

**KELLEY DRYE & WARREN LLP**

A LIMITED LIABILITY PARTNERSHIP

**WASHINGTON HARBOUR, SUITE 400**

**3050 K STREET, NW**

**WASHINGTON, DC 20007**

(202) 342-8400

FACSIMILE

(202) 342-8451

www.kelleydrye.com

JOHN J. HEITMANN

EMAIL: jheitmann@kelleydrye.com

NEW YORK, NY  
LOS ANGELES, CA  
CHICAGO, IL  
STAMFORD, CT  
PARSIPPANY, NJ

BRUSSELS, BELGIUM

AFFILIATE OFFICE  
MUMBAI, INDIA

January 11, 2017

**VIA ECFS**

Marlene Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: Notice of Lifeline Connects Coalition *Ex Parte* Presentation;**  
**WC Docket Nos. 11-42, 09-197, 10-90**

Dear Ms. Dortch:

On December 11, 2016, Commissioner Clyburn issued a draft Call to Action to achieve the goals set forth in the #Solutions2020 agenda. The Lifeline Connects Coalition (Coalition) supports the goals of Commissioner Clyburn's Call to Action, particularly the goal of ensuring affordable communications through streamlined access to Lifeline service.

The members of the Coalition are wireless resellers<sup>1</sup> that purchase wireless voice, text and broadband services from network suppliers, including all four national wireless network operators, to resell to low-income Americans, including on a discounted basis through the Federal Communications Commission's (Commission's) Lifeline program. The Coalition and its members have been active in all aspects of the Commission's Lifeline program reform and modernization efforts. The Coalition filed extensive comments during last year's Lifeline modernization proceeding<sup>2</sup> and most recently submitted comments to the Universal Service Administrative

---

<sup>1</sup> The Coalition members are Telrite Corporation, i-wireless, LLC, Blue Jay Wireless, LLC and American Broadband & Telecommunications.

<sup>2</sup> See Comments of the Lifeline Joint Commenters, WC Docket 11-42, *et al.* (filed Aug. 31, 2015) and Reply Comments of the Lifeline Joint Commenters, WC Docket 11-42, *et al.* (filed Sept. 30, 2015).

Marlene Dortch, Secretary  
January 11, 2017  
Page Two

Company (USAC) on its draft National Verifier Plan.<sup>3</sup>

As the record in the Lifeline proceeding shows, affordability is not a static concept. For the most vulnerable low-income Americans, requiring even modest up-front or monthly payments can put voice and broadband services and advanced handsets out of reach. For these consumers, a cost-free plan and handset is the most affordable (and in many cases the only affordable) option. As such, the #Solutions2020 Call to Action Plan should recognize the vital role that service providers play in connecting eligible low-income consumers to the enhancing the Lifeline benefit and adopt strategies that preserve the availability of cost-free connectivity solutions and support service provider efforts to extend the value of the Lifeline benefit beyond the reimbursement available.

To that end, the Coalition offers the following comments on the Call to Action for ensuring affordable communications for all:

**(1) The Commission should work cooperatively with Lifeline service providers to comprehensively meet the connectivity needs of low-income Americans.**

The Lifeline program is uniquely situated to support communications services for low-income Americans so that they can connect to jobs, educational opportunities, healthcare providers and family. However, service providers play an important role by conducting advertising and outreach to eligible consumers, enrolling applicants in real-time and making available the wireless handsets necessary to access Lifeline discounted services.

While the Commission and USAC provide information about the Lifeline program on their websites, and occasionally hold events highlighting the benefits of the Lifeline program (e.g., Lifeline Awareness Week), it is the Lifeline service providers that advertise the services supported by the program, conduct outreach to potential eligible consumers and ultimately enroll applicants where they work, live and socialize, such as at homeless shelters, church parking lots, busy bus stations and outside government or non-profit assistance offices. Further, since the National Verifier has not yet been built or implemented, Lifeline service providers have invested heavily in a real-time enrollment process that allows eligible Lifeline subscribers to walk away from the application process with a phone just like Americans of greater means while still conducting all of the required eligibility checks and certifications. This real-time enrollment process treats low-income Americans with dignity and respect.

Lastly, the Lifeline program supports services, but does not support the equipment necessary to utilize those services. Therefore, many Lifeline service providers, including the Coalition members, make wireless handsets available to eligible Lifeline customers at no charge or with

---

<sup>3</sup> See Lifeline Connects Coalition Comments on the Draft Lifeline National Eligibility Verifier Plan, WC Docket 11-42, *et al.* (filed Dec. 30, 2016).

Marlene Dortch, Secretary  
January 11, 2017  
Page Three

substantial discounts. The Lifeline program is undergoing a shift from supporting only voice services to directly supporting fixed and mobile broadband service, which requires upgraded equipment, including smartphones for mobile services. Since the Lifeline program does not support the equipment, the Commission must foster a regulatory environment where service providers are able to make the investment in essential equipment such as smartphones so that they can make broadband truly available to those in need of and eligible for Lifeline service.

The wireless devices provided by Lifeline service providers include smartphones with Wi-Fi capabilities and many that have hotspot capabilities. The Wi-Fi capabilities allow eligible Lifeline subscribers to utilize Wi-Fi-enabled broadband at work and in public places to extend the value of their Lifeline benefit. The hotspot capabilities allow the subscribers to tether larger devices to their smartphones and complete tasks that may require a larger screen (e.g., to complete some job applications or complete certain homework assignments).

This public-private partnership between the Commission and Lifeline service providers to extend the available Lifeline benefit must be continued and strengthened. The Lifeline program modernization to support broadband will dramatically increase the opportunities realized by low-income communities. However, those opportunities will only be fully realized if the Commission works with willing Lifeline service providers to find and enroll eligible consumers and provide both discounted or free services and the equipment necessary to use those services.

**(2) The Commission should continue to support stability in the Lifeline customer-carrier relationship through benefit port freezes to protect service provider investments in robust voice and broadband communications services and the equipment needed to utilize those services.**

In the Lifeline Modernization Order, the Commission adopted a 12-month benefit port freeze for Lifeline services that meet the broadband minimum service standards (MSS) and codified the existing 60-day benefit port freeze for Lifeline voice services.<sup>4</sup> These port freezes are essential to Lifeline providers' efforts to meet the new voice and broadband MSS and to make the investment in providing wireless handsets, including Wi-Fi and hotspot capable smartphones, to eligible Lifeline customers. Further, the benefit port freezes also counteract potential waste and abuse in the Lifeline program. The abuse by "flippers" looking to collect multiple handsets and monthly Lifeline service from multiple providers results in significant costs to service providers and the program as a whole.

---

<sup>4</sup> See *Lifeline and Link Up Reform and Modernization, et al.*, WC Docket 11-42, et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38, ¶¶ 385-394 (rel. Apr. 27, 2016) (Lifeline Modernization Order).

Marlene Dortch, Secretary  
January 11, 2017  
Page Four

The Commission must support strong benefit port freezes to ensure that these important benefits to the program that result from more stable customer-carrier relationships continue. The Commission must ensure that the 12-month benefit port freeze for broadband Lifeline services is enforced nationwide, including in states that have opted out of the National Lifeline Accountability Database (NLAD). Implementing and enforcing strong benefit port freezes must be a condition of opting out of the NLAD. If a state fails to do so, then its NLAD opt-out should be revoked.<sup>5</sup> Further, the Commission and USAC must remain vigilant to ensure that the benefit port freeze exceptions set forth in the rule are not abused. The address change exception should only be used in instances where the subscriber can demonstrate that he or she has moved and is currently residing at the address provided and that address is outside his or her current service provider's service area. The Commission must continue to support its decision to adopt benefit port freezes and not allow their value to be undermined by NLAD opt-outs or by abuse of exceptions enumerated to protect consumers in the narrow circumstances where imposing a freeze would be harmful.

**(3) The Commission should support Lifeline service provider efforts to drive additional value for low-income Lifeline-eligible consumers.**

The Commission should take steps to create a regulatory environment that encourages partnerships and supports innovations that extend the value of the Lifeline benefit. For example, some Lifeline service providers may provide sponsored data plans that provide access to public interest websites, applications and services that advance the goals of the Lifeline program. The Commission should clarify that those offerings are permissible under the Commission's open Internet rules. Not only do these sponsored data plans enable Lifeline consumers to do more with their plans—gaining access to education, employment opportunities, health care, and government resources—they can also enable Lifeline providers to defray the costs of service, preserving a cost-free solution.

Another important way that Lifeline providers can extend the benefit for low-income Americans is through innovative broadband offerings. For example, "Premium Wi-Fi" services enable consumers to access a network of pre-established Wi-Fi hotspots through an application on their smartphone or tablet device that features enhanced security protections.<sup>6</sup> These Premium Wi-

---

<sup>5</sup> Puerto Rico recently opted back in to the NLAD after having opted out and run its own duplicates database since 2014. Therefore, it is possible and feasible for a state to transfer the duplicate detection (and port freeze) role back to the Commission.

<sup>6</sup> Premium Wi-Fi is different from traditional free public Wi-Fi services in a number of ways. For example, unlike free, public Wi-Fi networks, which tend to be isolated and limited to discrete public areas, Premium Wi-Fi relies on a nationwide network of tens of millions of public and private hotspots, along with technology that enables users to hop seamlessly between available networks. Moreover, unlike free public Wi-Fi, which is inherently insecure, Premium Wi-Fi by

KELLEY DRYE & WARREN LLP

Marlene Dortch, Secretary  
January 11, 2017  
Page Five

Fi services are fast, reliable, and cost-effective, providing up to unlimited data at speeds exceeding traditional 3G service within the existing \$9.25 benefit. The Commission should ensure that the Lifeline program provides technology neutral support for Lifeline services provided using Premium Wi-Fi services and other innovative broadband solutions.

A third way of extending the Lifeline benefit is through advertising-supported services. For example, carriers have been exploring offerings that allow consumers to earn extra minutes, texts or data by interacting with advertisements and applications on their phones (pre-installed or consumer downloaded). These partnerships address two of the Commission's primary goals with its Lifeline modernization initiative, increasing customer engagement with their broadband service while decreasing the cost to provide the service. The Commission should recognize the value of these partnerships and seek to encourage other innovative service delivery mechanisms that can increase engagement, reduce costs, and raise the likelihood that utilization of Lifeline service will improve the lives of those in need of a hand up.

By recognizing and supporting these three items in its #Solutions2020 Final Plan, the Commission can ensure that low-income Americans continue to have access to cost-free voice and broadband services. Pursuant to section 1.1206(b) of the Commission's rules, this letter is being filed electronically.

Respectfully submitted,



John J. Heitmann  
Joshua Guyan  
Jameson J. Dempsey  
Kelley Drye & Warren LLP  
3050 K Street, NW, Suite 400  
Washington, DC 20007  
(202) 342-8400

*Counsel for American Broadband &  
Telecommunications Company, Blue Jay Wireless,  
LLC, i-wireless LLC, and Telrite Corporation  
(collectively, the Lifeline Connects Coalition)*

---

default leverages last-mile virtual private networks (VPNs) to create a more secure path from the user's mobile handset to the Premium Wi-Fi provider's gateway. As a result, Premium Wi-Fi is a distinct broadband service that qualifies for reimbursement under the Lifeline program.