

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Establishment of the Fraud Division of the)
Enforcement Bureau)

ORDER

Adopted: January 29, 2019

Released: February 4, 2019

By the Commission:

I. BACKGROUND

1. The Communications Act, as amended, directs the Federal Communications Commission to preserve and advance the principles of universal service so that quality, affordable communications services are available to all Americans.¹ Congress expanded the universal service program when it enacted the Telecommunications Act of 1996. Today, the federal Universal Service Fund (Fund) consists of four programs: (1) the high-cost program, providing financial support to eligible telecommunications carriers serving high-cost areas; (2) the schools and libraries program (also known as the E-rate program), providing discounted communications services to eligible schools and libraries; (3) the low-income program, assisting low-income consumers pay for telephone and broadband services; and (4) the rural health care program, providing discounted telecommunications and broadband services to rural health care providers. The Commission is responsible for implementing and overseeing the Fund.

2. The Commission rigorously polices Fund participants to ensure compliance with program rules and to protect against waste, fraud and abuse.² For example, the Commission proposed a fine of more than \$63 million against a company, American Broadband, for apparent large-scale violations in the Lifeline program, including apparently creating fake accounts by enrolling deceased individuals and by manipulating the personal information (names, dates of birth, and social security numbers) of existing Lifeline subscribers.³ The Commission proposed an \$18.7 million fine against DataConnex for apparently defrauding the rural health care program, including apparent use of forged, false, misleading, and unsubstantiated documents to improperly seek funding from the Fund.⁴ The Commission ordered Sandwich Isles Communications to repay more than \$27 million in improper payments, and proposed a

¹ See 47 U.S.C. § 254(b).

² See, e.g., *NEC-Business Network Solutions*, Notice of Debarment and Order Denying Waiver Petition, 21 FCC Rcd 7491 (2006) (debaring company convicted of fraud-related felonies against the E-Rate program); *New York City Department of Education*, Order and Consent Decree, 30 FCC Rcd 14223 (2015) (\$3 million settlement for E-Rate bidding violations); *Total Call Mobile, Inc.*, Order and Consent Decree, 31 FCC Rcd 13204 (2016); *Verizon New York, Inc., Verizon Network Integration Corp., & Verizon Select Servs., Inc.*, Consent Decree, 32 FCC Rcd 7723 (2017).

³ *American Broadband and Telecommunications Company*, Notice of Apparent Liability, FCC 18-144, 2018 WL5617615 (2018).

⁴ *DataConnex, LLC*, Notice of Apparent Liability, 33 FCC Rcd 1575 (2018).

\$49 million fine, for apparent violations of the high cost program, including apparently submitting and certifying inaccurate data used to obtain millions of dollars in improper high-cost support payments.⁵

II. DISCUSSION

3. To reflect the activities, structure, and purpose of the Enforcement Bureau and the importance of protecting against fraud, we conclude that the public interest—namely, the proper dispatch of our business—will be served by creating a division within the Enforcement Bureau that is specifically dedicated to investigating and pursuing fraud in the programs that the Commission oversees. This division will be called the Fraud Division.

4. The Commission has staff in the Enforcement Bureau dedicated to investigating and prosecuting fraud in the Fund. They have developed particular expertise in identifying and taking enforcement action against fraud in Commission programs, particularly the Fund. The staff are not presently assigned to a single division within the Enforcement Bureau. They work in close coordination with the Commission's Office of Inspector General, the U.S. Department of Justice, and other law enforcement agencies to prosecute unlawful conduct.

5. The purpose of this Order is to create a division, comprised of existing staff, that will be dedicated to taking enforcement actions against fraud in the USF and other funding programs that the Commission oversees. The Fraud Division will work collaboratively with other law enforcement entities, including the Office of Inspector General, where appropriate. The Fraud Division will consist of the individuals who presently focus on fraud cases. Establishing this division will capitalize on and enhance the Commission's expertise in rooting out fraud in programs over which the Commission has jurisdiction.

6. We find that this change will be a structural change and not a substantive one. We further find that the action will not require any changes to the Commission's rules. The amendments adopted herein pertain to agency organization, procedure, and practice. Consequently, the notice and comment and effective date provisions of the Administrative Procedure Act contained in 5 U.S.C. §§ 553(b) and (d) do not apply.

7. Consistent with the Consolidated Appropriations Act, 2018,⁶ this reorganization will not become effective until the appropriate clearance has been obtained, and the Order has thereafter been published in the Federal Register.

III. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED THAT**, pursuant to sections 1, 4, 5(b), 5(c), 201(b), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 155(b), 155(c), 201(b), 303(r), this Order **IS ADOPTED**.

9. **IT IS FURTHER ORDERED** that this Order **WILL BECOME EFFECTIVE** upon the date set forth in the Federal Register publication of this Order

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁵ *Sandwich Isles Commc'ns, Inc., Waimana Enterprises, Inc., Albert S.N. Hee*, Notice of Apparent Liability, 31 FCC Rcd 12947 (2016).

⁶ See Consolidated Appropriations Act, 2018, Pub. L. 115-141, at Division E, Title VI, § 608, 132 Stat. 348 (2018).