October 23, 2020

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
45 L Street, NE
Washington, DC 20554

Re: *Application for Consent to Transfer Control of International Section 214 Authorization*, File No. ITC-T/C-20200930-00173

Dear Ms. Dortch:

América Móvil, S.A.B. de C.V. ("América Móvil"), TracFone Wireless, Inc. ("TracFone"), and Verizon Communications Inc. ("Verizon"), file in support of their request for streamlined treatment of the above-referenced Application.[1] The recent filings from T-Mobile US, Inc. ("T-Mobile") and Public Knowledge, Benton Institute for Broadband & Society, and Open Technology Institute at New America ("Public Knowledge et al.") – which take no position on the merits of the underlying transaction – do not undercut the Application's qualifications for streamlined treatment.

First, T-Mobile's contention that the transaction warrants the same level of scrutiny and review as T-Mobile's acquisition of Sprint is not credible: T-Mobile's merger with Sprint eliminated a nationwide facilities-based provider, involved thousands of wireless licenses, exceeded HHI thresholds for competitive concerns, and triggered the Commission's spectrum screen in approximately half of the nation's markets.[2] By contrast, TracFone is a mobile virtual network operator ("MVNO") that does not hold any spectrum licenses, and the majority of its customers already are on Verizon's network. This transaction involves only the transfer of a

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[1] *See* Letter from T-Mobile US, Inc. to FCC, File No. ITC-T/C-20200930-00173 (Oct. 13, 2020) ("T-Mobile Letter"); Public Knowledge, Open Technology Institute, and the Benton Institute for Broadband and Society, Opposition to Petition for Streamlining and Motion to Dismiss Application as Incomplete, File No. ITC-T/C-20200930-00173 (Oct. 16, 2020) ("Public Knowledge et al. Opp."); *see also* Letter from Public Knowledge to FCC, File No. ITC-T/C-20200930-00173 (Oct. 14, 2020).

[2] *T-Mobile US, Inc. and Sprint Corporation*, 34 FCC Rcd 10578, 10614 ¶ 88 (2019) ("*T-Mobile-Sprint Order*") ("In the majority of CMAs, as well as nationwide, the HHI would exceed the thresholds at which horizontal transactions raise potential competitive concerns. Similarly, the Commission's spectrum screen is triggered in approximately half of the nation's CMAs.").

single international Section 214 authorization to Verizon, which has long been approved to hold multiple such authorizations.

The Application qualifies on its face for streamlined treatment under Section 63.12 of the Commission's rules.[3] T-Mobile tries in vain to distinguish Commission precedent in which MVNO acquisitions have been subject to Section 214 streamlined treatment. For example, T-Mobile claims that Sprint's acquisition of Virgin Mobile "pales in significance" because Virgin Mobile had approximately 5.2 million customers. But the acquisition of TracFone involves only slightly more customers – 7.6 million – that are not already attributed to Verizon.[4] And, those customer lines newly attributed to Verizon represent a smaller percentage of overall U.S. wireless subscriptions than did the customer lines acquired by Sprint from Virgin Mobile at the time of that deal. Further, in contrast to T-Mobile's claims regarding the DISH acquisition of Boost Mobile, whether a seller chooses to retain its international Section 214 authorization does not bear upon the Commission's review of the application under Section 214 of the Communications Act and Part 63 of the Commission's rules.[5]

Next, the filings ask whether the Application should be considered on a slower track because América Móvil is regulated as a dominant carrier in Mexico. But Verizon is acquiring TracFone *from* América Móvil thus *reducing* TracFone's foreign ownership. Moreover, América Móvil's interest in Verizon will be so minimal that it does not even register as a foreign carrier affiliate under Commission rules and for purposes of the Section 214 application.[6] And TracFone's current affiliation with América Móvil is irrelevant to streamlining the Application

[3] *See* Application at for Consent to Transfer Control of International Section 214 Authorization, File No. ITC-T/C-20200930-00173, at 22 (Sept. 30, 2020) ("Application"); *see also id*. at 11.

[4] *See* Application at 4-6. As explained in the Application, the Commission's competition analysis attributes MVNO customers to their host facilities-based provider, and therefore Verizon is already attributed with the TracFone customers that currently ride on the Verizon network. *See id*. at 5-6.

[5] *See* International Section 214 Authorizations For Assignment or Transfer of Control, FCC Form 214, Note to Question 13 ("The assignor may retain any or all of its international Section 214 File Nos. In that case, the assignor will continue to hold the international section 214 authorizations that it specifies in response to this question.").

[6] *See* 47 C.F.R. § 63.09(e) ("[T]wo entities are affiliated with each other if one of them, or an entity that controls one of them, directly or indirectly owns more than 25 percent of the capital stock of, or controls, the other one."). Post-closing, América Móvil will hold less than a five percent ownership interest in Verizon. Similarly, T-Mobile's query about international implications disregards threshold levels set in Commission rules to address foreign ownership of U.S. carriers. The international Section 214 application requirements include a 10 percent foreign ownership threshold for a reason. *See* 47 C.F.R. §§ 63.18(h), 63.24(e)(2).

because the Commission's rules only ask for post-closing foreign carrier affiliations related to the *transferee*.[7]

Nor is there any merit to Public Knowledge et al.'s concerns regarding domestic Section 214 authority. CMRS providers are exempt from domestic Section 214 requirements under Section 20.15 of the Commission's rules.[8] TracFone currently provides only CMRS services, and so no domestic Section 214 authorization is implicated by the transaction.[9] And Public Knowledge et al.'s claim that the Application does not comply with Section 63.18(e)(3) of the Commission's rules also misses the mark, as that rule section does not apply here; it applies only to applications for new international Section 214 authorizations.[10]

The transfer of TracFone's ETC designation is also irrelevant to streamlined processing. The Commission has made clear that grant of a Section 214 transfer application is distinct from approval to transfer an ETC designation,[11] and it has in fact granted approval of Section 214 transfer applications *prior to* granting associated ETC designations.[12] Further, grant of a Section 214 transfer application does not effectuate the transfer of an ETC designation, and there is no reason in law or in policy why the International Bureau cannot approve the Application separate and apart from the transfer of TracFone's ETC designation. And Public Knowledge et al.'s assertion that the applicants did not disclose TracFone's ETC designation is belied by the

[7] Pursuant to Section 63.24(e) of the Commission's rules, information regarding foreign carrier affiliates required by Section 63.18(i)-(m) "is required *only* for the transferee/assignee." 47 C.F.R. § 63.24(e)(2) (emphasis added). Similarly, Questions 14-17 of the FCC Form 214 ask whether the international Section 214 holder would be affiliated with any foreign carriers if the transaction is "consummated."

[8] *See* 47 C.F.R. § 20.15(b)(3).

[9] There is no requirement to transfer a domestic Section 214 authorization here, regardless of what services were involved in TracFone's 2013 acquisition of Page Plus Cellular or whether a domestic Section 214 application was in fact required for that transaction.

[10] Pursuant to Section 63.24(e) – which lists the information from Section 63.18 that must be included in an application to transfer control of an international Section 214 – an international Section 214 transfer application is not required to include a response to Section 63.18(e)(3).

[11] *See Allied Wireless Communications Corporation Petition for Eligible Telecommunications Carrier Designations*, 25 FCC Rcd 12577, 12580 ¶ 8 (WCB 2010).

[12] The International and Wireline Bureaus granted Section 214 transfer applications to Global Connection on April 7, 2017, and June 15, 2018, respectively. *See International Authorizations Granted*, 32 FCC Rcd 3019 (IB 2017); *Global Connection Inc. of America and Odin Mobile, LLC*, 33 FCC Rcd 6058 (WCB 2018). And on August 15, 2018, the Wireline Bureau approved an amended compliance plan to transfer the associated ETC designation to Global Connection. *See Wireline Competition Bureau Approves the Wireline and Wireless Compliance Plan of Global Connection*, 33 FCC Rcd 8169 (WCB 2018).

Application itself, which clearly states that "Verizon will seek to transfer TracFone's [ETC] designation."[13]

The remaining claims also lack merit. T-Mobile feigns interest in Lifeline and questions Verizon's plan to maintain TracFone's ETC status, despite the fact that T-Mobile has phased out its own Lifeline participation in seven states and had planned to phase it out entirely prior to its merger with Sprint.[14] And contrary to Public Knowledge et al.'s claims, Verizon is clear in the Application that it plans to continue to offer Lifeline service through TracFone where it will offer service over Verizon's network. T-Mobile's description of the Commission's competitive analysis attributing MVNO customers to their host network provider as a "misdirection" is both perplexing and baseless.[15] And while the filings suggest that the transaction could impact other MVNOs, this transaction will not impact the number of network-based carriers offering MVNO arrangements nor the business incentive for those carriers to offer wholesale services for resale. Finally, while Public Knowledge et al. raise concerns about overall impacts to the prepaid segment resulting from broader shifts in the mobile telephony/broadband services market,[16] those concerns are not specific to the transaction.[17]

For the foregoing reasons, the International Bureau should deny the T-Mobile and Public Knowledge et al. requests and grant the Application under streamlined processing pursuant to Section 63.12 of the Commission's rules. Please contact the undersigned if you have any questions.

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[13] Application at 18. Public Knowledge et al.'s contention that TracFone's federal ETC designation is a "service" covered by Section 63.18(e)(3) is misplaced. ETC designations are not a service but a designation. *Compare* 47 U.S.C. § 214(e)(1) (defining ETC) *with* 47 U.S.C. 214(e)(1)(A) (identifying the "services that are supported" that must be provided by ETCs).

[14] *See T-Mobile-Sprint Order*, 34 FCC Rcd at 01732 ¶ 342 (referencing comments describing T-Mobile's elimination of Lifeline plans in seven states in 2017 and public statements by T-Mobile executives of its intent to phase out voluntary participation in state or federal Lifeline programs). In connection with its merger with Sprint, T-Mobile pledged to maintain existing T-Mobile and Sprint Lifeline programs "barring fundamental changes" to the program. *See* Eli Blumenthal, *T-Mobile promises to support low-income Lifeline program 'indefinitely' if merger approved*, USA TODAY (Mar. 11, 2019).

[15] *Cf. Twentieth Mobile Wireless Competition Report*, 32 FCC Rcd 8968, 8988 n.99 (2017) ("Following widespread industry practices, the Commission generally attributes the subscribers of MVNOs to their host facilities-based service providers, including when it calculates market concentration metrics.").

[16] *See* Public Knowledge et al. Opp. at 12 (discussing acquisitions of "[a]ll significant MVNOs" by facilities-based carriers).

[17] *See, e.g., Level 3 Communications, Inc. and CenturyLink, Inc.*, 32 FCC Rcd 9581, 9586 ¶ 9 (2017) (noting that the Commission "will not impose conditions to remedy pre-existing harms or harms that are unrelated to the transaction") (internal quotation omitted).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2020, I caused a copy of the foregoing letter to be served via First Class mail upon:

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