

DAVID VITTER
LOUISIANA

DEPUTY WHIP

Environment and Public Works
Top-Ranking Republican

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Small Business and Entrepreneurship

United States Senate

WASHINGTON, DC 20510

October 24, 2014

WASHINGTON, D.C.
HART SENATE OFFICE BUILDING
SUITE SH-516
WASHINGTON, DC 20510
(202) 224-4623
FAX: (202) 228-5081

BATON ROUGE
858 CONVENTION STREET
BATON ROUGE, LA 70802
(225) 383-0331
FAX: (225) 383-0952

Website with E-Mail Access:
vitter.senate.gov

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

1130

Chairman Wheeler:

The recent testimony by Federal Communications Commission (FCC) Inspector General David Hunt before the U.S. House Subcommittee on Communications and Technology regarding your decision to hamper investigations is alarming. According to the Office of the Inspector General (OIG), you have denied them authority to hire criminal investigators. That needs an immediate explanation. Considering the highly publicized fraud that permeates the FCC, especially within the highly controversial Universal Service Fund (USF) Lifeline program, it makes absolutely no sense to me why you would deny Mr. Hunt's request to hire criminal investigators.

The Lifeline program is one of the most abused and fraud-ridden federal programs ever, and it is our responsibility to work together to eliminate the fraud and abuse. Mr. Hunt's testimony revealed major cause for concern regarding your efforts to eradicate the fraud within Lifeline and USF programs. In July 2014, you created a "strike force," and I commend that effort. However, given the massive amount of documented fraud within the Lifeline program, the "strike force" should coordinate with law enforcement and the OIG. It is obvious that you are not using all of the tools at your disposal or even making basic decisions that would allow the "strike force" to eradicate any findings of fraud and prevent cases of future fraud from happening.

While you might claim that the FCC is taking action to address escalating fraud within Lifeline through implementing the "strike force," it is clear that your efforts are neither effective nor comprehensive. It has been two years since the initial push to curb fraud and abuse within Lifeline, but reports keep coming about new, massive cases of fraud. Far more needs to be done. For instance, a recent Washington Examiner report determined that nearly double the number of eligible subscribers have received taxpayer subsidized cell phones from Lifeline in Maryland. The enforcement of the program rules and regulations has not been a priority of the FCC, and that must change immediately. Without enforcement of Lifeline's eligibility rules, fraud will continue to haunt this taxpayer subsidized welfare program for years to come.

At a minimum, you should absolutely allow the OIG to hire criminal investigators. I hope you will reconsider your denial, and start working aggressively to identify waste, fraud and abuse so we can end it.

Sincerely,

David Vitter
U.S. Senator



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

December 29, 2014

The Honorable David Vitter
United States Senate
516 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Vitter:

Thank you for your letter regarding our efforts to curb waste, fraud, and abuse in the Lifeline program, and particularly the Commission's Office of Inspector General's (OIG) request for Section 1811 criminal investigators. Please be assured that curbing waste, fraud, and abuse in all the Universal Service Fund (USF) programs is a top priority at the Commission, and we are actively coordinating with the OIG within the four corners of the Universal Service Administrative Company (USAC) Memorandum of Understanding to ensure that all USF programs undergo robust and sustained monitoring and enforcement.

The OIG is able to, and has, hired trained investigators to fulfill its mission. The Commission does not maintain any control over the OIG's funding and passes through its budget request to the Office of Management and Budget (OMB) and Congress, including Salaries and Expenses (S&E) accounts. Through this process, the OIG exercises independent discretion in determining the size and composition of its staff in accordance with Section 8G of the Inspector General Act and subject to standard federal hiring and employment regulations and statutes.

The OIG's request for Section 1811 criminal investigators, however, requires additional scrutiny and consideration because these employees can be authorized to carry weapons. Also, the Communications Act of 1934 does not provide specific authority for hiring Section 1811 Criminal Investigators or equivalents, so the FCC's Chairman is legally responsible for ensuring that a decision to bring these employees to the FCC would comply with all applicable laws and federal workplace rules. I take this responsibility very seriously and I am currently reviewing the OIG's request with these issues in mind.

I would also note that during Fiscal Years 2014 and 2015 the OIG received nearly all funds requested from the FCC's appropriation. And in previous years, the OIG has received permission from Congress to use USF funds for related program investigations. Unfortunately, the Commission's Fiscal Year 2015 appropriation does not provide additional requested funds to fully deploy our USF strike force. General FCC funding has been flat-lined for several years, with an additional loss of almost \$17 million in 2013 due to sequestration.

Despite this funding situation, the FCC has achieved considerable success in reforming all the USF programs, including Lifeline. For example, the Commission established a National Lifeline Accountability Database (NLAD) as part of our *Lifeline Reform Order*, and its use has decreased program fraud significantly. Thus far, the NLAD has eliminated approximately 1.28 million duplicates, which will save the fund approximately \$161 million on an annualized basis.

These data paint a different picture from that in the *Washington Examiner* report cited in your letter because that report relies upon stale, inaccurate data. The quoted study was based on data through the third quarter of 2012, just as we began to implement the majority of the reforms in the 2012 *Lifeline Reform Order*. The study itself notes that the number of Lifeline subscribers in Maryland began to decline shortly after the release of the *Lifeline Reform Order*. More recent USAC data indicates that Maryland is a success story, with less than half the number of Lifeline subscribers that it had in 2012. These subscribers represent well under half of the Lifeline eligible households in Maryland based on census estimates.

We also have significantly increased our efforts to tackle waste, fraud and abuse in the Lifeline program, including coordination with OIG and the Department of Justice on various joint investigations. The FCC's Enforcement Bureau (EB) issued an Enforcement Advisory noting that Lifeline providers are liable if their agents or representatives violate Lifeline program rules. In addition, EB issued over 300 citations to individuals in 10 states notifying them that they had violated the Lifeline program rules by receiving Lifeline-supported service on multiple customer accounts and advising them of the potential assessment of fines of up to \$16,000, the maximum amount the Commission may fine a consumer for this type of violation.

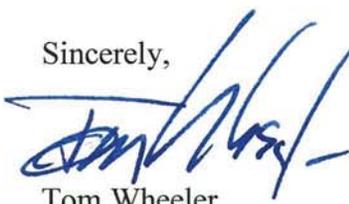
Our Lifeline enforcement actions during the last two years include twelve Notices of Apparent Liability proposing over \$90 million in fines against companies for violating rules limiting Lifeline subscriptions to one subscriber per household. These proposed penalties are in addition to full recovery of the USF funds paid to the carriers for duplicative Lifeline service. EB also entered into consent decrees with two companies providing Lifeline service in Oklahoma, which involved duplicative support claims and collectively resulted in \$600,000 in payments to the U.S. Treasury and over \$400,000 in repayments to the USF.

In addition to its aggressive enforcement efforts aimed at Lifeline program noncompliance, during 2013 and 2014 the Commission carried out eight enforcement actions involving violations of its USF contribution rules, resulting in payments to the U.S. Treasury totaling approximately \$3.3 million. The Enforcement Bureau continues to investigate alleged rule violations in all of the universal service programs, and the USF Strike Force has a number of active investigations aimed at rooting out waste, fraud, and abuse.

The Lifeline program provides critical communications services to those who are least likely to be able to secure these services, affording the less fortunate an ability to contact family, employers, prospective employers and emergency services by the same rapid and reliable means that are routinely available to other consumers. Protecting this vital program from fraud, waste and abuse is a central component of our efforts to ensure the program's continued viability.

I appreciate your interest in these matters. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a long horizontal stroke extending to the left.

Tom Wheeler