Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matters of	**)**	
Bridging the Digital Divide for Low-Income Consumers	**)**	**WC Docket No. 17-287**
Lifeline and Link Up Reform and Modernization	**)**	**WC Docket No. 11-42**
Telecommunications Carriers Eligible for Universal Service Support	**)**	**WC Docket No. 09-197**

COMMENTS OF
ITTA – THE VOICE OF AMERICA'S BROADBAND PROVIDERS

ITTA – The Voice of America's Broadband Providers (ITTA) hereby submits its comments in response to the *NPRM* proposing and seeking comment on further reforms to the Lifeline program.[1] ITTA urges the Commission to refrain from limiting Lifeline support to broadband service provided over facilities-based broadband networks that also support voice service. Further, ITTA encourages the Commission to seek further comment on the particulars of a proposed Lifeline program budget cap before implementing one. ITTA also suggests that it is not necessary to require customer enrollment agents to register USAC, but if such a requirement is implemented, registration should not require the date of birth or any other personally identifiable information from the registering agent.

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[1] *Bridging the Digital Divide for Low-Income Consumers; Lifeline and Link Up Reform and Modernization; Telecommunications Carriers Eligible for Universal Service Support*, Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 32 FCC Rcd 10475 (2017) (*NPRM*).

I. THE COMMISSION SHOULD NOT LIMIT LIFELINE SUPPORT TO SERVICE PROVIDED OVER FACILITIES-BASED NETWORKS

The *NPRM* proposes to discontinue Lifeline support for service provided over non-facilities-based networks.[2] The Commission should decline to do so.

The *NPRM* seeks comment on how this proposal would impact the number of Lifeline providers participating in the program and the availability of quality, affordable Lifeline services.[3] Discontinuing Lifeline support for service provided over non-facilities-based networks would cause mass upheaval for consumers and eject dozens of providers from the marketplace. By Commissioner Clyburn's reckoning, "[o]ver 70% of wireless Lifeline consumers will be told they cannot use their preferred carrier and preferred plan."[4] Similarly, TracFone Wireless (TracFone) reports that "adoption of the reseller exclusion proposal would have the effect of disrupting Lifeline services currently received by almost three-quarters of low-income Lifeline customers."[5]

Moreover, Lifeline consumers may not have a carrier to turn to if the Commission discontinues Lifeline support for service provided over non-facilities-based networks.[6] Given the "fact that the vast majority of Lifeline households have chosen to enroll in [non-facilities-based] providers' programs," thereby demonstrating "the broad consumer preference for such

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[2] *See id.* at 10499, para. 67.

[3] *See id.* at para. 68.

[4] *Id.* at 10557, Dissenting Statement of Commissioner Mignon L. Clyburn (Clyburn Statement). *See also* Letter from Mitchell F. Brecher, Counsel to TracFone Wireless, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 17-287, 11-42, and 09-197, Attach. A at 3 (filed Nov. 9, 2017) (TracFone *Ex Parte*) (asserting that 86% of Lifeline customers have chosen wireless services).

[5] TracFone *Ex Parte* at 2. *See also* FCC, 2016 Universal Service Monitoring Report at 30, Tbl. 2.8 (WCB 2017), https://apps.fcc.gov/edocs_public/attachmatch/DOC-343025A1.pdf (most recent Monitoring Report, demonstrating that in 2015, 68.5 percent of total low-income subscribers were on non-facilities-based networks).

[6] *See NPRM*, 32 FCC Rcd at 10557, Clyburn Statement. *Cf.* TracFone *Ex Parte* at 2 ("Elimination of all non-facilities-based providers from Lifeline would leave few choices for Lifeline customers").

services,"[7] it would be harmful enough to make those consumers relinquish their services, which in many cases are literally their only connection to emergency services as well as any chance to advance their economic opportunity. However, when faced with the prospect of no affordable alternative, as may be the result in some cases, the effect would be devastating.

As justification for prospectively discontinuing Lifeline support for service provided over non-facilities-based networks, the *NPRM* notes that "the vast majority of Commission actions revealing waste, fraud, and abuse in the Lifeline program over the past five years have been against resellers, not facilities-based providers."[8] There is no doubt that a significant portion of the well-documented problems of waste, fraud, and abuse in the Lifeline program has been attributed to non-facilities-based providers, particularly wireless resellers.[9] Nevertheless, a blanket discontinuance of Lifeline support for service provided over non-facilities-based networks would stand as a prototypical case of throwing the baby out with the bathwater. Rather than adopting such a blanket measure, ITTA urges the Commission to redouble efforts to thwart remaining waste, fraud, and abuse in the program

In that regard, the *NPRM* seeks comment on TracFone's suggestions that the Commission minimize waste, fraud, and abuse in the Lifeline program through "conduct-based requirements."[10] One particular form of conduct-based requirement would be to suspend for a year or disbar any Lifeline provider with sufficiently high improper payment rates, whether on the basis of Payment Quality Assurance reviews or program audits.[11] ITTA supports such a

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[7] TracFone *Ex Parte* at 2.

[8] *NPRM*, 32 FCC Rcd at 10499, para. 68.

[9] *See, e.g.*, Letter from Ajit Pai, Commissioner, FCC, to Lisa Hardie, Chair, Public Utility Commission of Oregon (July 5, 2016).

[10] *NPRM*, 32 FCC Rcd at 10500, para. 73 (citing TracFone *Ex Parte*).

[11] *See id.*

requirement, and urges the Commission to apply it to all Lifeline providers.[12] ITTA also supports numerous of the other conduct-based requirements advanced by TracFone, including prohibitions on in-person handset distribution by sales agents as well as incentive-based sales agent compensation, and improved enforcement of the one-per-household rule.[13] Any minor burdens on Lifeline service providers[14] or diminution in program subscribership that might ensue, for instance, from prohibiting in-person handset distribution would be well worth the program's substantial gain in controls and, in turn, credibility that would result from implementation of this measure, as well as the others ITTA enumerates.[15]

II. THE COMMISSION SHOULD SEEK FURTHER COMMENT ON ITS SELF-ENFORCING BUDGET PROPOSAL

The *NPRM* proposes to replace the Lifeline budget process adopted by the Commission in 2016 with an annual cap for Lifeline disbursements that would operate as a "self-enforcing budget mechanism to ensure that Lifeline disbursements are kept at a reasonable level."[16] The *NPRM* states that the intention is for the mechanism to automatically make adjustments in order to maintain the cap in the event the budget is exceeded.[17] The *NPRM* seeks comment on two different operational approaches for the mechanism. Under the first, if projected disbursements

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[12] *See id.* at 10501.

[13] *See* TracFone *Ex Parte* at Attach. B; *see also NPRM*, 32 FCC Rcd at 10507, para. 94 (seeking comment on prohibiting incentive-based agent compensation either at the solicitation stage or the eligibility verification process stage).

[14] *See NPRM*, 32 FCC Rcd at 10501, para. 73.

[15] While ITTA fully supports these suggested measures to combat waste, fraud, and abuse in the Lifeline program, to the extent there is a rhetorical suggestion in the *NPRM* that resellers must pass through all Lifeline funding to their wholesale carriers, *see id.* at 10500, para. 72, the *NPRM* provides no explanation of why that would be necessary to ensure federal funding is appropriately spent on required Lifeline services rather than non-eligible expenses. The Commission should clarify that there is no requirement under the statute or the Commission's rules that "Lifeline resellers pass[] through all Lifeline funding to their underlying carriers." *Id.*

[16] *Id.* at 10510-11, para. 105.

[17] *See id.* at 10511.

and expenses are expected to exceed one half of the annual cap, USAC would proportionately reduce support amounts during the following six-month period in order to bring total disbursements under one half of the annual cap.[18] Under the second, Lifeline spending in a given period could exceed the cap, but would result in disbursements being reduced proportionately throughout the following period to accommodate the excessive spending that had occurred.[19] The *NPRM* also asks whether the cap should remain the same, absent further action by the Commission, or whether it should automatically change based on various metrics such as inflation or nationwide poverty levels.[20]

ITTA conceptually supports the Commission's proposal to establish an annual Lifeline program cap. However, the *NPRM* presents scant detail as to how the cap would work. In addition, while the low-income program has been subject to set individual monthly support amounts, both of the approaches on which the *NPRM* seeks comment would lead to semi-annual support fluctuations, raising the prospect of implementation being difficult with respect to, for instance, providers' established billing systems. Given the lack of particulars, ITTA also is unable at this juncture to assess what the appropriate initial amount for the cap should be, or how to account for administrative expenses.[21] The Commission should more fully develop its proposals, and then seek further comment on them.

III. SALES AGENT PII SHOULD NOT BE REQUIRED FOR ENROLLING LIFELINE SUBSCRIBERS

ITTA generally supports the Commission's additional efforts to reduce waste, fraud, and abuse in the Lifeline program through improving program integrity in eligibility verification.

[18] *See id.* at para. 106.

[19] *See id.* at para. 107.

[20] *See id.* at 10512, para. 110.

[21] *See id.* at para. 109.

ITTA is concerned, however, with the particulars of one of the measures on which the *NPRM* seeks comment.

In a letter to USAC last summer, Chairman Pai dictated that USAC require each Lifeline sales agent to register with USAC "with sufficient information so that USAC can verify the agent's identity and determine the [eligible telecommunications carrier(s) (ETCs)] he or she works for," with the ultimate goal of each sales agent receiving a unique identifier "that must be used for all such agent's interactions with" the National Lifeline Accountability Database (NLAD).[22] The *NPRM* seeks comment on codifying this requirement in the Commission's rules, as well as "the scope of the use of representatives' information," what information would be necessary for creation of an ETC representative registration database, and what privacy and security practices should be used to safeguard this information.[23]

ITTA suggests that implementing an ETC representative registration database may be more than what is needed to reduce waste, fraud and abuse resulting from the customer enrollment process. It should be sufficient for the customer enrollment form to seek the name of any sales agent submitting an enrollment form as well as the name of the ETC on whose behalf she is doing so. If USAC or the Commission audits the submissions by a certain ETC, either the ETC will stand by the submission, or it will disclaim the legitimacy of the submission and thereby forfeit the Lifeline support associated with the submission. It is not apparent to ITTA how having sales agents register with USAC and enabling USAC to "verify the agent's identity" will necessarily ensure that any particular enrollment submitted by the agent is legitimate.

[22] Letter from Ajit Pai, Chairman, FCC, to Vickie Robinson, Acting CEO and General Counsel, USAC at 4 (July 11, 2017).

[23] *NPRM*, 32 FCC Rcd at 10506-07, para. 92.

If, nevertheless, USAC does complete its implementation of such a database,[24] ITTA urges the Commission to proactively address potential privacy and security issues by not requiring the date of birth or any other personally identifiable information (PII) from the registering agent. So long as USAC is seeking to track the enrollment activities of a particular agent and hold the ETC he is representing accountable, some other identifier in addition to specification of the ETC he is representing, such as a unique business telephone number, should be sufficient.

IV. CONCLUSION

ITTA applauds the Commission's ongoing efforts to constrain the widespread waste, fraud, and abuse that have plagued the Lifeline program for nearly a decade. However, categorical exclusion of non-facilities-based providers from the program would wreak havoc on consumers and, thus, is a bridge too far. Instead, the Commission should focus on further targeted conduct-based requirements in order to bring the program's problems under control. While ITTA supports a Lifeline program budget cap in concept, the Commission needs to elaborate on the particulars of how a cap would operate. Finally, registration by customer

[24] In this case, ITTA does not see how codifying the registration requirement in the Commission's rules further advances the Commission's aims, as its implementation would be a fait accompli.

enrollment agents should not be required, but if such a measure is implemented, at a minimum agents should not be required to furnish PII as part of the registration process.

Respectfully submitted,

By: /s/ Michael J. Jacobs

Genevieve Morelli
Michael J. Jacobs
ITTA
1101 Vermont Ave., NW, Suite 501
Washington, DC 20005
(202) 898-1520
gmorelli@itta.us
mjacobs@itta.us

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