

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

December 1, 2017

1028

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Mr. Pai:

I am writing to request information about the steps the Federal Communications Commission (FCC) is taking to recover the \$89,534,861 in forfeiture penalties it proposed nearly four years ago against Lifeline carriers that had profited from violating program rules.¹ We appreciate your assistance with this request.

During the hearing the Committee held in September 2017 to examine waste, fraud, and abuse throughout the Lifeline program, you testified that holding unscrupulous Lifeline providers accountable is a priority for the FCC under your leadership.² It is critical that the FCC Enforcement Bureau acts swiftly and aggressively to hold companies accountable for violating Lifeline program rules and to protect taxpayers and the low-income Americans who rely on Lifeline for necessary communications services.

Between September 2013 and February 2014, the FCC issued Notices of Apparent Liability (NALs) to 12 Lifeline providers, proposing more than \$94 million in forfeitures for enrolling ineligible subscribers.³ To date, only one of the 12 NALs has led to any public

¹ See, Attachment A.

² Senate Committee on Homeland Security and Governmental Affairs, *Hearing on FCC's Lifeline Program: A Case Study of Government Waste and Mismanagement*, 115th Cong. (Sept. 14, 2017).

³ *Easy Telephone Services d/b/a Easy Wireless*, Notice of Apparent Liability for Forfeiture, FCC 13-129 (Sept. 30, 2013); *Icon Telecom, Inc.*, Notice of Apparent Liability for Forfeiture, FCC 13-130 (Sept. 30, 2013); *Assist Wireless, LLC*, Notice of Apparent Liability for Forfeiture, FCC 13-131 (Sept. 30, 2013); *UTPhone, Inc.*, Notice of Apparent Liability for Forfeiture, FCC 13-132 (Sept. 30, 2013); *TracFone Wireless, Inc.*, Notice of Apparent Liability for Forfeiture, FCC 13-133 (Sept. 30, 2013); *Conexions, LLC d/b/a Conexion Wireless*, Notice of Apparent Liability for Forfeiture, FCC 13-145 (Nov. 1, 2013); *I-wireless, LLC*, Notice of Apparent Liability for Forfeiture, FCC 13-148 (Nov. 1, 2013); *True Wireless, LLC*, Notice of Apparent Liability for Forfeiture, FCC 13-149 (Nov. 1, 2013); *Telrite Corporation d/b/a Life Wireless*, Notice of Apparent Liability for Forfeiture, FCC 13-154 (Dec. 11, 2013); *Global Connection Inc. of America d/b/a Stand Up Wireless*, Notice of Apparent Liability for Forfeiture, FCC 13-155 (Dec. 9, 2013); *Cintex Wireless, LLC*, Notice of

forfeiture, which occurred only after the matter was referred to the Justice Department for criminal prosecution.⁴ Of the 12 Lifeline carriers that were the subject of these NALs, ten continued to receive Lifeline disbursements.⁵ From 2014 through 2016, these ten carriers received more than \$2.4 billion in Lifeline subsidies, just over 50% of all Lifeline funds disbursed by USAC during that 3-year period.⁶

In order to better understand the status of FCC Lifeline enforcement actions taken prior to your appointment as Chairman, as well as the steps you are taking to hold Lifeline providers accountable for program abuses, we respectfully request that you provide the following information on or before December 22, 2017.

1. In September 2016, then FCC Chairman Wheeler stated that the cases associated with the 12 NALs had been referred to the FCC Office of Inspector General (OIG) and that six of these cases had been closed with no further enforcement action.⁷
 - a. For each of the companies listed in Attachment A, please explain whether the associated case has been closed by the FCC.
 - b. For each closed case identified, please identify the following: the date the case was closed; the amount of any repayments made to the Universal Service Fund (USF) in connection with the case; and the date any such repayments were made to the USF.
2. Please describe the status of each case that has not been closed, including any steps the FCC has taken to impose or collect a monetary forfeiture penalty since issuing a NAL to that company.

Apparent Liability for Forfeiture, FCC 13-156 (Dec. 9, 2013); *Budget PrePay, Inc. d/b/a Budget Mobile*, Notice of Apparent Liability for Forfeiture, FCC 14-19 (Feb. 28, 2014).

⁴ See, U.S. Attorney's Office for the Western District of Oklahoma, *Icon Telecom and its Owner Plead Guilty and Agree to Forfeit more than \$27 Million in connection with Federal Wireless Telephone Subsidy Program* (June 12, 2014) (www.justice.gov/usao-wdok/pr/icon-telecom-and-its-owner-plead-guilty-and-agree-forfeit-more-27-million-connection).

⁵ The two carriers who did not continue to receive disbursements are Icon Telecom and Conexions, LLC. Icon was suspended from participating in Lifeline as a result of the related criminal action. See *Icon Telecom, Inc.*, Notice of Suspension and Initiation of Debarment Proceeding, DA 15-627 (May 26, 2015). Conexions, LLC, ended its participation in the Lifeline program after the FCC declined to approve the company's compliance plan in 2014. See *Conexions LLC d/b/a Conexion Wireless Compliance Plan*, Order DA-14-1724 (Nov. 26, 2014).

⁶ See Attachment A.

⁷ Response to Written Questions Submitted by Sen. McCaskill to Tom Wheeler, Chairman, FCC, Senate Committee on Commerce, Science, and Transportation, *Hearing on Oversight of the Federal Communications Commission*, 114th Cong. (Sept. 15, 2016).

3. Please describe any steps the FCC has taken to ensure that claims for Lifeline support reimbursement submitted by each company listed in Attachment A after that company had received a NAL, did not include claims for ineligible subscribers.
4. Please describe the FCC's authority to terminate Lifeline participation for providers who have received a NAL. Please explain why, despite the FCC's opinion that these companies profited by "apparently willfully and repeatedly" violating program rules, the FCC continues to allow these companies to participate.⁸
5. Please list all official enforcement actions (other than the 12 NALs issued between September 2013 and February 2014) that the FCC has taken since 2012 in connection with the Lifeline program, and for each please identify the following:
 - a. Date of the action;
 - b. Type of action (NAL, consent decree, etc.);
 - c. The subject(s) of the action;
 - d. The nature of the alleged or admitted violation;
 - e. Any non-monetary penalty proposed or imposed in connection with the action;
 - f. The amount of any monetary forfeiture proposed in connection with the action;
 - g. The amount of any monetary forfeiture imposed in connection with the action; and,
 - h. The date any such monetary forfeiture was actually recovered.

Thank you for your prompt attention to this matter. Please have your staff contact Claudine Brenner with my staff at Claudine_Brenner@hsgac.senate.gov or (202) 224-2627 with any questions. Please send any official correspondence related to this request to Lucy_Balcezak@hsgac.senate.gov.

Sincerely,



Claire McCaskill
Ranking Member

⁸ See, e.g., *Budget PrePay, Inc. d/b/a Budget Mobile*, Notice of Apparent Liability for Forfeiture, FCC 14-19 (Feb. 28, 2014).

The Honorable Ajit Pai
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cc: Ron Johnson
Chairman

The Honorable Mignon Clyburn
Commissioner
Federal Communications Commission

The Honorable Michael O'Rielly
Commissioner
Federal Communications Commission

The Honorable Jessica Rosenworcel
Commissioner
Federal Communications Commission

The Honorable Brendan Carr
Commissioner
Federal Communications Commission

Attachment A

	Company (Subject of FCC NAL)	Proposed Fine	Lifeline Disbursements Received (2014 – 2016)⁹
1.	Easy Telephone Services d/b/a Easy Wireless	\$1,586,545	\$53,514,493
2.	Assist Wireless, LLC	\$2,203,977	\$105,003,487
3.	UTPhone, Inc.	\$1,234,456	\$8,675,032
4.	TracFone Wireless, Inc.	\$4,573,376	\$1,364,425,603
5.	Conexions, LLC d/b/a Conexion Wireless	\$18,397,814	N/A
6.	I-wireless, LLC	\$8,753,074	\$282,134,054
7.	True Wireless, LLC	\$5,501,285	\$41,577,861
8.	Telrite Corporation d/b/a Life Wireless	\$22,399,761	\$263,955,544
9.	Global Connection Inc. of America d/b/a Stand Up Wireless	\$11,702,695	\$23,591,464
10.	Cintex Wireless, LLC	\$9,461,978	\$2,323,700
11.	Budget PrePay, Inc. d/b/a Budget Mobile	\$3,719,900	\$272,196,307
	TOTAL	\$89,534,861	\$2,417,397,545

⁹ Disbursement data obtained from the Universal Service Administrative Company's online "Funding Disbursement Search" tool (usac.org/li/tools/disbursements/default.aspx).



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

January 17, 2018

The Honorable Claire McCaskill
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator McCaskill:

Thank you for your letter regarding FCC Lifeline enforcement actions taken prior to my appointment as Chairman, including 12 Notices of Apparent Liability (NALs) issued between September 2013 and February 2014. Enclosed please find responses to the specific questions posed in your letter.

Once I became Chairman of the Commission, I prioritized the long-overdue resolution of these 12 Lifeline cases. As you noted in your letter, FCC Chairman Wheeler transferred these matters to the Office of the Inspector General (OIG). Under my chairmanship, however, nine of these cases were subsequently returned to the Enforcement Bureau and re-opened. As discussed in the attached material, the Commission has resolved seven of the 12 cases, including reaching settlements in five of them, and expects to resolve two more soon. Three cases remain with the Office of Inspector General (OIG). It may be helpful to note that in each of the 12 cases, the companies fully reimbursed the overpayments back to the Universal Service Fund by January of 2014. It is also important to recognize that when resolving these cases, we need to take into account the violator's ability to pay. This explains why in order to ensure we collected some penalty in these cases, we reached settlements in which we agreed to collect less than the amount stated in the NALs. The penalties proposed in the NALs involved alleged violations of the applicable laws governing the administration of the Lifeline program and were sought above and beyond the funds the relevant companies had devoted to reimbursing the USF.

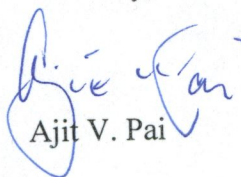
As I testified before the Committee last year, the FCC owes it to everyone who contributes to or receives benefits from the Universal Service Fund to make sure the Lifeline program is efficient, effective, and free of waste, fraud, and abuse. That is why we adopted the *Lifeline Reform Order* in November. The *Order* included reforms to reduce program waste by limiting enhanced Tribal support to rural areas. We also sought comment on additional proposals, including spurring investment in deployment and reducing waste, fraud, and abuse by limiting Lifeline support to facilities-based providers, restoring the traditional role of the states in approving Lifeline-eligible providers, and protecting taxpayers by setting a self-enforcing cap on the program. Taken together, these targeted measures will help bridge the digital divide by incentivizing further broadband deployment where it is most needed, promoting Lifeline

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consumer choice, and ensuring that Lifeline consumers receive quality broadband service, and will also reduce waste, fraud, and abuse to ensure the efficient use of limited Lifeline resources.

I appreciate your continued interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ajit V. Pai".

Ajit V. Pai

Enclosure