



October 6, 2011

Senator John D. Rockefeller, IV
Chairman
U. S. Senate Committee on Commerce,
Science, and Transportation
Washington, D. C. 20510

Dear Chairman Rockefeller:

There can be no doubt regarding the severe nature of the debt crisis confronting our nation, the interest of the public in responding to it and the absolute necessity of doing so in a manner that is consistent with legal mandates and precedents. Nevertheless, we are extremely anxious to know that certain concepts may be under consideration that have no place in such discussions.

Our concern first materialized upon seeing the recommendation in the December 1, 2010 report of the National Commission on Fiscal Responsibility and Reform that identified the private Universal Service Fund (USF) as a source of public debt reduction. Some months later we were further troubled to learn that debt negotiators were giving serious consideration to this misguided concept. And in recent weeks our unease has grown as we have learned that the Joint Select Committee on Deficit Reduction may also be focusing on this ill-advised proposal.

In response, the undersigned sent a letter dated September 23, 2011 to your colleagues serving on the Select Committee underscoring how imperative it was for them to understand the unique nature of the federally mandated, yet privately funded and managed, USF and why it has no place in these conversations. Throughout its long history, the USF has always been maintained outside the U. S. Treasury and managed by a non-governmental entity. While the Telecommunications Act of 1996 amended the previously existing framework of the USF, and thereafter the Office of Management and Budget displayed the private USF in the federal budget, there is no legislative or other official indication that Congress ever intended to fundamentally change the manner in which the fund is maintained and administered.

Likewise, legal precedents and guidance definitively confirm that the USF monies do not constitute “public monies” that are received for the use of the United States, but rather are private funds that are merely derived and distributed at the direction of federal statute. This conclusion was embraced and underscored by both the General Counsel of the Federal Communications Commission (FCC) and the General Counsel of the Office of Management and Budget in an exchange of official correspondence dated April 28, 2000. Clearly, the raiding of the privately held USF as a source of debt reduction would constitute a “taking” and the imposition of a new “tax” on the American people and certainly would curtail broadband deployment that is so critical to our national and economic security today.

With these facts now before you, we respectfully request that as part of your committee's recommendations to the Select Committee, specific attention be devoted to outlining why the USF is separate and distinct from the U. S. Treasury and therefore why the panel should refrain from the further consideration of the privately held USF as a source of federal debt reduction.

Thank you for your consideration. Please feel free to contact any of the following with specific questions or thoughts on this matter: Tom Wacker – NTCA – twacker@ntca.org, Randy Tyree – OPASTCO – rxt@opastco.org, Derrick Owens – WTA – derrick@w-t-a.org.

Sincerely,

/s/Shirley Bloomfield

Chief Executive Officer
National Telecommunications
Cooperative Association

/s/John Rose

President
Organization for the Promotion
and Advancement of Small
Telecommunications Companies

/s/Kelly Worthington

Executive Vice President
Western Telecommunications
Alliance

cc: Members of the Senate Committee on Commerce, Science, and Transportation