



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

Mike O'Rielly  
Commissioner

June 30, 2015

Charlotte Savercool  
Legislative Clerk  
Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, DC 20515

Re: Additional Questions for the Record

Dear Ms. Savercool:

Please find enclosed my responses to the questions for the record in connection with my testimony at the April 30, 2015 Hearing entitled "FCC Reauthorization: Improving Commission Transparency."

A copy of this letter and responses are also being sent to you today via email at [Charlotte.Savercool@mail.house.gov](mailto:Charlotte.Savercool@mail.house.gov).

Thank you and please do not hesitate to contact me if you should have any questions.

Sincerely,

A handwritten signature in black ink that reads "Mike O'Rielly".

Michael O'Rielly  
Commissioner

Enclosure  
cc w/enc: Charlotte Savercool (*via email*)

**The Honorable Marsha Blackburn**

1. On March 30<sup>th</sup>, the Wireline Bureau issued an order that subsidizes broadband build out in areas where existing providers are already offering high speed service. Did the FCC properly notice what appears to be an arbitrary distinction whether or not the incumbent provider had a customer in the area as opposed to whether the provider offers service to an area? And how does the FCC justify that distinction?

**I appreciate the concerns you raise in your questions. This situation also highlights the issues that can arise when substantive decisions are delegated to Bureau staff instead of being decided by the full Commission. A small number of entities have now undertaken the added expense of filing petitions for reconsideration and applications for review of certain decisions by the Bureau in the challenge process. In particular, some entities argue that the Bureau improperly ignored their service offerings in some areas. Alternatively, other entities argue that the Bureau did not conduct due diligence to determine the veracity of claims of service offerings in other areas. I am hopeful that the Commission will soon consider – and modify as necessary – any inaccuracies, to the extent any exist, in its challenge process. Others, including some that raised concerns about whether the standard was properly noticed, chose not to seek review of the Bureau’s order and will, therefore, be bound by the Bureau’s standard and ensuing decisions.**

**The Honorable Brett Guthrie**

1. Do you believe these bills would create bureaucratic red tape as the Chairman suggests in his testimony?

**I strenuously disagree with the Chairman that the proposed FCC process reform legislation would create additional bureaucracy or harm the ability of the Commission to conduct its work. These bills are common sense efforts to improve the work and product of the Commission. They would also lead to greater transparency regarding Commission actions for the American people. Beyond misreading the specific provisions of the bills, the Chairman seems to ignore the positive effects that these bills, if enacted, would have.**

**The Honorable Mike Pompeo**

1. The Chief of the FCC’s Enforcement Bureau recently made the following statement: "Generally speaking, I've found that most companies want to do the right thing, and when it's clear that something is impermissible, they generally don't do it. So when you're in enforcement, you're almost always working in a gray area."

- Commissioner O’Rielly, do you think the Enforcement Bureau should be operating “in a gray area,” or should it be focused on clear violations of the Commission’s rules?

**I support vigorous enforcement actions against entities that violate the communications law or Commission rules. However, in order to have an effective enforcement regime, everyone must be notified of what practices are impermissible and subject to enforcement. To the extent that**

**there are so-called “gray areas,” it is the obligation of the Commission to provide clarity to regulatees so they are not subject to fines and penalties without proper notice. Considering that there are plenty of areas in which violations are not gray but have been improperly ignored, such as pirate radio, I would support efforts by the Commission to focus its immediate attention on these matters.**