Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of **América Móvil, S.A.B. de C.V.**, Transferor, and **Verizon Communications Inc.**, Transferee, Application for Consent to Transfer Control of TracFone Wireless, Inc. Pursuant to Section 214 of the Communications Act of 1934, as Amended	))))))))))))	IB File No. ITC-T/C-20200930-00173

JOINT REPLY TO COMMENTS

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JOINT REPLY TO COMMENTS

The proposed transfer of control of TracFone's single international Section 214 authorization from América Móvil to Verizon serves the public interest.[1] This transaction will deliver better options to TracFone's value-conscious set of customers and make TracFone a more robust competitor in the prepaid segment. The transaction raises no competition concerns, as recognized by the Department of Justice's recent decision to grant early termination of the HSR waiting period.[2] The International Bureau should promptly grant the Application.

INTRODUCTION AND SUMMARY

The Applicants have more than met their burden of demonstrating that grant of the proposed transfer is in the public interest.[3] As shown in the Application and discussed below,

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[1] *See* Application for Consent to Transfer Control of International Section 214 Authorization, IBFS File No. ITC-T/C-20200930-00173 (filed Sept. 30, 2020) ("Application").

[2] *See* Federal Trade Commission, Early Termination Notice, 20201618: Verizon Communications Inc.; America Movil, S.A.B. de C.V. (Nov. 24, 2020) ("FTC Early Termination Notice Grant"), https://www.ftc.gov/enforcement/premerger-notification-program/early-termination-notices/20201618.

[3] 47 U.S.C. § 214.

Verizon has committed to participate fully in the prepaid segment and compete for value customers, improve TracFone offerings by expanding device options and enabling other new benefits, make accessible devices available to TracFone customers, and substantially increase TracFone distribution outlets. In short, this transaction will benefit consumers and drive competition.

No petitions to deny were filed. Only a handful of commenters participated, and none of them seriously disputes the transaction's benefits to consumers or demonstrates any transaction-specific harms.[4] Given the record, the International Bureau should promptly grant the Application. There is no basis to impose conditions or seek further information.[5]

The reality is that the combined Verizon/TracFone will need to earn customers' business given the fierce competition in the prepaid segment. The vertically-integrated "flanker brands" of Verizon's mobile network operator ("MNO") rivals – T-Mobile's Metro and AT&T's Cricket – enjoy integrated advantages, including lower costs and access to better equipment offerings.[6] As a result, these flanker brands have substantially increased their subscriber base in the last several

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[4] *See* Comments of Communications Workers of America (Dec. 18, 2020) ("CWA Comments"); Comments of Public Knowledge, Open Technology Institute, the California Center for Rural Policy, Next Century Cities, Access Humboldt, Tribal Digital Networks, and the Benton Institute for Broadband and Society (Dec. 18, 2020) ("Public Knowledge et al. Comments"); Comments of T-Mobile USA, Inc. (Dec. 18, 2020) ("T-Mobile Comments"); Letter from Clark Rachfal, Director of Advocacy and Governmental Affairs, American Council of the Blind, to Wireless Bureau, FCC (Dec. 16, 2020) ("ACB Letter"); Letter from Mark A. Riccobono, President, National Federation of the Blind, to Ajit Pai, Chairman, FCC (Dec. 18, 2020) ("NFB Letter") (collectively, "Commenters").

[5] Commenters argue that a request for information is needed "[s]imilar to past proceedings involving MVNOs," citing only the T-Mobile-MetroPCS merger proceeding (WT Docket No. 12-301). *See* Public Knowledge et al. Comments at 19; *see also* CWA Comments at 3. But that proceeding involved the Commission's review of a transfer of numerous wireless spectrum licenses and networks, *see Deutsche Telekom AG, T-Mobile USA, Inc., and MetroPCS Communications, Inc.*, Memorandum Opinion and Order and Declaratory Ruling, 28 FCC Rcd 2322 (IB/WTB 2013) ("*T-Mobile-MetroPCS Order*"); this Application involves the transfer of only a single international Section 214 authorization.

[6] Flanker brand strategy uses a differentiated brand to market to a target audience by a company that already has its own brand.

years while standalone TracFone's subscriber count has declined. The proposed transaction will make a combined Verizon/TracFone a stronger competitor for prepaid customers against AT&T and T-Mobile, as well as DISH.

The transaction does not negatively impact mobile wireless competition, as borne out by the Commission's traditional competition analysis, or create any anticompetitive effects. Some commenters raise concerns about possible effects on mobile virtual network operators ("MVNOs"), but no actual MVNOs have raised such concerns. Regardless, Verizon will not seek to disadvantage MVNO access to its network – in fact, since the announcement of the TracFone transaction, Verizon has struck expanded deals with MVNOs Comcast and Charter. Nor are there risks of coordinated effects: the transaction will *increase* retail competition by reducing TracFone's costs and enabling more robust competition; AT&T and T-Mobile will have incentives to make up for the TracFone traffic they could lose to Verizon; and DISH soon plans to be a fourth MNO with wholesale services as a significant part of its business plan.

Commenters raise hypothetical claims about discontinuing Lifeline service, but as explained in the Application, Verizon will continue TracFone's Lifeline-supported offerings. And in any event, the Communications Act and Commission rules already impose a backstop should *any* provider seek to cease Lifeline offerings.

Other concerns from commenters are addressed or misplaced. Verizon will extend its strong track record on accessibility to TracFone offerings. Commenters' foreign ownership and Section 214 and Part 63 claims are frivolous. And there is no merit to concerns about the sharing of sensitive information given robust safeguards and procedures that Verizon has in place.

The International Bureau should exercise its authority to approve the Application.[7] The transfer of a single international Section 214 authorization is not "too complex" to be decided by the Bureau.[8] The International Bureau has decided other MVNO transactions – including DISH's acquisition of Boost and Sprint Nextel's acquisition of Virgin Mobile.[9] Even the T-Mobile-MetroPCS and AT&T-Cricket proceedings – which one commenter cites to support its call for Commission-level review[10] – *were* decided at the Bureau level despite both involving numerous wireless spectrum licenses.[11]

Given this record, the International Bureau should promptly grant the Application. Any delay or other action would harm the public interest by frustrating Verizon's efforts to bring its resources to TracFone so that the combined Verizon/TracFone can *expand* TracFone's prepaid business and benefit value consumers.[12]

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[7] *See* 47 C.F.R. §§ 0.5(c), 0.261(a).

[8] *See* Public Knowledge et al. Comments at 4, 23.

[9] *See, e.g., International Authorizations Granted*, Public Notice, File No. ITC-ASG-20191212-00193 et al., DA No. 20-34, 35 FCC Rcd 385, 386 (IB 2020) (granting DISH's acquisition of MVNO Boost Mobile); *International Authorizations Granted*, Public Notice, File No. ITC-T/C-20090813-00379 et al., DA 09-2071, 24 FCC Rcd 11941, 11945-46 (IB 2009) (granting Sprint Nextel's acquisition of MVNO Virgin Mobile).

[10] *See* Public Knowledge et al. Comments at 24 & n.74.

[11] *See T-Mobile-MetroPCS Order*, 28 FCC Rcd at 2362 ¶ 105 ("This action is taken under delegated authority . . . ."); *Cricket License Company, LLC, et al., Leap Wireless International, Inc., and AT&T Inc.*, Memorandum Opinion and Order, 29 FCC Rcd 2735, 2810 ¶ 195 (WTB/IB 2014) ("This action is taken under delegated authority . . . .").

[12] *See* Application at 11.

DISCUSSION

I. THE TRANSACTION WILL BENEFIT CONSUMERS AND INCREASE WIRELESS COMPETITION

When TracFone's customers become part of Verizon, they will benefit from the enhanced choices, better services, and new features that follow from Verizon's investment while still enjoying the flexibility and control that they have come to value with TracFone's prepaid plans. The transaction will allow a combined Verizon/TracFone to compete more effectively for prepaid customers, with substantially lower costs, expanded device lineups, and more distribution outlets. No commenter seriously challenges these benefits, and the competitive concerns they offer up are speculative and lack merit.[13] The recent decision by the Department of Justice to terminate its antitrust review further confirms that the transaction does not create any concerns regarding competition.[14]

A. The Transaction Will Deliver Significant Benefits to TracFone Customers and Enable a Combined Verizon/TracFone to Better Compete for Prepaid Customers

The transaction will benefit current and future TracFone customers, and a robust Verizon presence in the prepaid segment will generate a new competitive dynamic for value consumers. As the Application makes clear, Verizon is committed to serving TracFone's customers and to competing vigorously in the prepaid segment through low price options and plans that offer great value.[15] Any claims that Verizon intends to shift TracFone's focus from value customers "to something else that is less affordable, less flexible, and less widely available" are unfounded.[16]

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[13] *See, e.g.*, Public Knowledge et al. Comments at 10-16; CWA Comments at 9-22.

[14] *See* FTC Early Termination Notice Grant.

[15] Application at 18.

[16] Public Knowledge et al. Comments at 15.

Verizon CEO Hans Vestberg explained why acquiring TracFone makes sense and how a combined Verizon/TracFone will serve the value customer:

> [The transaction] gives us a very strong position in the value segment. . . . [W]e want to keep that, and we want to support it. . . . [W]e want to be the #1 in our premium market. We want to be the #1 in the value market. So that was the whole idea about it . . . .[17]

The company's commitment to the prepaid segment and the value customer is central to the business case for the transaction and the benefits that flow from it. As one industry analyst commented, "Verizon has the ability to make TracFone better. Verizon can improve the quality and the customer experience, expand the services the customer can get and use, make it easier to upgrade or downgrade as the user needs change. . . . I also expect Verizon to market to ordinary Americans who prefer a lower cost, but still high-quality wireless user experience."[18]

A combined Verizon/TracFone will need to earn value customers' business, because consumers have multiple prepaid options and the ready ability to switch among them. Indeed, the prepaid segment has an annual churn rate of *nearly 50 percent* (48.3 percent), far outstripping the annual industry-wide churn rate of 15.9 percent.[19] As the Commission has explained, "[h]igh levels of industry churn can indicate that consumers are not only willing but are also able to

[17] Verizon Communications Inc., Sellside Analyst Meeting (Virtual), Edited Transcript at 5, 17 (Nov. 11, 2020) (remarks of Hans Vestberg, Verizon Chairman & CEO) ("Verizon Nov. 11 Analyst Meeting Transcript"), https://www.verizon.com/about/sites/default/files/2020-11/VZ_Analyst_Meeting_Transcript_11.11.20.pdf. CWA acknowledges as much. *See* CWA Comments at 13 (quoting the same Vestberg remarks).

[18] Jeff Kagan, *How Acquiring Tracfone Will Help Verizon*, Equities (Sep. 18, 2020) https://www.equities.com/news/how-acquiring-tracfone-will-help-verizon-jeff-kagan.

[19] *Communications Marketplace Report*, Report, 33 FCC Rcd 12558, 12567 ¶ 11 & n.33 (2018) ("*Communications Marketplace Report*").

switch easily between service providers."[20] The simple processes that pervade the prepaid segment make it especially easy for customers to move from one provider to another.

Today, TracFone competes in the prepaid segment against vertically integrated flanker brands of MNOs – T-Mobile's Metro and AT&T's Cricket – along with Boost, which was recently acquired by DISH. (Verizon has no established flanker brand and "the smallest share of prepaid subscribers among the nationwide service providers."[21]) These integrated flanker brands, with support from their nationwide MNOs, enjoy lower costs, access to better equipment offerings, and other competitive advantages over a standalone TracFone.

These other flanker brands have leveraged their integration to grow dramatically in the last few years. Metro had 8.9 million customers when T-Mobile acquired it in 2013 and now has over 19 million customers; Cricket had 5 million customers when AT&T acquired it in 2014 and now has more than 10 million.[22] In contrast, at the end of 2014, TracFone had roughly 26 million customers whereas today it has approximately 21 million customers.[23] A combined Verizon/TracFone will eliminate inefficiencies, lower TracFone's costs, expand device lineups,

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[20] *Id.* at 12567 ¶ 11.

[21] Application at 14 (quoting *Communications Marketplace Report*, 33 FCC Rcd at 12571 ¶ 16).

[22] John Legere, *Delivering On Our Promises: From MetroPCS to the New T-Mobile*, T-Mobile Newsroom (Apr. 24, 2019), https://www.t-mobile.com/news/un-carrier/delivering-on-promises-metropcs; News Release, *Cricket Wireless Now Serving 10 Million Subscribers* (Jan. 30, 2019), https://www.cricketwireless.com/newsroom/news-release/cricket-wireless-now-serving-10-million-subscribers.html.

[23] América Móvil, S.A.B. DE C.V., Annual Report (Form 20-F), at 40 (Apr. 30, 2015), https://www.sec.-gov/Archives/edgar/data/1129137/000119312515163682/d913893d20f.htm; *see also* Joe Paonessa, *For the First Time Straight Talk Has More Subscribers than All Other Tracfone Brands Combined*, BestMVNO (Feb. 24, 2020), https://bestmvno.com/straight-talk/for-the-first-time-straight-talk-has-more-subscribers-than-all-other-tracfone-brands-combined/ (noting that although TracFone brand Straight Talk Wireless has gained customers, "[t]he company overall has seen its US subscriber base shrink for at least the last 8 consecutive quarters") (citing Wave7 Research).

and substantially increase the number of distribution outlets. This will enable TracFone to compete aggressively for prepaid customers against rival providers' thriving flanker brands.

First, the transaction will lower TracFone's costs and promote price competition. As the current Vertical Merger Guidelines recognize, "mergers of vertically related firms will often result in the merged firm's incurring lower costs for the upstream input than the downstream firm would have paid absent the merger."[24] Such is the case here: after the transaction, Verizon can serve TracFone's customers for significantly less than TracFone pays for network access today, strengthening TracFone's ability to compete. Bringing owners' economics to TracFone will enable Verizon to lower the cost for TracFone to compete more effectively with AT&T, T-Mobile, and DISH. Claims that the transaction would result in higher prices or stagnate the prepaid segment are unsupported.[25]

Second, the transaction will eliminate the extensive negotiations and delays that TracFone must engage in with network operators to make adjustments to its existing offerings or develop new services. By eliminating the need for extensive arm's length negotiations, Verizon and TracFone will be able to respond more nimbly to competition and market forces, such as by

[24] *See* U.S. Department of Justice & Federal Trade Commission, Vertical Merger Guidelines, § 6 (June 30, 2020), https://www.ftc.gov/system/files/documents/reports/us-department-justice-federal-trade-commission-vertical-merger-guidelines/vertical_merger_guidelines_6-30-20.pdf; *see also* Steven C. Salop & Daniel P. Culley, *Potential Competitive Effects of Vertical Mergers: A How-To Guide for Practitioners*, at 5, Georgetown University Law Center (2014), https://scholarship.law.georgetown.edu-/cgi/viewcontent.cgi?article=2404&context=facpub ("By reducing the cost of inputs used by the downstream division of the merged firm, a vertical merger also can create an incentive for price reductions."); James C. Cooper et al., *Vertical Antitrust Policy as a Problem of Inference*, at Abstract, Federal Trade Commission (Feb. 18, 2005), https://www.ftc.gov/sites/default/files/documents/-public_statements/vertical-antitrust-policy-problem-inference/050218verticalecon.pdf ("Empirically, vertical restraints appear to reduce price and/or increase output.").

[25] *See* Public Knowledge et al. Comments at 3, 12.

providing new devices and services to TracFone's customers, and quickly countering competitive offers, including from Metro, Cricket, and Boost.[26]

Third, a combined Verizon/TracFone will deliver significant new benefits to TracFone customers. With Verizon's support, TracFone will be able to provide customers with access to a wider variety of devices, including smartphones, tablets, and wearables.[27] Today, TracFone is disadvantaged by its more limited device lineup. Post-transaction, TracFone customers will benefit from expanded device offerings given the minimal incremental cost to make certain devices in Verizon's device portfolio available to those TracFone customers. Verizon also will bring its world-class vision for 5G and other technological advances to TracFone's customers more rapidly, as well as new services such as home internet solutions. Verizon will deliver more expansive international roaming options to TracFone customers. And TracFone customers will benefit from the innovative service experience that has made Verizon the leading provider of postpaid mobile services.[28]

Finally, Verizon is committed to substantially expanding TracFone distribution outlets to grow the prepaid business.[29] Verizon will have the flexibility and incentive to make investments that standalone TracFone cannot to open additional stores or to target competing Metro or Cricket stores with new distribution outlets. With improved distribution, a combined Verizon/TracFone can more effectively compete with the other MNOs and their flanker brands.

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[26] Boost's newly appointed EVP believes the transaction process creates for Boost "an opportunity to come in and be a disruptor." Buddy Blouin, *DISH Executive Sees Opportunity in Verizon, TracFone Deal*, 5G Insider (Oct. 7, 2020), https://5ginsider.com/uncategorized/dish-executive-sees-opportunity-in-verizon-tracfone-deal/ (quoting Stephen Stokols, EVP, Boost). Verizon and TracFone have a different view, of course. But all stakeholders can agree on one thing for sure: U.S. consumers will benefit.

[27] *See* Application at 12.

[28] *See id*. at 2-3, 11-13.

[29] *See id*. at 13.

For all these reasons, the combined Verizon/TracFone will generate substantial public interest benefits for the prepaid segment and in particular for value customers, and the transaction will further enhance competition in the prepaid space.

B. Competition Analysis Shows No Negative Impact on the Mobile Wireless Marketplace and the Transaction Does Not Create Any Anticompetitive Effects

There is no merit to claims that the transaction will "fundamentally" change the mobile wireless landscape or create anticompetitive effects under the Vertical Merger Guidelines or otherwise.[30] The Department of Justice's decision to grant early termination of the HSR review confirms this.[31]

As the Application demonstrated, a competition analysis shows there will be no negative impact on the overall wireless market. The Commission attributes MVNO customers to their underlying host MNOs: "[f]ollowing 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."[32] Federal courts have taken the same approach.[33] Applying that competition analysis here shows that, immediately post transaction, market concentration in the mobile telephony/broadband services market will remain the same. Verizon is the host facilities-based carrier for the majority of TracFone customers –

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[30] *See* Public Knowledge et al. Comments at 11-16; CWA Comments at 1-2, 9-22.

[31] *See* FTC Early Termination Notice Grant.

[32] *See Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993*, Twentieth Report, 32 FCC Rcd 8968, 8988 n.99 (2017); *see also T-Mobile US, Inc. and Sprint Corporation*, Memorandum Opinion and Order, Declaratory Ruling, Order Proposing Modification, 34 FCC Rcd 10578, 10610 ¶ 78 (2019) ("*T-Mobile-Sprint Order*").

[33] *See New York v. Deutsche Telekom AG*, 439 F. Supp. 3d 179, 200 (S.D.N.Y. 2020) ("*Deutsche Telekom*") ("MVNO shares should . . . be attributed to the MNOs from which the MVNOs lease network access.").

approximately 13 million – and the transaction will only convert them from Verizon wholesale customers to Verizon retail customers. TracFone will continue to operate as an MVNO for the remaining 7.6 million that currently ride on other networks – particularly T-Mobile and AT&T – until Verizon provides opportunities for those customers to migrate to the Verizon network.[34] Immediately post transaction, there will be no change in market concentration under traditional competition analysis.

While Verizon intends to migrate the TracFone customers on other providers' networks to the Verizon network over time, it will need to compete for these consumers' business – especially given the ease of switching providers in the prepaid market.[35] Even if all 7.6 million TracFone customers currently on other networks switch to the Verizon network at the end of this migration period (while holding static all other elements of the market), the impact on customer aggregation in the mobile telephony/broadband services market would be negligible: a net addition for Verizon of *roughly two percent* of all mobile wireless subscriber connections.[36] Because post-transaction concentration will remain the same at closing and at most will create a minimal and immaterial increase thereafter, the transaction presents no risk of harm to the mobile telephony/broadband services market. No commenter seriously disputes this analysis.

The transaction will not create any anticompetitive effects. Verizon and TracFone are not close competitors. As noted in the Application, Verizon and TracFone target different customer segments. Indeed, Verizon already relies on its wholesale relationship with TracFone to target

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[34] As explained in the Application, Verizon ultimately intends to migrate TracFone customers riding on other networks – approximately 7.6 million customers spread out across the networks of T-Mobile (19 percent), AT&T (16 percent), and other carriers (one percent) – to the Verizon network. *See* Application at 4, 15.

[35] As noted above, the prepaid segment has an annual churn rate of 48.3 percent. *See supra* n.19.

[36] *See* Application at 6, 17.

prepaid customers that Verizon does not reach on its own. While T-Mobile has more than 20 million prepaid customers, AT&T has approximately 18 million customers, and DISH's newly acquired brand Boost has more than 9 million, Verizon today serves only a marginal share of the prepaid segment at retail.[37] As Hans Vestberg noted, "we have had prepaid, we haven't been that successful on it."[38] A combined Verizon/TracFone will change that.

Certain commenters assert concerns about possible effects on other MVNOs,[39] but no actual MVNOs registered such claims.[40] That is because the transaction will not produce any unilateral or coordinated anticompetitive effects for MVNOs.[41] Verizon has no incentive to disadvantage MVNOs.[42] Indeed, the facts since the TracFone deal was announced proves just the opposite: Verizon has expanded its wholesale arrangements with Comcast and Charter, ensuring that their customers "have access to the enhanced engineering capabilities that [Verizon has]

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[37] While Verizon offers retail prepaid services through its brands Visible and Verizon Prepaid, those offerings are very small both for Verizon and relative to other prepaid providers. The notion that the combination of Visible, Verizon Prepaid, and TracFone could lead to higher retail prices lacks support and is unpersuasive. *See* Public Knowledge et al. Comments at 12.

[38] Verizon Nov. 11 Analyst Meeting Transcript at 17 (remarks of Hans Vestberg, Verizon Chairman & CEO).

[39] *See, e.g.*, Public Knowledge et al. Comments at 12; CWA Comments at 9.

[40] By contrast, CWA recognizes that MVNOs filed in the T-Mobile-Sprint proceeding to register concerns that the merger would leave them with only three MNOs to provide competitive wholesale services post-merger. *See* CWA Comments at 16. The instant transaction does not implicate the number of MNOs providing wholesale services.

[41] Although MVNOs "increase the range of differentiated services" and "compete downstream" in the wireless market, the FCC has "decline[d] to define a separate product market for wholesale service offerings," explaining that the competitive effects of a transaction on MVNO offerings are considered within the broader context of the mobile telephony/broadband services market. *See T-Mobile-Sprint Order*, 34 FCC Rcd at 10604 ¶ 63; *see also id*. at 10610 ¶ 78. And, in any event, Judge Marrero found that "MVNOs face significant constraints on their ability to compete independently with MNOs and thus lack the ability to significantly constrain the MNOs." *Deutsche Telekom*, 439 F. Supp. 3d at 201. CWA concedes that MVNOs cannot compete independently with MNOs. *See* CWA Comments at 11.

[42] *See* CWA Comments at 9, 12-14, 17; Public Knowledge at al. Comments at 3, 11-13.

been delivering."[43] As Ronan Dunne, Verizon Executive VP & CEO of Verizon Consumer Group, explained, "[W]e've created the conditions to ensure that we're their primary provider of connectivity for the foreseeable future."[44] Verizon's MVNO partners target different market niches or types of customers. For instance, while Charter and Comcast primarily offer postpaid wireless in bundles with their other services, GreatCall/Jitterbug serves senior citizens. These MVNO partnerships contribute to Verizon's network-as-a-service business strategy, and there is no basis to conclude that the company will reverse course and hamper its MVNO partners.

The transaction also does not present a risk of coordinated effects. Retail competition in the wireless marketplace is largely driven by the economic imperative of filling the networks of the three (and soon four) MNOs. MVNOs bring new customers to a network that the network operator could not otherwise reach or could reach only at exorbitant cost. As shown above, the acquisition will undoubtedly *increase* retail competition by reducing TracFone's costs, and it will allow Verizon to pursue prepaid customers more aggressively. And to the extent that other MVNOs can continue to bring customers to Verizon, Verizon has every incentive to continue to supply them at competitive rates rather than lose those customers to AT&T, T-Mobile, and DISH.

And the transaction should increase AT&T's and T-Mobile's incentives to pursue agreements with other MVNOs to make up for TracFone traffic they could lose to Verizon. That represents 7.6 million customers that Verizon will seek to win away from other MNOs'

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[43] Verizon Nov. 11 Analyst Meeting Transcript at 19 (remarks of Ronan Dunne, Verizon Executive VP & Group CEO of Verizon Consumer Group).

[44] *Id*.

networks. Contrary to some claims,[45] this excess capacity on their networks creates opportunities for AT&T and T-Mobile to compete for Verizon's current wholesale customers as well as any new MVNOs. And DISH has stated it plans to soon operate as the fourth MNO, launching its 5G network to "provide both competitive retail *and wholesale* wireless services."[46] There is thus no merit to claims that this transaction will increase MNOs' incentive or ability to add entry barriers to the MVNO segment.[47]

Wireless services also are not susceptible to coordination. As Judge Marrero concluded in the T-Mobile/Sprint decision: "the [retail mobile wireless telecommunications services] industry is not particularly vulnerable to coordination" because of differentiated products and services offered by various providers, the "rapidly changing nature of mobile wireless technological offerings," and "asymmetric capacity utilization" among carriers.[48] None of these characteristics of the industry will change because of this transaction.

For all of these reasons, the transaction will promote competition in the prepaid segment, contrary to some opponents' concerns.[49] Verizon will bring its resources to TracFone, which has experienced a loss of customers in recent years, so that the combined Verizon/TracFone can *expand* TracFone's prepaid business and benefit value consumers – just as T-Mobile did with Metro and AT&T did with Cricket.[50] Quite simply, this transaction provides Verizon with the

[45] *See* CWA Comments at 15.

[46] *See American H Block Wireless L.L.C., DBSD Corporation, Gamma Acquisition L.L.C., and Manifest Wireless L.L.C.*, 35 FCC Rcd 9580, 9596 App. B (2020) (emphasis added) (Letter from Jeffrey H. Blum, Senior Vice President, Public Policy & Government Affairs, DISH, to Donald Stockdale, Chief, WTB, FCC (July 26, 2019)).

[47] *See* CWA Comments at 9, 12, 18.

[48] *Deutsche Telekom*, 439 F. Supp.3d at 235.

[49] *See* Public Knowledge et al. Comments at 13; CWA Comments at 12-13, 18.

[50] The transaction will therefore strengthen TracFone as a competitor, and not "eliminat[e] a maverick" as CWA contends. *See* CWA Comments at 9.

ability to compete aggressively with the larger players in the prepaid segment – T-Mobile, AT&T, and DISH – giving consumers more and better options from which to choose.

II. TRACFONE WILL CONTINUE TO OFFER LIFELINE-SUPPORTED SERVICE

A. Verizon Will Continue TracFone's Lifeline-Supported Offerings

The COVID-19 pandemic has only reinforced the critical importance of connectivity for all Americans, and the Lifeline program serves an important role in extending the Commission's universal service mandate to low-income Americans. The Application explains that Verizon plans to continue to offer TracFone's Lifeline-supported service offerings where it offers service over Verizon's network.[51] Commenters' concerns that this transaction will diminish TracFone's Lifeline offerings or somehow weaken the Lifeline program are unfounded.[52]

The Application explained that TracFone would file an amended Compliance Plan and Verizon will maintain TracFone's ETC status;[53] TracFone did so on December 15.[54] The Amended Compliance Plan conveys Verizon's intent to acquire TracFone and TracFone's ETC designation and provides granular detail on TracFone's compliance with Lifeline rules and policies, consistent with guidance from the Wireline Competition Bureau.[55]

Commenters speculate that Verizon will somehow limit TracFone's provision of Lifeline service, and they otherwise invent unsubstantiated hypotheticals.[56] This conjecture lacks any

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[51] *See* Application at 18.

[52] Public Knowledge et al. Comments at 5-10; CWA Comments at 5-9.

[53] *See* Application at 18.

[54] *See* TracFone Wireless Inc. Amended Compliance Plan, WC Docket No. 09-197 (filed Dec. 15, 2020).

[55] *Wireline Competition Bureau Reminds Carriers of Eligible Telecommunications Carrier Designation and Compliance Plan Approval Requirements for Receipt of Federal Lifeline Universal Service Support*, Public Notice, 29 FCC Rcd 9144, 9144-45 (WCB 2014) ("*2014 ETC Designation Public Notice*").

[56] *See* Public Knowledge et al. Comments at 9-10.

factual foundation. First, at the close of the transaction, combined Verizon/TracFone will offer Lifeline service over the Verizon Wireless network to those Lifeline customers who ride on that network or are migrated to that network, and it will continue to provide Lifeline service as an MVNO over other networks to the extent TracFone customers continue to receive services over those networks. Concerns that TracFone's Lifeline customers will lose service are thus unfounded.[57]

Second, the Commission sets minimum service standards for Lifeline,[58] which TracFone follows, and the Commission's rules call for those minimum standards to increase annually. The Wireline Competition Bureau just recently granted a waiver that increased the minimum service standard for mobile broadband to 4.5 GB/month – a 50 percent increase intended to balance the program's goals of accessibility and affordability.[59] TracFone's Lifeline-supported offerings comply with the new minimum service standards and will continue to do so post-transaction. Calls to expand Lifeline offerings beyond the service standards or impose Verizon-specific Lifeline requirements are not grounded in any finding of transaction-specific harm and should be rejected.[60]

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[57] In fact, the transaction will be a benefit to the Lifeline program because it will introduce another major facilities-based provider to compete for that segment of the marketplace.

[58] 47 C.F.R. § 54.408.

[59] *See Lifeline and Link Up Reform and Modernization,* Order, DA 20-1358 (WCB rel. Nov. 16, 2020).

[60] *See* Public Knowledge et al. Comments at 7; CWA Comments at 4, 8. Public Knowledge et al. assert that the FCC order granting the AT&T-Cricket transaction required AT&T to make its LTE network available on equal terms to Cricket's pre-paid and Lifeline customers, but the public version of the Commission order includes no such requirement in the discussion cited in the Comment. *See* Public Knowledge et al. Comments at 8 (citing *Cricket License Company, LLC, et al., Leap Wireless International, Inc., and AT&T Inc.*, Memorandum Opinion and Order, 29 FCC Rcd 2735, 2803-05 ¶¶ 168-171 (WTB/IB 2014)). In any event, the Commission's review of that transaction focused heavily on AT&T's acquisition of Leap spectrum licenses and CDMA networks, not the MVNO element of the Leap/Cricket business.

Third, although there is no basis for concerns that Verizon will walk away from providing Lifeline service,[61] the Communications Act and Commission rules impose a backstop should *any* provider seek to cease Lifeline offerings. The Commission reminded Lifeline providers as recently as 2017 that, pursuant to Section 214(e)(4) of the Act, "they may not discontinue Lifeline service to any community they serve without first relinquishing their ETC designation after the approval of the designating (state or federal) commission."[62] This backstop applies to all ETCs, including TracFone. As stated above, however, Verizon plans to continue TracFone's Lifeline-supported service.

Finally, questions about Verizon's experience and ability to provide Lifeline-supported service are of no merit.[63] Verizon has a strong track record of Lifeline compliance in states where it is designated as an ETC.[64] And Verizon will have the benefit of TracFone's employees, who have deep experience in the administration of Lifeline-supported services,[65] and will assume responsibility for the Amended Compliance Plan. Verizon's commitment to excellence in

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[61] *See* CWA Comments at 8.

[62] *Bridging the Digital Divide for Low-Income Consumers*, Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 32 FCC Rcd 10475, 10486 ¶ 28 n.70 (2017); *see also 2014 ETC Designation Public Notice*, 29 FCC Rcd at 9145 n.11 ("An ETC also remains obligated to continue providing service unless and until it complies with any applicable discontinuance or relinquishment requirements.").

[63] *See* Public Knowledge et al. Comments at 6.

[64] Verizon offers wireline Lifeline where it serves as an ILEC in Connecticut, Delaware, Massachusetts, Maryland, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Virginia, and the District of Columbia. It also has a limited wireless Lifeline offering in parts of Iowa, New York, North Dakota, and Wisconsin. These Lifeline offerings are administered differently within Verizon to comport with Lifeline obligations.

[65] *See* Application at 3, 13.

technical execution and customer service will further benefit TracFone's customers who receive Lifeline-supported services.[66]

B. The International Bureau Can Grant the Section 214 Application Separate from Approval of the Amended Compliance Plan

The Applicants urge both the International Bureau and the Wireline Competition Bureau to act promptly on the Application and the Amended Compliance Plan, respectively, so that the combined Verizon/TracFone can deliver robust, dynamic offerings to customers in the prepaid segment. Contrary to some commenters' claims,[67] the International Bureau can grant an application to transfer a Section 214 authorization irrespective of the timing of Wireline Competition Bureau approval of the Amended Compliance Plan and the transfer of TracFone's ETC designation.[68] Indeed, the International Bureau and the Wireline Competition Bureau have approved applications to transfer Section 214 authorizations *prior to* granting associated ETC designations.[69] Grant of an application to transfer a Section 214 authorization does not effectuate

[66] The Commission should reject any attempt to bypass the normal enforcement process and inject the allegations in the pending notice of apparent liability against TracFone into this transfer proceeding. Public Knowledge et al. Comments at 6 (citing *TracFone Wireless, Inc*., Notice of Apparent Liability for Forfeiture and Order ("NAL"), 35 FCC Rcd 3459 (2020)). The TracFone NAL is an entirely separate matter, and it has no bearing on this transaction.

[67] *See* Public Knowledge et al. Comments at 5; CWA Comments at 3.

[68] Commenters do not cite any evidence that supports the claim that the Amended Compliance Plan must be granted prior to or simultaneously with the Section 214 application. Public Knowledge et al. quote the *2014 ETC Designation Public Notice*, but that notice does not mandate, or even address, timing for Commission action: "The transfer of control of licenses and other authorizations from an entity already designated as an ETC to another entity that has not been designated as an ETC is insufficient for the transferee itself to assume the ETC status of the acquired ETC. . . . [A]ny entity that is not offering Lifeline service over its own facilities, or a combination of its own and resold facilities, must submit and receive the Bureau's approval of a compliance plan demonstrating to the Bureau's satisfaction that the entity will comply with its obligations for offering Lifeline service, including the prevention of waste, fraud, and abuse and the maintenance of sufficient financial and technical capabilities to offer Lifeline services in compliance with these obligations." *2014 ETC Designation Public Notice*, 29 FCC Rcd at 9144-45, quoted in Public Knowledge et al. Comments at 5 n.8; *see also* CWA Comments at 3.

[69] For example, the International Bureau and the Wireline Competition Bureau granted Section 214 transfer applications to Global Connection on April 7, 2017, and June 15, 2018, respectively, and the

the transaction itself – it simply allows Applicants to transfer the relevant Section 214 authorization when all other conditions to close have been met. The Applicants commit that they will not close the transaction until all required Commission regulatory approvals are granted, including Wireline Competition Bureau approval of the change in TracFone's corporate ownership described in the Application and the Amended Compliance Plan.

III. VERIZON'S AND TRACFONE'S ESTABLISHED COMMITMENT TO ACCESSIBILITY WILL EXTEND BEYOND THE TRANSACTION

Verizon and TracFone recognize the critical importance of making mobile services accessible to people with disabilities. Verizon has worked extensively with individuals with disabilities to ensure that it offers a robust suite of accessible products and services, as has TracFone. For example, all of the mobile phones that Verizon and TracFone offer are hearing aid compatible.[70] Applicants appreciate some commenters' interest in the availability of accessible product offerings, in particular for people who are blind,[71] and post-transaction, Verizon assures commenters that its deep interest in and desire to support availability of accessible product offerings, as discussed more fully below, will extend to TracFone and its offerings.

TracFone's commitment to accessibility is reflected both in its workplace culture and in the products and services offered to customers. TracFone has been recognized by the Disability

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Wireline Competition Bureau later approved an amended compliance plan to transfer the associated ETC designation to Global Connection on August 15, 2018. *See International Authorizations Granted*, Public Notice, 32 FCC Rcd 3019 (IB 2017); *Global Connection Inc. of America and Odin Mobile, LLC*, Public Notice, 33 FCC Rcd 6058 (WCB 2018); *Wireline Competition Bureau Approves the Wireline and Wireless Compliance Plan of Global Connection*, Public Notice, 33 FCC Rcd 8169 (WCB 2018).

[70] *See* TracFone Wireless Inc, Hearing Aid Compatibility Status Certifications, FCC Form 855, Filing Confirmation No. 0008931348 (filed Jan. 3, 2020) (covering calendar year 2019); Verizon Wireless (Cellco Partnership), Hearing Aid Compatibility Status Certifications, FCC Form 855, Filing Confirmation No. 0008945446 (filed Jan. 15, 2020) (covering calendar year 2019).

[71] *See* ACB Letter; NFB Letter.

Equality Index as one of the Best Places to Work for People With Disabilities in 2020.[72] And TracFone already employs numerous accessibility features in its devices, including for individuals who are hard of hearing, visually impaired, or otherwise disabled.[73] Verizon will be able to build on and extend this solid foundation.

In sourcing devices, Verizon provides to OEMs a set of proprietary requirements at the outset to enable accessibility by design. These requirements are intended to make the devices that Verizon offers usable and effective for everyone, including the visually impaired. Verizon plans to apply these requirements to the acquisition of devices for TracFone after the integration of the Applicants' compliance processes. At a primary level, these include requirements such as a nib or nibs on devices with physical keyboards; inversion of colors; and screen readers. And at a secondary level, these include requirements such as adjustable screen reader speech rate; changing screen reader voices; delete/key/button and error correction; audio feedback; menus, button labels, image tags, and field labels; screen reader for help and tutorials; and display of password so that it can be read by the screen reader while being entered to assist the user. Exceptions to these requirements are rarely requested by OEMs or granted by Verizon.

Decades ago, Verizon embraced a set of universal design principles to ensure that the company provides products and services that are accessible to the broadest range of customers, including youth, individuals with disabilities, and seniors.[74] For example, Verizon offers several

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[72] Disability Equality Index reveals 2020 "Best Places to Work for Disability Inclusion," Yahoo! News, https://finance.yahoo.com/news/disability-equality-index-reveals-2020-120010729.html (July 15, 2020).

[73] *See* Accessibility | TracFone Wireless, https://www.tracfone.com/accessibility/ (last visited Dec. 28, 2020).

[74] *See* Verizon, About, Universal Design Principles, https://www.verizon.com/about/our-company/company-policies/universal-design-principles (noting that Verizon adopted its universal design principles in 1987) (last visited Dec. 24, 2020).

smartphones with native accessibility features which, as observed by the American Council of the Blind, "are a vital lifeline for people with disabilities to bridge the social distance and remain connected" during the present time.[75] Verizon also offers a variety of basic feature phones with robust accessibility features for customers such as individuals with vision disabilities, senior citizens, or those with certain cognitive disabilities who may want a phone with a large and tactile keypad.[76]

Verizon has supported the development of standards to broadly benefit people who are blind or low vision. For example, Verizon's Zachary Bastian co-chaired CTA 2076, a volunteer committee of subject-matter experts, including representatives of blindness-focused organizations, that gathered to set a baseline standard of service for audio-based navigation.[77] Verizon also partnered with Waymap, which developed a unique mobile app to help blind or low vision people navigate unfamiliar spaces using highly accurate maps and audio-based instructions.[78] As part of that collaboration, Verizon is sponsoring a trial deployment of the Waymap system on the campus of Loyola Marymount University in Los Angeles, California. And Verizon recently joined Teach Access to train the next generation of technologists to design accessible products and released The Disability Collection to allow creators to easily incorporate

[75] ACB Letter at 1; *see also* Verizon, *Smartphones*, https://www.verizon.com/smartphones (last visited Dec. 24, 2020).

[76] *See, e.g.*, Verizon, Basic Phones, https://www.verizonwireless.com/basic-phones/ (last visited Dec. 24, 2020).

[77] *See* Consumer Technology Association, *Inclusive, Audio-based, Network Navigation Systems for All Persons including those Who are Blind/Low Vision (ANSI/CTA-2076)* (June 2019), https://shop.cta.tech-/products/inclusive-audio-based-network-navigation-systems-for-all-persons-including-those-who-are-blind-low-vision. The Consumer Technology Association presented the co-chairs of the standard development committee with their Technology and Standards Achievement Award.

[78] *See* Waymap, How Waymap Works, https://waymap.org/#howitworks (last visited Dec. 24, 2020).

into their creative works a growing collection of stock images that break stereotypes and authentically portray people with disabilities in everyday life.[79]

Verizon regularly attends accessibility events and conferences to support an open communication channel between the company and individuals with disabilities, including individuals with vision disabilities. Verizon sponsored and virtually participated in events held by the American Foundation for the Blind and the American Council of the Blind. In addition, Verizon sponsored and presented at Mobility Matters, a conference at Portland State University discussing the unique communication and transportation needs of people who are low vision, blind, or deaf-blind.[80]

Finally, Verizon regularly intercedes at the request of blindness-focused organizations to help their members address unique issues with their mobile services. In fact, people with disabilities have straightforward access to information about the accessibility features of Verizon's products and services. Verizon's online Accessibility Resource Center provides a plethora of information on services and features divided into categories such as accessibility quick tips, auditory support, visual assistance, mobility tools, general accessibility, and Verizon Media.[81]

In sum, post-transaction Verizon will continue to advance accessibility initiatives and will extend its strong track record on accessibility to build on and extend TracFone's solid foundation and commitment to accessibility.

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[79] *See* Mike Shebanek, *Building digital access for all*, Verizon (May 16, 2019), https://www.verizon.com/about/news/building-digital-access-all.

[80] *See* College of Education, Portland State University, Mobility Matters 2020 (Mar. 18, 2020), https://mobilitymatters2020.sched.com.

[81] Verizon, Accessibility Resource Center, Welcome to your accessibility resource center, https://www.verizon.com/about/accessibility/overview (last visited Dec. 24, 2020).

IV. COMMENTERS' OTHER CLAIMS ARE WRONG AND SHOULD BE DENIED

A. The Transaction Has No International Telecommunications Implications

The Commission should reject Commenters' unsupported assertions that, post-closing, América Móvil's *de minimis* interest in Verizon raises concerns about competition in the U.S.-international telecommunications market.[82]

At the close of the transaction, América Móvil will receive Verizon common stock that constitutes *less than a 1.5 percent ownership interest* in Verizon – a *de minimis* holding that raises no concerns under Commission rules. América Móvil's interest in Verizon will be so minimal that it will not qualify as a foreign carrier affiliate under Commission rules (a 25 percent threshold) or trigger disclosure of ownership interests for purposes of the Application (a 10 percent threshold).[83]

The Commission's foreign carrier affiliate and ownership disclosure thresholds exist for a reason. It is well settled that where an applicant does not have an "affiliation" with a foreign carrier, the possibility of leveraging foreign market power to harm competition in the U.S. is very unlikely and thus there is no need to review international competitive implications of the application. The Commission set the 25 percent affiliation threshold "to the level of equity interest in a U.S. carrier below which . . . there is rarely a sufficient incentive to discriminate in

[82] *See, e.g., General Motors Corporation and Hughes Electronics Corporation*, Memorandum Opinion and Order, 19 FCC Rcd 473, 583 ¶ 245 (2004) (rejecting assertions of competitive harms that were "speculative at best"); *Application of Cellco Partnership d/b/a Verizon Wireless and XO Holdings*, Memorandum Opinion and Order, 32 FCC Rcd 10125, 10132 ¶ 20 (WTB 2017) (rejecting allegations of harm that were "speculative, generalized, and not specific to this transaction").

[83] *See* 47 C.F.R. § 63.09(e) ("Two 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."); *id*. §§ 63.18(h), 63.24(e)(2) (requiring the disclosure of any person or entity that will have a direct or indirect 10 percent or greater ownership interest in the transferee).

favor of the affiliated carrier."[84] And the Commission has long recognized that its public interest analysis for international Section 214 transfer applications does not require review of ownership interests of less than 10 percent.[85] If the Commenters really have an issue on this point, it is with the thresholds the Commission applies in its rules, not a transaction-specific concern.

In any event, the Commission maintains several safeguards and remedies to protect U.S. carriers and consumers from anti-competitive conduct on U.S. international routes and other types of market failures.[86] The Commission should thus not entertain Commenters' specious and unsupported theories of harm here.

B. No Domestic Section 214 Application Is Required Here

Claims regarding domestic Section 214 authority reflect a basic misunderstanding of the Commission's rules and requirements pertaining to CMRS providers.[87] More than 25 years ago the Commission decided that CMRS providers would operate pursuant to a blanket domestic Section 214 authorization rather than individual Section 214 authorizations, and it has forborne from applying domestic Section 214 application requirements to CMRS providers.[88] As the

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[84] *1998 Biennial Regulatory Review – Review of International Common Carrier Regulations*, Report and Order, 14 FCC Rcd 4909, 4923-24 ¶ 32 (1999).

[85] *See id*. at 4940-41 ¶ 76.

[86] *See, e.g.,* 47 C.F.R. § 63.14 (prohibiting U.S. carriers from agreeing to accept special concessions from dominant foreign carriers); *id.* § 63.22(h) (requiring U.S. carriers to file a list of U.S.-international routes for which they have arrangements with foreign carriers for direct termination of traffic in the foreign destination); *International Settlements Policy Reform*, Report and Order, 27 FCC Rcd 15521, 15540-46 ¶¶ 50-70 (2012) ("*ISP Reform Order*") (listing a variety of remedies available to the Commission to respond to anti-competitive behavior). To the extent a party believes a foreign carrier is engaging in any anti-competitive behavior, there is an established complaint process to bring such allegations before the Commission. *See* 47 C.F.R. § 63.22(g); *ISP Reform Order*, 27 FCC Rcd at 15535-40 ¶¶ 31-48. Carriers and other parties filing such complaints must support their petitions with evidence, including an affidavit and relevant commercial agreements.

[87] *See* Public Knowledge et al. Comments at 17.

[88] *See Implementation of Sections 3(n) and 332 of the Communications Act; Regulatory Treatment of Mobile Services*, Second Report and Order, 9 FCC Rcd 1411, 1480-81 ¶ 182 (1994) (forbearing from

Commission has long recognized, "although commercial mobile radio service providers are common carriers, our rules provide that these carriers are not required to file section 214 applications for domestic service."[89] While the Commission requires a CMRS provider to apply to transfer an *international* Section 214 authorization, no such requirement exists for *domestic* CMRS Section 214 authority.

TracFone currently provides only CMRS services, so no domestic Section 214 authorization is implicated by the transaction. That a domestic Section 214 application was filed in connection with TracFone's 2013 acquisition of the assets of Page Plus Cellular does not disturb this conclusion, regardless of the services involved in that transaction or the need for a domestic Section 214 application for that transaction. And despite Commenters' suggestions to the contrary,[90] CMRS providers are not required to obtain approval to discontinue domestic Section 214 authority.[91] The salient facts are that TracFone provides only CMRS services, the Commission has forborne from exercising its Section 214 authority for domestic CMRS service, and no domestic Section 214 application is required for Verizon's acquisition of TracFone.

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applying domestic Section 214 authority to CMRS); *1998 Biennial Regulatory Review – Review of International Common Carrier Regulations*, Notice of Proposed Rulemaking, 13 FCC Rcd 13713, 13718 ¶ 11 (1998) ("[T]he Commission has forborne from exercising its Section 214 authority for domestic CMRS service.") (citation omitted); *see also* 47 C.F.R. § 20.15(b)(3).

[89] *Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations*, Declaratory Ruling and Notice of Proposed Rulemaking, 16 FCC Rcd 14109, 14112 n.15 (2001).

[90] Public Knowledge et al. Comments at 4, 17.

[91] *See, e.g., Ensuring Customer Premises Equipment Backup Power for Continuity of Communications*, Notice of Proposed Rulemaking and Declaratory Ruling, 29 FCC Rcd 14968, 14982 (2014) ("Pursuant to our section 214(a) discontinuance process, telecommunications carriers – *other than CMRS providers* – and interconnected Voice over Internet Protocol (VoIP) providers must obtain Commission authority to discontinue interstate or foreign service to a community or part of a community.") (emphasis added) (citations omitted).

C. The Application Complies in Full with Section 63.18

Commenters erroneously claim that the Application does not include the necessary requirements as set forth in Section 63.18(e)(3) of the Commission's rules, but Section 63.18(e)(3) applies only to applications for *new* international Section 214 authorizations. Section 63.24(e) identifies the information from Section 63.18 that must be included in an application to transfer control of an international Section 214 authorization and, notably, an application to transfer an international Section 214 authorization is *not* required to include material in response to Section 63.18(e)(3).[92]

D. The TracFone Letter of Assurances Is Irrelevant to the Transaction

TracFone's 2013 Letter of Assurances ("LOA")[93] with the Department of Justice was premised on TracFone's foreign ownership. Post-closing, TracFone will be a wholly-owned subsidiary of Verizon, a U.S.-organized company. As reflected in the Application, Verizon has no reportable foreign ownership – in fact, as a publicly traded company, no individual or entity (foreign or otherwise) holds a 10 percent or greater ownership interest in Verizon. As noted above, América Móvil will receive Verizon common stock upon closing as part of the transaction, but its ownership interest in Verizon – and thus indirectly TracFone – will be less

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[92] *See* 47 C.F.R. § 63.24(e)(2) ("The application shall include the information requested in paragraphs (a) through (d) of § 63.18 for both the transferor/assignor and the transferee/assignee. The information requested in paragraphs (h) through (p) of § 63.18 is required only for the transferee/assignee."). The related contention that TracFone's federal ETC designation is a "service" covered by Section 63.18(e)(3) is misplaced. As Section 214 of the Act makes clear, ETC designations are not a service but a designation. Section 214(e)(1) of the Act defines an ETC as a common carrier so designated pursuant to Section 214(e)(2), (3) or (6)), while Section 214(e)(1)(A) identifies the "services that are supported" by Federal universal service support mechanisms that must be provided by ETCs. 47 U.S.C. § 214(e)(1).

[93] *See* Letter from F.J. Pollak, President and Chief Executive Officer, TracFone Wireless, Inc., to John Carlin, Acting Assistant Attorney General, U.S. Department of Justice, IBFS File No. ITC-ASG-20130522-00143 & WC Docket No. 13-138 (Dec. 19, 2013).

than 1.5 percent. Because América Móvil's interest in Verizon will be so minimal post-closing, the LOA is irrelevant when the transaction closes, and concerns about it are unfounded.[94]

E. The Transaction Presents No Sensitive Information Sharing Concerns

Contrary to one Commenter's concerns,[95] Verizon and TracFone will not engage in the exchange of competitively sensitive information of other carriers or MVNOs, whether in Verizon's possession or TracFone's possession, after the transaction. First, Verizon has safeguards and procedures in place to prevent inappropriate disclosure of its MVNO customers' confidential information. For example, Verizon maintains firewalls between its wholesale and retail systems, and only those with a need to know in order to perform under the relevant agreement between Verizon and an MVNO have access to that MVNO's confidential information. Verizon also periodically provides antitrust and confidential information sharing training to its employees, and instructs its employees in its wholesale business unit not to share MVNO confidential information with Verizon employees in other business units unless doing so is necessary to facilitate Verizon's contractual obligations to the MVNO. Additionally, Verizon's Code of Conduct applies to all Verizon personnel, and states that only personnel who have demonstrated a legitimate, business-related need may have access to customer information.

Second, TracFone will not be in a position to share the confidential information of the other facilities-based providers whose networks it utilizes. Wholesale network services agreements often include confidentiality provisions that allow a party to the agreement to share confidential information learned through the agreement only with its employees, representatives, agents, and/or affiliates who need to receive such information solely for the purpose of the party

[94] *See* Public Knowledge et al. Comments at 18.

[95] *See* CWA Comments at 5, 18-19.

performing the agreement. Verizon would honor contractual provisions in TracFone's existing MNO agreements. As noted above, Verizon personnel who participate in Verizon's wholesale business already do not participate in Verizon's retail businesses, and they would not have a role in performing under TracFone's agreements with other MNOs.

CONCLUSION

For the reasons set forth above and in the Applicants' Public Interest Statement, the Commission should promptly approve the transfer of control of TracFone's single international Section 214 authorization from América Móvil to Verizon.

Respectfully submitted,

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