



A KROGER CO.

November 25, 2013

Ms. Robin Meyerink
South Dakota Public Utilities Commission
Capitol Building, 1st Floor
Pierre, South Dakota 57501-5070

Dear Ms. Meyerink,

The purpose of this letter is to acknowledge our receipt of your inquiry on behalf of the Public Utilities Commission of South Dakota (“Commission”) with regard to the Federal Communication Commission’s (“FCC’s”) Notice of Apparent Liability for Forfeiture (“NAL”) issued to i-wireless LLC on November 1, 2013.

We understand and respect the Commission’s legitimate interest in better understanding our compliance procedures and the alleged violations included in the NAL. i-wireless takes very seriously the issue of alleged intra-company duplicates raised in the NAL. We believe that the NAL is both misguided and unfounded, and we fully intend to exercise our right to file with the FCC a formal response seeking cancellation of the proposed forfeiture. This filing is now due on or before January 10, 2014. At such time, i-wireless will be pleased to provide you with a copy of our response.

Because we are still confirming our facts and developing our legal response, our legal counsel has advised us to defer responding to any state commission inquiries as they pertain to specific allegations contained in the NAL until after we have filed our formal response with the FCC. We will have a comprehensive factual analysis and legal defense included in our response. Out of respect for the process and the state and federal regulators we work with, our goal is to be accurate and consistent. To achieve this goal, we hope to answer all relevant questions once – in our response to the FCC. However, if our response does not answer all of the Commission’s questions, we will be happy to engage further with you so that your questions are fully answered and so that you fully understand i-wireless’ position.

Notwithstanding the foregoing, we are prepared to make the following general statements in response to the NAL:

- (1) the NAL is both factually and legally unfounded
- (2) i-wireless did not violate any rules
- (3) i-wireless did not intentionally submit duplicate recovery requests
- (4) i-wireless believes that it is *at least* 99.7% effective in screening out consumer attempts to obtain duplicate Lifeline benefits through i-wireless
- (4) i-wireless will reimburse the Universal Service Fund to the extent any of the alleged duplicates actually are confirmed intra-company duplicates
- (5) the FCC's proposed fines are excessive – for an alleged \$24,000 in over-recovery, the FCC seeks \$8.8 million in fines (for a single customer, and one \$9.25 reimbursement, the FCC proposes up to \$25,027.75 per subscriber in fines)

With regard to the NAL, it also is important to note a few things about the process. *First*, the NAL contains allegations rather than factual and legal determinations. Though it is more typical for the FCC to conduct a factual investigation prior to issuing a public NAL, it did not do so here. We had no advance notice of the FCC action. This case involves a complex set of facts related to each subscriber enrolled in the Lifeline program. The FCC will need to do its factfinding in the context of the NAL proceeding and we will cooperate fully so that a proper determination can be made about whether any of the customer attestation supported enrollments involve a customer unlawfully receiving a duplicate benefit. Similarly, the FCC will need to consider i-wireless' legal defenses to allegations of various rule violations by i-wireless prior to making any formal finding. *Second*, the forfeiture structure proposed is simply a proposal. It is neither law nor regulation. *Third*, the FCC has five years to act on an NAL. Possible outcomes include no further public action by the agency, cancellation of the NAL and a settlement and consent decree. Absent those outcomes, the FCC could take other action such as folding the issues raised in the NALs into a rulemaking proceeding or converting the NAL to a forfeiture order. Such an order would be subject to appeal in a United States Court of Appeal. It is impossible to predict the outcome at this point in time. The process of resolving an NAL typically involves extensive engagement between the recipient and the FCC. i-wireless will fully cooperate and we will seek an outcome that is fair for our customers, our investors, and the Lifeline program itself.

Finally, I personally want to reassure you that i-wireless is fully committed to complying with the rules and guidelines established by the FCC and the Commission in an effort to protect the integrity of the Lifeline program and those customers that rely on the valuable service that it provides. To this end, i-wireless employs numerous duplicate and fraud prevention techniques that meet or exceed federal Lifeline rule requirements. These include:

- Capturing an image of a valid form of state-issued ID to confirm consumer identity
- Capturing an image of qualifying program participation to facilitate compliance review (purged upon completion per FCC rule)
- Naming other Lifeline service providers at the time of enrollment to facilitate customers' understanding of the one benefit per household restriction

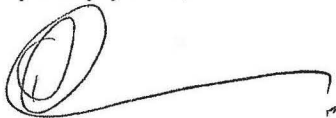
- Conducting an internal review of every enrollment prior to inclusion on any FCC Form 497, including confirmation that the spelling of the name and date of birth on the proof of ID match the information included on the Lifeline enrollment form
- Providing access to live customer care service representatives during specified business hours via 611 (with no decrement of airtime) and a toll-free number
- Conducting thorough and extensive training of all field representatives, including: “no-notice” onsite field audits (5-10 per month), routine “photo audits” to verify activities and systematic analysis of enrollment data anomalies
- Voluntarily participating in CGM LLC’s pre-enrollment Intercompany Duplicates Database (“IDD”) which has prevented over 300,000 duplicate enrollment attempts over the previous 15 months, resulting in approximately \$15 million in savings to the Universal Service Fund

In addition to the processes outlined above, i-wireless is a member of the Lifeline Reform 2.0 Coalition, which filed a Petition for Rulemaking with the FCC proposing additional reforms that the FCC can take to combat waste, fraud and abuse of the Lifeline program. i-wireless and other members of the coalition have been working diligently with other major Lifeline service providers and consumer interest groups to form consensus on these reforms.

i-wireless is also a co-founding member of Lifeline Connects, a coalition of like-minded ETCs that work to support the Lifeline program through outreach initiatives to members of the media and Congress with the intent to dispel myths from facts about the Lifeline program (www.lifelineconnects.org). i-wireless supports these efforts because it believes Lifeline service makes essential communications services available to low-income consumers so that they can stay connected to potential employers, emergency services, family members, healthcare professionals, schools and child care providers.

We appreciate your concern and consideration of our efforts to work toward a fair and reasonable resolution.

Very truly yours,



Paul J. McAleese
Chief Executive Officer
i-wireless LLC