

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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September 6, 2017

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Dear Chairman Pai:

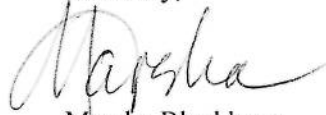
Thank you for appearing before the Subcommittee on Communications and Technology on Tuesday, July 25, 2017, to testify at the hearing entitled "Oversight and Reauthorization of the Federal Communications Commission."

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 Wednesday, September 20, 2017. Your responses should be mailed to Evan Viau, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed to Evan.Viau@mail.house.gov.

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

Sincerely,



Marsha Blackburn
Chairman
Subcommittee on Communications and Technology

cc: The Honorable Michael F. Doyle, Ranking Member,
Subcommittee on Communications and Technology

Attachment

Additional Questions for the Record

The Honorable Gus M. Bilirakis

1. The FCC is currently proposing rules that would give service providers more authority to block certain types of illegal robocalls. That way, many of these calls never reach the consumer. Some legitimate callers, such as healthcare providers, who want to make legal robocalls with consumer consent, are concerned that their calls might be blocked as well.
 - a. What is your opinion on the rights legal callers have, if any, to ensure their calls are successfully completed?
2. The Commission is currently considering potentially creating a “reassigned number” database so that legitimate robocallers who want to call a particular person can avoid accidentally calling the wrong person if the intended recipient has given up his phone number and it has been reassigned to someone else.
 - a. What do you perceive as the possible benefits resulting from such a data base?

The Honorable Susan W. Brooks

1. You recently proposed to add a Blue Alert code to the Emergency Alert system. Could you describe what this does?
2. Your staff recently briefed the Committee on a 911 outage that occurred last March. The FCC did a report. I understand that the cause of that outage was attributable to “human error” but there are always lessons to be learned. The report also concluded that there the need for close working coordination between industry and PSAPs to improve overall situational awareness and ensure consumers understand how best to reach emergency services and the FCC was going to engage on this issue.
 - a. What has the Public Safety Bureau done since it made this recommendation to address this issue?

The Honorable Brett Guthrie

1. During the hearing, we briefly discussed the Mid-band NOI, so I understand that there is a robust process in place to consider how to increase efficient and effective use of the spectrum in this range, specifically 3.7-24 GHz.
 - a. To drill down a little further regarding incumbent licensees, is there any information you can share at this time to provide insight into how you anticipate working with these users to ensure a smooth process?

The Honorable Bill Johnson

Broadband infrastructure deployment is especially important to my district in rural Eastern and Southeastern Ohio. As a member of both the Communications and Technology and Energy Subcommittees, I understand there are many factors and issues facing its successful deployment. Meaningful engagement means getting all sides of the issues surrounding pole attachments – engagement that incorporates the views of all stakeholders, such as States and localities, and telecommunications and electricity providers. To better understand these issues, your responses to the below questions will be helpful.

1. Chairman, this year you formed the Broadband Deployment Advisory Committee. Can you explain where pole attachments are positioned in this discussion on improving our broadband infrastructure?
2. Can you highlight the successes and shortcomings of 2011 FCC’s order reforming pole attachment rules and rates? What is different about what the FCC is doing now? Can you please highlight what options are being considered, and what alternatives are being offered by parties involved?
3. You have conducted an impressive tour of the country to ascertain the needs for rural broadband. As someone that is chairing a working group on broadband deployment for Chairman Blackburn, please tell me more about the model you have used on this tour to bring folks to the table. How do you see this model working to reduce regulation, promote partnerships, encourage investment, and avoid disputes regarding pole attachments?
4. This Committee is very familiar with the important role that the stakeholders involved in this debate have on American’s everyday life, whether it’s the energy to power one’s home or the medium to connect us when far away from home. How can we ensure that grid reliability and increased broadband deployment are not mutually exclusive?

Ranking Member Frank Pallone, Jr.

1. When you were asked at the hearing whether you believe in net neutrality, you said that you believe in a free and open internet. As you know, there has been some dispute about what that might mean. Many net neutrality supporters believe that a free and open internet entails firm net neutrality rules that the FCC can both enforce and police to prevent circumvention. Do you agree with that?
2. You recently responded to my May 18, 2017 letter on the comment periods for the net neutrality proceeding. In your response, you indicate that you are not inclined to extend the timing for the replies in the net neutrality docket because the pre-decisional draft was available to the public three weeks before the vote to adopt the Notice of Proposed Rulemaking. Please respond to the following questions about your response:
 - a. Will you treat comments filed before the vote the same as those filed after?
 - b. When did you make the public aware that your decision to make the draft available early would substitute for extensions for replies?

- c. As you note in your response, the public filed millions of comments in the initial filing round. Do you see comments filed before the vote the same as replies to the initial round of millions of comments?
- d. Has any court ever approved your interpretation of the Administrative Procedure Act (APA)?
- e. You have decided that the public should have more time reviewing your initial draft than any edits made by your fellow commissioners. Were they consulted about this decision?

Subcommittee Ranking Member Michael F. Doyle

1. In April, the Commission deregulated virtually all of the market for Business Data Services. This action was radical break from where the Commission was headed mere months before – and a complete rejection of a framework put forward last year by a large coalition of companies that buy and sell in the marketplace. Despite data showing near-monopoly condition, the Commission deregulated in large part based upon a seemingly nonsensical prediction that competitive entry by “nearby” providers within a few years constituted a competitive market. The FCC has tried its hand at predications in the past – and failed- in this very proceeding.
 - a. As a proponent of a data-driven approach to regulating, will you commit now to the public release of a timeline to quickly define a specific, ongoing process for assessing market conditions in Business Data Services?
2. I’m disturbed by the recent revelations of internet service providers throttling consumers’ services and doing so without telling their customers. These actions highlight the need for net neutrality protections.
 - a. While net neutrality is the law of the land, if you receive a net neutrality complaint—formally or informally—will you commit to following through on it and undergoing a full and complete investigation?
3. Please breakdown the enforcement actions taken by the Commission by individuals, small businesses, and large businesses.
 - a. How many enforcement actions have been taken and what proportion of these actions have been taken against the entities in each category?

The Honorable Yvette Clarke

1. It has been several years since the Commission looked at radio ownership rules. Can you tell us your views on the current state of the radio industry and the ownership rules and whether you plan to revisit them, particularly the rules that limit one owner to a maximum number of stations in a particular market as well as a cap on the number of stations in a particular service (i.e., FM or AM)?
2. Is diversity of ownership a priority with the FCC? What efforts have you taken, or will take, in addition to the new Advisory Committee, to foster competition and diversity in ownership for broadcasting, cable, satellite, wireless, wireline, Internet – all media and telecommunications

services regulated by the FCC? When will the FCC undertake the requisite Adarand Studies that will document the past and current discriminatory practices and/or regulatory actions that have prevented robust diverse ownership?

3.

The Honorable Bobby L. Rush

1. I have a constituent that's a facilities-based broadband provider that wants to provide high-speed broadband as a Lifeline provider to underserve people on the South Side of Chicago. It was granted a Lifeline Broadband Provider designation by the FCC in January, but in February you directed your Bureau to revoke all of those approvals, on the ground that under the Communications Act only state PUCs can grant such authority. You also said in formal statements and in many letters to Members of Congress that you support Lifeline broadband grants through the state process, and that "New companies can enter the program using this process, and I encourage them to continue to do so." BUT that isn't so: my constituent has been told by the Illinois Commerce Commission and that they can't grant designation because an FCC rule (rule 54.201(j)) preempts states from doing it. So the FCC tells them they have to go to the state, and the state responds that an FCC rule prevents states from acting. I've read the rule-- it does say that: "A state commission shall not designate a common carrier as a Lifeline Broadband provider eligible telecommunications carrier." Meanwhile, underserve people in the South Side are being deprived of broadband service under Lifeline, because the incumbent companies are getting out of Lifeline.
 - a. What can you do to fix this situation quickly? I worry that a rulemaking will take a very long time, and you haven't even started one yet.
2. Given your prior work with Securus, what, if any, consultations did you have with the FCC General Counsel on avoiding the appearance of impropriety and/or whether or not any conflict of interest existed or exists prior to your decision not to defend the FCC rulemaking in court? What was the outcome of those conversations?

The Honorable Anna G. Eshoo

1. Recent merger proceedings at the FCC built a record that has direct bearing on the current net neutrality rulemaking. A motion was recently filed in the net neutrality proceeding requesting modification of the protective orders in these merger proceedings to ensure that commenters have access to a narrow range of relevant, confidential information collected by the FCC during the merger review process. The FCC has previously allowed confidential information from other proceedings to be used in subsequent rulemakings when it is relevant.
 - a. Will you commit to ensuring that all interested commenters have access to this information in order to ensure a full and complete record in the net neutrality proceeding?
2. A recent study commissioned by the Wi-Fi Alliance found that the United States will need as much as 1.6 Ghz of new spectrum for unlicensed use by 2025. This same study also showed the importance of making sufficiently large bands of unlicensed spectrum available to support next generation wireless standards.

- a. What does the FCC plan to do to ensure that we meet our unlicensed spectrum needs in the coming years?
3. Do you intend to move forward with the Notice of Proposed Rulemaking on independent programmers that was issued last year? If not, what steps will the FCC take under your leadership to bring attention to the challenges faced by independent programmers?
4. The E-Rate program has had a real impact in connecting schools in California and around the country to broadband. Will you commit to maintaining the current funding levels for this important and successful program?

The Honorable Doris Matsui

1. The FCC's 2016 Lifeline Modernization Order required access interfaces for the National Verifier that service the needs of different users in a cost effective and efficient manner. I understand that USAC recently announced that it will not make available an application programming interface (API) connection for the National Verifier.
 - a. Did the FCC examine what impact the lack of an API would have on eligible subscribers seeking to sign up Lifeline service? If so, please outline what barriers the lack of API might create. If not, please explain why the FCC did not conduct such an analysis.
 - b. What is the estimated cost of real time manual checks of customer eligibility against the Lifeline Eligibility Database versus the cost of allowing service providers to use an API integrated with the National Verifier? If the FCC has not estimated these costs, please explain why such an analysis has not been conducted.
 - c. What are the estimated time delays for consumers as a result of manual eligibility checks? Without an API, is real time verification of eligible consumers possible? If the FCC has not estimated these delays, please explain why such an analysis has not been conducted.
2. I understand that as part of the process of migrating customers to the National Verifier, subscribers enrolled prior to July 2017 may have to provide new and potentially duplicative documentation to re-demonstrate eligibility for the program.
 - a. Did the FCC consider potential barriers this may create for eligible Lifeline subscribers?