

Attachment —Additional Questions for the Record

The Honorable Earl L. “Buddy” Carter

1. What can the Commission commit to doing that would encourage broadcasters of news, information and music to provide consumers more local, original content?

Response: Listeners and viewers of broadcast television and radio derive tremendous value from local, original content. The FCC has an important role to play in ensuring that broadcasters have the opportunity to produce that type of content, which can be expensive to create. Therefore, the FCC should work to eliminate the outdated rules and regulations that only making it harder for broadcasters to attract the capital and investment necessary to produce that type of content. After all, broadcasters are increasingly competing in a broader market with content providers that are not saddled with the same expansive set of rules and regulations. There are many steps the FCC can take to help level the playing field. For instance, I have worked with my FCC colleagues over the last few years to help reduce regulatory fees for broadcasters, and I believe that future reviews should continue to ensure that our regulatory fee structure accurately reflects the work of the agency. Moreover, while the Commission recently missed an opportunity to provide overdue regulatory relief in the 2018 Quadrennial Review proceeding, the FCC should correct this error in the 2022 review. These are steps that would help attract the investments needed to produce more local, original content.

2. As various streaming platforms have emerged, we have seen drastic changes to the digital media landscape. What steps should the FCC take to ensure that the large industry players promote a level playing field and negotiate in good faith with a broad array of smaller and independent content owners to foster a competitive video marketplace?

Response: The current video marketplace has changed dramatically in recent years, as online streaming services too numerous to list have all emerged and fundamentally altered the competitive landscape. As the marketplace changes, so too do the market’s established economic realities. At the FCC, we must avoid maintaining a backwards-looking view of the market and ensure that our rules keep pace with the marketplace as it exists today and in the future. And as the marketplace continues to change, we must work with Congress to ensure that our statutory authority reflects the current will and priorities of Congress.

3. How do the rising costs of bundled programming impact streaming platforms’ ability to make niche channels or channels from independent content providers available to consumers?

Response: As in any market, there is a tension between the cost of inputs (here, programming) and a consumer’s willingness to pay. And while consumer choice has grown exponentially in recent years, the effects of inflation and other economic factors have many people intensely focused on their own bottom lines. I would welcome the opportunity to work with you and your staff on these and other issues impacting the overall media marketplace.

The Honorable Rick Allen

1. In September, this Subcommittee examined the state of the video marketplace. What was clear was that a lot has changed in consumer expectations, demands and habits. It seems one of the biggest “hits” with consumers is the number of “choices” that consumers have in the over-the-top market or streaming market. Choices in what channels they must pay for - and ones that they don’t. What can the FCC do to enable traditional PayTV companies to provide consumers with more choice? What can or should Congress do?

Response: The current video marketplace has changed dramatically in recent years, as online streaming services too numerous to list have all emerged and fundamentally altered the competitive landscape. Yet, in the face of this change, the Biden Administration has recently sent the FCC down the path of increased rate regulation. It does so at a time when traditional MVPDs are bleeding market share to new, unregulated competitors. And it does so based on illusory statutory authority under the FCC’s customer service mandates. Congress’s charge was to address customer service issues, such as wait times on service calls, not rate regulation. This decision by the FCC will not make it any easier for traditional MVPDs to innovate and compete with online providers.

The Honorable August Pfluger

1. Does the new digital discrimination regime (GN Docket No. 22-69) adopted by the Commission’s majority put the Commission in a position to second-guess deployment decisions made by broadband providers? Do you believe this will lead to a decrease in investment and risk-taking by broadband providers?

Response: Yes. Under the guise of digital equity, the federal government now has a roving mandate to micromanage nearly every aspect of how the Internet functions—from how ISPs allocate capital and where they build, to the services customers can purchase, from the profits that ISPs can realize and how they market and advertise services, to the discounts and promotions that consumers can receive. But it gets worse. Under this expansive regime, the FCC reserves the right to regulate both actions and omissions, whether recurring or a single instance. In other words, if you take any action, you may be liable, and if you do nothing, you may be liable. What’s more, the FCC swept entire industries within the Commission’s jurisdiction for the first time in the agency’s 90 year history. Indeed, the rules aren’t cabined to ISPs or even businesses within the communications sector. Landlords, construction crews, labor unions, marketing agencies, banks, and even the government itself are subject to these new rules. One final point is that the Commission’s Order expressly states that the FCC can regulate broadband pricing and even an ISP’s profitability.

The Administrative State can now second guess every decision from the C-Suite to the call center under a vague and standardless regime does not provide the confidence necessary to invest and innovate. Every dollar spent on fees and new costs for compliance lawyers is a dollar not going towards investing in our networks or closing the digital divide.

2. Has the FCC’s decision made under Chairman Pai to allocate the 6 GHz band for unlicensed succeeded, and why or why not?

Response: I was pleased to support the FCC’s 2020 decision to allocate the 6 GHz band for next-generation unlicensed use. In doing so, the U.S. became the first country in the world to open up the full 6 GHz band for unlicensed. And by acting early, our 2020 decision ensured that Americans and the businesses that are based here would benefit from our first-mover advantage. As a result, consumers here are now benefiting from better, faster Wi-Fi and 5G services in their homes.

Our action in 6 GHz was part of a broader and forward-thinking approach to spectrum. All told, from 2017 through 2020, the FCC’s spectrum efforts opened up thousands of megahertz for unlicensed use and thousands more for licensed use. Those decisions were not easy, but they were vital to advancing U.S. leadership in wireless which is part and parcel to our geopolitical interests. When America goes first, the world takes notice. When we free up spectrum, other countries follow suit. This helps ensure spectrum bands and technologies are developed in ways that work for America’s interests—not those of our adversaries.

That is why I have been arguing since early 2021 for the FCC to maintain the same pace and urgency towards freeing up spectrum that we experienced in the years prior. In particular with respect to the 6 GHz band, I urged the Commission to unlock even more potential from the band by authorizing the use of very low power (VLP) devices. Unfortunately, the Commission did not take this action until last October—more than two years later. That delay had consequences. As I noted earlier, the U.S. was the first to act on the 6 GHz band in 2020. But in the meantime, roughly 50 countries not only caught up to us by authorizing unlicensed in the band, but they moved *faster* than us on authorizing VLP in the band before we did.

Some have urged the FCC to reverse course on our 2020 decision in favor of using a portion of the 6 GHz band for licensed use. I do not share this view and believe our 2020 decision was the right one. What is clear, however, is that the U.S. must start leading again on wireless and get out of our current spectrum slump. The spectrum calendar I put forward in March 2021, which includes proposals for both licensed and unlicensed spectrum, would allow us to do just that.

The Honorable Larry Bucshon

1. I have heard from small broadband providers who say they do not participate in the ACP due to its bureaucratic requirements. Commissioner Carr, are there any changes to the ACP that you think would reduce the administrative barriers small providers face trying to participate in the ACP, while still protecting against waste, fraud, and abuse?

Response: When the federal government stands up programs like the ACP, it is incumbent on the FCC to ensure that eligible consumers of all ISPs—not just the largest—have an opportunity to participate without unnecessary red tape. Indeed, it is often the case that compliance regimes can have a disproportionate impact on smaller providers. After all, they often do not have the same number of personnel or the same levels of capital as their larger competitors to invest in managing compliance costs. At the same time, the federal government needs to ensure that it has adequate safeguards in place so that the limited ACP dollars go only to the recipients that Congress intended. I would welcome the chance to work with you and your office on ways to

level the playing field for all providers. Indeed, I often hear from small businesses who are frustrated by delays, opaqueness, and lack of responsiveness from USAC--the front-line organization responsible for administering the ACP as well as the FCC's other USF programs. One idea that could help decrease administrative burden while increasing program integrity is to bring USAC's responsibilities in house within the FCC itself.

2. In the past I cosponsored legislation directing the FCC to study reforms to who pays into the Universal Service Fund, and understand that multiple Commissioners here today support USF reforms as well. I recognize that the Commission has asked Congress to recommend how the financial burden on consumers could be reduced as the contributions system for the universal service programs is reformed. But given the recent political decisions that have been issued by the FCC, I am wary of giving the commission very broad discretion and rulemaking authority to do so. Do you have any preferences on the specific methodologies that the FCC would pursue if given such rulemaking authority to assess broadband providers and edge providers? Are there considerations for this committee to be aware of to ensure that USF reform would not increase the financial burden on consumers?

Response: The USF's funding mechanism is in a death spiral. Traditional telephone revenues—which the FCC uses to calculate the contribution factor—have declined from a high of around \$80 billion in the 2000s to less than \$30 billion today. As a result, the contribution factor has steadily climbed from only 6% to roughly 34% today. To be clear, these costs are hitting consumers in the pocketbook and will continue to rise absent reforms. So, to the extent Congress wants the FCC to continue to administer the USF, I have argued that the best way to lower financial burdens on consumers while stabilizing the program for the long-run would be for Congress to require large technology companies to contribute to the USF.

One potential revenue stream is the provision of digital ad services, which have a high revenue base (indicating the contribution factor would be much lower than it stands today) and would be difficult for those companies to simply pass through the cost to consumers. Another idea is to require large streaming companies to contribute based on the heavy demand they place on networks, particularly in rural areas. Either of those approaches would be preferred over the FCC simply assessing BIAS, which would raise the cost of broadband for consumers. Indeed, in its 2022 Report to Congress on the Future of the USF, the FCC cited a study that showed that assessing BIAS could increase consumers monthly broadband bill by as much as \$17.96 a month—or almost \$200 annually. I commend your leadership on USF issues and would welcome the opportunity to work with you on legislation that would advance the interest of consumers without granting over-broad discretion to the FCC.