

April 6, 2021

Acting Chair Jessica Rosenworcel

Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: File No. ITC-T/C-20200930-00173
GN Docket No. 21-112

Dear Acting Chair Rosenworcel:

On behalf of the undersigned groups we submit these comments in response to the Federal Communications Commission's ("FCC" or "Commission") Public Notice¹ regarding Verizon Wireless Communications Inc.'s ("Verizon") application to acquire TracFone Wireless, Inc., ("TracFone") (collectively, "Applicants").² On March 30, 2021, the Acting Chief of the Wireless Competition Bureau issued a Public Notice opening a permit-but-disclose docket for this proceeding.³ The transaction presents potential public interest harms to Lifeline subscribers and competition in the wireless market, impacting the ability of low-income communities to access critical communications services. For these reasons, the undersigned groups strongly urge the Commission, should this merger be approved, to impose strict enforceable conditions on the transaction that will protect Lifeline customers and preserve the wireless reseller marketplace. At a minimum, the Commission must issue a Request for Information to obtain information sufficient to make the necessary public interest determinations and provide answers to the questions that have been raised in the record.

¹ Federal Communications Commission, Public Notice, "Non Streamlined International Applications/Petitions Accepted for Filing," Report No. TEL-02056NS, at 1 (Nov. 20, 2020), https://licensing.fcc.gov/ibfsweb/ib.page.FetchPN?report_key=2848130.

² Application for Consent to Transfer Control of International Section 214 Authorization, File No. ITC T/C-20200930-00173, at 18 (filed Sept. 30, 2020) ("Application").

³ Federal Communications Commission, Public Notice, "Federal Communications Commission Establishes Docket For Proposed Transfer Of TracFone Wireless, Inc. To Verizon Communications Inc.," DA 21-376 (Mar. 30, 2021).

The Applicants have an affirmative burden of demonstrating that grant of their application will not violate any Commission rule and is otherwise in the public interest.⁴ Based on its initial application and subsequent filings, the Applicants have not met this burden.

The FCC's Lifeline program allows our nation's most vulnerable and marginalized communities to access vital communications services that would otherwise be unaffordable. During the COVID-19 pandemic, communications services have been more critical than ever, and the high level of unemployment that has resulted from it underscores the necessity of the Lifeline program. With approximately 1.7 million low-income subscribers across 43 states and the District of Columbia (comprising 22 percent of total Lifeline subscribers), Tracfone is one of the largest providers of Lifeline services.⁵ In contrast, Verizon, much like other major providers, is not a substantial participant in Lifeline, only providing service in a few states and seeing a decrease in subscribers in recent years.⁶

Verizon has not made any concrete commitments to these consumers in the proceeding thus far. In its initial application and subsequent filings, the Applicants assert that Verizon will continue offering Lifeline supported services through TracFone where it offers service over Verizon's network.⁷ Outside of these assertions, Verizon has failed to provide any detailed information for how it plans to meaningfully participate in the Lifeline program post-transaction. For example, Verizon is silent on what type of wireless coverage it will provide TracFone's Lifeline customers and what the timeline would be for migrating subscribers who are currently receiving service on a non-Verizon network. Given the Applicants' lack of detail combined with Verizon's current insubstantial participation in Lifeline, TracFone's Lifeline subscribers could experience a substantial reduction or loss of service if the transaction were approved as currently presented. This is unacceptable, and both the Commission and Verizon must take significant steps to protect TracFone's Lifeline subscribers should this merger be approved.

The Applicants' transaction also has the potential to harm competition in the wireless market, resulting in higher prices and fewer choices for service, particularly for low-income consumers. Wireless consumers, particularly those in low-income communities, including those in the

⁴ See *China Mobile International (USA) Inc.*, 34 FCC Rcd 3361 para. 10-11 (2019) ("the applicant for an international Section 214 authorization... bears the burden of demonstrating that grant of its application would serve the public interest in accordance with Section 63.18 of the Commission's rules").

⁵ Lifeline Participation, Universal Service Administrative Co., <https://www.usac.org/lifeline/learn/programdata/>.

⁶ Comments of Communications Workers of America, IB File No. ITC-T/C-20200930-00173 (Mar. 12, 2021); see also Federal Communications Commission, "Universal Service Monitoring Report," (2020). Available at: <https://docs.fcc.gov/public/attachments/DOC-369262A1.pdf>.

⁷ See Application; See Letter of America Movil, S.A.B. de C.V., TracFone Wireless, Inc., and Verizon Communications Inc., IB File No. ITC-T/C-20200930-00173 (Feb. 11, 2021).

Lifeline program, rely on wireless resellers⁸ for lower prices, and greater product variety to meet their connectivity needs.⁹ These consumers are disproportionately people of color and fall into lower income brackets, while Verizon’s consumers are overwhelmingly white and make more than \$25,000 a year.¹⁰ Fewer independent resellers in the wireless market means fewer options for consumers and would allow companies like Verizon, AT&T, and T-Mobile to raise prices on marginalized communities with little recourse, despite Applicants’ claims. Combining the largest independent wireless reseller with the largest facilities-based provider would give post-transaction Verizon incentives to engage in anti-competitive practices. For example, a post-transaction Verizon could favor its newly owned and operated reseller and raise the cost of service for other resellers to provide service over Verizon’s network. Previous FCC considerations of mergers in this sector recognize the significant harm to price-sensitive consumers, and efforts to protect these consumers are currently in doubt.¹¹ The same thing cannot be allowed to happen in this case.

Given the poor track record of prior FCC administrations’ enforcement of conditions and the ability of companies to find loopholes around them, this transaction *must* be accompanied by strict enforceable conditions should the application be granted. The undersigned groups urge the Commission not to approve the transaction absent binding conditions, in part because of the lack of detailed plans for a long-term, robust investment in quality Lifeline services to protect Lifeline customers and wireless consumers. In addition, we urge the Commission to issue a Request for Information and seek answers to the questions in the proceeding that go to the heart of whether this transaction is in the public interest, consistent with other requests in the transaction record.¹²

Sincerely,

Common Cause
Communications Workers of America
United Church of Christ, OC Inc.

⁸ Wireless resellers are referred to in the record as Mobile Virtual Network Operators (“MVNO”)

⁹ Matt Wood & S. Derek Turner, *The T-Mobile/Sprint Merger Is Bad News. Here’s Why.*, Free Press (May 1, 2018), <https://www.freepress.net/our-response/expert-analysis/insights-opinions/t-mobilesprint-merger-bad-news-heres-why>.

¹⁰ *Id.*

¹¹ Tali Arbel, *Price Worries Remain After Judge OKs T-Mobile’s Sprint Deal*, AP (Feb. 11, 2020), <https://apnews.com/article/dc8998c367a04163fe1fac0e94f7094b>.

¹² Comments of Communications Workers of America, IB File No. ITC-T/C-20200930-00173 (Mar. 12, 2021); Comments of Free Press, IB File No. ITC-T/C-20200930-00173 (Mar. 12, 2021); *Ex parte* letter of the Office of the Attorney General of Virginia, IB File No. ITC-T/C-20200930-00173 (Feb. 4, 2021); and Comments of Communications Workers of America, IB File No. ITC-T/C-20200930-00173 (Jan. 21, 2021).

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¹³ Benton, a non-profit, operating foundation, believes that communication policy - rooted in the value of access, equity, and diversity - has the power to deliver new opportunities and strengthen communities to bridge our divides. Our goal is to bring open, affordable, high-capacity and competitive broadband to all people in the U.S. to ensure a thriving democracy. These comments reflect the institutional view of the Benton Institute for Broadband & Society, and unless obvious from the text, is not intended to reflect the views of its individual officers, directors, or advisors.