

February 16, 2021

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

RE: File No. ITC-T/C-20200930-00173

Dear Ms. Dortch:

On Thursday, February 11, Maurice Stucke, counsel to the Communications Workers of America (CWA) on antitrust matters, and I spoke with Ethan Lucarelli, Acting Legal Advisor for Wireless and Public Safety to Acting Chair Jessica Rosenworcel, regarding the above-captioned proceeding.

In our meeting, I reiterated concerns CWA made in its most recent filing in the Verizon-TracFone proceeding, that Verizon's acquisition of TracFone risks serious anticompetitive harms to the wireless marketplace and potential threats to the Lifeline program,¹ and stated that Verizon's most recent filing did not assuage these concerns.²

TracFone is the largest provider of Lifeline services with approximately 1.7 million low-income subscribers in 42 states, or 22 percent of total Lifeline subscribers. By contrast, Verizon offers wireless Lifeline services to customers in parts of four states. We noted Verizon's vague intentions about its plans for these 1.7 million low-income customers. Rather than providing specific commitments on the Lifeline program, as prior applicants provided in their merger review or as the FCC has required in past mergers, Verizon simply repeats the same vague intention without specifics and without commitments. Absent real enforceable commitments, the proposed Verizon-TracFone transaction could curtail availability of the Lifeline program for low-income consumers from TracFone, negatively affecting millions of low-income Americans.

I highlighted the recent letter from seventeen state attorneys general arguing that the deal is not only bad for Lifeline customers relying on TracFone, but also could have much broader negative impacts on the wireless market. "Furthermore, a vertical merger of the leading Mobile Network Operator (MNO), and the leading Mobile Virtual Network Operator in an already concentrated mobile wireless market would see the last significant MVNO integrated into a national facilities-based provider," the attorneys general letter reads. "If this resulted in a decrease in the number or quality of Lifeline offerings, that could be contrary to the public interest and could have an adverse impact on consumers and the communications industry."³

¹ Comments of Communications Workers of America, IB File No. ITC-T/C-20200930-00173 (Dec. 18, 2020).

² Joint Reply to Comments of America Movil, S.A.B. de C.V., TracFone Wireless, Inc., and Verizon Communications Inc., IB File No. ITC-T/C-20200930-00173 (Dec. 28, 2020).

³ *Ex parte* letter of Office of the Attorney General of Virginia, IB File No. ITC-T/C-20200930-00173 (Feb. 4, 2021).

Mr. Stucke discussed several antitrust issues raised by the Verizon-TracFone transaction. For vertical issues, Mr. Stucke noted that, if the deal closes, Verizon could have the ability and incentive to disadvantage rival MVNOs through foreclosure and raising their costs. This is a real concern, he noted, as the United States found in *Sprint/T-Mobile* that competition among the three MNOs was too weak to prevent anticompetitive harm to the MVNOs and their customers. For horizontal issues, Mr. Stucke noted that wireless prices before the merger were steadily declining every year for at least a decade. After T-Mobile was allowed to acquire Sprint, mobile wireless prices in mid-2020 increased suddenly. The average price of mobile services in the last six months of 2020 was 4.3 percent higher than the average price for the first six months.⁴ Verizon's acquisition of TracFone, a maverick MVNO, would likely diminish competition and harm consumers, especially those dependent on the maverick TracFone. In addition, Mr. Stucke urged the Commission to examine not only the transaction's impact on the wholesale level and consumers, but also its impact upstream on labor markets.

Finally, Maurice and I presented three recommendations.

First, the Commission should issue a standard Request for Information (RFI) seeking documents and narrative responses addressing the transaction's probable harms. Verizon and TracFone have steadfastly avoided answering many key questions that are essential to understanding the public interest of the transaction. Answers to these questions in the record are a prerequisite to any thorough public interest review of the transaction. Further, the Commission should require the Applicants to submit their internal analysis of projected employment growth as part of the record in this proceeding so that the Commission and the public can properly evaluate this transaction's impact on jobs and wages.

Second, if the Commission considers approving this transaction, it should impose protections for Lifeline customers. Among the proposed conditions outlined in CWA's Comments, the Commission should require Verizon to commit to participate in the Lifeline program for a minimum of 5 years with at least the same level of geographic and service offerings as TracFone currently provides; to commit to make 5G networks and equipment available to Lifeline and pre-paid customers on the same basis as made available to Verizon's post-paid customers; and to maintain the existing packages available to Lifeline customers for a minimum of 5 years.

Third, again if the Commission should approve this transaction, it should impose conditions to mitigate anticompetitive harms in the wireless industry, including the conditions proposed in CWA's Comments.

In accordance with Section 1.1206(b) of the Commission's rules, I am filing this letter with your office. If you have questions, please contact me at 202-434-1131.

⁴ US Bureau of Labor Statistics, Wireless telephone services in U.S. city average, all urban consumers, not seasonally adjusted. <https://beta.bls.gov/dataViewer/view/timeseries/CUUR0000SEED03>

Respectfully submitted,

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Communications Workers of America

cc: Ethan Lucarelli