

**STATEMENT OF COMMISSIONER AJIT PAI,
APPROVING IN PART AND DISSENTING IN PART**

Re: *Total Call Mobile, Inc.*, File No.: EB-IHD-14-00017650, NAL/Acct. No. 201632080004.

Beth, Alan, and David were sales agents for Total Call Mobile.¹ Beth specialized in signing up ineligible consumers using false credentials.² Her supervisor told her to get a blank food stamp card, i.e., a temporary Supplemental Nutrition Assistance Program (SNAP) card, to use as eligibility documentation for applicants already in the system.³ Her supervisors had stacks in excess of 200 SNAP cards that the managers had purchased on the street. She was told to rotate the use of temporary SNAP cards to ensure that applicants could repeatedly sign up for phones. She also worked side by side with other Lifeline carriers to increase the number of applicants each sales agent could sign up.

Alan specialized in manipulating the application process.⁴ He took photos of an applicant's SNAP card and used that information to activate numerous customers, changing only the last four digits of the applicant's Social Security number. His supervisor used an app to generate legitimate Social Security numbers to aid the process, and Total Call Mobile's back-end staff would verify the application even if the name on the SNAP card was not the applicant's name. Alan also knew that the system would approve a customer for multiple Lifeline subsidies so long as he entered the information on different devices within a 15-minute window—and he coordinated with the sales agents of other Lifeline carriers to sign up applicants up to four times.

David specialized in getting customers multiple phones.⁵ His supervisor told him to change an applicant's last name if it came back duplicate and keep changing it until it's accepted. He filled out applications, checking off the boxes he knew applicants needed to check to enroll. He signed on their behalf; his supervisor told him to match the signature on the applicant's identification as closely as possible. Another supervisor showed him how to sign up applicants for three phones apiece and how to use nail polish remover to remove identification information from a SNAP card. Total Call Mobile's back-end staff facilitated David's work, explaining how to cover expiration dates on eligibility documentation or alter a person's name to get through the review process.

Beth, Alan, and David were not alone. Nathan used his own identification as well as a stolen driver's license to sign up for service at least 22 times.⁶ Fred enrolled an undercover FCC employee in the program even though the FCC employee had no identification or eligibility documentation.⁷ Other sales agents used the address of a local homeless shelter to enroll hundreds of applicants multiple times.⁸ In November 2014, the Universal Service Administrative Company was able to identify 32,498 intra-company duplicate subscribers enrolled by over 800 Total Call Mobile sales agents.⁹ And during that same quarter, Total Call Mobile bypassed the National Lifeline Accountability Database's internal

¹ The names of all sales agents have been changed to protect their identity.

² See Sales Agent B Exhibit; *Notice of Apparent Liability* at para. 37.

³ Temporary SNAP cards lack information identifying the cardholder.

⁴ See Sales Agent A Exhibit.

⁵ See Sales Agent D Exhibit.

⁶ See *Notice of Apparent Liability* at paras. 48–51, 96.

⁷ See *Notice of Apparent Liability* at para. 43.

⁸ See *Notice of Apparent Liability* at para. 45.

⁹ See *Notice of Apparent Liability* at para. 17; TCM-EB-000000868.

safeguards for 99.8% of its newly enrolled subscribers.¹⁰ No wonder that Total Call Mobile's own employees described the company's practices as fraud.

I agree with my colleagues that Total Call Mobile apparently and repeatedly violated federal law. And I appreciate that my colleagues acceded to my request that we order Total Call Mobile to explain why we should not suspend all Lifeline payments to the company, revoke its ability to participate in the Lifeline program, and end its authorization to offer telephone service entirely.¹¹

But I am disappointed that we do not—and to some extent cannot—sanction Total Call Mobile for all of its wrongful conduct. Even though USAC identified 32,498 intra-company duplicates, we pursue only 2,587.¹² Even though we have evidence that Total Call Mobile bypassed federal safeguards to enroll 99.8% of its subscribers, we hold the company liable for only 16%.¹³ Under these circumstances, our precedent suggests that a forfeiture of at least \$84,295,910 would have been appropriate.¹⁴ Yet the Commission settles for something much less.

One reason: Even though USAC discovered the intra-company duplicates in November 2014 and even though our investigation had largely concluded by mid-2015, the Chairman's office kept this *Notice of Apparent Liability* on hold until March 2016—long after the one-year statute of limitations had passed for most of those apparent violations. Even then, Commissioners were told that the *Notice of Apparent Liability* could not be released or publicly discussed until April 1, 2016, conveniently one day after the Commission was scheduled to expand the Lifeline program to broadband. That's not right.

Another: The *Notice of Apparent Liability* repeatedly gives Total Call Mobile the benefit of the doubt. For example, it treats less than 10% of Total Call Mobile's subscribers as likely ineligible when we have evidence that up to 99.8% were. Using that metric of likely ineligibility (one Total Call Mobile refused to rebut by withholding information in response to Commission subpoenas¹⁵) would yield a forfeiture amount of roughly \$84 million, in line with what we should have proposed two years ago.

Instead, the Commission proposes a forfeiture of only \$51,070,322,¹⁶ which is not even a third more than the \$38,933,139 that Total Call Mobile has collected from the Universal Service Fund since its misdeeds were exposed by USAC. That's hardly the type of justice the American people deserve given the sheer magnitude of misconduct at issue, and I accordingly dissent in part.

¹⁰ See *Notice of Apparent Liability* at para. 27; Information on file in EB-IHD-14-00017650.

¹¹ See *Notice of Apparent Liability* at para. 102.

¹² See *Notice of Apparent Liability* at para. 95.

¹³ See *Notice of Apparent Liability* at para. 97.

¹⁴ Conservatively assuming that one out of every two intra-company duplicates was an eligible, non-duplicate subscriber, the forfeiture would be at least $16,249 \times \$5,000 + 16,249 \times \$9.25 \times 3 + 130 \times \$20,000 = \$84,295,910$.

¹⁵ *Notice of Apparent Liability* at para. 68.

¹⁶ *Notice of Apparent Liability* at para. 103.