

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Investigation by the Department on its)	
Own Motion into the Implementation in)	D.T.C. 13-4
Massachusetts of the Federal)	
Communications Commission's Order)	
Reforming the Lifeline Program)	

**WRITTEN COMMENTS OF
BOOMERANG WIRELESS, LLC**

Introduction

Boomerang Wireless, LLC ("Boomerang" or the "Company") hereby submits its written comments with respect to the potential regulatory requirements included by the Department of Telecommunications and Cable ("Department" or "DTC") in its August 21, 2013 Notice of Proposed Requirements and Further Request for Comment ("Notice") and, in particular, the attached "Appendix – Proposed Requirements for Comment" ("Appendix").¹ Boomerang appreciates the hard work of Commissioner Why and Department staff on this useful effort to bring consistency and balanced policy thought to the Massachusetts-specific requirements that will be consistent with Federal Communications Commission ("FCC") requirements and serve to "preserve and advance universal service." See 47 U.S.C. § 254(f); In the Matter of Lifeline and Link Up Reform and Modernization, et al., WC Docket No. 11-42, et al., Rep. and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (hereinafter "Lifeline Reform Order"), ¶¶ 65, 140.

¹ The instant comments are submitted subject to a Department ruling on Boomerang's petition to intervene late, which remains pending before the Department.

Boomerang accepts, and supports, many of the proposed requirements in the in the Appendix. Nevertheless, some of the proposed requirements will be unworkable in practice, excessive or actually causing harms to the Massachusetts consumers that they are intended to protect. Accordingly, Boomerang requests that the Department make the following clarifications or changes to the proposed requirements included in the Appendix.

Comments

I. Department Role in Disputes (Notice, § 1(g); Appendix B.1(a)).

Boomerang strongly opposes applying the Department's excessively burdensome D.P.U. 18448 billing and termination ("B and T") rules to wireless Lifeline ETCs. See Notice, pp. 10-11 & n. 12. Boomerang supports the alternative suggestion proposed by YourTel America, Inc. ("YourTel") and supported by the Department in the Notice that ETCs be required to work in good faith with the Department's Consumer Division to resolve subscriber disputes. See id., p. 10. Nevertheless, the current wording of both the Notice and Appendix imprecisely incorporate a reference to "the Department's dispute resolution process...." Inclusion of this language invites a future dispute regarding what such "process" entails and whether or not it involves the full panoply of protections required by the B and T rules.

This ambiguity can and should be resolved by the simple expedient of amending the wording in Appendix B.1(a) to state precisely the obligation offered by YourTel without the confusing reference to any Department "process," namely:

1. "Each wireless ETC shall:
 - (a) work in good faith with Department staff to resolve Lifeline subscriber disputes....."

II. Inclusion of Department Contact Information on Certain Subscriber Materials (Notice, § 1(h); Appendix B.1(b)).

Boomerang accepts the Department's proposals to include the Department's Consumer Division contact information on the ETC's website on posters and banners that are state specific and on the materials that are taken home with the customer when he or she signs up for Lifeline service, namely, the initial sales receipt and the ETC's terms of service. See Notice, pp. 11-13. Nevertheless, Boomerang objects to the proposal to put the Department's Consumer Division contact information on other ETC materials and requests that they be stricken from the list of materials identified in the Appendix at B.1(b).

A. Concerns with Department Information on Application

Boomerang's first and primary concern with the current proposed rule is putting the Department's contact information on the Lifeline application. Adding the Massachusetts-specific complaint information to an already crowded application may well prevent Boomerang and other ETCs from maintaining the current one piece of paper application. This is of significant importance to Boomerang's customer identification and anti-fraud efforts. Boomerang seeks to ensure that the customer signature is linked on a single piece of paper (front and back) to the initialed attestations and the submitted information which the applicant has signed. In Boomerang's case, the content of its Lifeline application was approved by the FCC

within its compliance plan. This means that Boomerang cannot remove the substantive information, such as the attestations, Lifeline Service Disclosure, Lifeline plan offerings, applicable eligibility programs or federal poverty guidelines chart, certifications, etc., in order to make room for the Massachusetts-specific information proposed to be required in the Notice.

Based on the above, in order to include the Massachusetts-specific information and maintain the one-page application, Boomerang may well have to reduce the font size on the attestations and additional information set forth on the form. This would be bad for consumers and negate the purpose of the application. One of the key purposes of the application is to convey in concise fashion the key requirements and rules associated with the Lifeline program to which the applicant is applying and agreeing, as evidenced by his or her signature. Inserting additional information, including Commission complaint contact information, onto the already-crowded application obscures the purpose of the application by making the information more difficult to read and adding information that is not necessary to the application's purpose. As the print gets smaller and the form gets more crowded, the applicant is less likely to read and heed the information.

In considering this argument, it is also useful to note that the application is a form that is completed by the applicant but is not usually retained by the applicant for reference at a later date. Amidst all the other information on the crowded application, the applicant is virtually certain not to retain the Department contact information to memory. In contrast, Boomerang offers other marketing materials that are available to applicants and distributed to qualifying applicants and customers

which they can take with them and use for reference in the future. Many of these materials are provided to, and may be retained by, the customer and/or are otherwise viewable/available to the customer, such as on the ETC's website. These materials should have the Department complaint information included on them. Including the Department contact information on the application is duplicative, unnecessary and potentially interferes with and obfuscates the intended messages to the subscriber that the information on the application is to convey.

B. Concerns with Multi-State Advertising

Boomerang's second concern is putting the Department's contact information on the 'generic' large marketing banners or substantial preprinted posters or forms of television, radio or web advertising that are not intended to be state-specific.

Boomerang objects to the increased costs associated with creating these marketing pieces and products if they are now required to be made state-specific, based on the proposed rules in a single Boomerang state. Such as with the Lifeline application, there is a purpose for these 'generic' items (not state specific) which are important for the applicant to know and retain. They are used to stress other pieces of information to the applicant that is pertinent at the time of application, such as the identity of the service provider; the date, time and location of an event; rules and regulations associated with the Lifeline benefit; and eligibility requirements, etc. In all of these cases, placing the Massachusetts Department consumer complaint contact information on them will dilute the message as well as increase costs.

It is also unnecessary because, as noted above, ample other materials provided or available to the new subscriber will include the Department consumer

information under the revised text supported by Boomerang. Massachusetts complaint information properly can and should be included on Massachusetts materials that are designed to be state specific, such as a state eligibility poster identifying the programs in Massachusetts, and materials consumers take home with them and/or can access on the Internet. This aligns with the purpose of these disclosure-oriented materials. Customers will know to look at them for information on remedies in the event of problems and/or are more likely to take note of the information if a need arises.

III. Service Discontinuance Notices (Notice, § 4(f); Appendix B. 2).

Section 4(f) of the Notice and Appendix B.2 set forth two proposed obligations for Massachusetts wireless ETCs, namely, (1) to notify subscribers and the Department of the impending discontinuance 60 days in advance and (2) to “work in good faith” with subscribers and the Department to “facilitate smooth transition of subscribers to alternative ETCs of the customer’s choice.”

A. Advance Notice

Boomerang agrees with the service notification provisions so long as ETCs are afforded flexibility as to the form and content of the notice to be given. The current wording in Appendix B.2(1) gives ETCs that flexibility, and Boomerang supports it. Many of its customers move frequently without updating their address information. Consequently, mail notice is likely to be ineffective for many of Boomerang’s subscribers as well as expensive for Boomerang. Typically, Boomerang’s best means to communicate with its customers is via text, which has limits on the amount of information conveyed. Recognizing the importance and

necessity of notice, the ability to choose the appropriate medium and not have artificial limits on the content of the message is critical. Boomerang can meet the intent of the provision – to give consumers notice of an impending exit in sufficient time for them to secure alternative ETC arrangements without any service disruption – provided that Boomerang and other ETCs have flexibility in the form and content.

B. Facilitating Transition

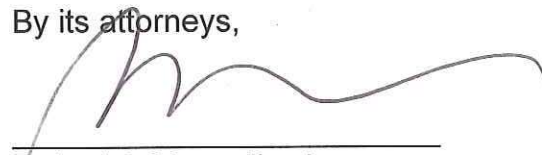
Boomerang opposes the current subpart (2) text imposing an obligation on ETCs to “facilitate smooth transition of subscribers.” This proposed requirement to “facilitate smooth transition” is both excessively ambiguous and unnecessary in the context of wireless Lifeline services where there are no term commitments. The simple fact is that Boomerang’s Lifeline subscribers can (and do) change carriers without notice to or involvement of Boomerang. Boomerang often does not know this has occurred until it takes notice of the running of the 60-day non-usage period. As there are no facilities to transfer, there is no need to obligate a departing ETC to facilitate the transition beyond providing notice to the customer (as discussed in the preceding section). That will be handled in the ordinary course as subscribers sign up with other carriers as a result of the notice or just leave Boomerang’s services.

Conclusion

Boomerang appreciates the opportunity to work with the Department in finalizing sound, competition and customer-beneficial regulatory requirements applicable to Massachusetts ETCs. Accordingly, for the above-described reasons, Boomerang requests that the Department modify the proposed regulatory requirements contained in the Notice and Appendix in the specific ways outlined in the Boomerang comments herein.

BOOMERANG WIRELESS, LLC

By its attorneys,



Robert J. Munnelly, Jr.
Murtha Cullina LLP
99 High Street – 20th Floor
Boston, MA 02110
Telephone: (617) 457-4062
Fax: (617) 210-7062
rmunnelly@murthalaw.com

Dated: September 18, 2013