



JONATHAN SPALTER
President and Chief Executive Officer

March 5, 2018

The Honorable Marsha Blackburn
Chairman
Subcommittee on Communications and Technology
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Chairman Blackburn,

Please see the attached responses to Members' questions for the record from the Subcommittee on Communications and Technology's hearing entitled "Closing the Digital Divide: Broadband Infrastructure Solutions" on January 30, 2018.

It was an honor appearing before the Subcommittee on such an important topic, and I stand ready to work with you and any Member of the Energy & Commerce Committee on efforts to close the digital divide going forward.

Sincerely,

A handwritten signature in black ink that reads "Jonathan Spalter". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Jonathan Spalter

The Honorable Yvette Clarke

1. **I have learned by representing the 9th Congressional District of New York and the Smart Cities Caucus that cities are eager to bring high-speed broadband and 5G technology to their constituents. I am concerned, however, by the recent adversarial tone between industry and cities. I think it is wrong to characterize cities and industry as adversaries and not partners.**
 - a. **Can you all commit to helping reach a good faith consensus on how to bring high-speed broadband and 5G technology to cities aiming to deploy smart technology for their constituents? What are your plans for this commitment and engagement?**

Our member companies have long been committed to aggressively deploying broadband in cities and other populous urban areas and remain dedicated to connecting Americans from coast to coast and everywhere in between. The imminent move to 5G technology only increases the incentive for our providers of high speed broadband connections to be the core delivery mechanism for smart technology, small cells, and the broader Internet of Things. Going forward, we will continue participating in the FCC's Broadband Deployment Advisory Council (BDAC) which fosters collaboration with parties from all communications sectors, as well as states and municipalities, to reach consensus for codes and regulations to incentivize optimal deployment strategies. BDAC allows both provider and government viewpoints to be heard and assessed, so all parties can collaborate and move forward to deliver next generation technologies as safely and efficiently as possible. We also look forward to working with Congress and the Administration to ensure the benefits and opportunities 5G network evolution will bring to our cities also can be equally enjoyed by all American families, communities and companies, including those in rural areas.

- b. **Will you commit to working with my office to resolve some of these disputes, and find a path forward that works for all consumer, cities, and the industry?**

Absolutely.

The Honorable Anna G. Eshoo

1. **It's been almost a year since Congress repealed the FCC's privacy rule with a CRA, partially based on the notion that the FTC would take care of privacy for consumers. FCC Chairman Pai also just repealed net neutrality, again kicking oversight over to the FTC. In the months since the repeal of the privacy rule, there have been no enforcement proceedings, working groups, or other types of actions has the FTC taken to address or give guidance about consumer privacy in the communications sector.**
 - a. **Why should we believe that the FTC in the future will be diligent in providing the type of robust protections consumers need in a rapidly evolving communications environment, net neutrality, privacy, or otherwise, when it has so far failed to do so?**

The FTC has a long, successful history of assertively and aggressively protecting American consumers from unfair and anticompetitive practices in the communications sector, as well as related innovative technology industries. As an enforcement agency, the FTC evaluates the conduct of companies to ensure they are abiding by the promises they make to their customers and assesses company and individual actions to determine if any

acts or practices cause harm to consumers and competition. Enforcement action happens after someone brings a complaint, based on facts, that someone or something has harmed them or violated a promise made to consumers. Our member companies have publically committed to the open internet principals that underpin the current net neutrality and privacy debates in our country, therefore it is no surprise that the FTC's record is not full of enforcement actions in this regard. The same cannot be said about other parts of the internet ecosystem. Delivering on consumer demand for a secure, reliable and fast connection to the internet is a priority for our members, one that drives business decisions in this highly competitive industry.

The FTC is armed with the expertise, tools, and statutory ground to police the internet ecosystem without chilling innovative ideas, a balance that should be applauded from both sides of the aisle. If a practice is novel or complex in its utilization of new technology, the FTC can supplement its own internal technological expertise with outside experts, and coordinate with other government agencies familiar with specific industry practices. Additionally, the FTC recently hosted PrivacyCon 2018, an event free and open to the public and streamed over the internet, which marks the third annual gathering of scholars and practitioners focused on emerging privacy and data security issues.

Going forward, the resolution and certainty that the 9th Circuit's February 26th *en banc* ruling provides for FTC enforcement over internet service providers sets a clear path forward for consumers in light of the 2015 Open Internet Order's stripping of FTC authority. When asked about the possibility of this ruling in his Senate confirmation hearing on February 14, 2018, Chairman Designate Joseph Simons said he expects the FTC to be a "vigorous enforcer" in the internet ecosystem. The parity that the FTC provides in its enforcement capability offers the level playing field consumers demand, eliminating the confusion over who can do what (and for how much) with personal information. To the extent that any fact-based complaints arrive at the FTC concerning internet service provider actions, we fully expect the complete enforcement capabilities of the FTC will be utilized to protect consumers.