

**Before the  
MISSOURI PUBLIC SERVICE COMMISSION**

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In the Matter of )

Petition of TracFone Wireless, Inc. )  
for Designation as an Eligible Telecommunications )  
Carrier in the State of Missouri for the Limited )  
Purpose of Offering Lifeline and Link Up Service to )  
Qualified Households )

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Case No. TA-2009-0327

**AMENDMENT TO PETITION OF TRACFONE WIRELESS, INC.  
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS  
CARRIER IN THE STATE OF MISSOURI**

TracFone Wireless, Inc. (“TracFone”), by its counsel, amends its Petition for Designation as an Eligible Telecommunications Carrier in the State of Missouri (“ETC Petition”) with the following information concerning compliance with Missouri regulation 4 CSR 240-3.570 (“Section 240-3.570”).<sup>1</sup>

**Section 240-3.570(2)(A)(7)**

TracFone commits to provide Lifeline discounts consistent with 47 C.F.R. § 54.401. By this filing TracFone withdraws its request to be designated as an ETC for purposes of providing Link Up services. Regarding the requirements of 47 C.F.R. § 54.401, TracFone states that its Lifeline service will only be available to qualifying low-income consumers; that those qualifying low-income consumers will not be charged for Lifeline service; and that TracFone will provide all services and functionalities enumerated in 47 C.F.R. §§ 54.101(a)(1) through (a)(9). See 47

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<sup>1</sup> Given that TracFone only seeks Lifeline support from the low-income program and does not seek any high-cost support, Missouri’s requirements for designation as an ETC for the high-cost program are not applicable to TracFone.

C.F.R. § 54.401(a); see also ETC Petition, at 9-13. The requirement to provide toll limitation is not relevant to TracFone. First, TracFone does not charge separately for toll calls. A call between two locations in St. Louis, MO is priced no differently than a call of the same duration between St. Louis, MO and Washington, DC. Further, since TracFone's service is entirely a prepaid service, customers are not billed for any TracFone service and no customers will be disconnected for failure to pay any charges. Moreover, as a prepaid carrier, TracFone does not require any customer to pay a service deposit (47 C.F.R. § 54.401(c)) nor does it charge customers a monthly number-portability charge (47 C.F.R. § 54.401(e)).

**Section 240-3.570(2)(A)(8)**

TracFone commits to satisfying consumer privacy protection standards. TracFone's Privacy Policy is attached as Exhibit 1. TracFone's Privacy Policy is consistent with federal law, including Section 222 of the Communications Act and the FCC's rules governing privacy of Customer Proprietary Network Information codified at 47 C.F.R. § 64.2001 *et seq.* and with the consumer code recognized by CTIA-The Wireless Association (formerly known as the Cellular Telecommunications and Internet Association).

**Section 240-3.570(2)(A)(9)**

The Federal Communication Commission ("FCC") Rules require an applicant for ETC status to provide a certification that it acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area (47 C.F.R. § 54.202(a)). In the TracFone ETC Order, the FCC determined that

TracFone was not required to make these showings because it is a pure reseller.<sup>2</sup> However, in the event that all other ETCs, including ILECs, relinquish their ETC designations for areas served by TracFone, TracFone will comply with all applicable legal and regulatory requirements concerning equal access.

**Section 240-3.570(2)(A)(10)**

As explained in TracFone’s ETC Petition, the requirement that ETCs offer local usage plans “comparable” to those of the ILEC, does not mean that the plans must be identical. Wireless and wireline services, though increasingly substitutable for each other, are different from each other and they are priced differently. See ETC Petition, at 10.

In its order designating U.S. Cellular as an ETC, the Commission stated:

As the Commission has previously found, many ILECs offer unlimited local calling, but only to a few exchanges. In contrast, U.S. Cellular offers a limited number of minutes of use for a fixed fee but allows a customer to make calls to locations in most of the country. Some customers will benefit from the plan offered by the ILECs while others will benefit from the plan offered by U.S. Cellular. The customers can choose for themselves which plan they prefer. The Commission’s rule does not require a wireless provider to become a wireline provider and it does not require U.S. Cellular to offer the same local usage calling plan as that offered by the ILECs. The rule requires only that their local usage calling plans be comparable. The Commission finds that the local usage plan offered by U.S. Cellular is comparable to the local usage plan offered by the ILECs and complies with the Commission’s regulation.<sup>3</sup>

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<sup>2</sup> In the Matter of Federal-State Joint Board on Universal Service: TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of New York et al., 23 FCC Rcd 6206 (2008) (granting TracFone’s ETC Petitions for Alabama, Connecticut, Delaware, District of Columbia, Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, Tennessee, and Virginia); see id. n.35.

<sup>3</sup> In the Matter of the Application of USCOC of Greater Missouri, LLC for Designation as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996, Report and Order, Case No. TO-2005-0384 (Missouri Pub. Serv. Comm’n: May 3, 2007).

Like U.S. Cellular's Lifeline plan, TracFone's Lifeline plan will offer qualified customers a specified number of minutes of use to place and receive calls throughout the country. However, TracFone's Lifeline offerings will go beyond those of other wireless providers, such as U.S. Cellular, as well as those of ILECs in a very important respect: TracFone's Lifeline customers will receive as part of Lifeline service specified amounts of free wireless service. That is, Lifeline customers will be able to use TracFone's service to initiate and receive specified amounts of wireless calling -- local and long distance -- with no charge to the customers. As such, under this Commission's precedent TracFone's local usage plan is comparable to the local usage plan offered by the ILECs and complies with Section 240-3.570(2)(A)(10).

**Section 240-3.570(2)(B)**

TracFone commits to abide by the consumer code for wireless service recognized by CTIA. A copy of the current version of the CTIA consumer code is attached as Exhibit 2. In addition, TracFone commits to abide by any updated or revised versions of the consumer code for wireless service subsequently recognized by CTIA.

**Section 240-3.570(3)(A)**

TracFone is a prepaid wireless service provider that does not issue bills to its customers. Therefore, the requirement that ETCs develop a bill design that can be easily interpreted by their customers is not applicable to TracFone.

**Section 240-3.570(3)(B)**

TracFone commits to providing customer service contact information online, and in fact, already include that information on its web site at [www.safelinkwireless.com](http://www.safelinkwireless.com). As a prepaid wireless service provider, TracFone does not issue bills to its customers. Therefore, the

requirement that it include customer service contact information on billing statement is not applicable to TracFone. However, in addition to providing customer service contact information on its website, TracFone provides Lifeline customers with information on how to access customer service as part of the package of information it provides to new customers in the packages containing the handsets provided to those customers.

**Section 240-3.570(3)(C)(1)**

TracFone will make available to each end user subscribing to its Lifeline service within its designated service area the following service features:

**A. Dual tone multi-frequency (“DTMF”) signaling or its functional equivalent.**

DTMF signaling allows carriers to provide expeditious call set-up and call detail information and enables modem usage. All telephone handsets provided by TracFone are DTMF-capable.

**B. Single-party service or its functional equivalent.**

Single-party service means that only one party will be served by a subscriber line or access loop in contrast to a multi-party line. TracFone provides customers with single-party access for the duration of every phone call. TracFone does not provide “multi-party” or “party line” services.

**C. Access to emergency service.**

TracFone provides universal access to the 911 system for its customers. TracFone has implemented and will continue to implement basic and enhanced 911 services consistent with the FCC’s Rules, including 47 C.F.R. §§ 20.18 and 54.101(a)(5), and orders when such services are made available by the carriers from whom TracFone purchases services. In particular, TracFone will fully comply with the FCC’s basic and enhanced 911 requirements applicable to wireless

resellers.

**D. Enhanced 911 service.**

As explained in the preceding paragraph, as a wireless reseller, TracFone will make available enhanced 911 services when such services are available from its underlying carriers. TracFone's underlying carriers are required to provide enhanced 911 service, as defined by Section 240-3.570(3)(C)(1)(D), in all locations where the local agency servicing the end user has implemented enhanced 911 systems.

**E. Access to interexchange service.**

TracFone customers can use TracFone's services to complete toll calls. In fact, TracFone does not impose separate charges for interexchange calls. Long distance calling is included in TracFone's service with no additional charge.

**F. Access to telecommunications relay services by dialing 711.**

TracFone customers can access telecommunications relay service by dialing 711 from their handsets.

**G. Access to directory assistance.**

All TracFone customers receive access to directory assistance service through the TracFone virtual network. Specifically, all TracFone customers, including those customers located in Missouri, have access to directory assistance services provided by TracFone's vendors.

**H. Access to operator services.**

TracFone offers all of its customers access to operator services.

**I. Toll limitation and/or blocking for qualifying low-income consumers.**

There is no need for TracFone to offer a toll limitation feature to qualifying low-income

customers. Since TracFone's service is a prepaid service, no customers will be disconnected for failure to pay toll charges or, for that matter, any other charges. TracFone treats long distance minutes of use as any other usage and the customers are not charged separately for toll services. Inasmuch as all TracFone services are prepaid there is no danger that low income customers will incur large charges for heavy toll (or other) calling and no risk that they will be disconnected for nonpayment. Since customers pay for the service in advance – they can use only what they already have paid for or what service quantities they have been provided to them under the Lifeline program. Thus, TracFone's prepaid services are especially beneficial to lower income users since the consumers enjoy the ability to control or limit their charges for toll service (as well as local service) in a manner that customers of traditional post-paid (billed in arrears) services do not.

**Section 240-3.570(3)(D)**

TracFone commits to making, within 30 days of receiving ETC status, an informational filing with the Commission consisting of a complete description of all of its service offerings. TracFone further commits to amend this filing as service offering are amended or modified.

**Section 240-3.570(3)(E)**

TracFone commits to maintaining a record of customer complaints received by TracFone or that have been submitted to or filed with the FCC in accordance with the requirements set forth in Section 240-3.570(3)(E).

**Section 240-3.570(3)(F)**

TracFone commits to notifying the Commission within ten days of a change in its designated contacts in accordance with the requirements set forth in Section 240-3.570(3)(E).

Finally, TracFone clarifies that it will verify annually its Lifeline customers' continued eligibility for Lifeline service in accordance 47 C.F.R. § 54.410(c) of the FCC's rules.

### **CONCLUSION**

Based on the foregoing, as well as on information contained in TracFone's ETC Petition, all of the applicable requirements for designation as an ETC have been met by TracFone. Accordingly, TracFone requests that the Commission promptly grant its petition for designation as an eligible telecommunications carrier.

Respectfully submitted,

/s/ Mark P. Johnson

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**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the above and foregoing Amendment to Petition of TracFone Wireless, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Missouri was served via e-mail on this 27<sup>th</sup> day of April, 2009, to counsel of record.

\_\_\_\_\_  
/s/ Mark P. Johnson  
Mark P. Johnson

# Exhibit 1

## Privacy Policy

### **Please read the TRACFONE Privacy Policy.**

TRACFONE Wireless has instituted a comprehensive set of privacy policies and procedures to ensure that its Web site visitors' privacy is never compromised. The purpose of this privacy notice is to inform our Web site visitors of the type of information that TRACFONE, or a credit card processing partner acting on its behalf, collects from the Web site, how the information is gathered, how it is utilized, how long it is retained and how visitors can restrict its use or disclosure.

The primary focus of TRACFONE's privacy policy is to ensure that all Web site visitors' customer identification, which we term "customer identifiable information," is kept private at all times. As the term suggests, "customer identifiable information" is information which can be associated with a specific individual or entity, including, for example, a customer's name, address, or telephone number, e-mail address and information about online activities that are directly linked to them.

The collection of customer identifiable information is a critical element in the day-to-day operation of the Web site to allow TRACFONE to maintain the highest level of customer service for all Web site visitors. It is a common practice and often a necessity for companies, governments, or other organizations to collect customer identifiable information in order to conduct business and offer services.

TRACFONE always strives to safeguard the customer identifiable information obtained from its Web site users and visitors (collectively, "customers") from any unauthorized intrusions.

TRACFONE may contact people on the home phone number they enter on our website, input into our automated phone system or give to an agent in case of technical difficulties, promotions and/or reminders.

#### **General**

TRACFONE will not sell, trade, or disclose to third parties any customer identifiable information derived from the registration for, or use of, a TRACFONE product or service -- including customer names and addresses -- without the consent of the customer. TRACFONE will, however, disclose customer identifiable information as required by subpoena, search warrant, or other legal process or in the event that such customer is engaging in unlawful use of our Web site.

When TRACFONE uses third parties to perform services on its behalf, TRACFONE will request that such third parties protect your customer identifiable information consistently with this privacy policy. However, we cannot ensure that all of your customer identifiable information will never be disclosed, as regulatory and/or other requirements may make disclosure necessary.

#### **Collection and Use:**

In some instances, TRACFONE may collect information that is not "customer identifiable information." Some examples of this type of information include the type of Internet browser you are using, the type of operating system you have configured on your computer, and the domain name of the Web site and/or Internet Service Provider from which you are linked to our Web site. TRACFONE primarily uses this information for market research and optimizing its systems in order to deliver the best customer experience possible.

TRACFONE may collect and use customer identifiable information for various purposes, including but not limited to, billing purposes, to provide or change service, to anticipate and resolve problems with your service, or to inform you of products and services that better meet your needs. This means that TRACFONE may use your customer identifiable information, in conjunction with information available from other sources, to market new services that may be of interest to you, but TRACFONE will not disclose your customer identifiable information to third parties who want to market products to you.

#### **Declining e-mail offers:**

TRACFONE will only send our customers e-mail regarding promotional offers or other news if a customer specifically grants us permission. A customer has the right to choose not to receive TRACFONE e-mail direct marketing communications by simply notifying us of their preference. This process is commonly termed opting-out or unsubscribing. At any time, a customer can unsubscribe from our e-mail list by clicking on the unsubscribe link found at the bottom of every message or promotion delivered electronically to our customers. Upon such choice, TRACFONE (a) will not contact that customer directly with TRACFONE promotional messages, and (b) will not use customer identifiable information obtained from that customer's registration to contact that customer with TRACFONE product or service messages. A customer may also choose not to receive such messages by notifying TRACFONE via fax or mail.

#### **Security:**

TRACFONE has gone to great lengths to implement technology and security features to safeguard the privacy of your customer identifiable information from unauthorized access or improper use, and TRACFONE, based on its judgment, will continue to enhance its security procedures as new technology becomes readily available. However, since there is no such thing as "perfect Internet security", TRACFONE cannot provide any guarantees of 100% security compliance.

#### **E-mail Contents:**

TRACFONE will not read or disclose to third parties private e-mail communications that are transmitted using TRACFONE services except as required to operate the service or as otherwise authorized by law.

#### **Improper Conduct:**

TRACFONE may also use customer identifiable information to investigate and help prevent potentially unlawful activity or activity that threatens the network or otherwise violates the customer agreement for that service.

#### **Account Information:**

TRACFONE honors requests from customers for account information and will correct any such information, which may be inaccurate. Customers may contact TRACFONE to verify that appropriate corrections have been made.

#### **Cookies**

When you visit our Web site, we may store information on your computer that allows us to identify you immediately. This process is often referred to as "cookie" technology. More specifically, a cookie is a commonly used Internet standard which

stores, in a very small text file on the customer's hard disk, information specific to the customer. Our Web site makes limited use of cookies in an effort to improve our level of service to our Web site visitors. Cookies cannot be accessed by any other Web site other than the Web site issuing the cookie. The private features of our Web site are only accessible when cookies are enabled in the customer's browser. If a customer does not wish to utilize cookies, this feature may be disabled within the customer's Web browser. However, by disabling cookies, a customer will not have access to private areas of our Web site through that browser.

#### **Other Web sites**

Since TRACFONE's Web site contains links to other Web sites, we are not responsible for the content or privacy practices employed by these other Web sites. It is possible that on some occasions, these third party Web sites may in fact collect personal information from our customers. We recommend that you examine the privacy policies of such third party Web sites prior to submitting any personal information, as they may differ from ours.

In some instances, our Web site content is also featured on other Web sites with differing or non-existent privacy policies. These Web sites may collect personal information from their customers that may or may not be used in conjunction with our Web site information. Prior to supplying any personal information to any third party company linking to our Web site, please read and understand their privacy policy.

#### **Advertisements**

Advertisements may appear on pages throughout our Web site. Some advertisements may request information directly from our customers or take our customers to Web sites that may request personal information. TRACFONE has no control over its advertisers' privacy policies, so please examine the privacy policy of any company advertising on our Web site prior to submitting any personal information.

#### **Third Party Advertising Companies**

We may use third-party advertising companies to serve ads on our behalf. These companies may employ cookies and action tags (also known as single pixel gifs or web beacons) to measure advertising effectiveness. Any information that these third parties collect via cookies and action tags is completely anonymous. If you would like more information about this practice and your choices, [click here](#). You may also visit the Advertising.com Privacy Policy, [click here](#).

#### **Surveys**

Occasionally, we may conduct surveys on our Web site. Surveys are conducted at random and are completely voluntary to our Web site visitors. The survey may require a customer to provide customer identifiable information in exchange for the information or services provided by the survey. We may use this information in an aggregate manner to better tailor the type of services, information, and advertising that are provided on our Web site.

#### **Policy Changes**

TRACFONE reserves the right to change its privacy policy by publishing new terms on its Web site at any time and your access and use of the TRACFONE Web site thereafter constitutes your acknowledgment and acceptance of such amended policy. This privacy policy does not create any legal right for you or any third parties.

#### **Children**

TRACFONE Web sites are not structured to attract children under the age of 13. TRACFONE believes there is no information on its Web site, which is inappropriate or objectionable for viewing by children.

TRACFONE does not knowingly, directly or passively, collect information from children under the age of 13. If we create offers and products that make it appropriate to collect information from children under the age of 13, we will notify you of the change in this Policy. We also will ask a parent to confirm his/her consent in advance of any collection, use or disclosure of that information. We do not collect any information that is not submitted to us. We only use personally identifiable information so that we may better understand our users' needs and send information to users regarding new services or offerings, including but not limited to any sweepstakes or other offering. We do not sell any personally identifiable information or disclose any personally identifiable information to third parties.

Ordering online products and services from TRACFONE is limited to adults (ages 18+). However you should be aware that wireless devices and services purchased for family use may be used by minors without the knowledge of TRACFONE. If that happens, any information collected from the usage will appear to be the personal information of the actual adult subscriber and treated as such under this Policy.

#### **Questions?**

Please direct any questions or comments regarding our privacy policy to [information@TRACFONE.com](mailto:information@TRACFONE.com).

# Exhibit 2

# CTIA

## Consumer Code *for* Wireless Service

To provide consumers with information to help them make informed choices when selecting wireless service, to help ensure that consumers understand their wireless service and rate plans, and to continue to provide wireless service that meets consumers' needs, the CTIA and the wireless carriers that are signatories below have developed the following Consumer Code. The carriers that are signatories to this Code have voluntarily adopted the principles, disclosures, and practices here for wireless service provided to individual consumers.

### THE WIRELESS CARRIERS THAT ARE SIGNATORIES TO THIS CODE WILL:

#### ONE

##### DISCLOSE RATES AND TERMS OF SERVICE TO CONSUMERS

**F**or each rate plan offered to new consumers, wireless carriers will make available to consumers in collateral or other disclosures at point of sale and on their web sites, at least the following information, as applicable: (a) the calling area for the plan; (b) the monthly access fee or base charge; (c) the number of airtime minutes included in the plan; (d) any nights and weekend minutes included in the plan or other differing charges for different time periods and the time periods when nights and weekend minutes or other charges apply; (e) the charges for excess or additional minutes; (f) per-minute long distance charges or whether long distance is included in other rates; (g) per-minute roaming or off-network charges; (h) whether any additional taxes, fees or surcharges apply; (i) the amount or range of any such fees or surcharges that are collected and retained by the carrier; (j) whether a fixed-term contract is required and its duration; (k) any activation or initiation fee; and (l) any early termination fee that applies and the trial period during which no early termination fee will apply.

#### TWO

##### MAKE AVAILABLE MAPS SHOWING WHERE SERVICE IS GENERALLY AVAILABLE

**W**ireless carriers will make available at point of sale and on their web sites maps depicting approximate voice service coverage applicable to each of their rate plans currently offered to consumers. To enable consumers to make comparisons among carriers, these maps will be generated using generally accepted methodologies and standards to depict the carrier's outdoor coverage. All such maps will contain an appropriate legend concerning limitations and/or variations in wireless coverage and map

usage, including any geographic limitations on the availability of any services included in the rate plan. Wireless carriers will periodically update such maps as necessary to keep them reasonably current. If necessary to show the extent of service coverage available to customers from carriers' roaming partners, carriers will request and incorporate coverage maps from roaming partners that are generated using similar industry-accepted criteria, or if such information is not available, incorporate publicly available information regarding roaming partners' coverage areas.

### T H R E E

#### PROVIDE CONTRACT TERMS TO CUSTOMERS AND CONFIRM CHANGES IN SERVICE

**W**hen a customer initiates service with a wireless carrier or agrees to a change in service whereby the customer is bound to a contract extension, the carrier will provide or confirm the material terms and conditions of service with the subscriber.

### F O U R

#### ALLOW A TRIAL PERIOD FOR NEW SERVICE

**W**hen a customer initiates service with a wireless carrier, the customer will be informed of and given a period of not less than 14 days to try out the service. The carrier will not impose an early termination fee if the customer cancels service within this period, provided that the customer complies with applicable return and/or exchange policies. Other charges, including airtime usage, may still apply.

### F I V E

#### PROVIDE SPECIFIC DISCLOSURES IN ADVERTISING

**I**n advertising of prices for wireless service or devices, wireless carriers will disclose material charges and conditions related to the advertised prices, including if applicable and to the extent the advertising medium reasonably allows: (a) activation or initiation fees; (b) monthly access fees or base charges; (c) any required contract term; (d) early termination fees; (e) the terms and conditions related to receiving a product or service for "free;" (f) the times of any peak and off-peak calling periods; (g) whether different or additional charges apply for calls outside of the carrier's network or outside of designated calling areas; (h) for any rate plan advertised as "nationwide," (or using similar terms), the carrier will have available substantiation for this claim; (i) whether prices or benefits apply only for a limited time or promotional period and, if so, any different fees or charges to be paid for the remainder of the contract term; (j) whether any additional taxes, fees or surcharges apply; and (k) the amount or range of any such fees or surcharges collected and retained by the carrier.

### S I X

#### SEPARATELY IDENTIFY CARRIER CHARGES FROM TAXES ON BILLING STATEMENTS

**O**n customers' bills, carriers will distinguish (a) monthly charges for service and features, and other charges collected and retained by the carrier, from (b) taxes, fees and other charges collected by the carrier and remitted to federal state or local governments. Carriers will not label cost recovery fees or charges as taxes.

S E V E N

**PROVIDE CUSTOMERS THE RIGHT TO TERMINATE SERVICE  
FOR CHANGES TO CONTRACT TERMS**

**C**arriers will not modify the material terms of their subscribers' contracts in a manner that is materially adverse to subscribers without providing a reasonable advance notice of a proposed modification and allowing subscribers a time period of not less than 14 days to cancel their contracts with no early termination fee.

E I G H T

**PROVIDE READY ACCESS TO CUSTOMER SERVICE**

**C**ustomers will be provided a toll-free telephone number to access a carrier's customer service during normal business hours. Customer service contact information will be provided to customers online and on billing statements. Each wireless carrier will provide information about how customers can contact the carrier in writing, by toll-free telephone number, via the Internet or otherwise with any inquiries or complaints, and this information will be included, at a minimum, on all billing statements, in written responses to customer inquiries and on carriers' web sites. Each carrier will also make such contact information available, upon request, to any customer calling the carrier's customer service departments.

N I N E

**PROMPTLY RESPOND TO CONSUMER INQUIRIES AND COMPLAINTS  
RECEIVED FROM GOVERNMENT AGENCIES**

**W**ireless carriers will respond in writing to state or federal administrative agencies within 30 days of receiving written consumer complaints from any such agency.

T E N

**ABIDE BY POLICIES FOR PROTECTION OF CUSTOMER PRIVACY**

**E**ach wireless carrier will abide by a policy regarding the privacy of customer information in accordance with applicable federal and state laws, and will make available to the public its privacy policy concerning information collected online.