

Attachment—Additional Questions for the Record
Subcommittee on Communications and Technology
Hearing on
“Preserving an Open Internet for Consumers, Small Businesses, and Free Speech”
February 7, 2019

Mr. Tom Wheeler, Fellow, Brookings Institution

The Honorable Ben Ray Lujan (D-NM)

- 1. There were a series of process abuses during the repeal of the 2015 net neutrality rules. It seems like the prudent thing would have been to stop, investigate, and not race forward to a conclusion without understanding what happened.**

Instead, we saw 9.5 million identities were stolen to submit comments, and the FCC did not include some net neutrality complaints in the docket.

A recent study found that an overwhelming amount – 99.7% -- of unique comments that were left on the FCC’s website ahead of its decision to repeal net neutrality last year were in favor of keeping the protections. The study showed that, in the Third District of New Mexico, there were 1,702 unique comments submitted to the FCC in the 2017 net neutrality repeal proceedings, which I submitted to the record for this hearing. The FCC washed these opinions away and never did anything about it.

- a. How did the FCC allow this to happen?**

Response: The Administrative Procedure Act requires that an agency such as the FCC make its decisions based on the facts in the record. Why the Trump FCC decided to ignore the 1,702 facts that were sent by your constituents is something I can neither comprehend nor explain.

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The Honorable Tony Cárdenas (D-CA)

- 1. Since the Trump Administration signed the Tax Scam into law, investment in broadband infrastructure has not increased. According to a February 7, 2019 article in the *Financial Times*, the big four US broadband companies invested \$56.1 billion in 2016 and \$57.1 billion in 2017 in capital projects. In 2018, after the Tax Scam went into effect, the companies invested \$56.9 billion.**
 - a. Can you explain why investment in broadband infrastructure has not increased since the Tax Scam took effect?**

Response: Unfortunately, I cannot. During discussion of the Open Internet rules the carriers claimed the rules would negatively affect investment. This has subsequently been shown to be lobbying scare. The two years after the enactment of the Open Internet rule, investment by the major broadband carriers increased when compared to the two years before the rule.

One would think that if the rule was so “damaging,” that after the Trump FCC lifted the rule, infrastructure investment would have shot up. Similarly, the tax breaks given the carriers in the aforementioned legislation were supposed to spur investment. Based on the representations made during the repeal of the Open Internet rule as well as the tax act, one would have thought that the combination of the tax advantages and the alleged gains from elimination of the Open Internet rule would have driven investment through the roof. Your statistics suggests, however, that was not the case.