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August 1, 2014

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20536

Dear Chairman Wheeler:

Thank you for appearing before the Subcommittee on Communications and Technology on May 20, 2014, 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 August 15, 2014. Your responses should be mailed to Charlotte Savercool, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, D.C. 20515 and e-mailed in Word format to Charlotte.Savercool@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 Eshoo, Ranking Member, Subcommittee on Communications and Technology

Attachment

Attachment — Additional Questions for the Record

The Honorable Greg Walden

1. In light of the Commission's proposed deferral of the Skilled Nursing Facility pilot program designed to increase access and connectivity for rural health providers, how does the Commission plan to ensure that skilled care facilities (SNFs) will be able to benefit from access to Universal Service Funds? More specifically, can you outline the FCC's current efforts to: (1) increase access to broadband for health care providers, particularly SNFs that serve rural areas; and (2) foster the development and deployment of broadband health care networks and the Commission's plans to incorporate SNFs and other long-term care providers into those programs?

2. The Consumer & Governmental Affairs Bureau has pending before it a number of petitions seeking clarification of the Commission's rules promulgated under the Telephone Consumer Protection Act ("TCPA"). Several of these have been filed by businesses seeking clarity of the rules to ensure that they may contact customers with whom they have an established relationship without violating the law. Please update us on the current status of these petitions.

3. We understand that there are nearly 40 petitions for eligible telecommunications carrier (ETC) designation in the federal jurisdiction states that have been pending with the Commission for up to 4 years. Please provide a status update on:

- a) the number of pending petitions,
- b) how long each has been pending, and
- c) the plan and timeframe for resolving this backlog.

The Honorable Lee Terry

1. Chairman Wheeler, in your testimony, you indicated that the FCC should preempt states that either limit or prohibit municipal broadband networks. Nebraska law generally prohibits municipal broadband except public power utilities can provide wholesale services under limited conditions. As the FCC's own National Broadband Plan cautions, "municipally financed services may discourage investment by private companies." We can agree that the deployment of broadband networks involves substantial up-front investment costs. Why should the FCC preempt the determination by a state like Nebraska that the potential benefits of municipal broadband are outweighed by its potential to harm private investment?

2. Mr. Chairman, the Public Assistance Reporting Information System is an information exchange system designed and operated by the Administration for Children and Families within the U.S. Department of Health and Human Services. This database helps state public assistance agencies validate applicant data for Federal assistance programs. In its Report No. 01-935 entitled 'PARIS Project Can Help States Reduce Improper Payments,' the Government Accountability Office endorsed PARIS as a model system for validating Federal assistance applicants. Why hasn't the FCC advocated for PARIS to be used to validate Lifeline program applicants?

3. At the FCC budget hearings for FY 2015 several weeks ago, Chairman Wheeler, you mentioned “heads on a pike” in the context of Lifeline abusers. You also stated that you “created a strike force focused on attacking ‘waste, fraud and abuse’ and the need for ‘more muscular enforcement,’ with investigators and auditors rather than simply lawyers.” Several companies have been issued Notices of Apparent Liability (NALs), and it is my understanding that these NALs were based on the In Depth Validation (IDV) process. How does the IDV process work, and is this process driven by the Universal Service Administrative Company (USAC) or the FCC? Are you looking at ways to enhance the review methods, or are they working as they are currently structured?

The Honorable Brett Guthrie

1. Last week, CTIA and NTCA filed a joint proposal related to the AWS-3 auction in which they asked the Commission to make clear in its auction procedures Public Notice that down payment and final payment dates for the auction will be in early 2015. The proposal noted that uncertainty around when payments will be due could complicate bidders’ financial planning for the auction and their management of cash outlays. For some small players, the financial impact of this decision could even affect their ability to finance their participation in the auction. While the Commission recently put forward additional information regarding the auction, this information has yet to be released. Do you have any update on their request or indication on when the payment dates will be for the AWS-3 auction?

The Honorable Cory Gardner

1. Colorado Telehealth Network (CTN) is a consortium of health care providers that administers the FCC’s Healthcare Connect Fund in Colorado. Under the Healthcare Connect Fund Order issued by the Commission on December 21, 2012, the Commission ordered the Universal Service Administrative Company (USAC) to begin funding certain organizations on July 1, 2013 that met certain eligibility criteria. While the Colorado Telehealth Network has fully met that criteria, USAC’s portal is still not fully functional which necessarily delays CTN’s critical path over the next 12-18 months. Without the full deployment of this critical functionality, which is essential for CTN’s strategic plan to double the number of connected health care sites in Colorado from 200 to 400, CTN does not possess the ability to move ahead with strategic network expansion and operations.

Now approaching one year after its strategic target date for execution, Colorado’s safety net health care providers stand at risk by being unable to apply for critical funds that could greatly benefit patients and communities due to ongoing delays with USAC’s online portal. While CTN has clearly demonstrated a willingness to work with USAC staff in addressing functionality issues, CTN has been provided no timeline when they can expect full functionality of USAC’s online portal nor is CTN receiving updates as to the progress USAC is making in this regard. Further, USAC has had a lack of leadership without a CEO for many years, thus compromising the efficacy of programs like the Rural Health Care Program.

- When will the portal be fully functional? Until that time, what plan does USAC have in place for working with CTN to provide updates on this process?
- Does USAC or the Commission have a plan in place to reduce the unreimbursed administrative burden on consortium leader participants as mandated by the Order? How does the proposed plan accomplish this? What avenue for redress do participants have if the proposed plan is not accomplished?
- How does the Commission intend to reform its supervision of USAC? When will a new permanent CEO be in place?

The Honorable Anna Eshoo

1. Last summer during the CBS/Time Warner Cable dispute, I raised concerns about a troubling trend in which content providers block otherwise freely available online content to customers of select ISPs as leverage during retrans negotiations. Now, once again, we're seeing this anti-consumer practice play out in a dispute between Viacom and several small cable operators. Should programmers be allowed to selectively block freely available, online content during programming negotiations?

2. Broadband providers who oppose Title II suggest it would curtail investment and lead to market uncertainty. But as more than 100 venture capitalists and angel investors wrote to you in a May 8th letter, Section 706 and the use of an ambiguous "commercially reasonable" standard could have the same chilling effect on innovative Internet startups. How do you propose to balance these competing views?

3. It's my understanding that the FCC's open Internet rules were never intended to alter a broadband providers' responsibility to support emergency or public safety communications. In fact, the proposed rules you put out for comment last week speak to this very point. So do you agree that banning anti-competitive pay for priority schemes has nothing to do with public safety? Hasn't the FCC already demonstrated that you can make an exemption to ensure emergency communications, including 9-1-1 are protected?

4. Through Twitter, one of my constituents asks – what are implications of the FCC's proposed net neutrality rules on political advertising?

5. I commend you for the steps you've taken to rebalance the playing field during retrans negotiations, but in light of the 127 blackouts that occurred last year, I believe much more needs to be done. Should consumers be guaranteed a refund when programming they pay for goes dark?

6. In December, you brokered an agreement with the wireless industry that allows consumers to unlock their wireless phones and use them on any carriers' network. This agreement was applauded as pro-consumer and pro-competition. Consistent with Section 629, shouldn't consumers be able to do the same with their cable set-top box? What steps are you taking to ensure there is a successor to the CableCARD that guarantees consumers will have a choice of devices to access their pay-TV programming?

7. Earlier this year, I wrote to you regarding the use of below-the-line fees on the monthly bills of consumers. The letter stemmed from an inquiry I launched last year with several Members of this Subcommittee where we found that the combination of such charges can add as much as 42 percent to a consumer's monthly bill. Do you agree this is a problem and will the FCC take action?

The Honorable Henry Waxman

1. During the hearing concerns were raised about over 3,000 last-minute changes made to an item at midnight before the Commission voted. You never were specifically asked about those statements, however. Would you please explain?