February 11, 2021

**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:

Verizon's acquisition of TracFone will strengthen the TracFone consumer experience and jumpstart the combined Verizon/TracFone's efforts to compete aggressively for value conscious customers. Those consumers will benefit from the new and better choices that this combination will enable. Verizon, TracFone, and TracFone's parent, América Móvil ("Applicants"), respond to recent filings from Communications Workers of America ("CWA") and Public Knowledge that largely retread earlier claims that still lack merit.[1] The Application received no petitions to deny, the record has closed, and the Applicants have addressed any and all material concerns raised. The International Bureau should promptly grant the Application.

***Grant of the Application provides significant public interest benefits.*** While Verizon today serves only a marginal share of the prepaid segment at retail, the transaction will make a combined Verizon/TracFone a stronger competitor for prepaid customers against the flanker brands, T-Mobile's Metro and AT&T's Cricket, as well as DISH's Boost. As Metro and Cricket have doubled their subscriber numbers in the last six to seven years, TracFone has lost nearly 20 percent (and growing) of its customers.[2] This transaction will allow a combined Verizon/TracFone to compete aggressively with more attractive offers to consumers.

For example, the combined Verizon/TracFone will offer expanded device options, international roaming, and other new benefits, substantially increase TracFone distribution outlets, and compete aggressively in the value segment.[3] CWA seeks to brush these consumer

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[1] *See* Letter from CWA to FCC, File No. ITC-T/C-20200930-00173 (Jan. 21, 2021) ("CWA Letter"); Letter Public Knowledge to FCC, WC Docket No. 20-445, File No. ITC-T/C-20200930-00173 (Jan. 15, 2021) ("Public Knowledge Letter"). The Applicants have responded to many of these claims already and submit this filing to recap the main arguments.

[2] Joint Reply at 7.

[3] *See* Application at 11-13; Joint Reply at 7-10.

benefits aside by contorting the Merger Guidelines,[4] but the Department of Justice did not find an issue and decided to grant early termination of its antitrust review of the transaction.[5]

CWA also ignores that this transaction will lower TracFone's costs and promote price competition in the value segment. As Applicants explained, Verizon can serve TracFone's customers post transaction for significantly less than TracFone pays for network access today, enabling Verizon to lower the cost for TracFone to compete effectively with AT&T, T-Mobile, and DISH and their respective flanker brands.[6] Verizon is committed to competing vigorously in the prepaid segment through low price options and plans that offer great value, and will not require TracFone customers to move to a more expensive plan when the transaction closes.[7]

***Grant of the Application presents no competitive concerns***. Under the Commission's well-established analytical framework – consistently applied in both Democratic and Republican administrations – MVNO subscribers are attributed to their host MNOs.[8] But CWA continues to make arguments that disregard this framework, despite the fact that CWA elsewhere has argued that because MVNOs depend upon facilities-based providers' networks, "the competitive significance of MVNOs has historically been seen as limited" and "[t]here is no inherent virtue in TracFone's relative size" in the wholesale context.[9]

Applying the Commission's established competitive framework here, there will be no change in concentration in the mobile telephony/broadband market at closing. Verizon is the host facilities-based carrier for the majority of TracFone customers – approximately 13 million; the transaction will serve to 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

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[4] CWA references the "efficiencies defense" in the Merger Guidelines, *see* CWA Letter at 14-15, but that defense is used to rebut a *prima facie* showing that a proposed merger will result in a significant increase in concentration in the relevant market. *See, e.g., FTC v. H.J. Heinz Co*., 246 F.3d 708, 715, 720-21 (D.C. Cir. 2001). CWA makes no such showing, nor could it: as discussed below, the transaction will have no meaningful impact on concentration.

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

[6] *See* Joint Reply at 8.

[7] *See* Application at 18.

[8] *See Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993,* Twentieth Report, 32 FCC Rcd 8968, 8988 n.99 (2017) (Republican administration); *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993*, Nineteenth Report, 31 FCC Rcd 10534, 10550 n.48 (2016) (Democrat administration); *see also New York v. Deutsche Telekom AG*, 439 F. Supp. 3d 179, 200 (S.D.N.Y. 2020) ("MVNO shares should . . . be attributed to the MNOs from which the MVNOs lease network access.").

[9] Comments of CWA, WT Docket No. 18-197, at 14 (Aug. 27, 2018).

currently ride on other networks – particularly T-Mobile and AT&T – until Verizon provides opportunities for those customers to migrate to the Verizon network.[10] All of these consumers will continue to be attributed to the facilities-based provider whose network provides them service today.

Post-closing, Verizon will encourage TracFone customers on other networks to move to the Verizon network against the backdrop of a prepaid segment with an industrywide, annual churn rate of nearly 50 percent.[11] Even if all 7.6 million such customers migrate, the impact on customer aggregation would be negligible: a net addition for Verizon of roughly two percent of all mobile wireless subscriber connections.[12] And if only half of those customers migrate, consistent with the current prepaid churn level, the net addition for Verizon would fall to one percent of all mobile wireless subscriber connections. 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 competitive harm.

CWA contends that "other industry participants" have voiced concerns about the impact of the transaction on MVNOs, but no MVNO has filed comments in this proceeding. Regardless, these speculative claims of harms to MVNOs are belied by the actual record.[13] MVNOs will continue to play an important role post transaction because they target different market niches or types of customers than their MNO partners. Since the announcement of the TracFone transaction, Verizon has struck expanded deals with MVNOs Comcast and Charter.[14] And other network operators, like T-Mobile and AT&T, will have every incentive to compete to serve wholesale customers to make up for any TracFone traffic currently on their networks that moves to Verizon's network.

***A combined Verizon/TracFone will continue TracFone's Lifeline service***. CWA continues to lodge unsubstantiated claims that Verizon will restrict TracFone's Lifeline offerings, even though Verizon has consistently stated that it will maintain TracFone's ETC status and will continue to offer Lifeline service through TracFone where it will offer service through its own network.[15]

Verizon is committed to ensuring that all Americans have access to broadband and recently proposed a comprehensive reform plan to bridge the broadband gap with a new

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[10] *See* Application at 4, 15; Joint Reply at 10-11.

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

[12] *See* Application at 6, 17; Joint Reply at 11 & n.35.

[13] *See* Joint Reply at 12-13.

[14] *See id*.

[15] *See* Application at 18; Joint Reply at 15-18.

permanent broadband benefit program.[16] Moreover, Verizon is on record strongly in support of an immediate launch of the Emergency Broadband Benefit Program adopted as part of the Consolidated Appropriations Act, 2021.[17] And, as explained in TracFone's Lifeline Amended Compliance Plan, Verizon seeks to maintain TracFone's ETC designation and offer Lifeline consistent with the Commission's rules and policies,[18] contrary to CWA's misunderstanding of the ETC designation process.[19]

CWA is misguided in attacking Verizon's track record with respect to Lifeline. The Verizon incumbent LECs have participated in the Lifeline program since its inception and have offered broadband Lifeline – to a greater extent than other fixed broadband providers – since the Commission added broadband to the Lifeline program in 2016.[20] CWA distorts a *Wall Street Journal* story from 2015, ignoring that (1) the article addressed an issue related to the Universal Service Administrative Company's ("USAC") implementation of the then-new customer eligibility recertification process; and (2) Verizon sought to rectify the situation for its customers and "added 70 people to handle the unexpected influx of requests."[21] Verizon has continued to devote substantial resources to meeting its obligations under the Lifeline program. In a recently-completed in-depth audit of Verizon's compliance with the Lifeline rules, USAC made only a single finding that represented just 0.1 percent of Verizon's Lifeline reimbursement during the audit period.[22]

Like CWA, Public Knowledge has made a number of unsubstantiated and unexplained assertions regarding Lifeline in the context of this proceeding. In particular, Public Knowledge

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[16] Verizon, Accelerating America: affordability, adoption, access (Jan. 22, 2021), https://www.verizon.com/about/news/accelerating-america-affordability-adoption-access.

[17] Comments of Verizon, WC Docket No. 20-445 (filed Jan. 25, 2021).

[18] TracFone Wireless, Inc., Amended Compliance Plan, WC Docket Nos. 09-197 et al. at 5-6 (filed Dec. 15, 2020).

[19] *See* CWA Letter at 16 ("Applicants have not provided the Commission with Verizon's ETC certification plan….").

[20] Under the Commission's rules, participation in the broadband Lifeline program is optional for Verizon everywhere in its incumbent LEC territory. To help address the affordability challenge, Verizon elected to participate in the Commission's broadband Lifeline program in all areas in which Verizon offers Fios Internet access. *Id.* at 4.

[21] Yuliya Chernova, *Verizon Drops Customers from Low-Income Program*, Wall St. J., Apr. 23, 2015 (cited in CWA Letter at 3).

[22] Verizon Communications Inc., Limited Scope Audit on Compliance with the Federal Universal Service Fund Lifeline Support Mechanism Rules, USAC Audit No. LI2018SR002 (Oct. 21, 2020) (prepared by DP George & Company, LLC), attached to USAC, *High Cost & Low Income: Audit Reports Briefing Book* (Jan. 25, 2021), https://www.usac.org/wp-content/uploads/about/documents/leadership/materials/hcli/2021/202-01-HCLI-Audit-Reports-Briefing-Book.pdf.

asserts that the merger could somehow impede enrollment in the Emergency Broadband Benefit ("EBB") program.[23] But Public Knowledge then acknowledges that it has no basis for any such claim because "[i]t is unclear what impact the Verizon/TracFone merger could have on the Lifeline verification process,"[24] one way to qualify for EBB. To the extent a coherent allegation about the EBB program can be discerned, the Commission should ignore it.

***General job-related claims disregard Verizon's commitments to TracFone employees***. On page 10 of its filing, CWA raises jobs for the first time. But instead of identifying concrete and specific issues, CWA again offers generalized claims – this time, about monopsony power in labor markets. These arguments ignore that the Applicants stated in the Application that Verizon looks forward to welcoming TracFone's employees to the Verizon family, and that TracFone's employees will enjoy Verizon's generous employee benefits package and benefit from Verizon's well-earned reputation for workplace diversity and inclusion.[25] CWA also argues that labor markets in the U.S. are highly concentrated and that similar workers are paid lower wages in concentrated markets. But this ignores employment realities in the U.S. wireless marketplace: huge job growth in the wireless industry and wireless job wages that are more than 50 percent higher than the average job.[26]

***Remaining claims lack merit***. CWA continues to make baseless claims that the Applicants have already thoroughly addressed. For example, no domestic Section 214 application is required for Verizon's acquisition of TracFone because the Commission has forborne from exercising its Section 214 authority for domestic CMRS service and TracFone provides only CMRS services.[27] Nor does the transaction raise any foreign ownership issues under the Commission's rules and precedent.[28]

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For the foregoing reasons, the Bureau should reject any further fishing expedition and promptly grant the Application. Pursuant to Section 1.106 of the Commission's rules, a copy of

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[23] Public Knowledge Letter at 1.

[24] *Id.*

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

[26] *See* CTIA, The Wireless Industry: An American Success Story, https://www.ctia.org/the-wireless-industry/wireless-industry (last visited Feb. 4, 2021) (noting that the wireless industry supports 4.7 million jobs, and every wireless job creates an additional 7.7 jobs throughout the broader economy).

[27] *See* Joint Reply at 24-25.

[28] *See id*. at 23-24.

this letter his being submitted in the record of this proceeding. Please contact the undersigned with any questions.

Respectfully submitted,

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