October 13, 2020

**VIA ELECTRONIC FILING**

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: *Application for Consent to Transfer Control Of International Section 214 Authorization*, File No. ITC-21420030401-00162

Dear Ms. Dortch:

T-Mobile US, Inc. ("T-Mobile") submits this letter in opposition to the request of Verizon Wireless, Inc. ("Verizon") and TracFone Wireless, Inc. ("TracFone") (collectively, "Applicants") for streamlined treatment of their application to consummate a proposed transaction that would fundamentally impact both the wireless industry and the market for Lifeline services ("Application").[1] Applicants propose a $7 billion transaction under which the largest facilities-based provider of mobile wireless services in the United States[2] would acquire the fourth largest provider of wireless services by subscribership.

While T-Mobile takes no position on the merits of the Application, a transaction of this magnitude warrants careful scrutiny and the opportunity for public comment—no less than T-Mobile's recent acquisition of Sprint. Given the size, scale, and significance of the proposed transaction, streamlined review is wholly inappropriate.[3] The Commission must "fulfill its statutorily imposed duty to determine whether [a] transaction serves the public interest, notwithstanding the legitimate desire of applicants to obtain the most expedited review possible."[4] Careful review of the proposed transaction following public input is necessary to determine whether the Applicants have satisfied their burden of demonstrating that the proposed deal serves

[1] Application for Consent to Transfer Control of International Section 214 Authorization, File No. ITC-214-20030401-00162 (Sept. 30, 2020) ("Application").

[2] Verizon holds approximately 40% of the U.S. market for mobile wireless services. *See* Michael Hodel, *Verizon's Solid Wireless Position Should Create Near-Term Opportunities to Take Share*, Morningstar (Sept. 14, 2020), https://tinyurl.com/yxv8eruq.

[3] The Commission has broad discretion under Section 63.12(c)(3) to deny streamlined treatment by "inform[ing] the applicant in writing, within 14 days after the date of public notice listing the application as accepted for filing, that the application is not eligible for streamlined processing." 47 C.F.R. § 63.12(c)(3).

[4] *In re Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations,* Report and Order, 17 FCC Rcd 5517, 5528-29 ¶ 21 (2002). While this quote arises in the domestic Section 214 context, it of course applies to Section 214 transfers generally.

the public interest. Any other approach for a transaction of this magnitude would be unprecedented.

The two orders Applicants cite do not in any way change this conclusion. DISH Network's acquisition of Boost Mobile is of course fundamentally different from a regulatory standpoint—DISH was evaluated and approved as an acquirer as part of the Commission's extensive review of the T-Mobile-Sprint transaction. The order is not even technically on point since the proposed assignment there expressly "exclude[ed] their international section 214 authorizations."[5] DISH proposed to offer international services pursuant to its own separate authorization, rather than acquiring existing ones through an assignment.

Also unavailing is the Commission's 2009 order authorizing Sprint to complete its acquisition of Virgin Mobile. The scale and significance of that transaction pales in comparison to what the Applicants propose here. The purported value of the Applicant's proposed transaction is nearly fourteen times larger than Sprint's acquisition of Virgin Mobile.[6] Virgin Mobile had approximately 5.2 million subscribers, compared to TracFone's more than 20 million.[7] And unlike Verizon, Sprint was the sole provider of wholesale service to Virgin Mobile as well as being far from the market leader in mobile services at the time.[8]

This nearly $7 billion deal, by contrast, would fundamentally alter the mobile wireless landscape, particularly impacting service for low-income Americans. And without taking a position on merits, there are a host of issues that Verizon and TracFone must answer before the Commission can determine whether the proposed transaction will serve the public interest include (but are not limited to) the following:

***How would the proposed transaction impact mobile wireless services*?** As noted above, the proposed transaction would combine the largest facilities-based wireless provider by market share with the fourth largest provider by subscribership. Combining Verizon and TracFone would catapult Verizon even further ahead as the largest mobile wireless carrier. In an attempt to wave away this major issue, the Application repeatedly stresses that Verizon's network already serves the majority of TracFone customers.[9] But that is misdirection—Verizon does not already own a majority of TracFone. To the contrary, while Verizon provides wholesale wireless network services for TracFone, the latter is under entirely separate control and makes independent business

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[5] *International Authorizations Granted*, Public Notice, File No. ITC-ASG-20191212-00193., 35 FCC Rcd 385, 386 (2020).

[6] *Compare* Bloomberg News, *Sprint Nextel in $420 Million Deal for Virgin Mobile USA*, N.Y. Times (July 28, 2009), https://www.nytimes.com/2009/07/29/technology/companies/29sprint.html; Reuters, *Sprint Scoops up Virgin Mobile USA*, CNN Money (July 28, 2009), https://money.cnn.com/2009/07/28/technology/sprint_virgin_mobile.reut/index.htm; *with* Kim Lyons, *Verizon Acquires TracFone in a Deal Worth More than $6 Billion*, Verge (Sept. 14, 2020), https://www.theverge.com/2020/9/14/21435980/verizon-TracFone-acquisition-prepaid-phones-budget.

[7] *See supra* note 6.

[8] Sprint also already had an approximately 13% ownership interest in Virgin Mobile. Joint Application, File No. ITC-T/C-20090813-00379, at 4 (Aug. 11, 2009) ("Virgin Mobile Application").

[9] *See, e.g.*, Application at 4.

judgments about what wholesale services to buy from competing facilities-based providers and, critically, how to price and market its products to compete with Verizon and others. More than a cursory review is needed before the Commission could determine that this increase in prepaid subscribers and market share in the mobile wireless service market is in the public interest.[10]

***How would the proposed transaction impact wholesale mobile wireless services?*** TracFone is also the largest unaffiliated Mobile Virtual Network Operator ("MVNO").[11] As an MVNO, TracFone currently purchases wholesale wireless services from Verizon, T-Mobile, and AT&T,[12] and conversely Verizon provides wholesale services to other MVNOs. The Commission should inquire into the impact that the transaction could have on other MVNOs to whom Verizon currently supplies wholesale services once it owns and controls their competitor, TracFone. For example, will Verizon have the incentive to dedicate more of its wholesale capacity to supporting TracFone's prepaid services, and less to unaffiliated MVNOs? Indeed, the Application's primary public interest argument seems to be that it will do just that.[13]

***How would the proposed transaction impact Lifeline services?*** TracFone is currently one of the largest providers of Lifeline services, with approximately 1.7 million low-income subscribers in 42 states.[14] The transaction creates the risk that Verizon, which does not generally offer its mobile wireless service to Lifeline customers, could relinquish TracFone's ETC designations and eliminate a Lifeline competitor, or at least diminish services relied on by low-income consumers. The Commission should conduct a careful review of the proposed transaction to ensure that low-income consumers will not be harmed and that Lifeline services will not be interrupted, discontinued, or diminished. How dedicated will Verizon be to continuing to offer Lifeline services? How will TracFone's Lifeline customers, in particular, currently using AT&T's or T-Mobile's network be affected by the migration to Verizon's network?

Verizon offers almost no information on its Lifeline plans and no commitments in the Application. It vaguely asserts that it "intends" to maintain TracFone's ETC status,[15] but that bare assertion alone is insufficient to ensure the continuity of these services to existing and future

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[10] *See, e.g., In re Applications of T-Mobile US, Inc., and Sprint Corporation For Consent To Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, Declaratory Ruling, and Order of Proposed Modification, 34 FCC Rcd 10578, 10609 ¶ 73 (2019) ("*T-Mobile/Sprint Merger Order*") ("we recognize that MVNOs may provide additional competitive constraints, which we also account for in our evaluation of the likely competitive effects").

[11] *T-Mobile/Sprint Merger Order*, 34 FCC Rcd at 10609 ¶ 75.

[12] Application at 16.

[13] *See, e.g.*, *id*. at 3 ("Post transaction, Verizon intends to migrate to its network those TracFone customers whose service now rides on the networks of other facilities-based providers.").

[14] *In re TracFone Wireless, Inc.*, Notice of Apparently Liability for Forfeiture and Order, 35 FCC Rcd 3459, 3465-66 ¶ 17 (2020); TracFone Wireless, Inc., 2019 FCC Form 555, WT Docket No. 14-171 (Jan. 30, 2020); Application at 18.

[15] Application at 18.

customers. That continuation of service is especially critical now, while we are in the midst of a pandemic, when consumers are more reliant than ever on communications services.

***What are the international implications of the proposed transaction?*** TracFone is an indirect, wholly owned subsidiary of América Móvil, "a publicly-traded corporation organized and headquartered in Mexico that provides wireless telecommunications services in Latin America through various operating subsidiaries."[16] Mexico has designated América Móvil as an "*agente económico preponderante*" or a "preponderant economic agent" in light of its market power there. Although the Applicants discuss the status of Verizon's foreign carrier affiliates,[17] they make no effort at all to address the host of policy questions raised by the relationship between América Móvil and Verizon or between TracFone and América Móvil.

For example, what are the implications, with respect to international roaming or otherwise, of América Móvil's acquisition of more than $3 billion in Verizon stock as part of this transaction? Would a TracFone controlled by Verizon be able to leverage any legacy relationships that TracFone may maintain with América Móvil in a manner that harms competition in the provision of mobile service between the U.S. and Mexico? And are there any legacy contracts between TracFone and América Móvil that Verizon could leverage or take advantage of that would harm U.S. consumers and U.S. mobile competition? Only through a thorough review can the Commission know for certain.

* * *

For the foregoing reasons, the Commission should deny streamlined treatment of the Application and conduct a careful public interest review of the proposed transaction. The Commission's responsibility to protect the public interest allows for no other result.

Sincerely,

/s/ Kathleen O'Brien Ham

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[16] *In re América Móvil, S.A.B. De C.V. Parent of Puerto Rico Tel. Co., Inc.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 8672, 8673 ¶ 3 (2011); *see also* Application at 7; *International Authorizations Granted*, Public Notice, File No. ITC-ASG-20160801-00229, 31 FCC Rcd 9681, 9683 (IB 2016).

[17] Application at 20-22. In contrast, the Sprint-Virgin Mobile applications that Verizon and TracFone cite did provide substantial information regarding Virgin Mobile's foreign affiliates. Virgin Mobile Application at 2 n.2.

**CERTIFICATE OF SERVICE**

I hereby certify that, on October 13th, 2020, I caused a copy of the foregoing pleading to be served via First Class mail upon:

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