



Federal Communications Commission
Office of Legislative Affairs
Washington, D.C. 20554

Office of the Director

December 12, 2017

The Honorable Marsha Blackburn
Chairwoman
Subcommittee on Communications and Technology
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairwoman Blackburn:

Enclosed please find responses to Questions for the Record submitted for Chairman Ajit Pai regarding his appearance before the Subcommittee on Communications and Technology on October 25, 2017, at the hearing entitled "Oversight of the Federal Communications Commission."

If you have further questions, please contact me at (202) 418-2242.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy B. Strachan", written over a horizontal line.

Timothy B. Strachan
Director

Additional Questions for the Record

Subcommittee Chairman Marsha Blackburn

1. **In your testimony, you cited the importance of provisions in the Subcommittee’s recently passed FCC reauthorization bill that would authorize the Commission place deposits from bidders in spectrum auctions to be sent to the Treasury. Specifically, you testified this measure is “critical” because without it “the Commission currently has no way to comply with the law—and no way to move forward with any large spectrum auction.**

Can you elaborate for the record on the legal and administrative impossibility of moving forward with auctions without a change in the law to allow the Commission to deposit bidder payments directly with the U.S. Treasury?

Response: Absent a legislative change, the Commission will not be able to move forward with any large spectrum auctions in the future. That would include potential auctions of the 3.5 GHz band (mid-band spectrum) or the 24, 28, 37, 39, and 47 GHz bands (high-band spectrum) in 2018 and 2019.

The current statute, at 47 U.S.C. § 309j(8)(C), states as follows: “Any deposits the Commission may require for the qualification of any person to bid in a system of competitive bidding pursuant to this subsection shall be deposited in an interest-bearing account at a financial institution designated for purposes of this subsection by the Commission (after consultation with the Secretary of Treasury).”

This requirement made it difficult for us to find a private-sector bank willing to hold the upfront payments for our last large spectrum auction (the broadcast incentive auction). In fact, after conducting market research through a request for information to potential depository institutions, the FCC determined that *no* private financial institution appeared willing to receive the upfront payments and provide adequate collateralization for the incentive auction. Placing the upfront deposits in a private financial institution without adequate collateralization would subject the United States government to an imprudent risk of loss, so the FCC sought an alternative solution for that auction.

Although the Treasury Department designated the Federal Reserve Bank of New York (FRBNY), as fiscal agent of the United States, to hold upfront payments for the Incentive Auction, the FRBNY did so in a non-interest-bearing account. Given the terms of the statute, all parties agreed this solution was a once-only, stop-gap measure for the incentive auction. The FCC and the FRBNY do not have an ongoing agreement for future auctions, and the FRBNY has previously indicated to the FCC that it would not be interested in providing these services on an ongoing basis.

For these reasons, the FCC’s Office of Managing Director (OMD) does not expect to identify a private financial institution willing to set up an interest-bearing account in compliance with the statute for a large spectrum auction. This would severely impact both expected public revenues from such an auction and American leadership in wireless innovation.

2. **The Subcommittee notes recent changes in the proceeding regarding the Citizens Broadband Radio Service (GN Docket No. 12-354). It appears these changes may increase the value of the spectrum to potential bidders.**

Without legislation authorizing the Commission to place auction bidder deposits directly with the Treasury, can you estimate how much the federal government loses for deficit reduction?

Response: On October 24, 2017, the FCC proposed revisions to its rules in the 3.5 GHz band to promote investment, keep up with technological advancements, and maintain U.S. leadership in the deployment of next-generation services. The 3.5 GHz band is expected to be a core component of worldwide 5G network deployments, and these proposed rule changes could facilitate the implementation of 5G networks and accelerate deployment of a promising new generation of wireless technologies.

We expect the auction of the 3.5 GHz band would be a large spectrum auction—meaning we could not proceed with the auction without legislative action with respect to bidder deposits—based on recent wireless spectrum auctions. We note that the 3.5 GHz spectrum auction could include up to 70 MHz of mid-band spectrum. Our most recent large auctions were the broadcast incentive auction (auctioning 70 MHz of low-band spectrum with net bids of more than \$19 billion), the AWS-3 auction (auctioning 65 MHz of mid-band spectrum with net bids of more than \$40 billion), and the H-Block auction (auctioning 10 MHz of mid-band spectrum with net bids of more than \$1.5 billion).

The Honorable Brett Guthrie

1. **I understand that NHTSA has an open rulemaking on the matter of V2V communications and is coordinating with the Commission on whether or how to share the spectrum currently allocated to Intelligent Transportation Systems (ITS) in the 5.9 GHz band. Are you willing to commit to working with NHTSA and other stakeholders on this issue to ensure the band remains available for ITS use in the future, and free from in-band or out-of-band emissions from other potential users?**

Response: The FCC already is working with NTIA, which represents the Federal Government (including NHTSA) on spectrum matters, and the Department of Transportation, while evaluating the potential use of 5.9 GHz spectrum for unlicensed devices. We have not proposed to make any changes in the current allocations for ITS at 5.9 GHz at this time and will continue to monitor developments in this area. As with all spectrum, our goal is for spectrum to be put to its most efficient use.

2. **There are critical infrastructure industries like electric utilities whose wireless needs are absolutely paramount when it comes to reliability and freedom from interference, as drastic consequences can follow when their networks are disrupted by outside users. Are you willing to work with utilities on how best to harden their networks, and is there anything you can share on work you've already been doing to meet their wireless reliability needs?**

Response: I agree that the wireless reliability and resiliency needs of the electric grid are a critical priority. We have taken steps to work with utilities to address best practices for their wireless operations. In particular, the Commission's Communications Security, Reliability and Interoperability Council (CSRIC), the federal advisory committee that provides recommendations

to industry and government to ensure reliability and security of communications systems, has developed best practices for wireless network operations. These best practices apply to service providers, government agencies, equipment suppliers, and network operators—including utilities that operate their own networks.

Commission staff also coordinate with representatives from the Electricity Information Sharing and Analysis Center (E-ISAC) to determine the interdependencies between the communications industry and the transmission/transportation of electrical power. We will continue to work with our partners in the critical infrastructure industries, coordinate with E-ISAC and provide support to utilities on hardening networks and improving reliability.

Subcommittee Ranking Member Michael F. Doyle

1. **Mr. Chairman, you have highlighted the need for evidence-based, data-driven policymaking. The FCC needs quality data to allow objective assessment of both expected effects and actual effects. Can you clarify how this will be applied to the April 2017 decision to eliminate longstanding protections in the \$45 billion Business Data Services market?**

Response: In the *BDS Order*, the Commission determined that, thanks to increased competition, most—but not all—areas are now sufficiently competitive that tariffs and price caps are no longer optimal. Based on a massive and unprecedented data collection on industry service and prices, the agency developed a “competitive market test” to identify which areas would receive regulatory relief. Under that two-prong test, a county is deemed sufficiently competitive if (1) 50% of the locations with BDS demand in that county are within a half mile of a location served by a competitive provider, or (2) 75% of the census blocks in that county have a cable provider offering broadband services. In both cases, the Commission concluded that the record evidence supported lower percentage thresholds but opted to take a “conservative approach,” out of an abundance of caution, to ensure that the counties where *ex ante* regulation will now not apply are predominantly competitive. Indeed, the record showed many providers are willing to build out at least by a half-mile, with some going further. And there’s strong competition well within the half-mile threshold; about half of buildings with demand are within 88 feet of competitive fiber facilities, and 75% are within 456 feet.

In addition, the *BDS Order* reminded stakeholders that all telecommunications services remain subject to the backstop of the Commission’s fast-track complaint process, which will ensure just and reasonable rates and terms.

Going forward, the *BDS Order* directed the Wireline Competition Bureau to review data on competition every three years to determine whether there are additional regulated counties that meet the 75% threshold specified by the Commission’s competitive market test. This determination is subject to challenge from interested parties that can submit additional data in response.

2. **On the one hand, you have sought feedback on how to streamline the Form 477 process, which means less data will be available. On the other hand, you have said you plan to evaluate competition, pricing, and last-mile deployments in the BDS market at least every 3 years.**

a. What data do you expect to utilize for the review process?

Response: The *BDS Order* provides that the Wireline Competition Bureau will use Form 477 data to determine whether any additional regulated counties meet the 75% threshold specified in the competitive market test. Parties challenging those results may submit other data to the Commission for review.

Notably, the Commission is undergoing a review of the Form 477 data collection process to “examine our experience based on our current data collection in order to collect better and more accurate information on Form 477; and, to explore how we can revise other aspects of the data collection to increase its usefulness to the Commission, Congress, the industry, and the public.” Among other things, the Commission has sought comment on requiring fixed broadband providers (like those subject to the 75%-threshold test) to report more granular data.

b. When will you disclose to Congress and the public how the review will be structured and what metrics will be used as determinants of success?

Response: The *BDS Order* specifies that the Wireline Competition Bureau will review the Form 477 data on a regular three-year basis and determine whether any additional regulated counties meet the 75% threshold specified in the competitive market test. The *BDS Order* also specified the structure of the test—if there is cable broadband availability in 75% of the census blocks served by an incumbent LEC in a particular county, that county is deemed competitive. Once that analysis is complete, the Wireline Competition Bureau will release a Public Notice that lists newly competitive counties and will also provide this information on the Commission website. At that time, parties desiring to challenge these results may file petitions for reconsideration or seek full Commission review through an Application for Review.

The Honorable Yvette Clarke

1. Chairman Pai, at the Subcommittee’s October 25th FCC Oversight hearing, you seemed to testify that rolling back the FCC’s Local TV Ownership Rules would increase the number of diversely-owned TV stations. I would like to clarify your answers.

a. Will your deregulatory media ownership order (FCC-CIRC1711-06)—as opposed to any new smaller projects you are proposing— increase the number of women owned and controlled TV Stations and the number of African-American owned and controlled TV stations? Please answer yes or no, and then provide a brief explanation.

Response: I believe that actions taken in the recent Media Ownership Order on Reconsideration will help promote competition in the broadcast television industry and facilitate new entry. The Local Television Ownership Rule adopted in the Order better reflects the competitive conditions in local markets and will allow television broadcasters to improve service to their local communities.

To be sure, structural ownership rules—such as the competition-based Local Television Ownership Rule—cannot directly address the most significant barriers to station ownership, i.e., lack of access to capital and the need for technical/operational experience. But as I

testified at the hearing you mention, the Order took two important steps that *will* help address these issues.

First, it eliminated the attribution rule for television Joint Sales Agreements (JSAs). By eliminating this restriction, the Order increases access to a potential source of financing and technical assistance for new entrants. Television JSAs can help promote diverse ownership and improve program offerings, including local news and public interest programming, in local markets. (I have previously used the example of WLOO-TV, owned by Tougaloo College and managed by Pervis Parker, as an example of how JSAs can enable African-American ownership, leadership, and content-generation in broadcasting.)

Second, the Commission decided in the Order that it will adopt an incubator program to help create new sources of financial, technical, operational, and managerial support for eligible broadcasters. This program can create ownership opportunities for new entrants and small businesses, thus promoting competition and new voices in the broadcast industry. The Notice of Proposed Rulemaking accompanying the Order initiates a new proceeding to seek comment on how best to implement the Commission's incubator program.

Additionally, our consideration of this issue will be assisted by the newly established Advisory Committee on Diversity and Digital Empowerment. As you may know, this Committee lay dormant for the past few years. I rekindled it, specifically directing the creation of a working group on promoting diversity in the broadcast business. It is my hope that this committee and working group will recommend ways in which the Commission can help increase diversity throughout the communications industry.

b. If your deregulations do not result in those increases within six months of when they go into effect, will you commit to reversing these deregulatory policies at that time? Please answer yes or no.

Response: Next year, we will have the opportunity to review our rules once again. Consistent with our statutory mandate, in 2018 we will begin the next Quadrennial Review of our media ownership rules and will seek public comment on these regulations at that time. The decisions that we make during that review will be based on the facts in the record, including any impact of the policies we adopted this year. Moreover, I will continue to seek out ways to promote ownership diversity during my Chairmanship. In particular, I look forward to the recommendations of the Diversity Committee on how best to structure the Commission's incubator program to help promote ownership diversity in the broadcast industry.

The Honorable Debbie Dingell

1. **Chairman Pai, you noted in response to my questions at a recent FCC Oversight Hearing before the House Committee on Communications and Technology that the Federal Trade Commission (FTC) will have a role in overseeing the privacy of ATSC 3.0 users.**
 - a. **Has FCC staff coordinated with FTC staff to discuss these issues to ensure the FCC does not approve a technical standard that fails to adequately protect consumers' privacy or security?**

Response: The Commission's approval of the technical standards for ATSC 3.0 did not raise novel privacy issues requiring coordination with the FTC. If Next Gen TV broadcasters fail to ensure that consumers' personal information is protected, the FTC has broad authority to enforce consumers' privacy rights. In particular, Section 5 of the FTC Act, which prohibits unfair and deceptive practices in the marketplace, gives the FTC the authority to take enforcement action against companies that fail to adhere to their stated privacy and security policies. The FCC intends to closely monitor the transition to Next Gen TV.

2. **It is my understanding that there are several different business models for targeted advertisements under ATSC 3.0. One model includes building transmitters similar to cell towers around the DMA to do regional advertising. I understand this is a very capital intensive process with a high operating expense, but that it would not require the collection of personal information from consumers.**

- a. **Is that correct? If no personal information from consumers is required, what standards will be applied to determine whether my constituents would choose to see targeted advertisements or not?**

Response: Based on the specifications in the ATSC 3.0 technical standard, there are multiple ways in which an ATSC 3.0 broadcaster could provide geographically targeted advertising without collecting consumers' personal information. To provide geographically targeted ads, the broadcaster transmits multiple simultaneous advertisements, and the consumer's receiver makes the decision as to which ad to display. One way this can be accomplished is through the use of Single Frequency Networks (SFNs), a technique that broadcasters use to transmit signals on the same frequency from multiple antennas in a local geographic area in order to improve coverage of the broadcast station. In addition to providing improved coverage, the use of SFNs may enable a receiver to figure out where it is located by knowing from which SFN transmitter it is getting its signal and decide which advertisement to display based on this information. Geographically targeted advertising could also be enabled by the local collection by the receiver of a zip code or some other location information provided by the consumer during the set-up of the receiver. The receiver would never have to transmit that information back to the broadcaster or anyone else. Such geographically targeted advertising could allow a small regional business to advertise to only those viewers residing in its local geographic area, rather than to the entire television market.

You are correct that such geographically targeted advertising would not require the collection of personal information from consumers. There also is no need to enable consumers to opt in or opt out of such geographically relevant advertising.

3. **It is my understanding that a second business model for targeted advertisements involves delivery via the internet.**

- a. **In this scenario will the age, sex, address, and other demographic information be collected in order to deliver targeted advertising?**

Response: Given that the Next Gen TV standard is new, it is not yet known which advanced or interactive features of Next Gen TV may require viewers to provide some personal information. Broadcasters have stated that there will be opt-in procedures for the collection of consumer information, analogous to the opt-in procedures for the collection of consumer information used by smartphone apps, and that the use of any information collected will be governed by user licensing agreements of the type that are common when consumers activate

a smartphone app. If a consumer decides to provide his or her personal data, the broadcaster will be responsible for securing the data in accordance with its stated privacy and data security policies and will be subject to FTC oversight.

b. Would consumers have to provide consent in order for their data to be collected?

Response: Broadcasters have stated that there will be opt-in procedures for the collection of consumer information, analogous to the opt-in procedures for the collection of consumer information used by smartphone apps.

c. Could they choose not to provide their demographic information and not receive targeted advertisements but still receive the enhanced picture quality and public safety communications?

Response: Given that the Next Gen TV standard is new, it is not yet known how and on what terms certain aspects of the video transmissions using this standard may be offered.

d. If a consumer decides to provide their personal information, who is responsible for protecting it?

Response: In any cases in which a consumer decides to provide his or her personal data, the entity receiving that data (in this case a broadcaster) would be responsible for securing the data in accordance with its stated privacy and data security policies and would be subject to FTC oversight.

4. It is my understanding that another business model would use an encrypted signal, even for over-the-air television broadcasts that have traditionally been free.

a. Would this require consumers to use some sort of encryption key to access the signal?

Response: In the Report and Order, the Commission notes that broadcasters have acknowledged that free Next Gen TV signals may be encrypted. However, the Commission explicitly stated in the Order that any ATSC 3.0 programming that is encrypted must not require special equipment supplied and programmed by the broadcaster to decode ATSC 3.0 signals. Broadcast stations deploying ATSC 3.0 will also be required to simulcast their programming in the current DTV standard, so viewers will still be able to access unencrypted free, over-the-air programming.

b. Would such a key require a consumer to enter their age, address, gender, and other demographic information?

Response: The Commission explicitly stated in the Order that any ATSC 3.0 programming that is encrypted must not require special equipment supplied and programmed by the broadcaster to decode ATSC 3.0 signals. Broadcast stations deploying ATSC 3.0 will also be required to simulcast their programming in the current DTV standard, so viewers will still be able to access unencrypted free, over-the-air programming.

c. If the free over-the-air signal is encrypted and needs demographic information from a consumer to access it, do you still consider this service to be “free” in your opinion?

Response: The Commission explicitly stated in the Order that any ATSC 3.0 programming that is encrypted must not require special equipment supplied and programmed by the broadcaster to decode ATSC 3.0 signals. Broadcast stations deploying ATSC 3.0 will also be required to simulcast their programming in the current DTV standard, so viewers will still be able to access unencrypted free, over-the-air programming.

5. There have been media reports that ATSC 3.0 would allow for better collection of audience data and would use this information as a sales tool for the advertisers, rather than relying on Nielsen or other measurement data.

a. Will the new standards permit broadcasters to collect data on age, sex, income, address, or any other personal information?

Response: The new technical standards for ATSC 3.0 adopted by the Commission do not include new regulations governing the collection or use of personal consumer information by broadcasters. The Federal Trade Commission has broad authority to enforce consumers' privacy rights. Additionally, broadcasters have stated that personal data collected from ATSC 3.0 receivers will be anonymized so as not to identify individual viewers and that broadcasters will have access only to data on age, gender, and zip code, to the extent that viewers are willing to share such information.

b. How will they be permitted to use this information?

Response: Broadcasters have stated that personal data collected from ATSC 3.0 receivers will be anonymized so as not to identify individual viewers and that broadcasters will have access only to data on age, gender, and zip code, to the extent that viewers are willing to share such information. Additionally, any use of this information must be consistent with the particular entity's privacy and data security policies, FTC oversight, and other safeguards.

c. Will consumers be able to opt-out of having their data collected for this purpose?

Response: Broadcasters have indicated that there will be opt-in procedures for the collection of consumer information, analogous to the opt-in procedures used by smartphone apps, and that the use of any information collected will be governed by user licensing agreements of the type that are common when consumers activate a smartphone app.

6. It appears that new ATSC 3.0-capable TV sets could be susceptible to hacking, malware, and other potential computer viruses that could lead to predatory advertising instead of legitimate commercials.

a. Is there anything contained in the proposal to address this potential problem?

Response: There is nothing in the record to suggest that ATSC 3.0-capable receivers will be susceptible to hacking, malware, or computer viruses that could lead to predatory advertising instead of legitimate commercials. While Internet connectivity and the ability to transmit applications to TV receivers will be new capabilities to over-the-air broadcasting, these features are not new to television receiver manufacturers. Smart TVs with Internet connectivity and the ability to run applications that can download and display over-the-top media are already pervasive.

b. How many TV sets are in the country today, and what will happen to them when ATSC 3.0 is deployed?

Response: While the Commission does not maintain data on the number of television sets in use in the United States, Nielsen data indicate that there are approximately 119.6 million U.S. television households for the 2017-2018 television season, and it is reasonable to assume that a substantial number of these households have multiple television sets. The voluntary deployment of Next Gen TV will not affect the ability of these television sets to receive free, over-the-air broadcast television signals. This is because broadcast stations deploying ATSC 3.0 will be required to simulcast their programming in the current DTV standard to ensure that viewers can continue to receive their existing broadcast service without having to purchase any new equipment.

c. How many TV sets will need to be replaced when broadcasters are not required to carry both the current ATSC 1.0 signal and the new ATSC 3.0 signal?

Response: The Commission has not set an end date for the requirement that broadcast stations deploying ATSC 3.0 simulcast in the current DTV (ATSC 1.0) standard. The Commission has stated that it will decide this issue in a future proceeding. In addition, the record suggests that it will be possible for consumers to easily upgrade their existing television sets to receive ATSC 3.0 transmissions by connecting converter equipment, such as an external tuner dongle, set-top box, or gateway device, to the HDMI ports on their television sets. Thus, most consumers who wish to view over-the-air television in ATSC 3.0 should be able to do so without purchasing new television sets.

The Honorable Anna Eshoo

1. **Over the last year it has come to light that foreign media outlets have been using public airwaves, which are owned by the American people, to manipulate our elections and undermine our democracy. I have raised concerns in particular about RT, which the intelligence community has said they have “high confidence” interfered in our democracy. I wrote to you on May 8th urging you to consider applying broadcast transparency requirements to state-sponsored media outlets like RT so the American people can know whether foreign governments are behind the content they are viewing. Your response was ambiguous, and you refused to answer my questions.**

a. Should the Russian government, through outlets such as RT, be allowed to use our nation’s public airwaves to influence our elections?

Response: I do not believe that the Russian government should be permitted to own a broadcast station in the United States. And along those lines, I would note that Section 310(b)(4) of the Communications Act establishes a 25% benchmark for investment by foreign individuals, governments, and corporations in U.S.-organized entities that directly or indirectly control a U.S. broadcast radio station license. However, to the extent that a U.S. broadcast station wishes to air programming produced by a foreign outlet, the First Amendment and the Communications Act generally bar the Commission from interfering with a broadcast licensee’s choice of programming, even if that programming may be objectionable to many viewers or listeners.

b. Do the American people deserve to know whether a foreign government is behind content being broadcast on our airwaves that has a direct impact on our elections?

Response: Yes. The Commission's sponsorship identification rules require broadcast stations to disclose when they are paid or promised money, services, or other valuable consideration in exchange for the agreement to air particular programming. When this occurs, the Commission's rules require the broadcast station to announce (1) that the programming is sponsored and (2) who sponsored the programming. If RT compensated a broadcast radio or television station for transmitting RT programming, these sponsorship identification rules would apply and disclosure would be required. This requirement applies no matter the content broadcast.

c. Will you commit to applying or consider applying broadcast transparency requirements to state sponsored media outlets like RT? Yes or no. If not, why?

Response: As stated above, broadcast transparency requirements are already applied through the Commission's sponsorship identification rules.

2. The proposed Sinclair-Tribune merger would give the new company access to over 70% of American households. Such a disproportionate share of viewer access provides Sinclair an abnormal amount of ability to influence American viewers. The American people deserve access to a competitive and independent media marketplace to provide diverse viewpoints. Competition is an essential ingredient in our nation's economy and one of the major reasons our economy has succeeded and thrived.

a. How would consumers benefit from a single company owning 70% of the market?

Response: The reach of the combined company is an issue that has been teed up in the Sinclair-Tribune proceeding. I do not comment on specific issues raised by transactions pending at the Commission. However, rest assured that the agency is looking at the entire record in reaching its decision.

3. In the time since you came before our committee, you have announced a Lifeline item for the November agenda that would effectively scrap a program specifically designed to help bridge the digital divide you consistently claim you want to bridge. The item would cap the program for people who depend on it despite the fact that studies consistently show capping does not address the "waste fraud and abuse" problems you're attempting to address. The item also takes particular aim at tribal communities who are uniquely disadvantaged when it comes to getting connected in the 21st Century.

a. How do you reconcile your constant rhetoric about bridging the digital divide with the fact that your "update" of Lifeline would rob essential aid from the people who need it most and who will be left in the dust without it?

Response: I am deeply committed to promoting digital opportunity and access to modern communications services for our nation's low-income families. The Commission's November *Lifeline Reform Order* was fully consistent with this objective.

With respect to Tribal lands, the change to support facilities-based providers adopts the proposal of the *prior* Administration—a proposal that received strong support from Tribes and those that have built facilities on Tribal lands during the comment period. Additionally,

we have targeted the enhanced Tribal subsidy to rural Tribal lands where services tend to be scarcer and/or more expensive than in more urban areas—again a proposal of the *prior* Administration.

These reforms incentivize broadband deployment and curtail waste in the program by targeting enhanced Lifeline support to (a) providers that invest in or build out their own facilities and (b) residents of rural Tribal areas where the costs of providing service, and deploying and building infrastructure are high. These changes were necessary to ensure that enhanced Lifeline support serves its intended purpose of encouraging deployment and infrastructure build out on rural Tribal lands where it is most needed, rather than in cities such as Tulsa, OK. Moreover, these changes took into account discussions with and comments submitted by Tribes, Tribal organizations, and facilities-based Tribal providers advocating for the Commission to take steps to encourage broadband deployment on Tribal lands.

The November *Lifeline Reform Order* also promotes Lifeline consumer choice and ensures that Lifeline consumers receive high-quality broadband service. First, the item eliminates the “port freeze” rule that allowed Lifeline providers to lock-in Lifeline broadband consumers for a year and Lifeline telephone customers for sixty days. Second, the item clarifies that Lifeline supported mobile broadband service must use at least 3G mobile technologies and does not include sub-standard “premium Wi-Fi” services that require use at a Wi-Fi hotspot, which may not be located near the Lifeline customer’s residence or may be at commercial locations (e.g., McDonald’s) where free Wi-Fi is already available. Through this necessary clarification, the item ensures that low-income families receive high-quality broadband services.

Taken together, the targeted measures taken in the November *Lifeline Reform Order* will help bridge the digital divide by incentivizing further broadband deployment where it is most needed, promoting Lifeline consumer choice, and ensuring that Lifeline consumers receive quality broadband service.

The Honorable Jerry McNerney

1. **Chairman Pai, when I asked you about how your proposal to eliminate net neutrality protections would impact small businesses, you failed to directly answer my question.**
 - a. **If net neutrality protections are weakened, as you propose, can you commit to me that small businesses and jobs will not be hurt in my district? Please answer yes or no.**

Response: Repealing the *Title II Order* will lead to more investment throughout the United States, more jobs, and ultimately better, faster, cheaper broadband for consumers, including small businesses. I have no reason to doubt that what is true for Americans at large will be true for your constituents.

The Honorable Jerry McNerney and the Honorable Debbie Dingell

1. **Chairman Pai, at the Subcommittee’s July FCC Oversight hearing, you committed to turning over to our offices any reports, requests, memoranda, and server logs related to the alleged May 7th DDoS attacks on the FCC’s electronic systems. After receiving no response**

following your commitment, we again asked about the status of our offices' request for the above-mentioned documents. You, again, committed that you would "double-check to make sure," and that you would fulfill our outstanding request.

- a. By what date can we expect you to fulfill your commitment of July 25th to produce for our offices any and all reports, requests, memoranda, and server logs related to the alleged May 7th DDoS attacks on the FCC's electronic systems?**

Response: As I indicated when you made your initial request, I could not commit to a document production absent a consultation with our legal staff. I have since been advised by our Office of General Counsel that many of the materials you are requesting are non-public and confidential, because they contain personally identifiable information (PII) or information about the FCC's information security practices. The Commission has a strong interest in protecting this information from public release. As a result, before the Commission could consider sharing these documents, I would need an official letter from the Committee clearly describing the scope of the material that is being requested as well as the methods that would be used to protect the confidentiality of this information.