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Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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August 25, 2016

The Honorable Mignon Clyburn
Commissioner
Federal Communications Commission
445 12th Street, N.W.
Washington, DC 20024

Dear Commissioner Clyburn:

Thank you for appearing before the Subcommittee on Communications and Technology on Tuesday, July 12, 2016, to testify at the hearing entitled "Oversight of the Federal Communications Commission."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on September 8, 2016. Your responses should be mailed to Greg Watson, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed in Word format to Greg.Watson@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Greg Walden
Chairman
Subcommittee on Communications and Technology

cc: Anna G. Eshoo, Ranking Member, Subcommittee on Communications and Technology

Attachment

Attachment — Additional Questions for the Record

The Honorable Pete Olson

1. According to a Pew Center study on the state of news media this year, from 2004-2014, more than 100 daily newspapers across the country shut down completely. And that statistic doesn't include Texas newspapers like the Houston Post, the San Antonio Light and the Dallas Times Herald which were all shuttered previous to 2004. And yet the FCC's media ownership rules, which maybe coincidentally have not been updated in over a decade, still reflect a local media landscape that predates smart phones, broadband, the iTunes music store and the existence of the Houston Texans NFL franchise.
 - a. Congress has mandated that every four years the FCC study the media ownership rules and get rid of the ones that are no longer necessary because of competition. It seems to me that one of the easiest to finally do away with, which also happens to be a rule that previous FCC chairmen have said is no longer needed, is the ban on newspapers being owned by a television station in the same local market. I think everyone here can agree that certain economies of scale, like shared office space and advertising staffing, can be gained by allowing a local broadcaster and a local newspaper to be owned by the same company. But the Commission's latest Media Ownership review outline still retains this outdated and unnecessary ban. Will the FCC finally agree to move on from this outdated ban and repeal the newspapers/broadcaster cross-ownership ban as part of the current ownership review?
2. Shouldn't the FCC adopt broadband privacy rules that are consistent with the FTC's privacy framework and the Administration's 2012 Privacy Report and Consumer Privacy Bill of Rights – i.e., a technology-neutral approach that applies consistent rules based on the type of data and how it's being used, and requires opt-in consent solely for the use and disclosure of sensitive information such as financial, health, and children's data, as the FTC has determined – rather than pursue the radical departure from this highly successful approach that the FCC's NPRM is proposing, especially since this departure would deprive consumers of innovative and lower-priced offerings that they routinely receive today, block ISPs from bringing new competition to the highly concentrated online advertising market, and provide substantial ammunition to those seeking to legally challenge and dismantle the recently approved EU-US Privacy Shield by calling into question the adequacy of the FTC's privacy framework which is a key component of this important international agreement?
3. I want to ask you about the new broadcast standard – Next Generation Television – which the NAB and the Consumer Technology Association submitted to the FCC for approval in April. This new optional standard has the potential to bring new benefits to consumers and will help broadcasters retain their important role in providing local news and additional services to viewers. Can you comment on this new standard and give us a sense of when the FCC will issue a proposed rule on adoption of this innovative optional new technology?

The Honorable Mike Pompeo

1. The White House released a privacy report in 2012 which endorsed a “level playing field for companies and a consistent set of expectations for consumers.” Also, the FTC explained in its 2012 Privacy Guidelines that “any privacy framework should be technology neutral” and noted that ISPs are just one type of large platform provider.
 - a. Do you believe consumers’ expect the same information about their online activity to be subject to different privacy rules depending upon the type of entity collecting their information online?
2. Student loan debt continues to be a major problem for many Americans, with default rates climbing up each year. Services of federal student loan debt are legally obligated, by their contracts with the Department of Education, to reach out multiple times to borrowers to help them understand all of their options as they face their obligation to repay debts. Yet, at the same time you have the TCPA, which holds those same companies strictly liable when they in good faith call a borrower who has consented to that outreach but the borrower has changed his/her number and so the call goes to someone who now answers to that reassigned number. On July 5, the FCC released its Declaratory Ruling in which you said, “we clarify that the TCPA does not apply to calls made by or on behalf of the federal government in the conduct of official government business, except when a call made by a contractor does not comply with the government’s instructions.”
 - a. Is it your opinion that student loan servicers, while following their legal obligations in their contracts with the Department of Education, should be exempt from TCPA? Yes or no; and if no, why?

The Honorable Billy Long

1. It is clear that the TCPA, which became law in 1991, is sorely out of date and in need of modernization. In your opinion, what parts of this existing law should Congress update?

The Honorable Bobby Rush

1. I understand and appreciate the Commission’s desire for strong consumer protection standards, including a broad definition of personally identifiable information, but do you have any concerns about second and third order unintended effects on things that help consumers such as Caller ID or the protections provided by the Telephone Consumer Protection Act? If so, what, if anything, is being done to mitigate these effects?

The Honorable G.K. Butterfield

1. Commissioners, for the rural areas that require more broadband infrastructure investment, do you see any dangers if the Commission's final rule on Business Data Services (special access) fails to fully recognize the real cost to provide fiber and other BDS services?
2. If the order overshoots the mark, what could it do to rural economic development, jobs, and anchor institutions if BDS providers can't make the investment to provide service?