STATEMENT OF
SENIOR ASSISTANT ATTORNEY GENERAL SIMON FFITCH

In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link Up, WC Docket No. 03-109

The Lifeline program addressed in this Recommended Decision is a key part of the universal service framework. While 96 percent of US households currently have telecom service in the home, penetration rates for limited income households lag behind at just over 90 percent. Indeed, penetration rates are significantly below the 90 percent level in the lowest income bands. Looking only at national averages masks this gap in universality. We cannot say that we have universal service in the United States as long as these disparities exist.

Just as high cost support has been important in helping to ensure that infrastructure and service is available in rural, insular and costly-to-serve geographic areas, the Lifeline program is essential in making service affordable for unserved and underserved limited income populations throughout the country. This is especially important during this time of economic hardship for many Americans. The telephone is a true lifeline for connecting customers with job opportunities, educational options and essential medical care. Unfortunately, for a range of reasons, the Lifeline portion of USF support has not been used to its full potential. While overall, 36 percent of the eligible population takes advantage of the program, in over half the states participation rates are at or below, sometimes well below, 25 percent. The recommendations in this Recommended Decision regarding eligibility levels, verification, and outreach are intended to make the program more effective and make the best use of the funds available.

As this Recommended Decision discusses, a new challenge faced by the Lifeline program is the impact of prepaid wireless ETCs. Prepaid wireless Lifeline programs have represented the first significant improvement in utilization of the Lifeline program in many years. Penetration rates have improved significantly in some areas and these gains should not be overlooked. After all, increased availability of affordable telecommunications service is the fundamental purpose of USF low income support.

At the same time, the dramatic success of these programs has created new problems. The fund is under substantial pressure and legitimate questions have been raised by many commenters about ineligible participants, and the level of service provided by carriers in return for federal support. These are "consumer issues" as well. Because all consumers pay for Lifeline and are impacted by fund growth, both for Lifeline and the overall USF, consumers have a strong interest in making sure that eligibility standards are rigorously enforced and that ongoing verification of continued eligibility is effective. Consumers also should be confident that carriers that receive Lifeline USF support for prepaid wireless service are providing service of adequate value (e.g. minimum number of monthly minutes) and quality in return for those funds.

In the process of addressing these issues, however, it is important to remember that any major increase in participation in Lifeline, even if simply a result of better outreach, will put pressure on the fund. Moreover, increased participation in Lifeline, whether through prepaid wireless programs, addition of income eligibility, or just more awareness, is not by itself evidence of fraud, waste, and abuse. Lifeline cannot properly be viewed as "right sized" today if only one third, at most, of the people who could benefit are participating. No record was made in this proceeding of any general problems with fraud, waste, and abuse in the Lifeline program. There was anecdotal evidence of concern presented of ineligible participants benefiting from newer prepaid wireless programs. There was also evidence that states are aware of and are addressing this issue. The record before us did not establish what portion of fund growth, if any, is due to fraud, waste, or abuse. The verification recommendations of this Recommended Decision are aimed in part at seeking additional ways to address and control problems in that area.

The control of USF fund growth is not simply a Lifeline problem, it is a USF-wide problem, as the Joint Board recognized in its 2007 Recommended Decision. Both the Joint Board Recommended Decision and the National Broadband Plan have recognized the need for reform of universal service support and movement towards that reform has now begun. There is broad agreement that the USF, as currently constructed, needs to be refocused to eliminate unneeded, duplicative, and expensive subsidy flows. The federal universal service has grown very significantly in recent years. USF surcharges have reached highs of as much as 15%. This imposes substantial burdens on telecommunications customers, and has reached the point where the size of the fund itself threatens to undermine the very goals the fund is designed to achieve by further diminishing the affordability of service. While Lifeline should not be immune from scrutiny, it would be unfair and inappropriate to now ask Lifeline eligible customers to bear the brunt of fund size concerns, when major problems have long been identified in other parts of the fund. Indeed, addressing those problems will help ensure that USF funding can be transitioned from where it is no longer necessary or appropriate, and can be properly targeted to the remaining areas of legitimate need, including the Lifeline program.

Finally, I think it is important that this RD recognizes in the "Other Issues" section that the Lifeline issues are only a part of a much larger picture. Ultimately, Lifeline issues, including Lifeline support for broadband service, will have to be resolved as a part of the overall approach to universal service policy.