

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

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| In the Matter of   | ) |                      |
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| 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 PUBLIC INTEREST COMMENTERS**

Access Humboldt, Benton Foundation, Center for Media Justice, Center for Rural Strategies, Free Press, National Digital Inclusion Alliance, National Hispanic Media Coalition, New America's Open Technology Institute, Public Knowledge, and United Church of Christ, OC Inc. (“Public Interest Commenters”) respectfully submit these comments in the above-captioned proceedings in response to the Wireline Competition Bureau’s Public Notice released on December 4, 2018.<sup>1</sup> The Public Notice was prompted by the Emergency Petition filed by TracFone on November 30, 2018 (“TracFone Petition”)<sup>2</sup> raising several concerns related to the National Lifeline Eligibility Verifier (“National Verifier”). The Public Interest Commenters are troubled by changes to the National Verifier that run counter to its goals of providing an efficient, streamlined and accessible eligibility process for low-income consumers.

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<sup>1</sup> See *Wireline Competition Bureau Seeks Comment on Emergency Petition of TracFone Wireless, Inc. for an Order Directing USAC to Alter the Implementation of the National Verifier and a Waiver of 47 C.F.R. § 52.410(d)(3) and Petition for Rulemaking*, WC Docket Nos. 17-287, 11-42, 09-197, Public Notice, DA 18-1229 (rel. Dec. 4, 2018) (“Public Notice”).

<sup>2</sup> See *Emergency Petition of TracFone Wireless, Inc. for an Order Directing USAC to Alter the Implementation of the National Verifier and a Waiver of 47 C.F.R. § 52.410(d)(3) and Petition for Rulemaking*, WC Docket Nos. 17-287, 11-42, 09-197 (filed Nov. 30, 2018) (“TracFone Petition”).

Public Interest Commenters support the *2016 Lifeline Modernization Order*,<sup>3</sup> the implementation of the National Verifier,<sup>4</sup> and Commission and Universal Service Administrative Company (“USAC”) efforts to strengthen Lifeline.<sup>5</sup> To date, the National Verifier is available in fifteen states and one U.S. territory,<sup>6</sup> and is fully operational in six states as of October 2, 2018.<sup>7</sup> As outlined in the *2016 Lifeline Modernization Order*, the purpose of the National Verifier is to “protect against and reduce waste, fraud, and abuse; to lower costs to the Fund and Lifeline providers through administrative efficiencies; and to better serve eligible beneficiaries by facilitating choice and improving the enrollment experience.”<sup>8</sup> However, facts brought to light in the TracFone Petition reveal that certain practices recently implemented by USAC are doing just the opposite: undermining the enrollment process and harming eligible recipients.

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<sup>3</sup> See generally *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962 (2016) (“*2016 Lifeline Modernization Order*”).

<sup>4</sup> See, e.g., Letter from Olivia Wein, Staff Attorney, Nat’l Consumer Law Ctr. to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42 (filed Nov. 12, 2015) (“Groups also discussed support for the transfer of eligibility determinations to a national eligibility verifier.”) (“NCLC *Ex Parte*”); see also Letter from Olivia Wein, Staff Attorney, Nat’l Consumer Law Ctr., to Michelle Garber, Vice President, Lifeline Program, Universal Serv. Admin. Co., “Comments on the Draft National Verifier Plan” (Dec. 30, 2016).

<sup>5</sup> See, e.g., Letter, Leadership Conference on Civil and Human Rights and 200 Organizations, “Close the Digital Divide, Protect the Lifeline Program,” WC Docket No. 17-287 (filed Feb. 21, 2018).

<sup>6</sup> See *Wireline Competition Bureau Announces the Initial Launch of the National Lifeline Eligibility Verifier Database*, WC Docket No. 11-42, Public Notice, 33 FCC Rcd 6048 (2018); *Wireline Competition Bureau Announces the Launch of the National Lifeline Eligibility Verifier in Five Additional States and One Territory*, WC Docket No. 11-42, Public Notice, DA-18-1042 (rel. Oct. 11, 2018); *Wireline Competition Bureau Announces the Launch of the National Lifeline Eligibility Verifier in Four Additional States*, WC Docket No. 11-42, Public Notice, DA 18-1201 (rel. Nov. 27, 2018).

<sup>7</sup> See *Wireline Competition Bureau Announces Full Launch of the National Lifeline Eligibility Verifier in Six States*, WC Docket No. 11-42, Public Notice, DA 18-1009 (rel. Oct. 2, 2018). The six states participating in the full launch of the National Verifier are Colorado, Mississippi, Montana, New Mexico, Utah, and Wyoming. *Id.*

<sup>8</sup> *2016 Lifeline Modernization Order* ¶ 128.

In sum, Public Interest Commenters agree with TracFone that USAC’s changes significantly altering eligibility proof requirements are overly burdensome, and prevent too many eligible recipients from receiving Lifeline. The Commission should require USAC to take better, more-targeted and well-vetted steps to improve program integrity and enrollment, while abandoning the Chairman’s disastrous proposals to upend Lifeline altogether. Yet we also believe that TracFone’s proposed solution to create an exclusive “whitelist” for commercial addresses is problematic, and could result in precluding a large portion of eligible Lifeline recipients.

**I. THE TRACFONE PETITION SHEDS LIGHT ON USAC CHANGES THAT PREVENT PEOPLE FROM CERTIFYING ELIGIBILITY FOR LIFELINE.**

**A. Increasing the Standards for Documentation Requirements Creates Unnecessary Barriers for Eligible Users.**

The TracFone Petition documents how requiring onerous documentation in the name of determining eligibility erects unacceptable barriers. USAC previewed many new requirements in November 2018,<sup>9</sup> and they took effect on December 4, 2018.<sup>10</sup> Yet it is now clear the additional proof required for demonstrating “current” participation in low-income programs, as well as the latitude and longitude requirement for addresses not recognized by the United States Postal Service (“USPS”), “will impose an undue burden . . . result[ing] in the National Verifier rejecting many eligible Lifeline consumers.”<sup>11</sup> Program integrity measures must determine eligibility in ways that work for low-income individuals, and design choices must be vetted by various stakeholders prior to full implementation. The National Verifier must improve the enrollment experience yet maximize access to Lifeline, not deter participation by eligible households.

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<sup>9</sup> See TracFone Petition at 7.

<sup>10</sup> See *id.*

<sup>11</sup> *Id.*

The additional documentation USAC now requires from Lifeline participants, showing that they qualify through current SNAP or Medicaid enrollment, is especially problematic because many benefit cards for these programs do not have issue or expiration dates on their face.<sup>12</sup> This leaves potential Lifeline recipients unable to certify eligibility unless they can provide proof of current participation using an alternate document “such as the letter [they] originally received from SNAP approving [Lifeline] participation.”<sup>13</sup> Keeping track of such documents is a burden on low-income Lifeline recipients<sup>14</sup> that would disproportionately disqualify eligible individuals simply because they did not hang onto years-old letters, all “resulting in significant under-enrollment.”<sup>15</sup>

Program integrity is one measure of efficacy, but must not come at the expense of dropping significant numbers of eligible individuals from the program. Precluding eligible Lifeline recipients is exactly what will happen if USAC continues to require latitude and longitude coordinates for individuals without a USPS-recognized address. This is especially demanding, if not practically impossible, for paper applications, which require the submission of “a printout of an image that ‘must include a satellite view with a mapping tool icon identifying the consumer’s residence and grid coordinates displayed (cannot be handwritten).’”<sup>16</sup>

Demanding this kind of supplementation reveals a fundamental lack of understanding of how low-income individuals struggle to connect in the first place. A substantial majority of them do not have reliable internet access or even a printer. This limited access to technology will make

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<sup>12</sup> *See id.* at 8. In 2012, the Commission confirmed that SNAP and Medicaid cards could be used as proof of eligibility for Lifeline. *See Lifeline and Link Up Reform and Modernization*, WC Docket. No. 11-42, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, ¶ 101 (2012).

<sup>13</sup> TracFone Petition at 8 (internal citations omitted).

<sup>14</sup> *See NCLC Ex Parte* at 2.

<sup>15</sup> TracFone Petition at 9.

<sup>16</sup> *Id.* at 10 (citing USAC National Verifier website).

it nearly impossible for the average applicant to fulfill this requirement. USAC and the Commission must revisit this requirement and conduct a careful analysis that balances program integrity with accessibility to the Lifeline program, prior to implementing any such changes.<sup>17</sup>

**B. Access to an API Could Assist Lifeline Users by Providing a Familiar, Convenient and Effective Application Process.**

The TracFone Petition reiterates its demand for the Commission to direct USAC to develop and implement an application programming interface (“API”) for the National Verifier.<sup>18</sup> We support that request too. TracFone notes that an API would let service providers check applicant eligibility and provide other benefits too.<sup>19</sup> Yet API functionality and implementation decisions should still be subjected to testing with consumers, and reviewed by stakeholders such as providers and consumer advocates. As several public interest groups explained in a response to Q Link’s petition to implement machine-to-machine interfaces for the National Verifier,<sup>20</sup> there is deep concern over USAC and the Commission’s abrupt abandonment of their original API plans.<sup>21</sup> This concern was exacerbated by USAC’s failure to explain its decision to discard the API proposal altogether before embarking on the problematic changes now identified in the TracFone Petition.

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<sup>17</sup> TracFone raises several other issues with the paper application that have led USAC to reject applicants, such as the need for initials in certain boxes and the requirement to submit all 8 pages of the paper application. *See id.* at 13-14. To the extent these issues continue to lead to rejected applications, the Commission and USAC should consider altering these requirements as well.

<sup>18</sup> *See id.* at 21-26.

<sup>19</sup> *See id.* at 21. Additionally, the TracFone Petition identifies other uses including allowing service providers to submit paper applications to the National Verifier, further coordination with USAC to verify applications, and enabling service providers to pre-screen applicants and communicate those preliminary results to National Verifier. *See id.* at 23-26.

<sup>20</sup> *See generally* Emergency Petition of Q Link Wireless, LLC for an Order Directing the Universal Service Administrative Company to Implement Machine-to-Machine Interfaces for the National Verifier, WC Docket Nos. 17-287, 11-42, 09-197 (filed July 5, 2018).

<sup>21</sup> *See* Letter from New America’s Open Technology Institute *et al.*, to Ajit Pai, Chairman, FCC, WC Docket Nos. 17-287, 11-42, 09-197 (filed Aug. 10, 2018) (“OTI Letter”).

This is why Lifeline participants must be able to test new mechanisms at an early stage of development, and certainly before hard launch, to identify and mitigate challenges with any supposedly “streamlined” enrollment processes. Regular reporting on testing plans and results is important to understand how National Verifier development is evolving. USAC has not made clear what testing was done with applicants on the consumer portal and application materials, which the TracFone Petition now identifies as such obstacles, prior to the hard launch.<sup>22</sup> Understanding the decision-making process in advance might have helped to prevent these harsh effects. USAC should provide regular opportunities for dialogue and feedback opportunities for stakeholders (not just industry) to identify process “pain-points” early on. We need more than transparency, we need a forum or formalized feedback mechanism to ensure a robust, efficient, and user-friendly design.

Overall, Public Interest Commenters agree that an API would “facilitate consumer choice and ease of Lifeline enrollment.”<sup>23</sup> The application process should be effective and convenient, whether an applicant applies through the service provider or directly with USAC. And as public interest advocates have suggested before, the ability to “easily transition between a provider web site and the USAC web site” would be a means to inform consumers of “choices among Lifeline providers and encourage them to shop for the provider that best meets their needs.”<sup>24</sup>

USAC and the Commission must commit to transparency, testing, and direct engagement with end-users, and must provide rationales for their decision to proceed without APIs. Doing so will allay the uncertainty and confusion these decisions caused and allow consumer advocates to provide constructive feedback. Without insights into the decision-making processes at USAC and

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<sup>22</sup> *See id.* at 2.

<sup>23</sup> TracFone Petition at 22.

<sup>24</sup> *See* OTI Letter at 3.

the Commission, stakeholders cannot provide useful advice for the successful implementation of this vital program. USAC and the Commission should deploy API functionality as proposed in January 2018, and work with stakeholders – and especially end-users – to ensure that the aim of improving integrity of the program does not preclude eligible individuals from enrolling.

## **II. THE COMMISSION SHOULD NOT ACT ON TRACFONE’S SUGGESTION TO LIMIT USE OF COMMERCIAL ADDRESSES.**

TracFone’s request for a USAC tool to automatically flag potential ineligible addresses by using a “whitelist” of verified shelters, and to “otherwise foreclose the use of commercial addresses,”<sup>25</sup> is problematic to say the least. This would be especially true for low-income families in congregate housing situations who rely on such addresses to qualify for Lifeline. A “whitelist” could be helpful, perhaps, if it were merely tagging addresses for known front-line service providers. But it should not be used as a *de facto* eligibility bar for people living at addresses that are not initially on any exclusive “whitelist,” undercutting the one-per-household worksheet process and its more accurate approach to showing eligibility for households at the same address.

TracFone’s other recommendation for new rules that would “reasonably limit the number of households at the same residential address”<sup>26</sup> is equally misguided because it fixates on an inconsistent and sometimes imperceptible distinction between commercial and residential addresses. Group housing facilities can be coded as either residential or commercial, so TracFone’s focus on commercial addresses to assess eligibility is arbitrary. The proposal is too onerous to implement on a wide-scale, cannot guarantee successful implementation of the one-per-household rule, and is susceptible to a high margin of error. It could deny service to many of the most vulnerable, eligible Lifeline subscribers.

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<sup>25</sup> TracFone Petition at 21.

<sup>26</sup> *Id.*

TracFone recounts its efforts to maintain an in-house database of eligible addresses, cut short by “changes that allowed for multiple households at the same commercial address.”<sup>27</sup> It has long focused on mechanisms to limit the number of households that can qualify at a single address.<sup>28</sup> Yet “[l]imiting Lifeline benefits to one-per-unique street address discriminates against many of the most vulnerable low-income consumers: those who live in group housing, have doubled-up because they cannot afford separate housing, use P.O. boxes, or are homeless.”<sup>29</sup>

Public interest advocates have explained throughout the course of the Commission’s Lifeline modernization proceedings that a person’s housing status should not be used “as a discriminating factor and individuals who might be eligible should not view their housing status as a barrier to obtaining a federal benefit,”<sup>30</sup> and also that “[h]ousing status for low-income people, particularly in [ ] times of economic duress, can be fluid.”<sup>31</sup> The Commission must not deviate from its well-established definition of “household” for the purposes of establishing Lifeline eligibility. To the extent that multiple Lifeline subscribers use the same address, the Commission should consider risk-based audits or the compilation of a sales agent registry<sup>32</sup> as an alternative means to ensure program integrity. Simply precluding the use of any “commercial addresses” except those on a pre-approved list, as TracFone suggests, would needlessly jeopardize Lifeline eligibility for many households that also contend with not having a regular roof over their heads.

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<sup>27</sup> *Id.* at 20.

<sup>28</sup> *See, e.g., Comments Sought on TracFone Request for Clarification of Universal Service Lifeline Program “One-Per-Household” Rule as Applies to Group Living Facilities*, WC Docket No. 03-109, Public Notice, 24 FCC Rcd 12788 (2009).

<sup>29</sup> Consumer Groups Comments, WC Docket No. 11-42, at 5 (filed Aug. 26, 2011).

<sup>30</sup> Letter from Cheryl A. Leanza, Policy Advisor, United Church of Christ, OC Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 11-42, at 2 (filed May 18, 2011).

<sup>31</sup> *Id.*

<sup>32</sup> *See, e.g., Low-Income Consumer Advocates Comments*, WC Docket No. 17-287, at 20 (filed Feb. 21, 2018); USAC High Cost and Low Income Briefing Book at 49 (Oct. 29, 2018).



### **III. THE COMMISSION MUST ABANDON ITS 2017 PROPOSALS TO FUNDAMENTALLY ALTER LIFELINE'S SCOPE AND PURPOSE.**

While TracFone raises real concerns, these do not remotely justify moving forward with draconian proposals to “reform” Lifeline. As Public Interest Commenters have repeatedly stated, the Commission majority’s proposals “will do little, if anything, to curb the alleged waste, fraud, and abuse . . . exploited and overstated to justify this blatant war on the poor.”<sup>33</sup> Instead, they would fundamentally damage the program and strand families on the wrong side of the digital divide.

Arbitrary limits on Lifeline, such as a self-enforcing budget cap, maximum discount level, or lifetime benefit limit, would be unjustified and cruel. The rationale for them is deeply flawed, based primarily on negative stereotypes and infantilizing narratives about the poor instead of empirical evidence on how best to serve them. Lifeline is already an increasingly small portion of the Universal Service Fund. Unnecessary and unlawful efforts to cap its expenditures would deny service to eligible families, disproportionately harming the unbanked, seniors, people with disabilities, and others who rely on the social safety net for longer periods of time.<sup>34</sup>

Eliminating Lifeline Broadband Providers (“LBPs”) and resellers would similarly damage Lifeline without addressing any challenges TracFone identified or serving any other worthy goal. Eliminating the national LBP designation process would raise significant barriers for broadband-only carriers’ participation in Lifeline, reducing the number of affordable carriers competing for eligible customers.<sup>35</sup> Removing resellers would leave enormous swaths of the country unserved or underserved, taking away service from more than 70 percent of current participants.<sup>36</sup>

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<sup>33</sup> *See, e.g.*, Free Press Comments, WC Docket No. 17-287, at 3 (filed Feb. 21, 2018).

<sup>34</sup> *See id.* at 5, 60.

<sup>35</sup> *See id.* at 12.

<sup>36</sup> *See id.* at 20.

The Commission’s concerns regarding waste, fraud, and abuse in the Lifeline program are hugely overblown, and as the GAO stated in a recent report, the “FCC’s planned National Verifier may address many of the issues” upon full implementation.<sup>37</sup> This is all the more reason for the Commission to incorporate a formalized process for stakeholder feedback to implement the National Verifier efficiently and successfully.

### CONCLUSION

The National Verifier is an integral part of the *2016 Lifeline Modernization Order*. Yet the TracFone Petition demonstrates how program integrity measures, if not adequately balanced with ease of use and measured against the practical reality of low-income households’ lives, can prevent eligible recipients from qualifying for Lifeline. We support Commission grant, as outlined herein, of the relief requested by TracFone; and ask that USAC create a formalized process that engages stakeholders prior to implementing any further policy changes.

Respectfully Submitted,

/s/

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December 18, 2018

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<sup>37</sup> *Id.* at 11 (citing USAC, GAO-17-538, Additional Action Needed to Address Significant Risks in FCC’s Lifeline Program, 57-58 (2017)); see also *Addressing the Risk of Waste, Fraud and Abuse in the FCC’s Lifeline Program: Hearing Before the S. Comm. on Commerce, Sci., and Transp.*, 115th Cong. (2017) (statement of Jessica J. González, Deputy Director and Senior Counsel, Free Press Action Fund) (explaining, in detail, how the National Verifier and other program integrity measures adopted in 2016, and not reflected in the GAO report, will curtail waste, fraud and abuse).