merrill Lynch").²⁷

This unmatched consumer benefit results directly from the intense competition in the wireless marketplace.²⁸ The Commission and States can and should harness these same competitive forces to deliver value to Lifeline consumers. Competition drives providers to innovate in their service offerings and pricing plans, and to better meet low-income consumers'

²⁵ *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.C.S. §214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095, 15100 ¶ 13 (2005) (emphasis added).

²⁶ *Fourteenth Report* at ¶ 4.

²⁷ Indeed, the average revenue per minute of a wireless service has been in a state of free-fall for several years, and ranks as the lowest among the 26 Organization for Economic Co-Operation and Development ("OECD") countries monitored by Bank of America Merrill Lynch ("BofA Merrill Lynch"). See Glen Campbell et al, *Global Wireless Matrix 1Q10: A Modest Recovery, Asia in the Lead*, Bank of America Merrill Lynch (Apr. 13, 2010) (reporting year-end 2009 data).

²⁸ CTIA ex parte letter, WT Docket No. 09-66, GN Docket No. 09-157, and GN Docket No. 09-51 (filed May 11, 2010), attachment at 6-7.

needs. Simply stated, in a robustly competitive market, carriers that do not “satisfy the public interest by providing adequate value for Lifeline recipients”²⁹ will attract no customers and thus receive no support.

As a result, the Joint Board and the Commission should resist calls to further mandate minimum requirements. Such requirements are clearly unnecessary, as consumers have demonstrated with their choices in the marketplace that current low income service offerings from prepaid wireless providers are valuable. Indeed, a significant portion of the growth in Lifeline participation rates among eligible low income consumers is due to the efforts of prepaid wireless service providers. Arbitrary mandates on minutes and other features have the potential to foreclose innovative service offerings, reducing the incentive and ability of providers to develop new service plans that fit the needs of a wide variety of Lifeline subscribers.

In addition, proposals to establish maximum price limits for minutes and text messages would represent a dramatic and counterproductive shift to rate regulation that ignores the role of competitive market forces. These proposals, which would regulate and constrain pricing innovation, would limit ETCs’ ability to distinguish themselves from their competitors. Ultimately, such prescriptive regulation is not only unnecessary but would also reduce providers’ incentive to participate in the low-income program. All of these reasons counsel the Joint Board and the Commission to maintain their current and well-founded approach of allowing competitive ETCs to fashion Lifeline offerings that meet low-income consumers’ needs, and ensuring consumer value by fostering a robustly competitive market for the provision of Lifeline service.

²⁹ NASUCA comments at 5.

CONCLUSION

CTIA urges the Joint Board to make recommendations to the Commission consistent with these comments.

Respectfully submitted,

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