

# OVERSIGHT AND REAUTHORIZATION OF THE FEDERAL COMMUNICATIONS COMMISSION

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## HEARING BEFORE THE SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY OF THE COMMITTEE ON ENERGY AND COMMERCE HOUSE OF REPRESENTATIVES ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

JULY 25, 2017

**Serial No. 115-48**



Printed for the use of the Committee on Energy and Commerce  
*energycommerce.house.gov*

U.S. GOVERNMENT PUBLISHING OFFICE

27-002 PDF

WASHINGTON : 2017

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<sup>1</sup>The information has been retained in committee files and also is available at <http://docs.house.gov/meetings/IF/IF16/20170725/106312/HHRG-115-IF16-20170725-SD005-U76141.pdf>.

<sup>2</sup>The information has been retained in committee files and also is available at <http://docs.house.gov/meetings/IF/IF16/20170725/106312/HHRG-115-IF16-20170725-SD002-U2.pdf>.



# OVERSIGHT AND REAUTHORIZATION OF THE FEDERAL COMMUNICATIONS COMMISSION

TUESDAY, JULY 25, 2017

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY,  
COMMITTEE ON ENERGY AND COMMERCE,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 10:03 a.m., in Room 2123, Rayburn House Office Building, Hon. Marsha Blackburn (chairman of the subcommittee) presiding.

Members present: Representatives Blackburn, Lance, Shimkus, Latta, Guthrie, Olson, Kinzinger, Bilirakis, Johnson, Long, Flores, Brooks, Collins, Cramer, Walters, Walden (ex officio), Doyle, Welch, Clarke, Loeb sack, Ruiz, Dingell, Rush, Eshoo, Engel, Butterfield, Matsui, McNerney, and Pallone (ex officio).

Also present: Representative Cárdenas.

Staff present: Ray Baum, Staff Director; Mike Bloomquist, Deputy Staff Director; Karen Christian, General Counsel; Kelly Collins, Staff Assistant; Robin Colwell, Chief Counsel, Communications and Technology; Jordan Davis, Director of Policy and External Affairs; Blair Ellis, Press Secretary/Digital Coordinator; Charles Flint, Policy Coordinator, Communications and Technology; Adam Fromm, Director of Outreach and Coalitions; Gene Fullano, Detailee, Communications and Technology; Giulia Giannangeli, Legislative Clerk, Digital Commerce and Consumer Protection/Communications and Technology; Zach Hunter, Communications Director; Peter Kielty, Deputy General Counsel; Tim Kurth, Senior Professional Staff, Communications and Technology; Lauren McCarty, Counsel, Communications and Technology; Hamlin Wade, Special Advisor for External Affairs; Jeff Carroll, Minority Staff Director; Alex Debianchi, Minority Telecom Fellow; Evan Gilbert, Minority Press Assistant; David Goldman, Minority Chief Counsel, Communications and Technology; Jerry Leverich, Minority Counsel; Lori Maarbjerg, Minority FCC Detailee; Jessica Martinez, Minority Outreach and Member Services Coordinator; Dan Miller, Minority Staff Assistant; Tim Robinson, Minority Chief Counsel; Matt Schumacher, Minority Deputy Press Secretary and Digital Director; and Andrew Souvall, Minority Director of Communications, Member Services, and Outreach.

Mrs. BLACKBURN. The Subcommittee on Communications and Technology will now come to order.

The Chair now recognizes herself for 5 minutes for an opening statement.

**OPENING STATEMENT OF HON. MARSHA BLACKBURN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE**

And I want to welcome you all to the subcommittee's hearing titled "Oversight and Reauthorization of the Federal Communications Commission." I appreciate the Commissioners appearing to offer their testimony today, and we appreciate that we have been able to hear from you in advance of this hearing. The FCC has not been reauthorized since 1990, and its current appropriation is over \$430 million. It is charged with the administration of the Communications Act and other statutes vital to the functioning of our communications policy. We must reexamine the core functions of the Commission and restore a culture of humility that was lacking under the regulatory cloud left by Chairman Wheeler.

The FCC plays a vital role in our increasing lead technology dependent society. The subcommittee has, therefore, released a discussion draft for consideration.

I would be remiss by not discussing net neutrality. The Commission's decision in 2015 to reclassify the internet as a public utility was a power grab laced with the irony of suffocating the most innovative part of our economy with a 1930's era law. This gave new meaning to the term "progressive." Reply comments to the Commission's NPRM are due August 18. Chairman Pai, we hope you are keeping that "weed whacker" handy, because it has a lot of work to do.

Title II reclassification has created a 5.6 percent reduction in ISP network investment, will lead to rate regulation, and has generated tremendous uncertainty.

However, I know there is disagreement. And while my colleagues on the other side of the aisle had nothing to do with this, internet giants Amazon, Facebook, and Google recently joined with Web sites such as PornHub and dark money groups fight for the future, demand progress, and free press for a day of action to claim Republicans will break the net. Let me be clear: Republicans have always supported a free and open internet. Let's not have any misunderstanding on that issue. We must move past the partisan rhetoric. Ranking Member Pallone said in 2010 that this is a job for Congress in referring to the net neutrality rules, and I agree.

Other issues confronting the Commission include administration of the Lifeline program, media ownership rules, and process reform. The GAO released another report critical of the Lifeline program on June 29. It found that 36 percent of the program participants could not be verified for eligibility. Over 6,000 deceased individuals were enrolled after their death, and numerous carriers approved eligibility for the program based on fictitious documentation. Lifeline continues to be plagued by significant deficiencies, including the need for a hard cap.

Outdated media ownership rules and process reform issues also concern the committee. Commissioner O'Rielly astutely noted that the FCC's quadrennial review of broadcast-to-ownership rules released last August was, and I am quoting, "divorced from the realities of today's media marketplace," end quote.

Finally, process reform has been an issue of bipartisan concern for some time. Bipartisan bills have passed the House 5 of the last 6 years.

Chairman Pai, you have taken positive steps, including the release of a fact sheet for any proposal to be considered at an open meeting in releasing the text of documents to the public in advance of a vote at an open meeting. However, more must be done to promote and sustain a culture of transparency at the Commission on several other issues noted in the majority memorandum.

I look forward to today's hearing. And at this time, I yield the balance of my time to Mr. Lance.

[The prepared statement of Ms. Blackburn follows:]

#### PREPARED STATEMENT OF HON. MARSHA BLACKBURN

Welcome to the Communications and Technology Subcommittee's hearing titled "Oversight and Reauthorization of The Federal Communications Commission". I appreciate the Commissioners appearing here to offer their testimony.

The FCC has not been reauthorized since 1990 and its current appropriation is over \$430 million. It is charged with administration of the Communications Act and other statutes vital to the functioning of our communications policy. We must reexamine the core functions of the Commission and restore a culture of humility that was lacking under the regulatory cloud left by Chairman Wheeler. The FCC plays a vital role in our increasingly technology dependent society. The subcommittee has therefore released a discussion draft for consideration.

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Title II reclassification has created a 5.6 percent reduction in ISP network investment, will lead to rate regulation and has generated tremendous uncertainty. However, I know there is disagreement. While my colleagues on the other side of the aisle had nothing to do with this, internet giants such as Amazon and Google recently joined with Web sites like Pornhub, and dark money groups Fight for the Future, Demand Progress, and Free Press for a "Day of Action" to claim Republicans will "break the Net." Let me be clear: Republicans have always supported a free and open internet. We must move past the partisan rhetoric. Ranking Member Pallone said in 2010 that this is a job for Congress. I agree.

Other issues confronting the Commission include administration of the Lifeline program, media ownership rules, and process reform. The GAO released another report critical of the Lifeline program on June 29th. It found that 36 percent of program participants could not be verified for eligibility, over 6,000 deceased individuals were enrolled after their death, and numerous carriers approved eligibility for the program based on fictitious documentation. Lifeline continues to be plagued by significant deficiencies—including the need for a hard cap.

Outdated media ownership rules and process reform issues also concern the subcommittee. Commissioner O'Rielly astutely noted that the FCC's Quadrennial Review of broadcast ownership rules released last August was "divorced from the realities of today's media marketplace." Finally, process reform has been an issue of bipartisan concern for some time. Bipartisan bills have passed the House five of the last 6 years. Chairman Pai, you have taken positive steps; including the release of a fact sheet for any proposal to be considered at an open meeting and releasing the text of documents to the public in advance of a vote at an open meeting. However, more must be done to promote and sustain a culture of transparency at the Commission on several other issues noted in the majority memorandum.

I look forward to today's hearing. Thank you.

Mr. LANCE. Thank you, Chair Blackburn, and welcome to the FCC Commissioners.

The internet is a great equalizer. It provides an open platform to empower innovation, expression, and free speech, as well as

other inventions in history. By reclassifying internet services under the depression era Title II, common carrier rules, in 2015, the FCC needlessly risked this great economic engine. Title II opens the door to burdensome regulations that harm competition, threaten the investment and broadband needed to close the digital divide and hold back innovation such as 5G.

I applaud Chairman Pai for initiating a proceeding to review this misguided reclassification. It is important for consumers not to conflate the harmful Title II reclassification with the net neutrality principles as some would suggest. There is strong support among the American people for a light touch approach to internet regulation, and a strong consensus on both sides of the aisle for net neutrality principles. These ideas do not need to be mutually exclusive.

It is my hope that the Commission and Congress can finally resolve the open internet issues, and that we can work together in a bipartisan capacity.

Thank you, Madam Chair.

Mrs. BLACKBURN. I now recognize the ranking member, Mr. Doyle, for 5 minutes.

**OPENING STATEMENT OF HON. MICHAEL F. DOYLE, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA**

Mr. DOYLE. Thank you, Chairman Blackburn, for holding this long overdue hearing today, and thank you to the witnesses for appearing before us. It is my sincere hope we can make this a far more regular occurrence.

I have spent my time in Congress and on this committee as a strong advocate of competition, innovation, and opportunity. These are the pillars of a successful marketplace and the driving force of our economy. When we act to weaken them, we weaken our own economy and our country.

Chairman Pai, in the time that you have been head of this agency, we have seen an agenda that is anti-consumer, anti-small business, anti-competition, anti-innovation, and anti-opportunity. Right out of the gate, the Commission took a range of actions, including pulling back an investigation of anti-competitive zero rating practices, and a mere progress report on updates to a program to bring broadband to schools and libraries.

The Commission reinstated the UHF discount for what seems to be no other reason than to enable an unprecedented merger between Sinclair and Tribune that would give the combined entity a foothold in nearly 80 percent of American households. The Commission eviscerated competition for business data services in this country. Your order concluded that a market is competitive if it is served by one provider with the possibility of another one might enter at some point. I don't even see how this makes sense.

The Commission ended a program that enabled poor people to get access to broadband, literally pulling service away from people who had already signed up. The Commission is in the process of eliminating the FCC's open internet order, which, as of this morning, 12.3 million have written to you in overwhelming opposition.

These rules are working, they have been upheld in Federal court, and they have promoted a virtuous cycle of investment and innova-

tion online. And I don't think this point can be stressed enough. Publicly traded companies are required by law to tell their investors the risk to their company. No publicly traded ISP has made such a claim. However, many online companies, including Netflix and SNAP, have claimed that eroding or eliminating these rules will, in fact, pose a threat to their businesses.

You know, when I read your statements and you talk about investment and your concerns, you only seem to talk about it in relation to ISP investment. I am concerned that maybe you just don't get it. The internet isn't just an ISP's connection to the consumer. It is a vast array of networks, services, and applications. Ignoring the rest of the ecosystem is to ignore the part of the internet that is the most vibrant and innovative.

I am deeply concerned that the FCC is on a wrong path, a path that will hurt small businesses, regular people, and some of the most innovative sectors of our economy.

And on that cheery note, I will yield of balance of my time to Ms. Eshoo.

Ms. ESHOO. I thank the ranking member. And what a superb opening statement you just made.

One of the most important issues currently before the FCC is obviously net neutrality. We have heard a lot from net neutrality opponents about the impact of Title II on broadband investment. And while large ISPs tell the FCC that Title II has chilled investment, their executives tell their shareholders a different story. The benefits of Title II protections to every other sector of our economy are enormous. A free and open internet supported the creation of 10.4 million U.S. jobs in all 50 States in 2016. 86 percent of these jobs came outside of major tech hubs.

Despite the broad impact of the open internet on our economy, the FCC is barreling down the road of eliminating these critical protections, and making it clear to the American people, startups, and small businesses that their input is not valued nearly as much as that of Washington's special interests.

So I look forward to discussing this issue further, and ask that my full statement be inserted in the record. I also plan to discuss very directly with you, Mr. Chairman, the whole issue of RT in the intelligence communities public record statement. It is replete with references to RT. And I think that we need to pay a great deal of attention to that.

I thank the gentleman for yielding, and I yield back.

Mrs. BLACKBURN. The gentlelady yields back.

Does the gentleman yield back?

Mr. DOYLE. Yes, I yield back. Thank you.

Mrs. BLACKBURN. The gentleman yields back his time. And I will say to my colleagues, we agree with you that the issues of the health of the internet ecosystem, the issue of net neutrality, the issue of Title II deserve additional attention from this committee, and we look forward to carrying forward with this.

At this time, I recognize the chairman of the full committee, Mr. Walden, for 5 minutes for an opening.

**OPENING STATEMENT OF HON. GREG WALDEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON**

Mr. WALDEN. Good morning, Madam Chair, and to all of our witnesses, the Commissioners and the chairman, to our guests.

American innovation in the internet space has literally revolutionized the world and everything we do and how we do it. From research and communications to shopping and entertainment, the internet is an essential part of our everyday lives. Given the debate over the rules for internet operations and consumer privacy, it is our responsibility on the Energy and Commerce Committee to fully understand all sides of the internet governance issue. Therefore, I am announcing this morning that I am convening a full Energy and Commerce Committee hearing entitled "Ground Rules for the Internet Ecosystem" for Thursday, September 7, 2017.

Today I am sending formal invitations to the top executives of the leading tech companies, including Facebook, Alphabet, Amazon, and Netflix, as well as broadband providers including Comcast, AT&T, Verizon, and Charter Communications, inviting each of them to come and testify before our full Energy and Commerce Committee.

It is time for Congress to legislate the rules of the internet, and stop the Ping-Pong game of regulations and litigation. And make no mistake, given the importance of this public policy debate, and the work we need to do as a committee, it is essential that we hear directly from the country's top internet and edge provider leaders who frequently speak out publicly about rules of the internet. It is time they came before us, and directly shared their positions and answered our questions.

And with more than a month's advance notice, I am sure they can arrange their schedules to accommodate our invitations.

Now, with regard to today's panel. Chairman Pai, welcome and congratulations on taking over the helm at the FCC. Commissioner Clyburn, Commissioner O'Rielly, we are glad to have you back before us as well. Thank for the work you do.

We begin a new chapter in the history of the FCC, one that will shape some of the most important parts of our national economy: The telecommunications industry, the video distribution industries, and the internet.

In today's hearing, we begin to examine reauthorizing the FCC, and that is the first time since 1990 the FCC has come up for reauthorization. By any estimation, this discussion is long overdue, and today, we continue conversations to make the FCC a model agency with proposals for a number of process reforms, many of which will sound very familiar because we have taken them up before in this committee.

When we first took up these open Government reforms, I said it was not about who headed the FCC at the time; it was about improving transparency and public involvement in a public process. I believe that under Chairman Wheeler, and I believe that just as much now under Chairman Pai.

I was pleased to see Chairman Pai demonstrated his commitment to making the FCC operations more transparent through action by initiating a pilot program to publicly release the text of Commission agenda items at the same time they are presented to

the other Commissioners for a vote, a measure his predecessor opposed. There are a number of matters pending at the Commission, many of which we will discuss today.

With the forward portion of the incentive auction concluded the next phase, the broadcaster repack is underway. The Commission has set forth an aggressive schedule to move all the broadcasters impacted by this auction. While I have every confidence that Chairman Pai will work to ensure consumers continue to have access to over-the-air television, concerns remain about the sufficiency of the 39-month time line and the \$1.75 billion budget.

I take these concerns seriously, and will continue to work closely with the Commission and my colleagues to make sure that over-the-air broadcasting and the viewers they reach on their main channel and on their translators are not adversely affected. And, of course, Chairman Pai has commenced a proceeding to examine returning regulation of the internet to the bipartisan framework that made it the economic engine that it is today.

As we wait for this process to take its course, the future of the greatest economic engine of modern times is clouded with uncertainty with a growing recognition that the time is now for legislative action. We offered a way forward on net neutrality in 2015. I believe now, as I did then, that we should work together to write bipartisan legislation to protect the internet from bad actors who want to use their unfair advantage to block, throttle, or, in other ways, engage in bad behavior. The American people deserve no less. We stand ready to act.

Chairman Pai, Commission Clyburn, Commissioner O’Rielly, thank you all again.

If there are others who want to use the last 15 seconds, I would happily yield. And if not, I yield back the balance of my time.

[The prepared statement of Mr. Walden follows:]

#### PREPARED STATEMENT OF HON. GREG WALDEN

Good morning everyone.

American innovation in the internet space has literally revolutionized the world and everything we do and how we do it. From research and communications to shopping and entertainment, the internet is an essential part of our everyday lives. Given the debate over the rules for internet operations and consumer privacy, it is our responsibility on the Energy and Commerce Committee to fully understand all sides of internet governance. Therefore, I am announcing this morning that I am convening a full Energy and Commerce Committee hearing entitled “Ground Rules for the Internet Ecosystem” on Thursday, September 7, 2017. Today I am sending formal invitations to the top executives of leading tech companies, including Facebook, Alphabet, Amazon, and Netflix, as well as broadband providers including Comcast, AT&T, Verizon, and Charter Communications inviting them to testify. It’s time for Congress to legislate the rules of the internet, and stop the ping-pong game of regulations and litigation. And make no mistake, given the importance of this public policy debate and the work we need to do as a committee, it is essential that we hear directly from the country’s top internet and edge provider leaders who frequently speak out publicly about the rules of the internet. It’s time they came before us and directly shared their positions and answered our questions. With more than a month’s advance notice, I’m sure they can arrange their schedules to accommodate our invitation.

Now, with regard to today’s panel: Chairman Pai—welcome and congratulations again on taking over the helm of the Federal Communications Commission. Commissioner Clyburn, Commissioner O’Rielly welcome. Thank you all for joining us.

We have begun a new chapter in the history of the FCC; one that will shape some of the most important parts of our national economy—the telecommunications industry, the video distribution industries, and the internet.

In today's hearing, we begin to examine reauthorizing the FCC for the first time since 1990. By any estimation, this discussion is long overdue and today we continue conversations to make the FCC a model agency with proposals for a number of process reforms. When we first took up these open Government reforms, I said it wasn't about who headed the FCC at the time, it was about improving transparency and public involvement in a public process. I believed that when Chairman Wheeler ran the FCC just as much as I believe it now with Chairman Pai at the helm.

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And of course, Chairman Pai has commenced a proceeding to examine returning the regulation of the internet to the bipartisan framework that made it the economic engine that it is. As we wait for this process to take its course, the future of the greatest economic engine of modern times is clouded by uncertainty, with a growing recognition that the time is now for legislative action. We offered a way forward on net neutrality in 2015. I believe now, as I did then, that we should work together to write bipartisan legislation to protect the internet from bad actors who want to use their unfair advantage to block, throttle or in other ways engage in bad behavior. The American people deserve no less.

Chairman Pai, Commissioner Clyburn, and Commissioner O'Rielly thank you all again.

Mrs. BLACKBURN. The gentleman yields back. At this time, I recognize the ranking member of the full committee, Mr. Pallone, for 5 minutes for an opening.

**OPENING STATEMENT OF HON. FRANK PALLONE, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY**

Mr. PALLONE. Thank you, Madam Chairwoman.

I would like to thank the FCC Commissioners for joining us this morning, our first FCC oversight hearing of this Congress. While I am glad you are here, this hearing should have occurred months ago. The Republican majority had no problem conducting oversight of the previous Obama administration holding quarterly oversight hearings. But now that their own party controls the majority of the Commission, we are six months into the administration, and this is our first hearing with the new Commission. I hope this is not a sign of things to come, because the Commission's own actions have shown the critical need for congressional oversight.

To date, most of the FCC's actions have ignored the needs of consumers. Too often, when given the chance, this FCC has sided with large corporations to the detriment of hardworking Americans. The Commission started this year by making it more difficult for competitors to offer broadband to low-income people through the Lifeline program. It continued with a scheme to encourage more consolidation in the media industry, which would eliminate voices from the air.

Last week, Chairman Pai refused to commit to protecting the funds necessary to close the homework gap as part of the popular E-Rate program in our schools. And then there is the alarming outright refusal by the FCC to protect the security of our broadband networks at a time when the Russians and others are looking for new ways to break in.

But the highest profile example of the FCC siding with large corporations over small businesses and hardworking Americans is its attempt to eliminate net neutrality. A free and open internet is crucial for our democracy by giving everyone an equal voice online, especially those communities too often overlooked by traditional media. Each of us gets to decide which videos we watch, which sites we read, and which services we use. Nobody gets to influence that choice. Not the Government and not the companies that run the networks.

A free and open internet also allows small businesses to flourish. These small businesses, many of which are owned by minorities and women, are responsible for more than half of the jobs in the country today. If the FCC moves ahead with its net neutrality repeal, the consequences will be severe. Their plan will have a chilling influence on our democracy, cut away at our connections with each other, and limit economic opportunities for the future. The FCC claims that net neutrality repeal is necessary because consumer protections might deter investment in network infrastructure. But this narrow-minded view of the public interest can lead to cruel results. I hope that the Commissioners really listen to the millions of comments that are coming in from around the Nation and reconsider their dangerous plan to eliminate net neutrality.

This is not only an oversight hearing today. The Republican majority recently surprised us all with a 42-page reauthorization bill that had absolutely no Democratic input. And this bill is flawed. It slashes \$18 million from the FCC's budget, the same agency that is having issues keeping its Web site up and running. This is not serious legislation, and it does not bode well for any serious legislation being developed by the majority of this subcommittee on any major communication issues.

[The prepared statement of Mr. Pallone follows:]

PREPARED STATEMENT OF HON. FRANK PALLONE, JR.

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It continued with a scheme to encourage more consolidation in the media industry, which would eliminate voices from the air.

Last week Chairman Pai refused to commit to protecting the funds necessary to close the homework gap as part of the popular E-Rate program in our schools.

And then there is the alarming outright refusal by the FCC to protect the security of our broadband networks at a time when the Russians and others are looking for new ways to break in.

But the highest profile example of the FCC siding with large corporations over small businesses and hardworking Americans is its attempt to eliminate net neutrality.

Net neutrality is crucial for our democracy by giving everyone an equal voice online—especially those communities too often overlooked by traditional media. Each of us gets to decide which videos we watch, which sites we read and which services we use. Nobody gets to influence that choice—not the Government and not the companies that run the networks.

Net neutrality also allows small businesses to flourish. These small businesses—many of which are owned by minorities and women—are responsible for more than half of the jobs in the country today.

If the FCC moves ahead with its net neutrality plan the consequences will be severe. Their plan will have a chilling influence on our democracy, cut away at our connections with each other, and limit economic opportunities for the future.

The FCC claims its plan is necessary because consumer protections might deter investment in network infrastructure. But this narrow-minded view of the public interest can lead to cruel results. I hope that the Commissioners really listen to the millions of comments that are coming in from around the Nation, and reconsider their dangerous plan to eliminate net neutrality.

This is not only an oversight hearing today—the Republican Majority recently surprised us all with a 42-page reauthorization bill that had absolutely no Democratic input. This bill is flawed. It slashes \$18 million from the FCC's budget—the same agency that is having issues keeping its Web site up and running. This is not serious legislation, and it does not bode well for any serious legislation being developed by the majority of this subcommittee on any major communications issues.

Mr. PALLONE. And with that, I would like to yield such time as she wants to Ms. Matsui that I have left.

Ms. MATSUI. Thank you very much, Ranking Member Pallone, for yielding me time, and welcome to our FCC Commissioners. I represent Sacramento, the capital of the State of California, where innovation is central to the way we do business. My constituents are extremely concerned about vast and fair access to the internet, which is essential for the innovation economy to thrive. In fact, I have gotten myself so many comments on my phones and emails in Sacramento and here in Washington, DC.

Everyone from small business owners to educators and librarians in my district have told me that they are counting on the FCC's net neutrality rules. And it is not just my constituents; it is Americans across this country. Almost 11 million people have contacted the FCC about why net neutrality is so important. And these are not just business people. These are students; these are seniors; these are librarians, as I said before. These are people who use the internet every single day, and want it to be there. And I have to say this: Chairman Pai, I urge you to listen to these voices, millions of voices, and not roll back the progress that we have made. It is really important for the future of our country here. It is important for the future of our young people. And I truly believe that, in this way, if we stopped this progress, we will, in essence, stop the progress of our country. So I urge you to listen.

And I yield back the balance of my time.

Mr. PALLONE. And I yield back, Madam Chairwoman.

Mrs. BLACKBURN. The gentleman yields back.

I will remind my colleagues, we had this hearing scheduled in March and gave up our day for the markup of the healthcare bill. And we would have liked to have had this hearing earlier in the year.

That concludes Member opening statements. The Chair would remind all Members that, pursuant to the committee rules, they have an opportunity to make their opening statement a part of this record. We want to thank all of our witnesses for being here and taking the time to testify before the subcommittee. Today's witnesses will have the opportunity to give opening statements followed by questions from the Members.

Our witness panel for today's hearing will include the Honorable Ajit Pai, who is Chairman of the Federal Communications Commission; the Honorable Mignon Clyburn, who is a Commissioner at the Federal Communications Commission; and the Honorable Michael O'Rielly, who is also a Commissioner at the Federal Communications Commission. We appreciate each of you being here today and for preparing your testimony for the committee. We will begin the panel with you, Chairman Pai. You are now recognized for 5 minutes for your opening statement.

**STATEMENTS OF AJIT PAI, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION; MIGNON L. CLYBURN, COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION; AND MICHAEL O'RIELLY, COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION**

**STATEMENT OF AJIT PAI**

Mr. PAI. Thank you, Chairman Blackburn, Ranking Member Doyle, members of the subcommittee. Thank you for giving me the opportunity to testify today.

Since 2012, it has been an honor to work with you on many issues. And now, as Chairman, I look forward to striving together to bring digital opportunity to all Americans. I also want to pay tribute to a distinguished member of this subcommittee, Representative Steve Scalise. I have had the chance to work with him over the past few years. And I have learned a truth known to many of you: To know him is to like him. My thoughts and prayers continue to be with him and his family during his recovery.

The agency has been busy during the past few months. July marked Consumer Protection Month at the FCC. At our open meeting, we targeted a triad of consumer scourges: unlawful robocalls, slamming and cramming, and rural call completion, all on the heels of taking down the largest spoofer in our agency's history.

August will be Rural Broadband Month. On August 3rd, we will consider the next steps towards implementing the Connect America Fund and Mobility Fund reverse auctions. We will also explore how to ensure that our ongoing collection of broadband deployment data is as accurate and efficient as possible. There is, of course, much more that the agency is doing and much more to be done.

I look forward to continuing working together on a bipartisan basis to close the digital divide, promote innovation, protect consumers and public safety, and improve the FCC's processes and procedures.

My testimony today will focus on two issues that I believe are ripe for legislative action. First, I applaud the subcommittee for promoting legislation to reauthorize the FCC for 5 years. I am eager to work with the subcommittee to advance it. I want to high-

light one particular provision entitled “Deposits of Bidders to be Deposited in Treasury.” That provision is absolutely critical if our Nation is going to lead the world in 5G, because without it, the FCC won’t be able to launch large-spectrum auctions in the foreseeable future. Here is why: The Communications Act requires that up-front payments made by bidders in spectrum auctions be deposited in, and I quote, “an interest-bearing account at a financial institution.”

But recent regulatory requirements have dissuaded private institutions from holding these up-front payments. Public institutions, too, have indicated that, going forward, they have no interest in establishing these special purpose accounts that would be necessary to offer such services. As a result, despite repeated efforts by FCC and Treasury staff, no financial institution is now willing to hold up-front payments in an interest-bearing account for a large spectrum auction. Thus, the FCC currently has no way to comply with the law and no way to move forward with any such auction. That is why I appreciate the subcommittee’s willingness to address this situation. With the simple fix contained in the draft legislation, the FCC would, again, be able to schedule large-spectrum auctions by allowing up-front payments to be deposited at the Treasury.

Second, I would like to update the subcommittee on the post-incentive auction transition process. July 12 was the deadline for television broadcasters that are going to be repacked to submit cost estimates to the Commission. And two days later, the FCC announced that the aggregate amount of the estimated costs reported by broadcast television stations and multichannel video programming distributors, or MVPDs, that are eligible for reimbursement, was \$2.115 billion. However, we cautioned that we expected to receive additional estimates from MVPD’s and a smaller number of stations.

In recent days, the FCC has received several additional estimates. And the aggregate total of estimated costs has increased to \$2.139 billion. Given the estimates that we have received to date, we are confident that, once all initial estimates are received, the total will be below \$2.2 billion.

Now, looking beyond the initial round of estimates, the aggregate total of estimated repacking costs will continue to change through amendment and independent review during the transition process for these reasons: The FCC cannot definitively report today exactly how much the repack will cost. The final number could be lower or higher than the current \$2.139 billion. But we do expect the final number to be above the \$1.75 billion that Congress has provided the Commission to reimburse affected broadcast stations and MVPDs. As a result, unless Congress acts to raise the \$1.75 billion cap, the substantial likelihood is that local broadcasters will be required to pay some portion of the repacking cost out of their own pockets. I would be happy to work with the subcommittee to address this important issue.

Chairman Blackburn, Ranking Member Doyle, members of the subcommittee, thank you once again for holding this hearing. I look forward to answering your questions and to continuing to work with you and your staffs in the time to come.

Thank you, Madam Chair.

[The prepared statement of Mr. Pai follows:]

**TESTIMONY OF FCC CHAIRMAN AJIT PAI  
BEFORE THE SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY  
OF THE UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON ENERGY AND COMMERCE**

**“OVERSIGHT AND REAUTHORIZATION OF THE  
FEDERAL COMMUNICATIONS COMMISSION”**

**JULY 25, 2017**

Chairman Blackburn, Ranking Member Doyle, and Members of the Subcommittee, thank you for giving me the opportunity to testify today. For over five years, it has been an honor to work with many of you on a wide variety of issues. Now, as Chairman, I look forward to continued collaboration as we strive to bring digital opportunity to all Americans.

I also want to pay tribute to a distinguished member of this Subcommittee, Representative Steve Scalise. I’ve had the chance to work with him over the past few years, and I’ve learned a truth known to many of you: to know him is to like him. My thoughts and prayers continue to be with him and his family during his recovery.

The agency has been busy these last few months. July marked Consumer Protection Month at the FCC. At our open meeting, we targeted a triad of consumer scourges—unlawful robocalls, slamming/cramming, and rural call completion—all on the heels of taking down the largest spoofer in our agency’s history. August will be Rural Broadband Month. At our open meeting on August 3, we will consider the next steps towards implementing the Connect America Fund and Mobility Fund reverse auctions. Together these auctions will allocate \$6.5 billion for rural broadband expansion over the next decade. We’ll also explore how to ensure that our ongoing collection of broadband deployment data is as accurate and efficient as possible.

There is of course much more that the agency is doing—and much more to be done. I look forward to continue working together on a bipartisan basis to close the digital divide, promote innovation, protect consumers and public safety, and improve the FCC’s processes and procedures.

My testimony this morning will focus on two issues that are ripe for legislative action: reauthorizing the agency and holding repacked broadcasters harmless after the incentive auction.

*Reauthorization of the FCC.*—First, I applaud the Subcommittee for promoting legislation to reauthorize the Federal Communications Commission for five years. Much of the legislation would improve the agency’s operations, from codifying our process reforms to giving the agency additional leeway to ensure application and regulatory fees keep pace with our work. I look forward to working with the Subcommittee to advance it.

I do want to highlight one particular provision: section 101(b), “Deposits of Bidders to Be Deposited in Treasury.” That provision is absolutely critical if our nation is going to lead the world in 5G. Because without it, the FCC won’t be able to launch large spectrum auctions for the foreseeable future.

Here’s the background. As it stands, the Communications Act requires that upfront payments made by bidders in spectrum auctions be deposited in “an interest bearing account at a financial institution designated . . . by the Commission (after consultation with the Secretary of the Treasury).” But recent regulatory requirements for the collateralization and capitalization of deposits have dissuaded private institutions from holding upfront payments. And public institutions have indicated going forward they have no interest in establishing the special purpose accounts that would be necessary to offer such

services. As a result, and despite the repeated efforts of FCC and Treasury staff, no financial institution is willing to accommodate the holding of upfront payments in an interest bearing account for a large spectrum auction after the incentive auction. Thus, the Commission currently has no way to comply with the law—and no way to move forward with any large spectrum auction.

That's why I appreciate the Subcommittee's willingness to work with us over the past several months to remedy this situation. With the simple fix contained in the draft reauthorization legislation, the Commission would again be able to schedule large spectrum auctions by allowing upfront payments to be deposited at Treasury. That means moving forward with the mid-band and high-band spectrum auctions that are necessary if the United States is to lead the world in 5G.

*Post-Incentive Auction Transition Process.*—Second, I would like to briefly update the Subcommittee on the current status of the post-incentive auction transition process and the path ahead. July 12 was the deadline for broadcast television stations that are going to be repacked during this process to submit construction permit applications and cost estimates to the Commission. And two days later, the FCC announced that the aggregate amount of the estimated costs reported by broadcast television stations and multichannel video programming distributors (MVPDs) eligible for reimbursement from the Commission was \$2.115 billion. In this announcement, we cautioned that we expected to receive additional estimates from MVPDs and a small number of stations.

In recent days, the Commission has received several additional estimates, and the aggregate total of estimated costs has increased by approximately \$24 million to \$2.139 billion. At this point, we only expect to receive additional cost estimates from some smaller MVPDs and eight broadcast television stations. These eight stations were granted waivers of the July 12 deadline because they are unable to construct at their current channel assignment and must apply to receive a new one. But extrapolating from the estimates that we have received to date, we are confident that once all initial estimates are received, the aggregate total will be below \$2.2 billion.

Looking beyond the initial round of estimates, the aggregate total of estimated repacking costs will continue to change as the post-incentive auction transition process proceeds. Many stations will end up amending their initial estimates. Additionally, both the Commission and its fund administrator will conduct reviews of those estimates, which will likely alter the aggregate number.

For these reasons, the FCC cannot definitively report today how much the repack actually will cost. The final number could be lower than the current \$2.139 billion. It could also be higher. But I can say right now that the agency expects the final number to be above the \$1.75 billion that Congress has provided the Commission to reimburse impacted broadcast stations and MVPDs. As a result, unless Congress acts to raise the \$1.75 billion cap, the substantial likelihood is that local broadcasters will be required to pay some portion of their repacking costs out of their own pockets. I would be happy to work with the Subcommittee to address this issue.

\* \* \*

Chairman Blackburn, Ranking Member Doyle, and Members of the Subcommittee, thank you once again for holding this hearing. I look forward to answering your questions and working with you to promote the public interest.

Mrs. BLACKBURN. And he yields back right on time.  
Commissioner Clyburn, you are recognized for 5 minutes.

**STATEMENT OF MIGNON L. CLYBURN**

Ms. CLYBURN. Chairman Blackburn, Ranking Member Doyle, members of the subcommittee, good morning and thank you for the opportunity to again appear before you to share my priorities for advancing competition, strengthening viewpoint diversity, and ensuring that consumers are always put first.

Last week, I had the privilege of traveling to Marietta, Ohio. It was there I heard countless stories from individuals, businesses, and local government leaders who, but for no other reason than their geographic location, and maybe a slight income gap, find themselves on the wrong side of the digital and opportunity's divide in Appalachia. Too many families in rural America, and even many urban communities, are suffering from poor to no connectivity and substandard service that, to add insult to injury is simply unaffordable.

I believe, however, that if we commit as an agency to put the interest of consumers and small businesses first, we will be able to truly say that we are fulfilling our statutory mandate to serve the public interest. Allow me to spend the majority of my testimony today further explaining how the Commission can achieve this goal.

Among my top priorities is preserving the Commission's 2015 open internet rules. But just what is this administration's response to the more than now 12 million commenters who expressed their views with the Commission? To propose a dismantling of the bright line rules of the road we adopted in 2015 and were upheld by the D.C. Circuit last year.

We need to hit the pause button and begin serious discussions about the broader implications of undoing our classification of broadband as a Title II service. Take, for example, consumer privacy. In a world without Title II, not only will the FCC be forever barred from addressing consumer privacy in a broadband world, it is unclear that any agency will ever hold that authority. Similarly, when it comes to our efforts to expand the deployment of broadband, including in rural America, taking away Title II for broadband undercuts our ability to ensure universal service support for broadband by taking away our clearest choice of authority to make sure all Americans are connected.

Undoing our classification of broadband as a Title II service also harms the FCC's ability to enable competition. Without Title II, it will be far more difficult for the Commission to enact policies to promote competition.

Second, I have been a tireless leader and defender of the FCC Lifeline program and the need for there to be affordable connectivity for all American consumers. The reality is that an \$80-to-\$100-a-month broadband bill is simply out of reach for Americans who are struggling to make ends meet.

Moving forward, we have a choice to make as a Commission. Will we be shortsighted and weaken a program designed to assist our Nation's most vulnerable, or will we commit to constructively address and fix any remaining issues?

Third, I remain committed to delivering just and reasonable rates for the 2.7 million children who have been hampered in their quest to communicate with an incarcerated parent. I am thankful for the leadership of Congressman Bobby Rush and others on this subcommittee who, for years, have fought for real reform. Rest assured, I will continue fighting to ensure that inmates and their loved ones do not have to pay several thousand percent of what a nonincarcerated person pays just to stay in touch.

Fourth, I am a strong believer in the need for greater viewpoint diversity across our public airwaves. However, the Commission has taken several highly concerning steps this year to derail that goal, including reinstating that technologically obsolete UHF discount. By reinstating and maintaining this loophole that belongs in a regulatory trash heap, the Commission has signaled its willingness to allow a single broadcast station group to reach nearly 80 percent of the U.S. households in a way that is nontransparent to the public, and enables a nearly doubling of the ownership threshold set by this body in 2004.

Finally, I would like to share some views about the Commission's work around broadband-enabled healthcare, if you would. Last month, the Commission's Connect2Health task force released an update of our popular broadband mapping tool. Our latest data shows that there are 214 counties, 175 of which are majority rural, where broadband access is below 50 percent, and diabetes and obesity rates are above the national average. And in a late-breaking update, I am pleased to report that as of Friday, the FCC has reopened its broadband health proceeding for additional comments. Equipped with this information and working with our Federal partners at HHS, the VA, and the NTIA, the FCC will be better positioned to target those double-burden counties.

In conclusion, let me say that I always stand ready to work with my colleagues, this subcommittee, State and local partners, and business leaders to advance policies that put consumers first, and ensure our communications landscape remains the envy of the world.

I thank you very much for allowing me more time. I am very enthusiastic about being here, as you can tell by my statement, and I look forward to answering any questions you may have in the remaining time I don't have.

[The prepared statement of Ms. Clyburn follows:]

**Testimony of FCC Commissioner Mignon L. Clyburn**  
Before the  
U.S. House of Representatives  
Committee on Energy & Commerce  
Subcommittee on Communications & Technology  
Oversight and Reauthorization of the Federal Communications Commission  
July 25, 2017

Chairman Blackburn, Ranking Member Doyle, Members of the Subcommittee, good morning and thank you for the opportunity to again appear before you to share my priorities for advancing competition, strengthening viewpoint diversity, and ensuring that consumers are always put first.

Last week, I had the privilege of traveling to Marietta, Ohio. There I heard countless stories of individuals, businesses and local government leaders who, but for no other reason than their geographic location and maybe a slight income gap, find themselves on the wrong side of the digital and opportunities divide. Catherine told me that she had “better internet and cell phone service in rural Kenya in 2007-08 than in Meigs County, Ohio in 2017.” Tina shared how she has lost \$300-\$500 in the past month from her art business due to connectivity challenges. But Pat summed it up best by describing internet and cell phone coverage as “vital public utilities” that rural America needs to “support ourselves, compete in world markets, and not become a burden on others.” The stories and interests of last week’s presenters who represented more than 16 counties in the Appalachian region of Ohio, West Virginia and even Kentucky varied, but the unifying theme I heard is that too many families in rural America and even many urban communities are suffering from poor to no connectivity and substandard service that, to add insult to injury, is simply unaffordable.

While an eternal optimist, even I walked away from that conference and town hall meeting deeply disturbed by how much each of us has let those communities down. Fourteen year old Herron should not have to grow old waiting for affordable, reliable broadband service to reach her family’s farm. If we commit to putting her interests and the interests of her neighbors and local small businesses first, then we will be able to truly say that we have served her best.

Allow me to use the remainder of my testimony to further explain how.

**Preserving a Free and Open Internet and the Implications of Undoing Title II**

Among my top priorities is preserving the Commission’s 2015 open internet rules. For the past several months, I have witnessed the nation’s expert agency gloss over Title I, Section 1 of the very Act that Congress created some 83 years ago. Without discrimination, the FCC’s mandated goal is to make available, so far as possible, adequate facilities at reasonable charges for wire and radio communications. Craig from California said it well when he described to me a world without net neutrality, as one where his provider “could easily throttle my Netflix or Hulu subscriptions to force me into one of their cable TV packages that have Netflix or Hulu, or force me into a more expensive internet plan that I can’t afford.” He went on to describe the next internet package as being “nearly four times the price of my current internet plan.” And just what

is this administration's response to Craig and the more than 10 million others who have filed their views with the Commission? To propose the dismantling of the bright-line rules of the road we adopted in 2015, and were upheld by the D.C. Circuit last year.

But if we were to allow ourselves to get beyond the political, corporate, and philosophical posturing, what is clear is that the basic tenets on which we should all agree are the things that truly matter: no blocking, paid prioritization, or throttling. The broader implications of undoing our classification of broadband as a Title II service are what we need to be discussing. Take for example consumer privacy. Section 222 of the Communications Act is the FCC's privacy statute. We adopted rules of the road for broadband privacy last October and they were stripped away earlier this year with the passage of the Congressional Review Act (CRA) resolution of disapproval which means today, there are no comprehensive rules on the books protecting broadband consumer privacy for Americans. And in a world without Title II, not only will the FCC be forever barred from addressing consumer privacy in a broadband world, it is unclear that any agency will ever hold that authority.

Similarly, when it comes to our efforts to expand the deployment of broadband, including in rural America, section 254 of the Communications Act broadly gives us the authority and duty to ensure universal service. But, the bulk of the mandate and duty applies to Title II telecommunications services. Taking away Title II for broadband undercuts our ability to ensure universal service for broadband by taking away our clearest source of authority to make sure all Americans are connected.

Undoing our classification of broadband as a Title II service also harms the FCC's ability to enable competition. There is specific authority in sections 224 and 253 of the Communications Act that allows the FCC to enable competitive access to monopoly infrastructure, and to remove other barriers to competition. Without Title II, it will be far more difficult for the Commission to enact policies to enable competition.

#### **Lifeline Modernization**

Second, I have been a tireless defender of the FCC's Lifeline program and the need for affordable connectivity for all Americans. I strongly support efforts to expand broadband access and streamline infrastructure deployment, but if the result is connectivity that much of the community cannot afford, then we have not accomplished our mission nor satisfied our statutory obligation under the Communications Act.

The reality is that an \$80-\$100 broadband bill is out of reach for too many Americans. Given the extraordinary economic benefits of broadband, including the ability to run a business, find a job, advance one's education, access telehealth services, or even simply pay your bills, we must strive to make connectivity more affordable, not less.

I have always been clear in my intent to aggressively root out waste, fraud, and abuse, whether it is in the Lifeline program or any of our other universal service programs. In recent years, the Commission has taken numerous steps to achieve this goal with respect to Lifeline,

including setting up a national eligibility verifier, adopting a periodic recertification requirement and ensuring that people who are signed up are actually using their service.

Moving forward, we have a choice to make as a Commission. Will we be short-sighted and weaken a program designed to assist our nation's most vulnerable or will we commit to constructively address and fix any remaining issues so that this agency is actually upholding its Congressional mandate to make available "[q]uality services . . . at just, reasonable, and affordable rates"? As it stands right now, no new Lifeline providers can get into the program, providers are laying off employees and cutting off customers, the FCC is currently prohibiting states from approving new Lifeline broadband applications, and the agency has simultaneously announced its intention not to approve any new or pending applications itself. This has triggered a breeding ground full of business uncertainty, less marketplace competition, fewer consumer choices and mountains of disincentives for innovation which is hurting those most in need. In short, we have turned our backs on the nation's most vulnerable. However, it is not too late to get back on course. Let us show just how committed we are to strengthening a program designed to connect those who cannot afford a dial tone or broadband service, as we meet our obligation to institute strong accountability measures.

#### **Inmate Calling Reform**

Third, I remain committed to delivering just and reasonable rates for the 2.7 million children who have been hampered in their quest to communicate with an incarcerated parent. The Commission's caps on inmate calling rates reforms would have provided relief to millions of friends and families from egregious ancillary fees and charges. This order was intended to improve connectivity, which is pivotal to reducing recidivism and overall criminal justice reform.

But the market failure for inmate calling services and video visitation remains unaddressed. The D.C. Circuit's decision last month was no doubt deeply disappointing, but I take a little comfort, that the court gave us a blueprint for moving forward on interstate rates, site commissions, and ancillary fees. I am thankful for the leadership of Congressman Bobby Rush and others on this Subcommittee who for years have fought for real reform. Rest assured, I will continue fighting to ensure that inmates and their loved ones do not have to pay several thousand percent of what a non-incarcerated person pays to stay in touch.

#### **Promoting Viewpoint Diversity**

Fourth, I am a strong believer in the need for greater viewpoint diversity across our public airwaves. Yet, the Commission has taken several highly concerning steps this year to derail that goal including reinstating the UHF discount. The FCC adopted the UHF discount in 1985 to address the competitive disadvantages facing UHF stations, including being technically inferior, producing weaker over-the-air signals, reaching smaller audiences, and costing more to build and operate compared to VHF stations. Today, thanks to the digital television transition, the technical shortcomings of UHF signals no longer exist. But by reinstating and maintaining this loophole, the Commission has signaled its willingness to allow a single broadcast station

group to reach nearly 80% of U.S. households in a way that is non-transparent to the public, and enables a nearly doubling of the ownership threshold set by Congress in 2004.

Related to this action, I must highlight the troubling lack of transparency involving the recently approved Sinclair-Bonten Media deal. By not giving an advance heads-up before the Media Bureau's approval or the courtesy of letting my office know the transaction was approved after the fact, Chairman Pai reneged on his commitment "to be more transparent than previous Chairs." While it is true that this transaction was unopposed, its relationship to a related merger pending before the Commission as well as the D.C. Circuit's UHF discount case, meant that it rose to a level of public interest that warranted greater transparency. Simply put, I should not have to learn of the Commission's approval of a noteworthy transaction through the news media and I hope that this does not become the norm.

### **Connect2Health**

Finally, I would like to share some news about the Commission's work around broadband-enabled healthcare. Last month, the Commission's Connect2Health Task Force released an update of our popular broadband health mapping tool. In addition to learning that over 36 million Americans live in counties with what can best be described as "double burdens" of need – high numbers of those with chronic disease who also lack adequate broadband connectivity – we have a better picture of the specific U.S. counties with the greatest needs.

Specifically, our data shows that there are 214 counties (175 of which are majority rural) where broadband access is below 50% and diabetes and obesity rates are above the national average. Among the critical needs counties are four in my home state of South Carolina, four in Tennessee, four in North Carolina, five in Michigan, five in Missouri, and 16 in Texas. Equipped with this data and working with our federal partners at the Department of Health and Human Services (HHS) and the Department of Veterans Affairs (VA), we will be better positioned to target those double burden counties.

Related to this effort, in April, the Commission adopted a Public Notice (PN) seeking comment and data on actions to speed up the adoption and accessibility of broadband-enabled healthcare solutions. There have been more than 90 filings in response to the PN and with the comment period now closed, I am hopeful that the staff will be in a position to make recommendations on next steps the Commission could take by the Fall.

### **Conclusion**

Given the FCC majority's focus on improving agency process and enhancing transparency, I will redouble my efforts when it comes to remaining hopeful. I always stand ready to work with my colleagues, this Subcommittee, state and local partners and business leaders to advance policies that put #ConsumersFirst and ensure that our communications landscape remains the envy of the world.

Thank you again for allowing me to share my priorities and concerns with you this morning. I look forward to answering any questions you may have.

Mrs. BLACKBURN. Thank you Commissioner Clyburn. And we are enthusiastic about having you here, and we thank you for your dedication on those issues.

Commissioner O'Rielly, you are recognized for 5 minutes.

**STATEMENT OF MICHAEL O'RIELLY**

Mr. O'RIELLY. Thank you, Ms. Chairman, Ranking Member Doyle, and members of the subcommittee, for the opportunity to discuss the important topic before you today. I commend the subcommittee for its continued focus on the Federal Communications Commission, and I recommit to making myself available as a resource if I can be any assistance to the subcommittee in any manner in the future.

I sincerely appreciate the efforts of the subcommittee to examine issues relevant to the re-authorizing of the Commission. I believe that it is incredibly valuable and important any time Congress articulates its views via legislation on the Commission's work, including its funding levels, procedures, and substantive issues.

On that note, let me lend my strong support for the draft reauthorization bill before you today. As an aid to the subcommittee's examination of pertinent issues, I humbly suggest 15 additional process improvements in my written testimony that could be included in any reauthorization legislation. Many of these ideas, some of which I have discussed before while others are new, would benefit from being included in the statute so that future Commissions continue Chairman Pai's process reform direction.

Additionally, I would be remiss if I didn't include a request for modifications to our enforcement authority to address the consistent problem of pirate radio broadcasting. Switching to the issue of broadband deployment, there appears to be great interest by many policymakers, including members of this subcommittee, to provide additional Federal funding for purposes of expanding broadband capabilities to more Americans. One option that has been discussed is to include such funding within a potential larger infrastructure bill. If this were to occur, I hope the subcommittee would adopt or look to the Commission's high cost program as a mechanism to distribute such funding as opposed to using other existing Federal programs or creating a new program.

Additionally, to succeed at the next technological challenge, wireless providers are going to need two important ingredients: Access to sufficient mix of spectrum bands and reduced barriers to the installation of wireless equipment. While the Commission has been actively reallocating existing bands for mobile purposes with hopefully more to come, there remains obstacles imposed by State, local, and tribal governments that are hampering the ability of providers to serve Americans.

On another topic, as Chairman Pai noted, the Commission is in the early stages of repacking broadcasters that either didn't participate, or weren't selected as part of our generally successful process to reallocate broadcaster spectrum for new wireless services. While the Commission will need to review and scrub the broadcaster cost estimates to ensure that only legitimate charges are reimbursed, it does appear that there may be a need for additional financial resources from Congress.

Accordingly, the subcommittee should keep a close eye on the repacking cost estimates as our process continues, and may want to initiate a related legislative drafting process soon. Certainly, if it is determined that additional limited funding is needed to complete a successful repack, I would fully support such action, and would gladly help the subcommittee and Congress in any way.

This concludes my testimony. Thank you, Madam Chair.

[The prepared statement of Mr. O’Rielly follows:]

**Statement of Michael O’Rielly, FCC Commissioner  
Before the Subcommittee on Communications and Technology  
House Energy and Commerce Committee  
“Oversight and Reauthorization of the Federal Communications Commission”  
July 25, 2017**

Thank you, Mr. Chairman, Ranking Member Doyle and the Members of the Subcommittee for the opportunity to discuss the important topic before you today. I commend the Subcommittee for its continued focus on the Federal Communications Commission, and I recommit to making myself available as a resource if I can be of any assistance to the Subcommittee in any matter in the future.

*FCC Reauthorization*

I sincerely appreciate the efforts of the Subcommittee to examine issues relevant to reauthorizing the Commission. I believe that it is incredibly valuable and important anytime Congress articulates its views, via legislation, on the Commission’s work, including its funding levels, procedures, and substantive issues. We take our direction from the Congress and our authority to act derives solely from the powers granted and provided by this institution.

On that note, let me lend my strong support for the draft reauthorization bill circulated for consideration. Beyond outlining the Commission’s future authorization levels, it includes previous standalone efforts led by Representatives Latta and Kinzinger to address the Commission’s use of delegated authority and to publicize both Open Meeting and circulation items to be considered by the Commission, respectively. I also applaud the Subcommittee’s inclusion of strong cost-benefit analysis requirements for the FCC in the draft proposal. I believe that these reforms and the many others contained within, if enacted, would improve the decisions and functionality of the Commission.

To be clear, this is not to suggest that the current Chairman is utilizing questionable procedures. On the contrary, Chairman Pai has pushed the Commission to be more transparent and accountable to the American people. For example, his pilot project, based on our previous advocacy, to make Commission Open Meeting items public at the same time they are shared with Commissioner offices has proven a smashing success in my opinion, by reducing uncertainty and angst over item contents and promoting targeted comments and edits from interested parties (without leading to the parade of horrors some people suggested). I appreciate that the draft reauthorization legislation would make this practice permanent and extend it to our circulation items.

As an aid to the Subcommittee's examination of pertinent issues, let me humbly suggest additional process improvements that could be included in any reauthorization legislation. Many of these ideas, some of which I have discussed before while others are new, would benefit from being included in the statute so that future commissions continue Chairman Pai's process reform direction.

- Delegated Authority – In addition to the draft proposal, there should be a procedure for Commissioners to elevate an item scheduled for decision under delegated authority without disrupting timely disposal of items.<sup>1</sup>
- Meeting Item Deadlines – Any edits to an Open Meeting item should be available to Commissioners at least 24 hours prior to the meeting.
- Mandatory Sunsets – Decisions made by the Commission should include mandatory sunsets to force a reexamination of their value and effectiveness.
- Predictive Judgments – While the Commission should only regulate if there are facts demonstrating market failure, if “best guesses” are used by the Commission in promulgating rules, they should be

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<sup>1</sup> See Michael O’Rielly, *A Modified Delegate Authority Proposal*, FCC BLOG (Feb. 22, 2017), <https://www.fcc.gov/news-events/blog/2017/02/22/modified-delegated-authority-proposal>.

reexamined periodically to ensure that they still have merit. Over time, Commission prognostications of the future are prone to error, especially those pertaining to the dynamic communications marketplace.

- Interim Rules Lifespan – Use of interim rules should be time limited to force the Commission to either abandon the temporary policy or enact permanent rules. Our use of interim rules prevents affected parties from exercising their rights to challenge the Commission's direction and burdens imposed.
- Own Your Edits – Not too dissimilar to putting a Representative's name atop an amendment, edits being adopted to our items should be identified by Commissioner(s) seeking a change.
- Editorial Privileges – Eliminate the practice of allowing staff to make substantive (and substantial) changes to items already voted by Commissioners.
- Tracking NALs & Forfeiture Orders – While the Commission is fond of adopting Notices of Apparent Liability and Forfeiture Orders, there seems to be no accounting of whether these enforcement actions are resolved or ever paid.
- Circulation Process – There should be a time limit on how long an item can sit on the circulation list, without being adopted or receiving three affirmative votes, before it must be withdrawn for review or redrafting.
- Guest Witnesses – No witness should be invited to a Commission meeting without the full knowledge of all Commissioners and advance submission of any witness testimony.
- Dormant Proceedings – The Commission should be required to automatically close proceedings that are no longer active or in which action is not expected in a set timeframe.
- Commission Internal Rules – The Commission's internal working procedures should be updated not less than once each new Chairmanship and codified in our rules, like how each Congressional

committees' rules are considered and approved each Congress. This may be sufficiently addressed by new section 13(e) of the draft proposal.

- Administrative Law Judge – Establish alternative means to dispose of many, if not all, of the matters currently considered by the ALJ.
- Threats of Hearing Designation Order – Establish deadlines and a procedure for any application that the Commission believes should be designated for hearing. This will prevent the Commission from using the mere threat of sending an application into the hearing abyss as a backdoor mechanism to reject the application or terminate the underlying transaction.
- Real Shot Clocks – The use of “aspirational” shot clocks in Commission proceedings should be replaced with hard deadlines consisting of narrowly-designed, statutorily-set exemptions or waiver authority.

Additionally, I would be remiss if I didn't include a request for modifications to our enforcement authority in order to address the consistent problem of pirate radio broadcasting. Make no mistake, those conducting pirate radio broadcasts, which are more prevalent in New York City, Northern New Jersey, Boston and Miami, have generally laughed at past enforcement efforts by the Commission.

The Commission has experienced renewed vigor under Chairman Pai in tracking down and imposing penalties against pirate radio broadcasters. At the same time, the following targeted changes would, in my opinion, greatly assist the Commission and our field officers in ending this illegal practice:

- Increased Penalties – While perpetrators of other insidious and illegal practices receive millions or hundreds of millions in fines, pirate radio operators face a pittance in comparison, even for years or decades of disruptive and harmful activities.

- Aiding & Abetting – Those individuals that *knowingly and intentionally* assist pirate radio broadcasters, such as landlords, building owners, building supervisors, and advertisers, should be subject to Commission penalties.
- Confiscation of Equipment – After extensive work to locate pirate radio “stations,” Commission staff is often forced to issue a warning and leave, only to know that the very equipment likely will be used again to commit the same offense in the future. While many pirate radio broadcasters operate with shoestring equipment, including cheap laptops and transmitters, there are several pirate broadcasters that maintain quite sophisticated “station” operations. Commission staff should have a process to confiscate such equipment, especially as it relates to common areas not under the control or ownership of the equipment owner.
- Sweeps – Once existing pirates are eliminated, the Commission should be required to conduct biannual or yearly targeted enforcement efforts to ensure pirates do not sprout again. While this may not be a problem under the current chairman, protection of our nation’s airwaves must remain a priority and not left to the whims of any chairmanship.
- Elimination of Warnings – Similarly, it is incredibly frustrating and demoralizing to have Commission staff leave warning after warning informing the same individuals to stop pirate broadcasts to no avail. Like has been done in other areas, the Commission should be authorized to suspend the warning process and go directly to the issuance of NALs in appropriate cases.

Infrastructure Deployment

*Direct Federal Spending*

There appears to be great interest by many policymakers, including Members of the Subcommittee, to provide additional federal funding for purposes of expanding broadband capabilities to more Americans. One option that has been discussed is to include such funding within a potential larger infrastructure

bill. If this were to occur, I hope that the Subcommittee would adopt the Commission's high-cost program as a mechanism to distribute such funding, as opposed to using other existing federal programs or creating a new program. While our high cost program is not perfect, it far and away exceeds other past efforts. Further, it attempts to install, to the greatest extent possible, market principles to minimize any support to that which is absolutely needed, by using reverse auctions and targeting funding to unserved rather than underserved locations. This ensures the greatest impact per dollar invested. Moreover, there is a differential between demand for the program and our current budgetary allocation, meaning that additional funding can be added without causing much disruption.

Advocates for other distribution mechanisms argue that our program is not directly overseen by the Administration, therefore there is no assurance that funding will go out pursuant to any preconceived outcome. But that is precisely one of the benefits of the program: it is not designed to pick winners or losers arbitrarily by well-meaning government employees.

#### *Barriers to Deployment*

U.S. wireless providers are currently leading the world in the offering of advanced wireless services. That position did not come without significant hard work, advanced planning, innovation and fortunate circumstances. But we stand at the next pivotal moment in the future of wireless technology: the deployment of small cell networks and the next generation of wireless services, commonly referred to as 5G.

To succeed at this next challenge, wireless providers are going to need two important ingredients: access to a sufficient mix of spectrum bands and reduced barriers to the installation of wireless equipment. While the Commission has been actively reallocating existing bands for mobile purposes --

with hopefully more to come -- there remains obstacles imposed by state, local and tribal governments that are hampering the ability of providers to serve Americans. It ultimately comes down to whether one believes that preservation of misguided governmental power is more important than bringing the benefits of broadband to all interested Americans. For example, some governmental entities are delaying approval of wireless siting based on illegitimate reasons, such as aesthetics and RF, and using their powers to ensure maximum revenue generation.

*Broadcast Incentive Auction Repack*

The Commission is in the early stages of "repacking" broadcasters that either didn't participate or weren't selected as part of our generally successful process to reallocate broadcaster spectrum for new wireless services. A few weeks ago, cost estimates submitted by remaining broadcasters and cable operators exceeded the statutorily set cap of \$1.75 billion. In addition, the statute, as a potential oversight, didn't include reimbursement for the small number of local radio broadcasters that will be affected by the repack.

While the Commission will need to review and scrub the broadcaster cost estimates to ensure only legitimate charges are reimbursed, it does appear that there may be a need for additional financial resources from Congress. As someone who was integrally involved in the drafting process of the "Spectrum Act" contained within the Middle Class Tax Relief and Job Creation Act of 2012, I am certain that Congress intended to hold harmless repacked broadcasters. More explicitly, staff had the clear assignment to ensure that American full-power television viewers (or radio listeners) would not face the loss of programming due to the repack's respective budget. While funding levels for various spending priorities contained in the Spectrum Act were of significant contention, this area was less so, as the goal was to ensure repacked broadcasters were neither shortchanged nor over compensated.

Although it may be premature to declare that additional funding will be necessary, I suggest that it is likely to be the case. Accordingly, the Subcommittee should keep a close eye on the repacking cost estimates as our process continues and may want to initiate a related legislative drafting process soon. Certainly, if it is determined that additional, limited funding is needed to complete a successful repack, I would fully support such action and would gladly help the Subcommittee and Congress in any way.

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Again, I appreciate the opportunity to appear before the Subcommittee. I stand ready to answer any questions you may have of me.

Mrs. BLACKBURN. I thank the gentleman for his testimony. This concludes; the testimony portion, and we will now move to the questions. And I will begin by recognizing myself for 5 minutes.

As many of you have said, and we have seen in these opening statements, there is an ongoing dispute about the impact of Title II reclassification on investment. We hear it doesn't hurt; we hear it does hurt. In a lot of ways, this is a key metric of the debate, as the one thing we can all agree on is that investment is the key to massive broadband deployment that we need to connect to all Americans to the economic engine of the internet. And it affects education, it affects healthcare. As Ms. Clyburn, mentioned, it affects economic development and the creation of jobs. An analysis by Deloitte Consulting estimated that we need an investment of \$130-to-\$150 billion in fiber infrastructure over the next 5 to 7 years in order to meet our needs. So private investment is critical, but I fear we have put a kink in that investment pipeline with Title II.

As I noted in my opening, we are seeing decreasing capital expenditures by our largest broadband providers. But some of my colleagues contend otherwise based on different studies measuring different parameters.

Senator Markey contended at the Senate hearing last week that no publicly traded ISP has reported to its investors that Title II has negatively impacted investment and their net worths.

But, Chairman Pai, have you seen other information regarding the impact Title II is having on broadband providers?

Mr. PAI. Thank you for the question, Chairman Blackburn. We have seen evidence raised that suggests concerns that these rules have impacted infrastructure investment. And, for example, with respect to the 12 largest facilities-based internet service providers in the United States, we have called the 10Ks of those 12 ISPs, each of which is required under law to report to the Securities and Exchange Commission, any significant risks to the business going forward. Each of them has suggested these Title II regulations do, in fact, represent a significant risk to their businesses. And with the indulgence of the Chair, I would like to enter those into the record to be a part of this proceeding.

Mrs. BLACKBURN. Without objection.<sup>1</sup>

Mr. PAI. Additionally, I have heard for myself, among smaller providers, that these rules have impacted infrastructure investment. I visited for myself a municipal broadband provider in small-town Iowa. I held a roundtable just a couple weeks ago in Hagerstown, Maryland, where Antietam Cable told me that they explicitly pulled back on one phase of their gigabit broadband deployment precisely because of these rules. Now, we want to test the veracity of those propositions, which is precisely why we have opened a notice of proposed rulemaking so we can figure out what the facts are. Again, make the appropriate judgment.

Mrs. BLACKBURN. Thank you for that. You know, I was—kind of chuckled a little bit. New York Times had an article in—I think it was this weekend—saying that infrastructure is fast becoming an afterthought. But we hear from our local and State electeds, it is

<sup>1</sup>The information has been retained in committee files and also is available at <http://docs.house.gov/meetings/IF/IF16/20170725/106312/HHRG-115-IF16-20170725-SD005-U76141.pdf>.

the number one infrastructure issue. They want to talk about broadband more than anything else. And they don't care how they get it, whether it is wireline or fiber or fixed wireless, or whatever.

And, Mr. Chairman, you were kind enough to come to my district. And this was something we had planned last fall and executed in February and did a broadband seminar. And you talked about some of the things the Commission is doing to make it easier for providers to deploy wired and wireless broadband. And just touch on some of those components, things that you all can do that will help ease the way to achieving the goal we all want, which is to have the country served by broadband.

Mr. PAI. Thank you for the question. Two big buckets of reforms. One involves the Federal subsidy programs that we oversee, and the other involves regulatory reforms.

With respect to Federal subsidies, the FCC, in my first full month as Chairman, adopted reforms through our Connect American fund, and to our Mobility Fund to ensure that both fixed and 4G LTE broadband is pushed out to unserved parts of America, places where people are on the wrong side of the digital divide.

On August 3rd, we are going to be taking, as I mentioned in my testimony, next steps to ensure that those auctions happen in a timely way.

With respect to regulatory reforms, I set up a broadband deployment advisory committee that is focusing on ways that the FCC, in cooperation with other agencies, Federal, State, and local, can cooperate to promote broadband deployment. We have taken steps to remote things like the great—easier siting of wireless infrastructure, the towers and small cells and the like. Make it easier to deploy the fiber through things like Dig Once policies to the extent we can and pole attachment reform.

These might not be the highest profile issues that the agency works on. But in terms of your constituents, and I daresay, constituents around the country, this is the number one thing that will impact their ability to get on the right side of that divide in the years to come.

Mrs. BLACKBURN. I thank you for that.

Now, I will just note, the repack we think is also important as we look at the broadband deployment. And the estimates have been filed, and the audit process is started. And we need to give some time for that to play out. But we are going to be watching the repack to be sure it is conducted efficiently and on time so the spectrum is put to work.

At this time, I yield 5 minutes to the ranking member, Mr. Doyle, for questions.

Mr. DOYLE. Thank you very much.

Commissioner Clyburn, let me ask you, with regards to the open internet and the comments that are coming in. When you talk to people and review comments about the open internet order, what gives you pause in repealing the rule?

Ms. CLYBURN. What gives me pause is hearing what they say they need and what the internet enables. In the conversations, a lot of times we only talk about one part of the equation. But if you are really talking about an equation, you are talking about at least two parts. What is the investment? What do people need? And

what they can afford? So we really, really have to talk about what this investment means in the communities, what expectations they have when they are starting their businesses and the like. And what I am hearing from people is they want options, they want access, they want opportunities, and they want to be protected by an agency that I am afraid right now is turning their back on.

Mr. DOYLE. Thank you.

Commissioner O'Rielly, what kind of comment would cause you to oppose the Commission's open internet order, current proposal?

Mr. O'RIELLY. Well, as I have said, I previously expressed my thoughts on the issue at length. And I am looking to the record to determine if anything changes my mind. I am looking for substantive comments over—

Mr. DOYLE. So give me an example of a substantive comment that would cause you—

Mr. O'RIELLY. Economic analysis and real evidence of harm to consumers, versus some of the material that I have been getting on the comments so far. I mean, people talk about 12 million comments. But many of those comments are empty and devoid of any value, in my opinion.

Mr. DOYLE. I am sure there are a few empty and devoid in there. But amongst the 12.3 million, I would imagine there are some that address some of the concerns you have just mentioned too. And I hope you do go through those comments. And we will hold you to that kind of analysis.

Chairman Pai, the same question for you. What kind of comment would cause you to change your mind and not go forward?

Mr. PAI. I think, Congressman, as Commissioner O'Rielly pointed out, if there is an economic analysis that shows credibly that infrastructure investment is increased dramatically, if—in response to some of our inquiries that we hear from people in the internet, I guess from startups to consumers, that there is credible evidence of these evidence, or the sine qua non of an open internet, and that, without them, there is no way that they would be able to thrive, that the America's overall internet economy would suffer. That is some of the evidence that we take seriously. And that is part of the reason, as I had said last week at my confirmation hearing, that we did not want to issue a declaratory ruling, as some urged the FCC to do, to simply decree, by administrative fiat, that these rules would be null and void. We wanted to have a full and fair notice and comment process to ensure that we heard those voices.

Mr. DOYLE. Well, I hope you are looking at that. I will hold you to that analysis. And I hope that as these comments are coming in—and 12.3 million comments, at least in the time I have been in this Congress, is more public comment than I have seen on an any other issue before the FCC. I am certain amongst them are that type of analysis, and I hope you pay attention to it.

Let me ask you another question, Mr. Chairman. The context of the Open Internet Order, it seems to me that the analysis that you have cited about ISP investment seems to be one-sided. You talk about broadband investment by ISPs alone as an indication of the health of the marketplace, but you discount investments that are being made by edge providers. You know, if the thesis of an Open Internet Order was to promote this virtuous cycle of investment

and innovation online, why aren't you talking about edge providers, the investments that they are making and the jobs that they are creating?

Mr. PAI. I appreciate the question, Congressman. Obviously, everyone, as Chairman Blackburn pointed out, favors a free and open internet. The great challenge, however, is that there are millions of Americans—and I visited them—from Wardensville, West Virginia, to Mission, South Dakota, are on the wrong side of the divide. They are not getting the access they need to be able to participate in the digital economy. And to the extent that these rules are impacting infrastructure investment, my fear is that those folks are going to be left out of some of the benefits that we get in terms of better education and healthcare, and the like.

And so we want to understand how are these rules impacting infrastructure investment, and, along with that, what are the concomitant effects of greater infrastructure investment on those types of companies?

You know, I visited, as I pointed out in testimony before in another committee, I have been to feedlots in Allen, Kansas. And I have seen the power that broadband can bring in terms of greater agricultural productivity.

Two weeks ago, I was in Augusta Health in Fishersville, Virginia. And I saw the power that a broadband connection can have to treating an emergency room patient before the patient even arrives at the hospital. I mean, these are critical applications. And so, obviously, going forward, there are greater dimensions than just infrastructure investment. But those core investments in the network are critical if every American is going to be able to thrive in the 21 century.

Mr. DOYLE. Madam Chair, I see my time has expired. But I hope we have a chance to submit more questions to the FCC for response.

Mrs. BLACKBURN. The gentleman's request is noted.

Mr. DOYLE. Thank you.

Mrs. BLACKBURN. I now recognize the chairman of the full committee, Mr. Walden.

Mr. WALDEN. Thank you, Chairman. I appreciate that. And, again, to all our Commissioners, thank you for enlightening us with your comments and your testimony.

Chairman Pai, there has been talk of uncertainty, continued uncertainty, around future of net neutrality. Are you opposed to net neutrality?

Mr. PAI. Congressman, I have consistently said I favor free and open internet, as I think many members of this committee and most Americans do.

Mr. WALDEN. All right. Commissioner Clyburn, are you opposed to net neutrality?

Ms. CLYBURN. I am not opposed to net neutrality. I am in favor, but using the strongest legal tools at our disposal to uphold it.

Mr. WALDEN. Commissioner O'Rielly, are you opposed to net neutrality?

Mr. O'RIELLY. I agree with the Chairman. I support an open internet. I determined net neutrality means so many different things these days than it once did, so I can't—having signed up for

net neutrality is—currently, the definition means that every packet has to be treated identically. And that, to me, is not supporting by the current activities of the internet. So I don't support that definition of net neutrality, no.

Mr. WALDEN. Well, I know you have to make some decisions based on the comments, but I guess—one of my questions is, the reply comments are due fairly soon. And, Chairman Pai, do you expect to act quickly once the record closes?

Mr. PAI. Congressman—

Mr. WALDEN. What are your thoughts in terms of time lines, not in terms of your decision?

Mr. PAI. Mr. Chairman, we are going to move promptly as we can. But, obviously, there is a voluminous record, as Ranking Member Doyle pointed out. And we are bound by the Administrative Procedure Act, in section 706 thereof, to find substantial evidence for whatever conclusion we reach. And we are going to review the record fully and fairly to make sure we make the appropriate judgement. And we are more concerned with getting it right than getting it done quickly.

Mr. WALDEN. As you know, part of what we are working on today is a continuation from the last Congress in terms of getting more transparency in the process at the FCC, making more of what you do more public sooner, so more people can participate in the process that we all value.

Are there issues in this draft that we are looking at? It is a discussion draft, too, for all my colleagues. We put it out there well in advance so we can get input and make it bipartisan, hopefully. And I think there are bipartisan positions in it.

Would you care to comment about what we are putting forward and your thoughts on it, and how the Commission might be affected by implementation of the exchanges?

Mr. PAI. Thank you, Mr. Chairman. I think the process reforms suggested in the draft bill are largely improvements upon the way the FCC does business. And I find myself broadly in support, for example. I think there is bipartisan agreement on relaxing the Sunshine Act restriction. I love seeing my fellow Commissioners here at the witness table. I would love to see them together at the Commission more often so that we can collaborate in ways that benefit the public interest and the FCC's decision making.

Mr. WALDEN. That has been a bipartisan piece of this discussion draft, I think, all along.

Commissioner Clyburn, do you wish to comment on some of this? I know things have shifted at the committee since we last took this matter—or at the Commission.

Ms. CLYBURN. I noticed.

Mr. WALDEN. Yes.

Are you more in favor of more of the transparency provisions in our bill now or—

Ms. CLYBURN. Well, I will just broadly say, I am more in favor of transparency. I am more in favor—

Mr. WALDEN. I know you are.

Ms. CLYBURN [continuing]. Of us being able to do, especially the last—you know, I have been talking about that for a number of years. If there is not a final decisionmaking process, you know, be-

fore us, us being able to talk about things building up to. And so I think that would, with the proper notice and proper protections, you know, that enhances transparency and decision making. I will be for any platform that will allow that to happen.

Mr. WALDEN. And then making the draft text public ahead of time, more of that, that we propose, do you support that?

Ms. CLYBURN. Meaning our internal draft—we are still in an evaluation mode. So far, I haven't heard any major complaints.

Mr. WALDEN. OK. Good.

Commissioner O'Rielly, what about what we are putting forward here for consideration? Anything from—

Mr. O'RIELLY. I support the legislation—draft legislation that has been put before us. I think—I put 15 new ideas in my testimony that could be included, if you were so inclined to do so. I think that the text itself, you know, on Sunshine reform is valuable. I probably would go a little further, but—I am not trying to criticize the provision. I just know how often we would use it if it is drafted. But I really appreciate the things on, like, cost-benefit analysis, which has been so lacking in our decision making for so long. So I think it is a very important step for the committee.

Mr. WALDEN. OK. Chairman Pai, do you want to comment on that?

Mr. PAI. If I could just add one observation in addition to what I said previously. One caveat I would add for the committee's consideration is that in enforcement matters, for due process notice and other reasons, it is sometimes maybe impracticable for us to publish those decisions in advance of a Commission vote. And so that is the one note of caution I would add.

We are obviously, as Commissioner Clyburn pointed out, in favor of transparency. But there are different considerations when it comes to law enforcement matters.

Mr. WALDEN. All right. That is a good point.

Thank you, Madam Chair. I realize my time has expired. Again, thanks to all of you. We appreciate your suggestions. We appreciate your counsel and how we might get this right, because, indeed, that is what we want to do is make the FCC the role model for good transparent public process.

I yield back.

Mrs. BLACKBURN. The gentleman yields back.

Mr. Pallone for 5 minutes.

Mr. PALLONE. Thank you, Madam Chairwoman.

I wanted to ask at least two questions, one to you, Chairman, and one to Commissioner Clyburn. So my question to the Chairman is: Numerous press accounts have detailed how your policies have benefited Sinclair Broadcast Group. There has also been speculation that the Trump administration has been in touch with your office about a number of these policies. So I wanted to give you a chance to respond to those allegations. And specifically, can you tell us what the administration has said, either to you or to anyone in your office about Sinclair or the UHF discount?

Mr. PAI. Thank you for the question, Congressman. No one in the White House, or the administration generally, has made any representations to me about any FCC proceeding relating to that company. They have not asked me to take any particular action or ex-

pressed the views on the merits, and certainly not with respect to the UHF discount.

Mr. PALLONE. Now, what about the press accounts that have detailed how your policies have benefited Sinclair Broadcast Group. Did you want to respond to that?

Mr. PAI. Congressman, I would be happy to do so. If you look at any of regulatory actions, they are not designed to benefit any particular company or segment of the industry. They are simply meant to take a view of the marketplace as it stands, and the law as it has been written by Congress. And with respect to the UHF discount, it is a pretty simple matter. As I pointed out in my dissent a year and a half ago, that to the extent the agency considers the UHF discount reforms, it also has to consider the national cap. Now, I am not presupposing what the UHF discount policy should be or what the national cap should be. But the point was simply made then, and I make to you today, is that the two go together; one cannot consider A without considering B.

Mr. PALLONE. Thank you.

Let me ask Commissioner Clyburn. I plan to file comments at the FCC in the next few weeks that explain how maintaining net neutrality protections at the FCC is essential to protecting free speech online and to creating jobs across the country.

Now, the GOP members of the Commission focus on the legal authority of the FCC but, in my opinion, ignore the benefits of net neutrality that would be lost if it is repealed. I think the GOP plan details potential cost of regulations without mentioning these benefits. So I just wanted to ask you if you could tell me what, in your opinion, benefits exist with strong net neutrality protections at the FCC and what will be lost with the repeal?

Ms. CLYBURN. In terms of the benefits, particularly, I mentioned to you that I was in Appalachia. When you have a small business owner that might be worried whether her Web site or her experience would be throttled or negatively impacted, that is the type of uncertainty that no small business should worry about when it comes to the most enabling platform of our time.

You know, when it comes to people being able to access, you know, a healthcare Web site or their professional—healthcare professional, for anybody to wonder whether or not some traffic would be favored one or the other, that is a very unsettling. So when we talk about strong, open internet rules, what we are talking about is the capacity for all of our communities, all of our businesses, all of our individuals to have access, to be better them, them, to be better business owners, to have the access to content that will enable, educate, and inspire.

So it is very important for the rules of the road to be clear for people to know that they are protected, for this platform to be open and free and transparent. If not, you are going to have bottlenecks that will throttle experiences and throttle economic and other opportunities.

Mr. PALLONE. Thank you so much.

Let me go back to the Chairman, since I have time for a third question.

Last week, I introduced the Viewer Protection Act, and this bill would provide extra funds for the incentive auction repacking proc-

ess to ensure that consumers don't lose access to the local stations that they can rely on. And I wanted to thank you for your prior commitment to making sure that the stations will not be forced off the air during this process. And I also appreciate your statements that you believe that Congress needs to act to provide additional to funds to this effort.

Now, one issue in my bill that I think has been overlooked is making sure the consumers are properly educated about the process and what they need to do to keep their signal. And I am particularly concerned about minority communities that may rely on foreign language stations.

Can you, Chairman, walk us through how much funding the FCC put aside for consumer education and explain your plans to make sure consumers know how to keep their signal? I guess you have 20 seconds, but we will see.

Mr. PAI. Thank you for the question, Congressman.

And first and foremost, I commend you for that legislation. I think you have tackled one of the issues that is first and foremost in the needs of viewers around the country. The FCC has not been allocated funding by Congress specifically for that function. To the extent that we can, we obviously want to do as much outreach as possible to let people know if there is going to be a channel reassignment or other regulatory decision that might impact their ability to view the stations of their choice. And so I would be happy to work with you and your staff on your bill and going forward.

Mr. PALLONE. Thank you.

And thank you, Madam Chairwoman.

Mrs. BLACKBURN. The gentleman yields back.

Vice Chairman Lance, you are recognized for 5 minutes for questions.

Mr. LANCE. Thank you very much, Madam Chair.

Regardless of your opinion on the 2015 internet rules, I think there is at least one matter on which we should be able to agree, that a legislative fix is preferable to the ping-ponging we have seen play out recently at the FCC. Anything the FCC has done in this policy space has proven to be temporary. And I don't think that is good public policy. I believe a vast amount of the agency's scarce resources have gone into this issue for the last 10 years or so. And so to the Chair and the distinguished members of the Commission, I ask each of you the following question:

What would provide greater certainty for broadband internet providers, online innovators, and internet users, continually changing regulatory regimes or legislation to establish clear authority and bright-line rules of the road that protect consumers and innovators and encourage investment?

And I will start with you, Mr. Chairman.

Mr. PAI. Thank you, Congressman. I believe that legislation would provide greater certainty to consumers and companies alike.

Mr. LANCE. Madam Commissioner?

Ms. CLYBURN. I believe we already have certainty. I believe we have already followed your guidelines with Title II. Title II is a part of a congressional creation. And Title II has been upheld by the courts.

Mr. LANCE. And if I might follow up, you don't favor any amendment of Title II in this area?

Ms. CLYBURN. I will reserve judgment on that. I will favor anything that will improve and enhance our ability to connect America.

Mr. LANCE. And was Title II initiated, as I understand it, in the 1930s? Is that right?

Ms. CLYBURN. You are probably right. Subject to check. So I get a D-minus for not knowing the answer to that precisely. I will get that back to you.

Mr. LANCE. If you get a D-minus, I am probably at the level of F. So we will work together on that.

Commissioner O'Rielly.

Mr. O'RIELLY. I fully support legislation. It is the only way we are going to get lasting peace on the issue. My colleague highlighted, I think in her comments, rules of the road need to be clear. But there cannot be clear rules of the road when you have a general conduct standard that roves about and does whatever it wants at any time done by the bureau staff. So I think that legislation is the only way to address this issue.

Mr. LANCE. And Commissioner O'Rielly, has there ever been a definitive ruling by the Supreme Court of the United States on this issue?

Mr. O'RIELLY. No, there has not.

Mr. LANCE. Is that the consensus of the Commission, that this has not been fully addressed by the Supreme Court? Commissioner Pai? Chairman Pai?

Mr. PAI. Congressman, when you say—with respect to this, the Supreme Court in the Brand X case in 2005 blessed the FCC's application of Title I regulation to broadband.

Mr. LANCE. Brand X, roughly 10 years ago, a little more than 10 years ago. Yes.

Given the response of the members of the FCC, and, of course, I hope there will be a full complement of Commissioners, I think that we should continue to pursue this question. Because I think the public deserves certainty in this area, as do those in the community, but certainly, in my judgment, this is paramount for the American people.

Another issue, Chairman Pai, it is critically important that the United States win the race to 5G as it means significant investment in job creation here. A recent report has suggested that 5G will bring 3 million new jobs and a half a trillion dollars in increased GDP. I am concerned that other countries may get there first, including China, Japan, and even the EU, a series of countries. In your opinion, how important is it to make sure that the United States wins the race regarding 5G?

Mr. PAI. It is absolutely critical, Congressman. And I say that not just out of parochial concerns, but I do think that America's internet economy has demonstrated itself over the years to be one of the most innovative. And 5G heralds a special promise, I think, when it comes to the ability of high bandwidth applications like virtual reality, and augmented reality, and low bandwidth applications like the internet of things. We want those companies, those technologies, to develop in the United States. Those are high-quality

ity jobs that could create a huge amount of opportunity across the country. And speaking for the FCC, at least, I think that we are focused on securing that prize as best we can for the United States.

Mr. LANCE. Thank you.

Commissioner Clyburn, your thoughts?

Ms. CLYBURN. I am looking forward to working and to continue to do things in an expedited manner. But we need to make sure that it is ubiquitous. No part of this country should be without the opportunities for what 5G has to offer, and only with local and Federal engagement will we be able to win that race.

Mr. LANCE. Thank you. My time has expired.

And I will follow up with you, Commissioner O’Rielly, later.

Thank you, Madam Chair.

Mrs. BLACKBURN. And, Mr. Welch, you are recognized for 5 minutes.

Mr. WELCH. Thank you, very much, Madam Chair. I have 5 minutes, and I want to have 3 points. One, about the open internet. Number two, rural broadband. And, number three, the mobility fund.

Just to comment on the open internet, everybody says they are for an open internet. The question I have is why change the existing regime where everyone agrees there is an open internet? And what I understand is the ISPs are afraid of, quote, “heavy regulation,” but say they won’t do anything different. But a lot of folks in the public are concerned that that won’t be the case. So that is a question, I think, the proponents of change have to answer: Why change it?

Second, on rural broadband. Chairman Pai, as you know, it is incredibly important to those of us in Vermont, working with Mr. Cramer, as well, to have open internet. Rural America is being left behind. And the promise of the 1996 act has been broken. Rural internet is not the same speeds and the same capacity as we have in urban areas. There is now a potential opportunity with the re-packing in the white space, as you are aware. And there is a challenge. Because we want to make sure that our broadcasters have signals that are strong and they don’t suffer interference.

But there are many now who are seeing that this white space is a technological development that provides an opportunity for inexpensive build out, in effect, of broadband. And the question I have for you is where you are on that and where the FCC is on that. Anything we can do to get that broadband out, and the deployment is a financial issue, I want to do.

So can you address that?

Mr. PAI. Absolutely, Congressman. I share your ethos. As you just put it anything we can do to get the broadband out there.

Mr. WELCH. I am talking white space now though.

Mr. PAI. Right. And with respect to white spaces, we are still in the early stages of study. Just a couple of weeks ago, I visited Microsoft’s project in South Boston, Virginia, and I talked to some of the affected students about that issue. We are actively studying it and trying to figure out ways to work with all stakeholders to figure out the right way for it.

Mr. WELCH. All right. So if we can find this technological sweet spot where we are able to protect the signal of our broadcasters.

That is important in rural America too. We want to get our TV stations, our local news. But we have that white space where there is a promising opportunity, affordably, to build out, you are going to be aggressive?

Mr. PAI. If the facts warrant it and the law permits it, this FCC will not stand idly by.

Mr. WELCH. Ms. Clyburn? Commissioner Clyburn?

Ms. CLYBURN. I have long since talked about the promises of unlicensed and white spaces providing opportunities, particularly in rural communities and communities where the business case cannot be made. The promise is there, and I will definitely be a wind beneath that, to push that along.

Mr. WELCH. Thank you.

And Mr. O'Rielly? Commissioner O'Rielly?

Mr. O'RIELLY. So I support white spaces and have for a long time. I will say I don't support them setting aside full power broadcast stations. So if it becomes a fight between the two in the broadcast band, I think—

Mr. WELCH. Let me just say, as a rural person, I am urging you and the industry to find a way to protect that broadband signal but to get broadband into rural areas. It has got to happen.

Mobility fund, a second issue that is really important to us in rural America. There is going to be action on that. And the question I have, Chairman Pai, some—depending on how the project is—the information is provided, there will be an opportunity for challenge from some of the rural providers who can test how the decisions are made. And they have got to be given an opportunity to do that.

Can you assure us that the Commission is moving forward with the rule next week that will ensure that the data collection process will lead to a coverage map that accurately, accurately, reflects the current mobile broadband makeup and that it allows for smaller carriers—and this is really important to us—to have adequate time to potentially challenge data that they believe on their own work is inaccurate? Chairman.

Mr. PAI. That is certainly my aspiration, Congressman. And working with my colleagues in the next 9 days, we hope to get across the finish line with a work product that does that.

Mr. WELCH. You are going to let them have a seat at the table to challenge?

Mr. PAI. The carriers or my colleagues?

Mr. WELCH. Right.

Mr. PAI. Absolutely. That is the goal. We want to have a robust open challenge process—

Mr. WELCH. Commissioner Clyburn?

Ms. CLYBURN. You heard that last thing on the record.

You know, one of the things that I have been pushing—and the Chair will affirm this. I have been pushing, you know, for a robust, open challenge process. That is important. And it is important for that information to be granular and Form 477. We have been pushing for that.

Mr. WELCH. Thank you.

Madam Chair, my last 4 seconds I want to say thank you to Commissioner Clyburn.

Mrs. BLACKBURN. I would concur with that. But why don't we give Commissioner O'Rielly the opportunity to answer the question?

Mr. WELCH. If you are giving me the time, I give it to him.

Mrs. BLACKBURN. I am giving you the question to allow him to answer.

Mr. WELCH. Thank you.

Mr. O'RIELLY. That is OK. I am fine. I am good.

Mrs. BLACKBURN. So the gentleman yields back.

Mr. SHIMKUS, you are recognized for 5 minutes.

Mr. SHIMKUS. Thank you, Madam Chair. As Peter Welch has shown, there are so many questions and just so little time to deal with what you all deal with on a day-to-day basis. So I am going to pick a few.

First of all, it is no surprise—just to Chairman Pai, on Next Generation 911. You know, we passed that Advancement Act of 2012. Anna and I have talked about this between ourselves the last couple of weeks. There was a grant program designed but was never initiated by the FCC. We all know money is needed. But what else can be done to help move Next Generation 911 forward?

Mr. PAI. Congressman, I appreciate the question.

We certainly are grateful for the promise of NG 911. But that promise has yet to be realized in great swaths of the country. And as Chairman Blackburn pointed out, I was in Tennessee with her earlier this year. And I visited a 911 call center that is using next gen 911 to deliver functionality that traditional 911 call centers simply don't have. And so we at the FCC are broadly supportive of any efforts that we can take to promote NG 911. It is an IP-based technology, as you know. So promoting the IP-based transition, encouraging the transition away from the old, fading TDM networks towards IP-based networks is absolutely vital.

Without it, some of these public safety answering points which don't have the money themselves to fund that transition are going to be left in the lurch. And that is the number one thing we can do. We would be happy to work with members of the committee to figure out if there are legislative tools as well that we can support.

Mr. SHIMKUS. Because we know there was a grant program authorized but never initiated. So we need to find out. Obviously, that is an issue. But then what else can we do? I do think the community is struggling to try to get to where they want to be, and time is of an essence in the 911 world as we all know.

Let me go to Commissioner O'Rielly and just talk—we have had other subcommittee hearings. And, you know, the buzz is that there may or may not be an infrastructure bill. And we would always say—I think members on this subcommittee, both sides, would say if there is an infrastructure bill, then obviously broadband deployment areas that are identified appropriately through a good mapping system should be aided and assisted.

So if there was direct funding to help deployment, what would be your vision on how that could best occur?

Mr. O'RIELLY. My argument to the subcommittee in my testimony is that the committee should look to our high cost program and run a universal service as a mechanism to distribute the funding.

In the previous demos under the last administration, we had an NTIA program and some at the Department of Agriculture. I think those programs were suspect and had a lot of difficulties. We have difficulties in our universal service programs no doubt. But high cost has been something we spend a considerable amount of time in trying to minimize the amount of subsidy needed and to target the funding to stretch as far as possible, and I think that is a valuable way to go.

Mr. SHIMKUS. Thank you. And then, last but not least, Commissioner Clyburn, of course, appreciate your passion, which has always been there. But I think your voice is a little bit louder now, which is great.

There is really a two-part question. Can mobile broadband now fill some of the gaps in unserved areas? And, if not, because could you guys follow what is coming next sooner than a lot of us do. If not, is that coming around soon?

Ms. CLYBURN. Well, I mentioned that I was in Representative Johnson's district. And mobile broadband is definitely necessary, especially on those roads where I did not have service, especially in those households where they can only afford one connection.

So mobile broadband is definitely—you know, has to be front and center, which is why we are moving to the next phase of a mobility fund. But we cannot, you know, drop the ball when it comes to legacy. Because there are certain things you cannot do on a mobile.

So it is a complement to the entire telecommunications and communications ecosystem. But we need to go where the people are. Over 300 million of us have mobile connectivity, but it is not all created equal.

Mr. SHIMKUS. Thank you. And my colleague, Peter Welch, mentioned the white space issue, so I am not going to talk about that. But I do want to address a bill that we passed through here, H.R. 460, which addresses the call completion problem that occurs. It really is addressing more accountability than just advisory or—what is your all's position on that bill?

Mr. PAI. Congressman, I haven't had a chance to study all the particulars about the bill. But I can say that I do support efforts to give the Commission ample authority to tackle all parts of the problem, not just the carriers but the intermediate providers, and others who are in the chain, so to speak, who might affect the call to a rural area.

Mr. SHIMKUS. Anyone else want to comment on that?

Ms. CLYBURN. We have taken a proactive position in terms of holding people accountable all along, you know, from the time you dial a phone until that expectation on the other end. There are a lot of variables there and a couple of players there. When you have two, and three, and four players between that call, making that call and completing that call, that is a problem that we are identifying and need to fix.

Mr. O'RIELLY. One of the reasons that it exists is because some of our old, antiquated rules favor arbitrage. And so that is something we have to get to the fundamental issue going forward.

Mr. SHIMKUS. Thank you, Madam Chair.

Mrs. BLACKBURN. Mr. Loeb sack for 5 minutes.

Mr. LOEBSACK. Thank you, Madam Chair. Thanks to all of you for being here today. This is, as always, pretty fascinating talking about a lot of these different issues.

A lot of us on this committee, on both sides of the aisle, are obviously very concerned about wireless in rural areas, rural broadband, all those issues. I usually go through a litany of reasons why that is so important. But I am not going to do that. I just want to say one thing, though, before I ask some questions.

This isn't just a rural/urban issue, as you all know. These things are tied together. So in Iowa, for example, like in Vermont or North Dakota, or whatever, if we have an urban hospital that wants to do telemedicine with rural areas, it is great that that urban hospital has sufficient bandwidth to be able to do that. But, obviously, if a critical access hospital or a skilled nursing facility, whatever the case may be, and rural areas doesn't, then that urban area is going to be affected as well, because that hospital cannot connect sufficiently with those folks.

So it is not just rural/urban. Those areas are tied together. And I think we often forget about that, and we just think in rural terms or in urban terms. Everybody is in this together. That is my speech for today. Now I will ask some questions.

Chairman Pai, as you know, I was the original drafter of the Rural Wireless Access Act. We have a lot of issues, as I like to say, with garbage-in/garbage-out kinds of issues when it comes to mapping and how we are trying to figure out what areas are covered and which areas are not. And that legislation would require the FCC to establish standard service definitions, collect its data on wireless coverage in a reliable and efficient way. Because I think we can all agree that that hasn't necessarily been the case in the past. And I understand that the FCC has recognized the problems with the data.

Where are we on that now with creating a new data set? And will it meet the requirements of my bill for the data to be robust, and to be reliable and standardized? Chairman?

Mr. PAI. It is certainly our hope, Congressman, that it is worthy of the legislation that I commend you, too, for advancing. Next week we are going to be voting on some of those steps. And it has been a difficult process, in all candor. We had a decision to make at the get-go, do we rely on the Form's 477 data that we got with respect to the mobility fund or do we create essentially a Bespoke data collection? We decided to go down the latter road, because we recognized that some of the data we had wasn't sufficient.

And so going forward we want to make sure that if the map says that there is coverage, there is, in fact, coverage. And if the map says there isn't coverage, then we direct the funding from the mobility fund to those areas.

Mr. LOEBSACK. Well, can we get a commitment from you today that whatever you come up with will, in fact, meet the requirements of my bill?

Mr. PAI. Again, I haven't seen the particulars of your bill recently, but certainly the spirit of it we will do our best to achieve. And we would be happy to take a look at the legislation and get back to you.

Mr. LOEBSACK. I mean, it is pretty simple. It is making sure, to the best of our ability, obviously, that the data will be robust, reliable, and standardized. That is all we are looking for.

Mr. PAI. That is certainly what is in the draft item that is public, and we will be voting on on August 3rd.

Mr. LOEBSACK. Commissioner Clyburn?

Ms. CLYBURN. One of the challenges there is how do you get different providers to compress and conform in a uniform manner?

Mr. LOEBSACK. Right.

Ms. CLYBURN. And that is the challenge here. But the objective is there. How do we mine, meld, and mesh that? That is the challenge that we are working to fix.

Mr. LOEBSACK. And, Chairman Pai, you were in northwest Iowa not that long ago, actually. That is where I grew up, in Sioux City, up in that area, although I represent the southeast part of the State now. I have no doubt that when you were traveling between Sioux City and southwest Minnesota, you probably ran into some issues.

Mr. PAI. It was incredible. Driving from Madelia down to Spencer, and Laurens, and then Sioux City, I mean, how many times I had to mention to my colleague in the car, you know, we are just going to have to talk now. Because, you know, we have the inability to check emails or make phone calls and the like. And it is really a gap. And that was just for our own convenience.

Imagine if you are a patient who needs to make a 911 call, or imagine if you are a farmer whose productivity depends on having precision agriculture which, in turn, relies on connectivity. Those are the connections that really do matter.

And so it is not just a professional interest for me, and I dare say for my colleagues, it is a personal interest to me as a rural American to make sure that your constituents, and all rural Americans, get that connectivity.

Mrs. BLACKBURN. Mr. O'Rielly, do you want to mention anything?

Mr. O'RIELLY. I agree with the work we are going to do. I have been pushing for greater data. There is a cost as to how granular you can get, but I think it is very important.

Mr. LOEBSACK. Well, I want to get this bill passed. I want to get it out of this committee. I want to get it on the floor. And I want to get it passed and signed into law by the President. Because I just think there is very, very significant bipartisan support for this.

And, again, mentioning that it is not just the rural areas but their connection to the urban areas as well. It is absolutely critical. So thanks to all of you.

And thank you, Madam Chair. And I yield back.

Mrs. BLACKBURN. The gentleman yields back.

At this time I recognize the chairman of the Subcommittee on Digital Commerce and Consumer Protection, Mr. Latta, for 5 minutes.

Mr. LATTI. Well, thank you, very much, Madam Chair. And thank you, very much, to our distinguished panel. It is always great to have you before us, and we appreciate your testimony today.

If I can start my question with you, Commissioner O’Rielly. And, again, I want to thank you again, you know, for showing interest and coming out to my district to speak to our folks just this past year. Because I think it is important that folks back home understand that the folks at the FCC are truly listening to their concerns.

And I recently introduced a bill, H.R. 3289, that would require the FCC to list and describe all items to be adopted on delegated authority 48 hours prior to action being taken if those items are given a delegated authority identification number. This will ensure that the Commission is appropriately delegating items and not passing decisionmaking to others in cases where items pose new and novel questions of policy. I am pleased to see that my bill has been included in the discussion draft that is before us today.

And based on your statement of support of my bill in the last Congress, I believe you agree with this policy. However, in your testimony you mention that this provision could go further. Would you mind expanding on the ways in which we could improve the language in the draft?

Mr. O’RIELLY. Sure. So the bill is identification and notification. The Commission is required to tell people when it is delegating authority, which is a step—improvement than we have today.

But I think I should get to the second of the part question, is well, what do you do with the notification? Today, you know, it is to the Chairman’s request on whether we, as a Commission, get an opportunity to vote on those items. In the last Commission I was voting about one out of every nine items. So eight out of nine items were being delegated and addressed by staff. We should have the ability to pull up some items that we think should be voted on by the full Commission. But we have to do that in a way, in my opinion, that doesn’t delay the items.

And so I put forward a plan that I thought would be a way to meld both parts of the equation so we can get better accountability but also do it in a timely manner. And I think that would help frame the issue better.

Mr. LATTA. Well, thank you.

Chairman Pai, if I could turn to you. I also want to thank you for coming out to my district a couple years ago to meet with my smaller telecoms. And I really appreciate it. Because, also, from your rural roots, where you came from, you understand the issues that we all have out in our rural section of the country.

Under Section 161 of the communications act directs the FCC to review its regulations every 2 years and to repeal or modify those rules it determines have been made unnecessary due to economic competition.

Does the FCC specifically and separately consider, on a regular basis, the impact of its rules on the smaller providers and wouldn’t the public’s interests benefit from a regular review of whether there is a good cause to exempt small entities from these FCC regulations?

Mr. PAI. Great question, Congressman. I do think that as a part of our biannual review, or simply as a standalone project, it would be worthwhile for the FCC to think about specifically the impact that our regulations have on small businesses. These are the com-

panies that simply don't have the wherewithal to hire the lawyers, the accountants, and others who are filling out the paperwork and otherwise helping them comply with the agency's rules. And I think we need to be sensitive to that going forward.

Mr. LATTA. Let me follow up with another question to you, Chairman.

Are there other infrastructure deployment issues that the FCC currently lacks the authority to address? And, if so, could you highlight some of the areas additional authority from Congress to the FCC may be needed?

Mr. PAI. Thanks for the question. There are several of them.

First it would be the Gigabit Opportunity Act which I understand has been introduced by Representative Collins, Doug Collins, from the House side, and Senators Capito and Coons on the Senate side. That would go a long way, I think, to providing not just the FCC but the country with the blueprints for greater broadband deployment in low income, urban, and rural areas.

Secondly, it would be helpful to have additional authority with respect to pole attachments. Right now, we don't have authority over all of the poles that are used by broadband providers to attach the infrastructure necessary for high speed internet access. It would be helpful to have that.

Third, it doesn't necessarily effect the FCC directly, but making Dig Once the law of the land would be extremely helpful. I know there is bipartisan support for it, and it would be great to see that advanced into law as well.

Fourth, and finally, I don't know if it necessarily requires congressional action, but we are trying to take whatever steps we can to facilitate greater coordination among Federal agencies so that if you are looking to site infrastructure on Federal lands, you have, for example, a single point of contact at various agencies. And if there are ways that Congress could urge that effort forward, that would be extremely helpful.

Mr. LATTA. Thank you, very much, Madam Chair. My time is about to expire, and I yield back.

Mrs. BLACKBURN. Gentleman yields back.

And at this time we go to the author of Dig Once, Ms. Eshoo, for 5 minutes.

Ms. ESHOO. Thank you, Madam Chairman. And welcome, Mr. Chairman, and members of the Commission. I hope that the next time we meet that we will have a full Commission. It is wonderful to see you, and it is important that you are here.

I have an observation first. And it is with some curiosity that I raise this. The chairman of the full committee asked each one of the Commissioners if they supported net neutrality. And each one said yes with some additional comments.

Now, Chairman Pai, your chairmanship rests on the altar of unraveling net neutrality as we know it. So, with all due respect to you, I don't think it is a credible statement for you to say that you support it. Because everything that I have read about what you have said is the promise to unravel net neutrality with its protections. And so it is easy to say, "I am against blocking, I am against throttling, I am against" whatever. Who is going to enforce that?

Who? How? And so it is an observation. But I think it is an important one to place on the record.

I have raised this before in previous hearings with previous witnesses when they bring up the whole economic case and the chilling of investment in our country because of the handful of sections that are part of Title II that were applied to net neutrality. And we know that publicly held companies and their CEOs, when they make a statement to their shareholders, under penalty of law, have to be truthful.

And I can't find anything in any record that States where a CEO has said because of Title II there is a chill on the investments of the company that I represent. Now, you say you are studying it. Are you going to compare the statements made by executives to their shareholders, which are said, under penalty of law have to be truthful, to the comments that are filed by those same companies in the proceeding that you are undertaking?

Mr. PAI. Congresswoman, we are going to test all the facts in the record.

Ms. ESHOO. No. I am asking you a specific question.

Mr. PAI. Yes.

Ms. ESHOO. Are you going to take the comments of the CEOs to their shareholders and compare and contrast them with the comments that they place to the FCC on this matter?

Mr. PAI. If those facts are in the record, absolutely.

Ms. ESHOO. You are going to compare and contrast them?

Mr. PAI. We will look at all relevant facts in the record.

Ms. ESHOO. Are you going to compare and contrast them?

Mr. PAI. Well, I mean, depends on what facts are in the record. Yes. Absolutely.

Ms. ESHOO. All right. That is fine.

Mr. PAI.. Including the 10K's that I cited, and the statements that are in the record.

Ms. ESHOO. I think what is important to note here is that a recent poll found that 70 percent of voters and 71 percent of Republicans across the country think the internet has improved over the last few years. So this is not just the big ISPs. We are talking about everyone, everyone that is a part of this ecosystem. And I really think that that is being overlooked. I think it is disturbing that you have refused to comply, fully comply, with the FOIA request asking for the text of more than 47,000 informal net neutrality complaints filed with the FCC.

I think that you are being selective about what you want to read and what you want to hear. If it fits with the position that you stated before you became Chairman and since you have become Chairman, then it doesn't count. And I—so I don't—you know, you are not a level playing field. And that is your prerogative. But I don't think, you know, coming here today and saying "I am for net neutrality" is really a credible statement.

I want to raise RT, which is Russian television, but they changed the name so that people wouldn't know who they were. They are operating in our country. And I would like to know—and I didn't understand your response. You stated what you can do at the Commission. Can you tell us what your commitment is to do from the

Commission? Because in a classified setting the Congress heard the intelligence community speak to it.

In the declassified public document, it is replete with references to RT. They are operating in our country. And I would like to know what role you believe that the FCC should play in this. They are spreading propaganda in our country.

Mr. PAI. Thank you, Congresswoman. The question here is with respect to the FCC's sponsorship identification.

Ms. ESHOO. I understand.

Mr. PAI. Those rules apply to broadcasters.

Ms. ESHOO. Yes.

Mr. PAI. So to the extent that RT or any entity is paying broadcasters for the—

Ms. ESHOO. I want to know what you believe the FCC can do about this.

Mr. PAI. Congresswoman, I was answering the question. It is with respect to the sponsorship ID rules, enforcing those rules. To the extent that RT or any entity has paid a broadcaster—

Ms. ESHOO. Are you prepared to do that?

Mr. PAI. We will always enforce our sponsorship ID rules, yes.

Ms. ESHOO. Well, why haven't you begun to?

Mrs. BLACKBURN. The gentlelady's time has expired.

Ms. ESHOO. This is a public realm now.

Mr. PAI. Congresswoman, I am not aware that there are—

Ms. ESHOO. Have you read the declassified report?

Mr. PAI. I have not, Congresswoman.

Ms. ESHOO. I would like you to read that, and then I will follow up with you.

Mr. PAI. I would be happy to do that.

Ms. ESHOO. Thank you.

Mrs. BLACKBURN. The gentlelady's time has expired.

And now we go to Mr. Guthrie for 5 minutes.

Mr. GUTHRIE. Thank you, Madam Chairman for yielding for the time. And as you have all heard me say before, and this is for Chairman Pai, I have worked with my friend, and enjoy working with my friend, Doris Matsui over the years on Spectrum issues. And just last week we had the opportunity to host a Spectrum Caucus panel on 5G.

So I wanted to start by following up on some things we learned through the panel discussion and open by asking you about what is in the Spectrum pipeline.

So, in addition to your work on millimeter wave and recent midband, the notice of inquiry, is the Commission also looking at reallocating other bands that the industry may be able to aggregate with existing licenses to create similarly large bandwidths, or are there additional bands in general that you are looking for future auction?

Mr. PAI. Well, thank you, Congressman, and for your bipartisan work with Congresswoman Matsui. I think it goes to show that when it comes to Spectrum there are no Republicans, there are no Democrats. There are simply people who are interested in the future of wireless innovation.

We at the FCC, too, have spoken with a bipartisan voice when it comes to Spectrum policy. In the Spectrum Frontiers Proceeding

we teed up a number of bands above 24 gigahertz, as you are aware. We are actively studying that issue, including bands like 60 and 70 gigahertz to figure out if there are ways that we can allocate high or large swaths of Spectrum for high bandwidth applications.

We are not content to rest on our laurels, however, and that is why we teed up for consideration next Thursday a midband NOI. This is the bands between 3.7 and 24 gigahertz. We focused, in particular, on 3.7, 5.9, and 6.4 gigahertz. But we have opened it up largely, as you will see in the Notice of Inquiry, for the public to tell us that there are other bands we should be thinking about.

Our goal here is obviously to be as holistic as we can be to ensure that as much Spectrum, licensed and unlicensed, gets pushed into the commercial marketplace. That is the best way, I think, to give innovators they need to deliver wireless services.

Mr. GUTHRIE. Can you lay out any timeframes, absence of statutory deadlines?

Mr. PAI. There is no particular timeframe since this is a Notice of Inquiry. We anticipate a longer time period because we can't proceed, typically, from a Notice of Inquiry directly to final rules. But we are hopeful that given that this is an urgent issue, of course, that for the wireless consumers and innovators, we can move with relative dispatch to identify areas where there is consensus, move forward on those, and if there are trickier issues, bracket those for further discussion.

Mr. GUTHRIE. Thank you. And, Commissioner O'Rielly, you have been vocal about potential deficiencies in the draft rules with a 3.5 gigahertz band. What steps should the Commission take to make such Spectrum more attractive for licensed mobile use, including to better support 5G service?

Mr. O'RIELLY. My apologies. So the Commission is looking at whether to change the rules regarding licensing for the one tier, the license tier, of the 3.5 gigahertz band. Renewability is an important issue that was ignored under the last Commission, and the lengths of the licenses themselves, the terms of the licenses are important.

So both those functions, in my opinion, need to be changed. And we are looking at doing that. The Chairman has asked me to focus some of my time on this, and I am. And hopefully we will be able to look at that and a couple other issues. And my goal is to have that completed by the end of the year.

Mr. GUTHRIE. Thank you. For all Commissioners, what lessons should we in Congress learn from the most recent auctions such as H block, AWS-3, 600 megahertz, that can be applied as we look to the future? We want to create the clearest possible rules of the road. So what can we build on? And what should we avoid?

And I will start with the Chairman and move down.

Mr. PAI. Boy, that is a good question. I think, first and foremost, is to give the FCC the flexibility that it needs to identify its Spectrum bands that are ripe for auction.

Secondly, to urge the FCC to set up an auction process that allows all participants to compete fully and fairly for that Spectrum.

And, third, to ensure, to the extent possible, that the FCC has the tools that it needs to ensure that that Spectrum is, in fact, used

for the public benefit. So last September I outlined my proposal to increase the build-out requirements, particularly in rural areas, to ensure that if this public resource is being allocated through the auction process to a private entity, that private entity does, in fact, use it to benefit the public.

Mr. GUTHRIE. Commissioner Clyburn.

Ms. CLYBURN. I have to build on that and ensure that we have efficiencies and the expectations are being met by those who win the right to build. Also, I have been pushing for smaller—you know, partial and smaller economic areas where it will indeed give persons regardless—entities, regardless of size, not just the big players, being able to bid in this space. That is important. Because those in your communities, those who have the capacity in your communities, who want to service a smaller footprint, they should be able to do so. And I think that lesson should continue in subsequent auctions.

Mr. GUTHRIE. So in 10 seconds, can I kind of change it a little bit? Do you consider, Commissioner O’Rielly, the Spectrum Act a success?

Mr. O’RIELLY. I consider it a general success, allowing Spectrum to be made available, the amount of Spectrum available is beneficial. But I do believe—and this gets to the heart of your previous question—is that we imposed a number of policies that probably were problematic, restricted the number of bidders, restricted the licenses. That shouldn’t have been included in the first place.

We should have had a more open structure. And if you compare that to previous auctions, I think you will see that there is a differential between the two.

Mr. GUTHRIE. Thank you for the answer. My time has expired. I yield back. Thank you.

Mrs. BLACKBURN. The gentleman yields.

Ms. Matsui for 5 minutes.

Ms. MATSUI. Thank you very much, Madam Chairwoman. I am a strong supporter of the FCC’s Universal Service Programs, especially Lifeline and E-Rate programs which help families, schools, and libraries get connected. Chairman Pai, I have taken issue with many of the actions you have taken as Chairman.

But one of the areas that is most troubling to me is the attack on Lifeline, a program that struggling Americans across the country count on. This small amount of support can make a huge difference in whether a family has phone and internet access. Lifeline means a parent can stay in touch with their child’s school or has a phone number to put in a job application.

Under the last administration, the FCC made a lot of progress to start the process of Lifeline reforms. As part of the FCC’s 2015 Lifeline Modernization Order, the FCC began the process of creating a national verifier for eligibility. This is an important check on a system that would make huge progress in making sure Lifeline funding only goes where it is needed the most.

Chairman Pai, could you provide us with a status update on where the FCC is with regards to implementing the national verifier?

Mr. PAI. Thank you, Congresswoman. The national verifier is still not scheduled to be up and running until later this year, and

it is not scheduled to be fully operational in all States until 2019. We are working actively with USAC to accelerate that timeframe to the maximum extent possible. Because as identified in the GAO report, many millions of dollars are being wasted in part because we cannot certify that every person getting a Lifeline subsidy is eligible for the program.

Ms. MATSUI. OK. I just really think that that is not very much progress at this point in time.

Mr. PAI. This is the hand we were dealt, Congresswoman.

Ms. MATSUI. Well, can you commit to providing this committee with quarterly reports on what the Commission staff is doing to speed the implementation of the verifier?

Mr. PAI. I would be more than happy to do that.

Ms. MATSUI. I think this is critically important. Because, you know, we should be implementing this reform so we know that we can implement against waste, fraud, and abuse instead of continuing to attacking Lifeline.

I know that Commissioner Clyburn has really been a champion of this also. What can we do to strengthen E-Rate and Lifeline programs?

Ms. CLYBURN. We can ensure that we have the reports needed for us to better evaluate. What the Chairman did not say is some of the reports were put on the back burner. They were rescinded or, you know, they weren't released. And so it is hard for us, particularly when it relates to E-Rate to see how we are doing, what we should be doing, and what are the next steps.

And Lifeline, uncertainty is abound when it comes to that. Because we told nine providers who spent millions of dollars to take part that we approved, that no need to apply, you know. We just rescinded those applications. So what is happening is a lot of uncertainty and a program that can provide the most for the least is in a state of flux. And it was very unnecessary.

Ms. MATSUI. Thank you. And I just hope the Commission puts a lot more energy behind this program.

Commissioner Clyburn, I share your belief that we need to be strengthening localism and viewpoint diversity in our media. We have a strong tradition of local broadcasting in Sacramento. And it is essential to keeping my constituents engaged and informed. I know that you have concerns about some of the FCC's recent decisions on media, specifically rolling back the UHF discount. How is reinstating the UHF discount opening the door for greater consolidation and local broadcast markets?

Ms. CLYBURN. It will allow for a potential licensee to, under the cloak of darkness, to account for 50 percent of a certain license. It would only show up as 50 percent. And that means that you would make the assumption that they are under your cap when they actually are not. It is technologically obsolete, and anything that is technologically obsolete will negatively impact the entire ecosystem.

Ms. MATSUI. So you believe that this is really under the cloak of darkness?

Ms. CLYBURN. Absolutely.

Ms. MATSUI. OK. OK. At this point, I would like to give a few minutes here, or seconds, to Congressman Cárdenas.

Mr. CÁRDENAS. Thank you, Congresswoman Matsui. And thank you, Madam Chair, for holding this hearing.

I just wanted to submit my questions for the record. And I appreciate this opportunity to hear from the Commission. And I just want to register some questions that I have, and concerns, to the merger between Sinclair and Tribune, and the massive reach that they would have and the must-run content that they seem to be pushing on the local media.

So thank you very much, Madam Chair. I yield back.

Ms. MATSUI. I yield back.

Mrs. BLACKBURN. Gentlelady yields back.

Mr. OLSON for 5 minutes.

Mr. OLSON. I thank the Chair. And welcome Commissioner Clyburn, Commissioner O’Rielly, and Chairman Pai.

Chairman Pai, my questions concern Spectrum for commercial uses. The Spectrum Pipeline Act of 2015 called for the identification and auction of 30 megahertz of Spectrum by 2024. Is that 30 megahertz adequate to meet industry’s future needs? And, if it is not, what can Congress, NTIA, and the FCC, do to identify additional bands that could be made available for commercial use?

Mr. PAI. Thank you for the question, Congressman. I think the only constant in the wireless world is change. And that if we anticipate the 300 megahertz that might have been sufficient in 2015, then innovators will find applications that require us to think even more broadly. And so we certainly want to pursue as many of those 300 megahertz as possible. But, as I stated in my response to Congressman Guthrie, we are thinking as broadly as possible. We want to tee up as many bands as possible.

And to the extent that congressional authority might be helpful in identifying further bands or giving the FCC the authority to clear more bands, we would be happy to exercise that authority.

Mr. OLSON. In your opinion, what are the repercussions of not meeting Spectrum needs over the next decade? What is going to happen if we blow it?

Mr. PAI. I think the opportunity cost could be extremely significant. As Congressman Loeb sack pointed out, if you are a healthcare provider in a rural area, and that wireless connection might be necessary for you to be able to assess and stabilize a patient, that requires Spectrum. For agriculture, for education, all these other things depend on wireless Spectrum.

And as the world goes wireless, the demands on the network go up, and we have to have enough Spectrum to meet those needs both unlicensed and licensed.

Mr. OLSON. Commissioner Clyburn, Commissioner O’Rielly, something to add to those questions about the Spectrum?

Ms. CLYBURN. Well, one of the things is we are working with our Federal partners. You know, with, you know, NTIH, to ensure that we are on the right track. We are being flexible. We are talking about an all-of-the-above approach, you know, unlicensed, licensed, and shared Spectrum. So I really think the momentum—I know the momentum is there. We just need to shore up, I think, the public-public partnership side of the equation to make sure that we keep pace.

Mr. O'RIELLY. I would say that I have been pushing hard on millimeter wave band and midband to make more Spectrum available for those purposes.

One idea that I put forward was agency Spectrum fees, is putting opportunity costs for Federal agencies that hold Spectrum to try and make a mechanism that they would realize it in their budgets in terms of holding Spectrum. Because right now there is no cost for the hold licenses, and that keeps that bottled up in the Federal agencies.

So that would be one mechanism I would recommend to the committee for consideration.

Mr. OLSON. Thank you.

Chairman Pai, the FCC Authorization draft legislation we are reviewing today would establish a, quote, "Office of Economics and Data," end quote, within the FCC. Do you support this office in the statute? How can this office help the Commission do a better job with its rulemakings? Is this necessary?

Mr. PAI. I strongly support the creation of this office, having proposed it in April. It has struck me over the years that for the legal function there is a dedicated office, the Office of General Counsel.

For the engineering function, there is an Office of Engineering Technology. But when it comes to economics, which arguably should guide a lot of our thinking, in terms of cost benefit analysis and the like, the economists are sprinkled throughout the agency. And that impairs our decisionmaking. It gives the economists at the agency less of a feeling that they are incorporated into the culture of that decision making. It also makes it difficult for us to recruit the best and brightest, and when we are competing with the FTC and SEC.

So we are hopeful that with the Congress' support, we are able to create this office in a way that inspires great big-picture thinking from the terrific economists that we have on staff.

Mr. OLSON. Sounds like we should keep it in the bill.

Mr. PAI. I would be supportive of that.

Mr. OLSON. Final question for you, Commissioner O'Rielly. We can all agree on the benefits of the next generation of wireless, 5G. Unfortunately, we also hear about delay of sites for new wireless facilities which in some cases can take years. Mr. Pai mentioned sites on Federal lands. What is the FCC doing, and what more can it do in this regard? As a formal Navy aviator, how can Congress help the FCC feel the need for speed?

Mr. O'RIELLY. So I appreciate your comments. The Chairman outlined a number of things that we are already doing at the Commission, including the BDAC, and including three proceedings that we have before us. So, hopefully, we will conclude those in the near term.

But, in addition, anything that Congress can do to clarify the current statute in terms of our authority is very welcome. I think we have broad authority in this space, but anything that Congress is willing to clarify would be very helpful.

Mr. OLSON. Thank you. My time, I yield back.

Mrs. BLACKBURN. Right on time he yields back.

Mr. Ruiz, 5 minutes.

Mr. RUIZ. Thank you, Chairwoman. I want to thank the Chairman and Commissioners for being here. The FCC is responsible for a vast array of issues, and I welcome the opportunity to discuss a couple of them today.

Diving right in. I want to talk about broadband deployment. One of the most important tools the FCC uses to encourage broadband deployment is through the Connect America Fund which helps make deploying and maintaining broadband internet possible in remote, and rural, and underserved areas across the Nation.

These are areas like Mecca, Thermal, Coachella, in my district, where I grew up, where it is a rural area, farm worker area, where we also have some tribes, or a tribe, that also exists in that area. And we know that there are some classrooms in the Coachella Valley Unified School District that doesn't have access to good internet where teachers have to print out a YouTube video and show them as slides so that the kids can get information.

But, also, the CV Unified School District and the community work together to provide every student, K through 12, an iPad or a tablet to boost achievement and narrow that digital divide, where oftentimes when I grew up there we had dilapidated books, and we didn't have the most recent copyrighted book as well.

Unfortunately, however, broadband deployment across the region remains spotty, at best, limiting the ability for students to take full advantage of this technology. In December of 2015 I wrote to the FCC in favor of Frontier Communications proposal to acquire Verizon's Wireless Networks and supporting their commitment in working together with my office to utilize the Connect America Fund to deploy high speed internet in those underserved areas in my district. And I urge the FCC to support Frontier's efforts to deploy broadband in my communities and to hold Frontier accountable to their commitments to closing the digital divide through their acceptance of Connect America Funding.

So my first question to Chairman Pai, are you committed to ensuring all Connect America funds recipients are fulfilling their responsibilities under the program?

Mr. PAI. Absolutely, Congressman. Yes.

Mr. RUIZ. And how are you going to monitor that progress?

Mr. PAI. Two different ways. Upfront, we have required the recipients of that funding to build out to 40 percent of their territory by the end of this year, 20 percent by the end of 2018, 20 percent by 2019, and the final 20 percent by the end of 2020.

We require reporting obligations throughout. And on the back end there is accountability. If they do not build what they said they would build out, then we will require the accelerating—

Mr. RUIZ. Thank you.

Mr. PAI [continuing]. Back.

Mr. RUIZ. Thank you. This is obviously a critical program not only for the people and families I represent but millions of Americas who still lack access to broadband.

Now switching gears. My next question is about addressing the challenge of—and in some cases the other lack of diversity in media programming, ownership, and viewpoints. For me, this isn't about some statistic. It is about the children in our communities who deserve to see their stories, their communities, their experi-

ences, their role models, their culture, portrayed on the screen in a positive light.

It is about giving our young people more inspiration and more role models to look up to on the screen and behind the screens. And when they believe that they can dream big and fight to make those dreams come true, our Nation as a whole reaps the benefits. I firmly believe that we need to see real progress, real change, and we are going to need to improve the diversity of those decision makers at the top.

As we have seen, several mergers over the years in the evolution of how people consume media content, we must ensure that diversity in programming and content is not diminishing. As the agency who has overseen numerous mergers over the years, the FCC has a responsibility to take public interest into account and in determining whether to approve a particular proposal.

Chairman Pai, very briefly, if you don't mind—because I do have another question—does the FCC consider diversity when reviewing proposed mergers under the public interest lens?

Mr. PAI. That is one of the factors that goes into our analysis.

Mr. RUIZ. Thank you.

And Commissioner Clyburn, you have been a champion for this issue in the past. How do you think the FCC and Congress can work to improve diversity on and off the camera?

Ms. CLYBURN. I think one reason—one way is through ownership. Just stamping every merger that comes our way is not going to help in terms of diversifying the ecosystem, a tax certificate program. That works extremely well.

An incubator program, that I think would work extremely well where we could possibly relax some of our ownership obligations.

Those are two proven ways, I believe, that we could further infuse and diversify the marketplace.

Mr. RUIZ. Good. I look forward to working with you both on this particular issue in the future. Thank you. I yield back.

Mrs. BLACKBURN. Mr. Long for 5 minutes.

Mr. LONG. Thank you, Mr. Chairman.

Commissioner O'Rielly, a long time ago, in a galaxy far, far away, during the proceedings to establish rules for the incentive auction there was fierce debate about the bidding restrictions set aside in the Spectrum screens. Now that the incentive auction is over, can you say with confidence whether the restrictions to set aside the screen applied increased better participation?

Mr. O'RIELLY. I cannot, with all honesty, say that they increased participation. I would say just the opposite, they decreased participation.

Mr. LONG. You what?

Mr. O'RIELLY. I would say they decreased participation. The restrictions decreased participation. They set aside a Spectrum for particular bands, for particular licenses, for particular winners.

I think that those rules were harmful to the free market and the free auction, and I think that the auction didn't generate as much as it possibly could have.

Mr. LONG. I think I can maybe delete the second part of my question. I was going to say were they necessary and beneficial. But I think you have answered that.

This is for everyone. I will start with Chairman Pai and go down the line. Netflix is the largest paid TV service in America in terms of subscribers and has a content budget of \$6 billion including to produce its own exclusive content.

Amazon Prime, which offers a premium and exclusive video programming will soon see its subscriber numbers pass that of all the so-called traditional pay TV services, such as cable and satellite combined.

Alphabet's YouTube now offers a paid TV service with programming no different than traditional cable and satellite to 35 percent of American households.

My question is this: Do our communication laws and FCC regulations recognize and account for these new and competitive services?

Mr. PAI. Good question, Congressman. I don't think they do, and part of the reason is that the law has been frozen in place for a while. And that is why I think it would be helpful to have additional authority, for example, with respect to forbearance.

It would allow the agency to modernize our rules to recognize some of those revolutionary changes you identified.

Mr. LONG. I will repeat the last part of the question for Commissioner Clyburn. Do our communications laws and FCC regulations recognize and account for these new and competitive services?

Ms. CLYBURN. I say yes and no. You know, we recognize part of the reason why you can mention all of those, you know, companies, is the fact that we have an open internet, an open and a vibrant ecosystem.

So I don't think we should discount that. That is very important. You would not have been able to say those alphabets, literally, you know, several years ago.

So I think we need to concentrate on that as much, you know, recognizing that maybe we need to retool and continue to evaluate rules that are on the books.

Mr. LONG. OK. And, Commissioner O'Rielly, again, do you—excuse me—do our communications laws and FCC regulations recognize and account for these new and competitive services?

Mr. O'RIELLY. I would agree with my colleagues. It is a yes and no in terms of—sorry, sir.

Mr. LONG. That is all right. Pay no attention to the man behind the curtain.

Mr. O'RIELLY. In terms of Title VI, I don't think it reflects the current marketplace. That is what generally governs our video services. So I think the law is out of sorts with that. I think in our media ownership we are required to look at those things and required to look at the broad ecosphere and what is happening in the marketplace. And so that does, I believe.

And we didn't do that in the last go-round in our media ownership, the quadrennial review. So the law does in some places and other places it doesn't. It should be modernized.

Mr. LONG. OK. Thank you.

And, with that, Chairman, I yield back.

Mrs. BLACKBURN. The gentleman yields back.

Mr. McNerney, 5 minutes.

Mr. MCNERNEY. I thank the Chair.

Chairman Pai, within 2 weeks of becoming Chairman, you rescinded the FCC White Paper on cybersecurity risk reduction, as well as the Notice of Inquiry on the 5G wireless network and device security. You then moved to stay the data security provisions of the Broadband Privacy Rules. Meanwhile, we have seen more unsecured devices come to market, and an increase in the attack surface and the largest online ransomware attack in history.

I am puzzled that you aren't taking the agency's responsibility in the area of cybersecurity more aggressively, given that your own agency was attacked—was a victim of attack of—denial of service attack.

Please answer with a yes or no. Will you commit to working with the committee to using your authorities to protect consumers against the growing cybersecurity threats?

Mr. PAI. Yes.

Mr. MCNERNEY. Chairman Pai, on May 7, after airing of John Oliver's program that outlined the FCC's efforts to roll back net neutrality, the Commission's electronic comment filing system went down. The FCC's chief information officer alleged that the agency's internal analysis found the Web site was hit by multiple DDoS attacks. I find it troubling that the FCC could not produce any documentation on these attacks when asked to do so.

Please answer with a simple yes or no. Will you commit to turning over to this committee any reports, requests, memoranda, and server logs related to this incident so that we can get to the bottom of what happened here?

Mr. PAI. Congressman, I hope to consult with the IT staff and the attorneys to see if there are any applicable, technical, or legal prohibitions or restrictions on doing so. But to the extent I can share information with you and the committee, I would be happy to do so.

Mr. MCNERNEY. You will commit to that?

Mr. PAI. Yes, sir.

Mr. MCNERNEY. What is the agency's protocol going forward for documenting DDoS attacks?

Mr. PAI. We consistently work with the career IT staff to monitor the situation, and they work, in turn, with the cloud providers to ensure that they are able to scale up as necessary to address some of the challenges that our system might have. And I am happy to say that they have been able to do so very successfully, judging from the voluminous comments we have received to date.

Mr. MCNERNEY. So we will have better visibility, then, in future potential attacks?

Mr. PAI. Sorry. In terms of—

Mr. MCNERNEY. Of what happened. Of what was the attack consisted of.

Mr. PAI. Yes. As pointed out in the letter to Senators Wyden and Schatz, and the attachment from our chief information officer, the career chief information officer, we outlined some of those facts, and we would be happy to produce that to the committee as well.

Mr. MCNERNEY. Well, after passing the privacy CRA, the Republican members of this committee sent you a letter asking that the FCC protect consumers' privacy by using its authority under sections 201 and section 202 of the Communication Act.

Please answer with a simple yes or no. Since receiving this letter, has the Commission taken any enforcement action or issued any guidance for using sections 201 and sections 202 to protect consumer privacy and broadband privacy.

Mr. PAI. Not to my knowledge. We are still studying that issue, the letter that was sent over.

Mr. MCNERNEY. Does the Commission have any plans to take enforcement under—action under 201 and 202 to protect broadband privacy?

Mr. PAI. The Enforcement Bureau Guidance that was issued in 2015 is still in force, and so, we are happy to provide further detail if requested.

Mr. MCNERNEY. Thank you.

Commissioner Clyburn, what broadband privacy protections can consumers rely on today?

Ms. CLYBURN. To my knowledge and my interpretation, though I am not a lawyer, none. We have basically gotten out of the business of protecting those online. We have made it clear that if you have—in terms of voice, we are there for you when it comes to broadband. That is up in the air. And to say that the FTC will be your savior, I think is shortsighted in terms of looking at what their authority is.

Mr. MCNERNEY. Well, startups are the key drivers to job creation, innovation, and economic growth. I want to make sure that my startups in my community can continue to expand.

How will the current proposals to roll back net neutrality protections affect the ability of startups to thrive and compete?

Ms. CLYBURN. I think in terms of the FCC's ability to do its job in terms of ensuring that there is a way for us to ensure that there is broadband and investment oppose attachments and other types of conduits. It is questionable right now whether or not we have the authority or the ability to do anything to enable all of that.

Moving in the direction which is proposed is going to cause—is going to short-circuit our ability to the things that America expects, and that is to connect them in an expedited, legally sustainable way.

Mr. MCNERNEY. Sure.

If I understand, you feel that Title II rules inhibit investments. How can you test, in an unbiased way, the veracity and universality of your opinion since the rulemaking is lacking comments on the benefits of the existing rules?

Mr. PAI. Congressman, to the contrary. We welcome those comments, and we want to test the veracity of the statements that are made in the 10Ks, the studies that are entered into the record. And that is why—precisely why, as I suggested to Congressman Doyle, that we aren't proceeding by a declaratory ruling, simply fiatting a particular result. We want to hear all the conflicting facts, sort through those facts, and then make the judgment based on those facts and the applicable law.

Mr. MCNERNEY. Thank you.

I yield back.

Mrs. BLACKBURN. The gentleman yields back. And, Mr. Bilirakis, you are recognized for 5 minutes.

Mr. BILIRAKIS. Thank you, Madam Chair. I appreciate it so much, and I thank the Commissioners for their testimony today.

Chairman Pai, in past hearings, I questioned your predecessor on his proposal to close various FCC field offices, and the impact it could have on the radio frequency interference complaint response times. At the time, you were also concerned that these closures could erode the FCC's enforcement abilities. In the closing days of the last administration, the FCC closed 11 field offices, including one in Tampa. I represent part of the Tampa Bay area. I think you know that.

In light of these closures, what actions has the FCC taken to ensure that interference complaints continue to be timely addressed?

Mr. PAI. Thank you for the question, Congressman. And it is no secret that I had substantial disagreements with the original reorganization plan that was proposed, because it would have impacted the field, including places like Tampa.

Going forward, we have tried, to the best of our ability, to use those resources in the field offices to aggressively attack issues, like pirate radio, that are a problem all across the eastern seaboard. And working with our enforcement Bureau staff, during my tenure, we have issued two notices of apparent liability, four forfeiture orders, 39 notices of unlicensed operations. That is just on the enforcement side. In terms of our rules, going forward, we want to make sure that we take every step we can to put pirates on notice that both the staff at the FCC headquarters and the field office enforcement staff are cops on the beat to guard against that problem.

Mr. BILIRAKIS. Thank you very much.

Next question. The Commission has done a great job in the last few months bringing cases against scammers who violate the TCPA by making millions of unwanted robocalls to innocent consumers. I think we all agree that robocalls are a substantial consumer protection problem. As a matter of fact, you know, I hear about it all the time from my constituents and even family members.

So, Chairman Pai, could you tell us more about the FCC's robocall enforcement efforts? And what makes it so difficult to identify these bad actors?

Mr. PAI. Terrific question. This is the number one consumer protection issue, judging from the complaints that we get from consumers across the country. We took that to heart. And so out of the box, in the first 6 months, we have already taken the—proposed the largest fine ever proposed by the FCC to go after a robocaller in Florida who imposed 100 million robocalls in just 3 months on America consumers. That is \$120 million proposed fine.

Two weeks ago, rather, we proposed an additional fine to tackle another scammer who was essentially enabling others to make similar robocalls. We also set up, on the rule's side, a reassignment—we are proposing to set up a reassign numbers database so that those legitimate callers who want to stay in touch with their customers are able to do so free from liability.

We have also empowered carriers, rather, to take steps to block spoofed calls. These are calls that appear to be coming from your area code or even the first three numbers of your prefix, but they

could be coming from another country. It is somebody masking their identity in order to get you to answer that phone.

We are using every tool in the toolbox that we can, but is very difficult. There are a lot of technical challenges. And that is why, going forward, we have encouraged what is called a call authentication anchor. This would enable you to know that, if you see a number on your phone, you can be assured that it is from the person who is assigned that telephone number. For a variety of reasons that we don't have time to get into, it is very technically complex to do that, but we have the best and brightest folks at the agency and in the industry working together to try to figure out this problem.

Mr. BILIRAKIS. Very good. Thank you. Thanks for taking that action. Again, it is so important to our constituents.

Ensuring that our elderly and disabled populations retain full access to technology is very important to me. And, again, we don't want our elderly or any constituents being bothered with these unwanted robocalls, as you know.

But on another issue, just this month, the FCC adopted rules to provide more video-described programming to blind and visually impaired Americans.

Chairman Pai, can you describe what this will do for visually impaired population, and explain the timeline for implementation of the new standard.

Mr. PAI. Thank you for the question, Congressman. I am very proud of our work in this area. So many of the things that we talk about when we are with our families involve movies or TV shows that we have seen. But imagine if the core scenes in a movie or a TV show required you to understand the nonverbal cues. Those are things that blind and—people simply can't take advantage of unless they have an audio description of what is going on. And so that is why, working together, we advanced more video description capability. That is somebody narrating, essentially, the critical elements of a movie or a film. This is something that Congress gave us the ability to do, and we have exercised that authority in order to give those with disabilities the maximum chance to participate.

We have done that across a number of different areas, by the way, not just on the video side, but with respect to those who are deaf or hard of hearing. We have taken a number of steps to ensure that they have the ability to enjoy communication services as well. And so using the tools that Congress has very generously given us, we want all of these communities to be digitally empowered, especially those with disabilities.

Mr. BILIRAKIS. Thank you very much. I want to thank the Commission for making it a priority.

Mr. PAI. Thank you.

Mr. BILIRAKIS. So very important that our constituents have access.

Thank you.

Mrs. BLACKBURN. The gentleman yields back.

Mrs. Dingell for 5 minutes.

Mrs. DINGELL. Thank you, Chairman Blackburn, and thank you, again, to all the witnesses. I know you probably like being here as much as you like going to the dentist.

I want to start with the issue of cybersecurity and build on my colleague, Mr. McNerney's questions. And I know it is very important to all the Members on both sides of the aisle. It is really a nonpartisan issue, and it is something we have got to get right.

The distributed denial-of-service attack that the FCC suffered on May 7 is concerning to all of us, especially because the Commission has not been very forthright concerning what actually happened.

Chairman Pai, I do appreciate your response to some of Senator Wyden's questions on this issue, and to Mr. McNerney's. But I want to follow up on that.

You have presented your plan to mitigate bottlenecks in the electronic comment filing system, API. Could you talk about this plan in greater detail, and would you be willing to update members of this committee when the plan has been implemented?

Mr. PAI. "Yes" is the answer to the second question, Congresswoman. With respect to the first, we have worked to ascertain what the necessities are in terms of scaling up our ECFS system to accommodate a large amount of traffic. And that is why I think we now see 12.3 million comments in the system, is that our career IT staff working with our commercial cloud providers have the ability now to make sure that, if we anticipate a great surge in interest in a particular proceeding, we are able to scale accordingly. And so that process has worked pretty well, as far as I know, over the last several weeks, and hopefully, going forward it will as well. But we would be happy to keep you briefed on—

Mrs. DINGELL. And let us know if there are problems again as they occur?

Mr. PAI. Absolutely.

Mrs. DINGELL. Chairman Pai, in October of last year, the DNS provider Dyn fell victim to a massive distributed denial-of-service attack. Without diving too deep into the woods, can you give us a quick overview of some steps you are taking to mitigate the risk of this happening again? The threat is only going to grow more and more if more and more devices are connected to the internet.

Mr. PAI. I couldn't agree more, Congresswoman. Cybersecurity is a critical issue. And it seems like we hear about a new story like that every month or—if not every week. The problem as we see it is the FCC's authority here is relatively circumscribed. If Congress would give us additional authority, we would be more than happy to administer it. But as we read the Act, we don't have the ability to directly issue, for example, cybersecurity regulations of the type that would address issues like that.

We are in a consultative role with the Department of Homeland Security and other agencies. And I personally have been in briefings at the where FCC's secure facility where I have been briefed about some of the cyber threats that we see. And I obviously can't discuss those in open setting. But I can tell you that we are focused on this issue, and we would welcome any additional authority.

Mrs. DINGELL. So I think it is great to hear that you are, because I have been worried that it has all been shunted off to Homeland. And maybe in a session, we can work with what you think you need to have more authorization, because I think the FCC has a critical role as more goes on. So thank you.

Switching gears to another top priority of mine, the Lifeline program. It is critical to so many hardworking Americans across the country. Americans are living paycheck to paycheck and struggling to get by in the new economy. All of us have constituents like this, and we see them every weekend when we go home. We can't afford to leave Americans behind. So I am going to ask all of the Commissioners this. To each of you: Will you commit that you won't take Lifeline away from these hardworking Americans by artificially limiting the Lifeline program?

Mr. PAI. Congresswoman, I am not sure what you mean by artificially limiting the program. But I have said consistently that Lifeline is a critical part of the equation to addressing the digital divide. And so long as I am Chairman, broadband will remain a part of the Lifeline program.

Mrs. DINGELL. Chairman Clyburn.

Ms. CLYBURN. I am absolutely concerned about the program. I am concerned about the posture. I am concerned about the rhetoric. And if we do not fix it as opposed to criticizing it, then this program will be in jeopardy.

Mr. O'RIELLY. I have no interest in dismantling Lifeline. I am not sure exactly what you mean by your question. But, you know, I am happy to work with my colleagues. There are a number of improvements needed to be made in this area, including having a budget for the program.

Mrs. DINGELL. I will expand more on that in questions after. I am going to do a really fast one.

Commissioner Clyburn, do you think rolling back net neutrality would undermine free speech online? Why or why not?

Ms. CLYBURN. Absolutely. I think if any outside force is able to influence a limit where you can travel or where you can access online, that is very limiting not only, you know, to free speech but other enabling opportunities that you may have.

Mrs. DINGELL. One more. If someone with a vibrant small business community in my district, I have heard many of them that rolling back net neutrality can undermine their growth in jobs, small business.

Commissioner Clyburn, why would small businesses be so uniquely affected by the rollback of net neutrality?

Ms. CLYBURN. Because they don't have the power of being able to buy more expanded, robust service offerings or faster speeds. We heard from a lady in the—Congressman Johnson's district that said she lost 300 or \$400 a month because fraud rolling and her inability to enhance—to promote her artwork. These are very real problems that are happening to very real people. And if they don't have a level playing field, it will continue.

Mrs. DINGELL. Thank you, Madam Chairwoman.

Mrs. BLACKBURN. The gentlelady yields back.

Mr. Kinzinger, 5 minutes.

Mr. KINZINGER. Thank you. Thank you, Madam Chair, for holding the hearing. And to the Commissioners, thank you for being here today. I am pleased to see the FCC reauthorization discussion draft includes provisions from legislation I introduced last Congress that would require the FCC to publish the draft of any item that is circulated on vote at the Commission. And I am also pleased

to see the FCC Process Reform Act included in the bill that I co-sponsored with Chairman Walden in the past few Congresses to improve transparency and fairness.

Mr. Chairman, you stated you are going to make transparency a priority, and I am very encouraged, actually, by the efforts you have already made. While it has only been a few months, what benefits have you seen from some of the reforms that you have implemented?

Mr. PAI. Thank you for the question, Congressman. It has been tremendous. The first and foremost reform is the pretty simple one: Letting the American people know what we are going to do at our public meetings at least three weeks before we do it. And that is something that we had been told for legal reasons we couldn't do, or for policy reasons we shouldn't do. But in my second week, I instituted that reform, adopted Commissioner Clyburn's suggestion to accompany those items, the one-page fact sheet that explains in plain English what we are doing. And the results speak for themselves. People, including Members of Congress, are able to see the specific details of what the agency is proposing to do.

I would say for myself, that it has made the meetings we have about—internally, about those proposed items much more productive. Instead of this game of telephone where one party says, "Well, we hear that X, Y, and Z is in the item. Can you confirm?" And the Commissioner, or the Commissioner's staff, "Well, we can't disclose nonpublic information, but you might be on the right track." Those meetings simply don't happen anymore, because everyone can see what is in it. Or if there is a meeting, we focus on the meat of an issue. You know, "Chairman, you are wrong for this reason. Chairman, you are right for that reason." So it has been much more productive.

Other process reforms we have instituted have been similarly helpful, and we certainly look forward to more of those going across the finish line in the time to come.

Mr. KINZINGER. Good.

And we have draft legislation that seeks to advance that even farther.

I will start by asking you, and then turn to your colleagues briefly: What do you see in the legislation that will be helpful and what tools might we be considering as this legislation advances?

Mr. PAI. A lot of good ideas in the process reform section of the bill. Obviously, the creation of the Office of Economics and Data is something I am very supportive of. I think it would be helpful to create a culture of big picture economic thinking at the agency, and having Congress' support would aid that mission. Making sure that we institute more—deadlines for Commission action is something that would certainly come into the committee's attention. That is one of the things that we talked about before is that the agency can accept all these petitions and applications, but there is no accountability on the back end, because we have no deadline for acting. So having those deadlines, having sunset clauses and the like would help our work.

As I mentioned earlier, and I am not sure if you were in the room, but the one caveat I would add is that for enforcement actions, it is often important for us not to disclose the content of

those actions until after the Commission has voted. That is one area where transparency is, as important as it is, is counterweighed, I think, by considerations of due process and notice and the like.

Mr. KINZINGER. Understood. Commissioner Clyburn.

Ms. CLYBURN. I will be a one-hit wonder on here and talk about the Sunshine rules. I was a chair of the universal service joint boards, and that was definitely a barrier to communications. So, you know, that—pushing that ahead is a positive, and to the now current Chair.

Mr. O'RIELLY. Well, thank you.

I support the bill. I think there is many good improvements to our process. I think the Sunshine, as I mentioned, to the chairman of the full committee, that the Sunshine changes probably could be broader, in my opinion. I think they are a little limited, but they are improvements, so I will take them. But I am not sure they will be used all that often.

But I have put forward 15 ideas in my testimony that I think could be added to the bill to make it a little stronger. There are things I was pushing when I was a minority Commissioner, and have advocated since. And, you know, it doesn't matter from the minority or majority. I am worried now about this Commission. I think Chairman Pai has been a great leader in improving the accountability and transparency. But it is two, three, four failed Chairmen from now I am worried about.

Mr. KINZINGER. There are benefits to codifying.

And, Chairman Pai, last question. You updated us on the post-incentive auction transition process. And you mentioned that the \$1.75 billion we provided is insufficient to cover the total cost of repack, likely.

You didn't mention whether the 39-month deadline will be enough time to complete the process. Is it too early to tell whether there will be enough time to move it all within 39 months?

Mr. PAI. It is a little too early to tell. We have allocated the broadcasters who need to be repacked into different phases. And thus far, we haven't yet commenced full analysis of whether those phases will be sufficient. But I can commit to this committee that we will keep you apprised promptly of any developments on that front if we get the sense the 39 months will not be able to be met.

Mr. KINZINGER. Thank you. And, Madam Chair, I will give you 29 seconds back.

Mrs. BLACKBURN. Sounds great.

Ms. Clarke, 5 minutes.

Ms. CLARKE. Thank you, Madam Chair. Thank our ranking member. I also thank our Commissioners. And it is great to have you here before us to answer questions today.

My first question is actually to you, Mr. Chairman. It is good to see you.

Mr. PAI. You too.

Ms. CLARKE. Since the close of the FCC's broadcast incentive auction in April, you have begun granting license applications. I believe 25 have been granted, including two applications to incumbent nationwide wireless carriers, and the country's largest cable and direct broadcast satellite providers.

Of the 24 remaining applications that have not been placed on public notice, 13 seek bidding credits as small businesses, and 10 seek bidding credits as rural service providers, and you have announced in July that you are prepared to pay the winning bidders in the reverse auction.

So now that these payments are ready to go out, and now that the FCC has largely processed applications for winning bidders it has previously put on notice, I believe that the FCC should now move to be ready to process remaining license applications, many of which are for small businesses. So can you tell me what the timeline is for putting the remaining license applications on public notice, and how are you prioritizing these applications to ensure that there is timely deployment of these valuable spectrum to consumers?

Mr. PAI. I appreciate your concern, Congresswoman, because, obviously, that is a great limiting step for those winning bidders to be able to deploy that spectrum to benefit consumers.

We are moving as quickly as we can. Obviously, we want to process those applications quickly. With respect to designated entities, there are particular procedures that the FCC is required to follow in addition to the standard procedures we have to follow for winning bidders to ensure that those designated entities are, in fact, entitled to bidding credits under our rules and the applicable law. We will move as quickly as we can working through those procedures to ensure that they get the spectrum that they have bid for. And we would be happy to keep you apprised as things go forward.

Ms. CLARKE. I am just concerned, because the little guys always get short shrift, and the rules always get short shrift.

Mr. PAI. Right.

Ms. CLARKE. And it would be great to flip the script this time and make them a priority, because the big guys—you know, they have got all the wherewithal to do what needs to be done; the little guys that we are trying to elevate.

Mr. PAI. Exactly. And you have got my commitment on that front, Congresswoman.

Ms. CLARKE. Awesome. Awesome. Awesome.

This question is for Commissioner O'Rielly.

The FCC is currently considering whether to approve a new broadband standard, the ATC 3.0. And I am interested in the new services that this standard could bring to consumers, including access to more in-depth news on topics, interactive educational programs, and a robust emergency alert system. What is the time frame for the FCC action on this new standard and, also, its deployment by broadcasters?

Mr. O'RIELLY. So I think the Chairman may be better to answer timelines on that point. I would hope to be expeditious on this. I would like to do it this year, if possible. But he may be better able—

Ms. CLARKE. This year?

Mr. O'RIELLY. The Chairman can answer your timeline probably—

Ms. CLARKE. OK.

Mr. PAI. Well done, Commissioner O'Rielly.

So we do hope to be able to conclude the—to approve the new standard, if possible, by the end of the year. But obviously, we want to follow the facts where they take us. And so we are studying the record actively. And hereto, we hope to work collaboratively to figure out whether we can—we can, in fact, approve that standard by the end of—

Ms. CLARKE. Well, we are moving down that track. And having said that, I was just wondering whether you would all make a commitment to make sure that no consumer will lose service, no consumer will have to spend any money to keep viewing broadcast channels.

Mr. PAI. Yes, Congresswoman. As I am recall the NPRM, it has been a few months now, but I specifically remember that most consumers have ATSC 1.0 enabled television sets and devices in their homes. And so we obviously don't want to make a flash cut to ATSC 3.0 and leave those viewers in the lurch. So that is part of the reason the way we structured it was that you could experiment with ATSC 3.0 so long as that 1.0 signal was also still out there and able to be viewed.

Ms. CLARKE. OK. Wonderful.

And then recently, two licensees, FiberTower and Straight Path, sought FCC authority to sell spectrum after doing little or nothing with those licenses for many years.

If auction consistent with FCC rules, this spectrum would fetch billions of dollars for the U.S. Treasury. Why should the FCC reward FiberTower and Straight Path with private riches for not deploying service to the public? And why should FiberTower and Straight Path collect billions of dollars in payments instead of having to give that money to the U.S. Treasury for the benefit of all Americans? Can you guys give me a sense of, you know, what is the deal here?

Mr. PAI. Good question, Congresswoman. So there is some tricky legal issues that we are trying to sort out, and policy issues as well.

Ms. CLARKE. Tricky.

Mr. PAI. But, obviously, as I have said in response to, I believe, Congressman Olson, that this is a public resource, and we want to make sure that it is allocated in a way that benefits the American public.

Ms. CLARKE. Awesome.

Anyone else have any thoughts?

OK. I yield back. Thank you very much, Madam Chair.

Mrs. BLACKBURN. The gentlelady yields back.

Mrs. Walters, 5 minutes.

Mrs. WALTERS. Thank you, Chairman Blackburn, and to our witnesses for being here today.

The siting of wireless infrastructure is a key component of expanding broadband throughout our Nation while creating jobs. In fact, investment in 5G deployment has the potential to create over 2,300 jobs in my district. However, Accenture, Deloitte, and CTIA recently found that barriers remain to the deployment of broadband infrastructure. These reports have identified a number of impediments, including a lengthy and indefinite permitting process, or an unwillingness to grant reasonable access to poles or right-of-ways.

In my home State of California, several cities require wireless providers to show gaps in service just to access the right-of-way, while one city is asking for excessive annual fees to access the right-of-ways.

Chairman Pai, do these issues constitute obstacles to the broadband deployment?

Mr. PAI. Thank you for the question, Congresswoman. You know, many cases they do. And if you are looking to build a new wireless network, especially if you are a smaller competitor, you need to be able to deploy that infrastructure in a timely and cost-effective way. And if you face barriers like that, it can, indeed, be an obstacle to you getting into the marketplace.

Mr. WALDEN. Well, what can the Commission do to address these issues?

Mr. PAI. A part of it involves the authority that has been granted to us by—under the Communications Act, sections 253, 332, and to the—and possible 6409 of the Spectrum Act. So we are looking at different areas like that.

Also, I have set up, as I mentioned earlier, the broadband deployment advisory committee, part of which is setting up model State and model local codes for deployment that could address these issues. They will also tee up different barriers to entry like that to see if there are ways to work collaboratively. I have also supported legislation in Congress that could help address some of these issues in areas where the Commission does not currently have the authority.

Mrs. WALTERS. OK. Thank you.

Along those same lines, wireless infrastructure sitings is necessary to expand broadband deployment. And I am hopeful Congress and the FCC can work together to find ways to streamline siting procedures.

Commissioner O’Rielly, does the Commission have plans to review its procedures to ensure that siting applications do not face unnecessary obstacles?

Mr. O’RIELLY. Well, as the Chairman mentioned, we have three proceedings that we are looking at in this front: one on wireline and two on wireless; one of small cells particularly. So we are working on these things aggressively. And as he mentioned, he has the new task force. The Commission is looking at these issues as well. I just spoke in front of them and participated in their activities. So we are aggressively looking to solutions. Anything that Congress wants to add or clarify in our authority would be welcome, but I think we have authority and we should move forward aggressively.

Mrs. WALTERS. OK. Thanks.

And specifically, how does the Commission plan to address siting issues, like deemed granted and environmental assessments?

Mr. O’RIELLY. So those things are a part of the items that I spoke of, and are before us, and we are taking comments and making some decisions, so hopefully later this year.

Mrs. WALTERS. OK. Are there immediate actions the FCC can take to begin laying the groundwork for 5G?

Mr. O’RIELLY. I think there is the two parts, as I have mentioned in my testimony. One is making sure there is spectrum available.

And the second is this piece you and I just spoke about. And we are working aggressively on both fronts as hard as possible, I think.

Mrs. WALTERS. OK. And, Commissioner Clyburn, would you share your thoughts?

Ms. CLYBURN. A couple of things that you made me think about in asking that question. I am wondering, in a world without Title II, how would you know that 253 apply? And so that is a concern of mine and should be a concern of yours.

And another thing, we need to make sure that our local communities do what we can to ensure that local communities have the tools they need to sift through these applications. If you go into Montgomery County right across the border, they have had hundreds of applications and maybe just one or two people to sift through them. So not everyone is trying to stand in the way. And so we need to make sure, as a collective infrastructure family, that we make sure that everyone, you know, has the oxygen they need to move forward.

Mrs. WALTERS. OK. Thank you. And thank you again for being here. And I yield back the balance of my time.

Mrs. BLACKBURN. Mr. Engel, you are recognized for 5 minutes.

Mr. ENGEL. Thank you, Madam Chairman. And welcome to everyone here today.

You know, just as a consumer, when I am running around, I notice my phone rings much more now than ever before in terms of all these annoying robocalls and—you know, they even have the nerve to be stern with you. “We called you last week, and you didn’t respond.” So the average person would think, gee, I did something wrong and maybe go along with it.

When I was first in Congress a while ago, we passed a bill which developed a no-call zone where people weren’t allowed to call. Why can we not exchange that? Are there technical obstacles to developing new standards for call certification? Why can’t we have a do-not-call list like we once had several years ago for regular telephones? Anyone who cares to answer?

Mr. PAI. I would be happy to start that, Congressman. Part of the problem is that we have a lot of unscrupulous actors, some of whom are beyond our borders who find it profitable, frankly, to prey on American consumers with these robocalls despite the fact that they are on the do-not-call list. And I can tell you that I have raised this with some of my counterparts in foreign countries to emphasize that this is a major consumer protection issue for the United States, and we need their cooperation in terms of cracking down on some of those call centers that are just disobeying our do-not-call rules. And we also wanted to use the authorities we have, and that is part of the reason why we set up what is called a do-not-originate database—or functionality. Essentially, if a consumer does not want his or her number used for any purposes other than his or her own, they can tell the carrier, Do not place a call if it does not come from me, essentially. And that is one complement to the do-not-call list that we hope bears fruit in the time to come.

Ms. CLYBURN. And I agree. Any proposed rules going forward, they don’t apply to people who are unwilling to abide by them. And so that is the big challenge. And that is why we created this task

force, to make—because we know we can't do it alone at the FCC. We don't have the tools. And so we are attempting to enable the providers, you know, to have more teeth, so to speak, to make sure that they can be a part of fixing this problem. It will be ongoing. And I wish I could tell you next year we would have a different conversation. We might not, but hopefully we will be able to move forward.

Mr. ENGEL. Well, thank you. Because just as a consumer, I am running from meeting to meeting. All of a sudden, I answer something, and it is just so annoying. And it is increasing every single day. Well, thank you.

Commissioner Clyburn, let me ask you this: Privacy and data security, according to the Identity Theft Resource Center, last year, U.S. companies and Government agencies suffered over 1,000 data breaches, which is a 40 percent rise from 2015. And they exposed everything from Social Security numbers to log-in names and passwords.

Congress gave the FCC a clear role and responsibility in overseeing our Nation's commercial communication networks, but there is a growing consensus that we are falling behind.

So our privacy protections seem to be frozen. Provisions were gutted requiring ASPs to notify consumers of data breaches. And we might never know the full scope of these breaches, because many are undiscovered and underreported.

So let me first start with Commissioner Clyburn.

Do you think the FCC should issue rules on this issue?

Ms. CLYBURN. Do I think we should issue rules? I'm sorry?

Mr. ENGEL. Yes, on the issue of privacy.

Ms. CLYBURN. I think we should. I am not sure we can. I don't know what the impact of the Congressional Review Act is. I am trying to, you know, figure out what our next steps are. Particularly, you know, when it comes to voice, I think it is clear. But when it comes to broadband, we are increasingly moving to IP. I don't know what direction which we are headed.

Mr. ENGEL. What role should the FTC play?

Ms. CLYBURN. I think it is a complementary role. When it comes—they don't have any type of authority, as my interpretation is, as it stands now, when it comes to common carriers. And so if—so as it stands right now, the FTC—I don't see what role they could play in terms of broadband protection.

Mr. ENGEL. If we leave regulation up to the States, what happens?

Ms. CLYBURN. I think there are some States that are looking at this that were responsive after the CRA. But we will have a patchwork of regulation. I don't think that works well for businesses who have a nationwide footprint.

Mr. ENGEL. What are the consequences of leaving data security up to the ISPs?

Ms. CLYBURN. I think uncertainty. I think, again, that hodgepodge. I don't think the American public would be very comforted to know that, depending on who they call or who their provider is and where they go online, that they might have different levels of expectations or protections.

Mr. ENGEL. Thank you. Thank you, Madam Chair.

Mrs. BLACKBURN. The gentleman yields back.

Mr. JOHNSON, you are recognized.

Mr. JOHNSON. Thank you, Madam Chair. And Chairman Pai, Commissioner Clyburn, and Commissioner O'Rielly, thank you all three for being here today to talk about such an important issue.

Chairman Pai, a lot of questions have already been asked, but I am going to give you an opportunity here to talk more in a broad context.

What has the FCC done during your time as Commissioner in the Commission to facilitate the deployment of broadband networks?

Mr. PAI. Boy, a lot. So we have been pretty busy on this front. Number one, in February, we kicked off the process for the Connect America Fund, phase two, as well as Mobility Fund, phase two. Next week we are going to be voting on some of the next steps to make sure those auctions happen in a timely and effective way.

Number two, we have taken a very aggressive stand in terms of modernizing our rules to recognize that broadband deployment is our top priority. We kicked off, for instance, a wireless infrastructure item, voted on unanimously, I would add, that would enable the deployment of some of the nuts and bolts of these wireless networks in an easier and timely way.

On the wireline side too, we teed up a number of different ideas for promoting the deployment of fiber and the other guts of a network that go into the ground and on poles to make it easier for broadband providers to deploy.

Additionally, using the discretion that is granted the Chairman, I set up early on a broadband deployment advisory committee to help us create model codes for States, model codes for localities and other issues—tee up other issues that are for the Commission's consideration, for us to think broadly about ways to promote broadband deployment.

I would also add that I am working cooperatively with my counterparts at other agencies. Just this morning, as a matter of fact, at the most recent meeting of the rural prosperity working group convened by the Secretary of Agriculture, I had a chance to meet with him, Secretary Chao, Secretary Price, and others to figure out ways to synthesize our efforts across all these different agencies to make sure that we are delivering rural broadband connectivity, because broadband is not simply good in and of itself. It delivers high quality healthcare, high quality education, precision in agriculture, job creation. So many of these verticals that are lacking currently in places like in your district, as Commissioner Clyburn has seen.

Mr. JOHNSON. Sure.

Mr. PAI. We have been really active, but there is a lot more to do. That is why closing the digital divide is our number one priority. And I hope to work with Congress to make that divide a thing of the past by the time we are done.

Mr. JOHNSON. Well, I appreciate it. And I applaud the work that you and the Commission are doing now. And I am happy to be leading in this effort.

Commissioner Clyburn, thank you for your testimony on affordable, reliable broadband, specifically as it relates to rural areas, especially those like Ohio and my district. I share your goal in that

regard. My only regret is that I wish I had known that you were coming to my district with enough advanced notice that we could have participated with you and your summits and your meetings there, because—

Ms. CLYBURN. I was told we called your office. I am sorry if you do not—

Mr. JOHNSON. No. I didn't know anything about it until I read about it in the newspaper afterwards.

Ms. CLYBURN. OK.

Mr. JOHNSON. But if you want to come back again, I would certainly encourage that, because people in my district know what a struggle it is in our areas without broadband connectivity. Is this an obstacle—

Ms. CLYBURN. Yes.

Mr. JOHNSON [continuing]. You can identify for us that prevents a tech company from deploying their own fiber network so that this becomes less of an issue in rural America and places like—

Ms. CLYBURN. As it stands now, making a business case. You know, it could be a very beautiful country and beautiful people. But, you know, it is not necessarily the most densely populated region.

Mr. JOHNSON. Right.

Ms. CLYBURN. There are some economic challenges in some of the pockets. And so money is not—investment is not going to organically flow without a universal service construct. And, you know, you know what I know. There are some basic things that some of your constituents were talking about in terms of landline service. When it rains, it literally pours, and they don't have connectivity. We have got a job to do. We are talking about 5G. They are talking about legacy service that there are issues with. So I look forward to continuing to talk—

Mr. JOHNSON. Sure.

Ms. CLYBURN [continuing]. Trying to work on that cell coverage on 69 and 70, you know, the highways. But looking forward to return, because we have got some very fundamental problems that we need to address.

Mr. JOHNSON. I can actually personally relate to some of what you just said, because I—living right there in Marietta, I mean, I live in town, and we have got broadband connectivity. But every time it storms, it goes down.

Ms. CLYBURN. Yes, sir.

Mr. JOHNSON. The internet goes out. And it is a problem. I can only imagine the frustration that the unserved areas of my district face. So I look forward to working with you.

Ms. CLYBURN. Absolutely.

Mr. JOHNSON. Thank you. Thank you all three very much.

Madam Chair, I yield back.

Mrs. BLACKBURN. The gentleman yields back.

Mr. Doyle.

Mr. DOYLE. Thank you, Madam Chair. I would like to request unanimous consent to introduce into the record a document with quotes from a number of ISP executives claiming that the Open Internet Order will not affect broadband investment, as well as a report by the public interest group Free Press on broadband invest-

ment and online video markets that shows investment is thriving under the current rules.

Mrs. BLACKBURN. Without objection, so ordered.<sup>1</sup>

Mrs. BLACKBURN. And Mike and I have been sitting up here discussing privacy and data security and solving all of those problems. Aren't you all thrilled? And I am glad—we just are so appreciative of you all taking your time.

There are no other Members in the queue to ask questions of the panel. So, pursuant to committee rules, I remind all Members that they have 10 business days in which to submit questions for the record. And we do know that there are additional questions that are going to be submitted to you all, as we did miss the hearing we had planned for the first quarter. And then we will ask for your responses within 10 days of receipt of those questions.

So there being no further business, committee adjourned.

[Whereupon, at 12:43 p.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

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<sup>1</sup>The document appears at the conclusion of the hearing. The report has been retained in committee files and also is available at <http://docs.house.gov/meetings/IF/IF16/20170725/106312/HHRG-115-IF16-20170725-SD002-U2.pdf>.

**[DISCUSSION DRAFT]**115TH CONGRESS  
1ST SESSION**H. R.** \_\_\_\_\_

To amend the Communications Act of 1934 to reauthorize appropriations for the Federal Communications Commission, to provide for certain procedural changes to the rules of the Commission to maximize opportunities for public participation and efficient decisionmaking, and for other purposes.

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 IN THE HOUSE OF REPRESENTATIVES

M. \_\_\_\_\_ introduced the following bill; which was referred to the Committee on \_\_\_\_\_

**A BILL**

To amend the Communications Act of 1934 to reauthorize appropriations for the Federal Communications Commission, to provide for certain procedural changes to the rules of the Commission to maximize opportunities for public participation and efficient decisionmaking, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the

5 [“\_\_\_\_\_ Act of 2017”].

1 (b) TABLE OF CONTENTS.—The table of contents for  
2 this Act is as follows:

- Sec. 1. Short title; table of contents.  
Sec. 2. Commission defined.

TITLE I—FCC REAUTHORIZATION

- Sec. 101. Authorization of appropriations.  
Sec. 102. Application and regulatory fees.  
Sec. 103. Effective date.

TITLE II—FCC PROCESS REFORM

- Sec. 201. FCC process reform.  
Sec. 202. Categorization of TCPA inquiries and complaints in quarterly report.  
Sec. 203. Effect on other laws.  
Sec. 204. Application of Antideficiency Act to Universal Service Program.  
Sec. 205. Report on improving small business participation in FCC proceedings.  
Sec. 206. Publication of items on circulation.  
Sec. 207. Publication of items in advance of FCC voting.  
Sec. 208. Timely availability of items adopted by vote of the Commission.  
Sec. 209. Cost-benefit analysis.  
Sec. 210. Identification and description of items to be decided on authority delegated by the Commission.

TITLE III—ADDITIONAL PROVISIONS

- Sec. 301. Independent Inspector General for FCC.  
Sec. 302. Authority of Chief Information Officer.  
Sec. 303. Elimination of daily newspaper cross-ownership rule.  
Sec. 304. Office of Economics and Data.

3 **SEC. 2. COMMISSION DEFINED.**

4 In this Act, the term “Commission” means the Fed-  
5 eral Communications Commission.

6 **TITLE I—FCC**  
7 **REAUTHORIZATION**

8 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

9 (a) IN GENERAL.—Section 6 of the Communications  
10 Act of 1934 (47 U.S.C. 156) is amended to read as fol-  
11 lows:

1 **“SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

2 “(a) AUTHORIZATION.—There are authorized to be  
3 appropriated to the Commission to carry out the functions  
4 of the Commission \$322,035,000 for each of the fiscal  
5 years 2018 through 2022.

6 “(b) OFFSETTING COLLECTIONS.—

7 “(1) IN GENERAL.—The sum appropriated in  
8 any fiscal year to carry out the activities described  
9 in subsection (a), to the extent and in the amounts  
10 provided for in advance in Appropriations Acts, shall  
11 be derived from fees authorized by section 9.

12 “(2) DEPOSIT OF COLLECTIONS.—Amounts re-  
13 ceived from fees authorized by section 9 shall be de-  
14 posited as an offsetting collection in, and credited to,  
15 the account through which funds are made available  
16 to carry out the activities described in subsection  
17 (a).

18 “(3) DEPOSIT OF EXCESS COLLECTIONS.—Any  
19 fees collected in excess of the total amount of fees  
20 provided for in Appropriations Acts for a fiscal year  
21 shall be deposited in the general fund of the Treas-  
22 ury of the United States for the sole purpose of def-  
23 icit reduction.”.

24 (b) DEPOSITS OF BIDDERS TO BE DEPOSITED IN  
25 TREASURY.—Section 309(j)(8)(C) of the Communications  
26 Act of 1934 (47 U.S.C. 309(j)(8)(C)) is amended—

1 (1) in the first sentence, by striking “an inter-  
2 est bearing account” and all that follows and insert-  
3 ing “the Treasury.”;

4 (2) in clause (i)—

5 (A) by striking “paid to the Treasury” and  
6 inserting “deposited in the general fund of the  
7 Treasury (where such deposits shall be used for  
8 the sole purpose of deficit reduction)”;

9 (B) by striking the semicolon and inserting  
10 “; and”;

11 (3) in clause (ii), by striking “; and” and in-  
12 serting “, and payments representing the return of  
13 such deposits shall not be subject to administrative  
14 offset under section 3716(e) of title 31, United  
15 States Code.”; and

16 (4) by striking clause (iii).

17 (c) ELIMINATION OF DUPLICATIVE AUTHORIZATION  
18 OF APPROPRIATIONS.—

19 (1) IN GENERAL.—Section 710 of the Tele-  
20 communications Act of 1996 (Public Law 104–104)  
21 is repealed.

22 (2) CONFORMING AMENDMENT.—The table of  
23 contents in section 2 of such Act is amended by  
24 striking the item relating to section 710.

1 (d) TRANSFER OF FUNDS.—On the effective date de-  
2 scribed in section 103, any amounts in the account pro-  
3 viding appropriations to carry out the functions of the  
4 Commission that were collected in excess of the amounts  
5 provided for in Appropriations Acts in any fiscal year prior  
6 to such date shall be transferred to the general fund of  
7 the Treasury of the United States for the sole purpose  
8 of deficit reduction.

9 **SEC. 102. APPLICATION AND REGULATORY FEES.**

10 (a) IN GENERAL.—Section 9 of the Communications  
11 Act of 1934 (47 U.S.C. 159) is amended to read as fol-  
12 lows:

13 **“SEC. 9. APPLICATION AND REGULATORY FEES.**

14 “(a) GENERAL AUTHORITY.—The Commission shall  
15 assess and collect application fees and regulatory fees to  
16 recover the costs of carrying out the activities described  
17 in section 6(a) only to the extent and in the amounts pro-  
18 vided for in advance in Appropriations Acts.

19 “(b) APPLICATION FEES.—

20 “(1) IN GENERAL.—The Commission shall as-  
21 sess and collect application fees at such rates as the  
22 Commission shall establish in a schedule of applica-  
23 tion fees to recover the costs of the Commission to  
24 process applications.

25 “(2) ADJUSTMENT OF SCHEDULE.—

1           “(A) IN GENERAL.—In every even-num-  
2           bered year, the Commission shall review the  
3           schedule of application fees established under  
4           this subsection and, except as provided in sub-  
5           paragraph (B), set a new amount for each fee  
6           in the schedule that is equal to the amount of  
7           the fee on the date when the fee was established  
8           or the date when the fee was last amended  
9           under paragraph (3), whichever is later—

10                   “(i) increased or decreased by the per-  
11                   centage change in the Consumer Price  
12                   Index during the period beginning on such  
13                   date and ending on the date of the review;  
14                   and

15                   “(ii) rounded to the nearest \$5 incre-  
16                   ment.

17           “(B) THRESHOLD FOR ADJUSTMENT.—  
18           The Commission may not adjust a fee under  
19           subparagraph (A) if—

20                   “(i) in the case of a fee the current  
21                   amount of which is less than \$200, the ad-  
22                   justment would result in a change in the  
23                   current amount of less than \$10; or

24                   “(ii) in the case of a fee the current  
25                   amount of which is \$200 or more, the ad-

1           justment would result in a change in the  
2           current amount of less than 5 percent.

3           “(C) CURRENT AMOUNT DEFINED.—In  
4           subparagraph (B), the term ‘current amount’  
5           means, with respect to a fee, the amount of the  
6           fee on the date when the fee was established,  
7           the date when the fee was last adjusted under  
8           subparagraph (A), or the date when the fee was  
9           last amended under paragraph (3), whichever is  
10          latest.

11          “(3) AMENDMENTS.—In addition to the adjust-  
12          ments required by paragraph (2), the Commission  
13          shall by rule amend the schedule of application fees  
14          established under this subsection if the Commission  
15          determines that the schedule requires amendment so  
16          that such fees reflect increases or decreases in the  
17          costs of processing applications at the Commission  
18          and the consolidation or addition of new categories  
19          of applications.

20          “(c) REGULATORY FEES.—

21          “(1) IN GENERAL.—The Commission shall as-  
22          sess and collect regulatory fees at such rates as the  
23          Commission shall establish in a schedule of regu-  
24          latory fees that will result in the collection, in each

1 fiscal year, of an amount that can reasonably be ex-  
2 pected to equal the difference between—

3 “(A) the amounts described in subsection  
4 (a) with respect to such fiscal year; and

5 “(B) the amount of application fees rea-  
6 sonably expected to be collected in such fiscal  
7 year.

8 “(2) ADJUSTMENT OF SCHEDULE.—

9 “(A) IN GENERAL.—For each fiscal year,  
10 the Commission shall by rule adjust the sched-  
11 ular of regulatory fees established under this  
12 subsection to—

13 “(i) reflect unexpected increases or  
14 decreases in the number of units subject to  
15 the payment of such fees; and

16 “(ii) result in the collection of the  
17 amount required by paragraph (1).

18 “(B) ROUNDING.—In making adjustments  
19 under this paragraph, the Commission may  
20 round fees to the nearest \$5 increment.

21 “(3) AMENDMENTS.—In addition to the adjust-  
22 ments required by paragraph (2), the Commission  
23 shall by rule amend the schedule of regulatory fees  
24 established under this subsection if the Commission  
25 determines that the schedule requires amendment so

1 that such fees reflect the full-time equivalent number  
2 of employees within the bureaus and offices of the  
3 Commission, adjusted to take into account factors  
4 that are reasonably related to the benefits provided  
5 to the payor of the fee by the Commission's activi-  
6 ties. In making an amendment under this para-  
7 graph, the Commission may not change the total  
8 amount of regulatory fees required by paragraph (1)  
9 to be collected in a fiscal year.

10 “(d) JUDICIAL REVIEW PROHIBITED.—An adjust-  
11 ment or amendment to a schedule of fees under subsection  
12 (b) or (c) is not subject to judicial review.

13 “(e) NOTICE TO CONGRESS.—The Commission shall  
14 transmit to Congress notification—

15 “(1) of any adjustment under subsection (b)(2)  
16 or (c)(2) immediately upon the adoption of such ad-  
17 justment; and

18 “(2) of any amendment under subsection (b)(3)  
19 or (c)(3) not later than 90 days before the effective  
20 date of such amendment.

21 “(f) ENFORCEMENT.—

22 “(1) PENALTIES FOR LATE PAYMENT.—The  
23 Commission shall by rule prescribe a penalty for late  
24 payment of fees under this section. Such penalty

1 shall be 25 percent of the amount of the fee that  
2 was not paid in a timely manner.

3 “(2) INTEREST ON UNPAID FEES AND PEN-  
4 ALTIES.—The Commission shall charge interest, at a  
5 rate determined under section 3717 of title 31,  
6 United States Code, on a fee or penalty under this  
7 section that is not paid in a timely manner. Such  
8 section 3717 shall not otherwise apply with respect  
9 to a fee or penalty under this section.

10 “(3) DISMISSAL OF APPLICATIONS OR FIL-  
11 INGS.—The Commission may dismiss any applica-  
12 tion or other filing for failure to pay in a timely  
13 manner any fee, interest, or penalty under this sec-  
14 tion.

15 “(4) REVOCATIONS.—

16 “(A) IN GENERAL.—In addition to or in  
17 lieu of the penalties and dismissals authorized  
18 by paragraphs (1) and (3), the Commission  
19 may revoke any instrument of authorization  
20 held by any licensee that has not paid in a  
21 timely manner a regulatory fee assessed under  
22 this section or any related interest or penalty.

23 “(B) NOTICE.—Revocation action may be  
24 taken by the Commission under this paragraph  
25 after notice of the Commission’s intent to take

1 such action is sent to the licensee by registered  
2 mail, return receipt requested, at the licensee's  
3 last known address. The notice shall provide the  
4 licensee at least 30 days to either pay the fee,  
5 interest, and any penalty or show cause why the  
6 fee, interest, or penalty does not apply to the li-  
7 censee or should otherwise be waived or pay-  
8 ment deferred.

9 “(C) HEARING.—

10 “(i) GENERALLY NOT REQUIRED.—A  
11 hearing is not required under this para-  
12 graph unless the licensee's response pre-  
13 sents a substantial and material question  
14 of fact.

15 “(ii) EVIDENCE AND BURDENS.—In  
16 any case where a hearing is conducted  
17 under this paragraph, the hearing shall be  
18 based on written evidence only, and the  
19 burden of proceeding with the introduction  
20 of evidence and the burden of proof shall  
21 be on the licensee.

22 “(iii) COSTS.—Unless the licensee  
23 substantially prevails in the hearing, the  
24 Commission may assess the licensee for the  
25 costs of such hearing.

1           “(D) OPPORTUNITY TO PAY PRIOR TO  
2           REVOCATION.—Any Commission order adopted  
3           under this paragraph shall determine the  
4           amount due, if any, and provide the licensee  
5           with at least 30 days to pay that amount or  
6           have its authorization revoked.

7           “(E) FINALITY.—No order of revocation  
8           under this paragraph shall become final until  
9           the licensee has exhausted its right to judicial  
10          review of such order under section 402(b)(5).

11          “(g) WAIVER, REDUCTION, AND DEFERMENT.—The  
12          Commission may waive, reduce, or defer payment of a fee,  
13          interest charge, or penalty in any specific instance for  
14          good cause shown, if such action would promote the public  
15          interest.

16          “(h) PAYMENT RULES.—The Commission shall by  
17          rule permit payment—

18                 “(1) in the case of fees in large amounts, by in-  
19                 stallments; and

20                 “(2) in the case of fees in small amounts, in ad-  
21                 vance for a number of years not to exceed the term  
22                 of the license held by the payor.

23          “(i) EXCEPTIONS.—

24                 “(1) PARTIES TO WHICH FEES ARE NOT APPLI-  
25                 CABLE.—

1           “(A) APPLICATION FEES.—The application  
2 fees established under this section shall not be  
3 applicable to—

4           “(i) a governmental entity; or

5           “(ii) a nonprofit entity licensed in the  
6 Local Government, Police, Fire, Highway  
7 Maintenance, Forestry-Conservation, Pub-  
8 lic Safety, or Special Emergency Radio  
9 service.

10          “(B) REGULATORY FEES.—The regulatory  
11 fees established under this section shall not be  
12 applicable to—

13          “(i) a governmental entity or non-  
14 profit entity; or

15          “(ii) an amateur radio operator li-  
16 censee under part 97 of the Commission’s  
17 rules (47 C.F.R. part 97).

18          “(2) COST OF COLLECTION.—

19          “(A) APPLICATION FEES.—If, in the judg-  
20 ment of the Commission, the cost of collecting  
21 an application fee established under this section  
22 would exceed the amount collected, the Commis-  
23 sion may by rule eliminate such fee.

24          “(B) REGULATORY FEES.—If, in the judg-  
25 ment of the Commission, the cost of collecting

1 a regulatory fee established under this section  
2 from a party would exceed the amount collected  
3 from such party, the Commission may exempt  
4 such party from paying such fee.

5 “(j) ACCOUNTING SYSTEM.—The Commission shall  
6 develop accounting systems necessary to make the amend-  
7 ments authorized by subsections (b)(3) and (c)(3).”.

8 (b) CONFORMING AMENDMENTS.—The Communica-  
9 tions Act of 1934 (47 U.S.C. 151 et seq.) is amended—

10 (1) by repealing section 8; and

11 (2) in section 309(j)(6)(H), by striking  
12 “charges imposed pursuant to section 8 of this Act”  
13 and inserting “application fees assessed under sec-  
14 tion 9”.

15 (c) TRANSITIONAL RULES.—

16 (1) APPLICATION FEES.—An application fee es-  
17 tablished under section 8 of the Communications Act  
18 of 1934, as such section is in effect on the day be-  
19 fore the effective date described in section 103 of  
20 this Act, shall remain in effect under subsection (b)  
21 of section 9 of the Communications Act of 1934, as  
22 amended by subsection (a) of this section, until such  
23 time as the Commission adjusts or amends such fee  
24 under subsection (b)(2) or (b)(3) of such section 9,  
25 as so amended.

1           (2) REGULATORY FEES.—A regulatory fee es-  
2           tablished under section 9 of the Communications Act  
3           of 1934, as such section is in effect on the day be-  
4           fore the effective date described in section 103 of  
5           this Act, shall remain in effect under subsection (c)  
6           of section 9 of the Communications Act of 1934, as  
7           amended by subsection (a) of this section, until such  
8           time as the Commission adjusts or amends such fee  
9           under subsection (c)(2) or (c)(3) of such section 9,  
10          as so amended.

11          (d) RULEMAKING TO AMEND SCHEDULE OF REGU-  
12          LATORY FEES.—

13           (1) IN GENERAL.—Not later than 1 year after  
14           the effective date described in section 103, the Com-  
15           mission shall complete a rulemaking proceeding  
16           under subsection (c)(3) of section 9 of the Commu-  
17           nications Act of 1934, as amended by subsection (a)  
18           of this section.

19           (2) REPORT TO CONGRESS.—If the Commission  
20           has not completed the rulemaking proceeding re-  
21           quired by paragraph (1) by the date that is 6  
22           months after the effective date described in section  
23           103, the Commission shall submit to Congress a re-  
24           port on the progress of such rulemaking proceeding.

1 **SEC. 103. EFFECTIVE DATE.**

2 This title and the amendments made by this title  
3 shall take effect on October 1, 2017.

4 **TITLE II—FCC PROCESS**  
5 **REFORM**

6 **SEC. 201. FCC PROCESS REFORM.**

7 (a) IN GENERAL.—Title I of the Communications Act  
8 of 1934 (47 U.S.C. 151 et seq.) is amended by adding  
9 at the end the following:

10 **“SEC. 13. TRANSPARENCY AND EFFICIENCY.**

11 “(a) INITIAL RULEMAKING AND INQUIRY.—

12 “(1) RULEMAKING.—Not later than 1 year  
13 after the date of the enactment of this section, the  
14 Commission shall complete a rulemaking proceeding  
15 and adopt procedural changes to its rules to maxi-  
16 mize opportunities for public participation and effi-  
17 cient decisionmaking.

18 “(2) REQUIREMENTS FOR RULEMAKING.—The  
19 rules adopted under paragraph (1) shall—

20 “(A) set minimum comment periods for  
21 comment and reply comment, subject to a de-  
22 termination by the Commission that good cause  
23 exists for departing from such minimum com-  
24 ment periods, for—

25 “(i) significant regulatory actions, as  
26 defined in Executive Order No. 12866; and

1                   “(ii) all other rulemaking proceedings;  
2                   “(B) establish policies concerning the sub-  
3                   mission of extensive new comments, data, or re-  
4                   ports towards the end of the comment period;  
5                   “(C) establish policies regarding treatment  
6                   of comments, ex parte communications, and  
7                   data or reports (including statistical reports  
8                   and reports to Congress) submitted after the  
9                   comment period to ensure that the public has  
10                  adequate notice of and opportunity to respond  
11                  to such submissions before the Commission re-  
12                  lies on such submissions in any order, decision,  
13                  report, or action;  
14                  “(D) establish procedures for, not later  
15                  than 14 days after the end of each quarter of  
16                  a calendar year (or more frequently, as the  
17                  Commission considers appropriate), publishing  
18                  on the Internet website of the Commission and  
19                  submitting to Congress a report that contains—  
20                  “(i) the status of open rulemaking  
21                  proceedings and proposed orders, decisions,  
22                  reports, or actions on circulation for review  
23                  by the Commissioners, including which  
24                  Commissioners have not cast a vote on an

1 order, decision, report, or action that has  
2 been on circulation for more than 60 days;

3 “(ii) for the petitions, applications,  
4 complaints, and other requests for action  
5 by the Commission that were pending at  
6 the Commission on the last day of such  
7 quarter (or more frequent period, as the  
8 case may be)—

9 “(I) the number of such requests,  
10 broken down by the bureau primarily  
11 responsible for action and, for each  
12 bureau, the type of request (such as a  
13 petition, application, or complaint);  
14 and

15 “(II) information regarding the  
16 amount of time for which such re-  
17 quests have been pending, broken  
18 down as described in subclause (I);  
19 and

20 “(iii) a list of the congressional inves-  
21 tigations of the Commission that were  
22 pending on the last day of such quarter (or  
23 more frequent period, as the case may be)  
24 and the cost of such investigations, individ-  
25 ually and in the aggregate;

1           “(E) establish deadlines (relative to the  
2           date of filing) for—

3                   “(i) in the case of a petition for a de-  
4                   claratory ruling under section 1.2 of title  
5                   47, Code of Federal Regulations, issuing a  
6                   public notice of such petition;

7                   “(ii) in the case of a petition for rule-  
8                   making under section 1.401 of such title,  
9                   issuing a public notice of such petition;  
10                  and

11                  “(iii) in the case of a petition for re-  
12                  consideration under section 1.106 or 1.429  
13                  of such title or an application for review  
14                  under section 1.115 of such title, issuing a  
15                  public notice of a decision on the petition  
16                  or application by the Commission or under  
17                  delegated authority (as the case may be);

18                  “(F) establish guidelines (relative to the  
19                  date of filing) for the disposition of petitions  
20                  filed under section 1.2 of such title;

21                  “(G) establish procedures for the inclusion  
22                  of the specific language of the proposed rule or  
23                  the proposed amendment of an existing rule in  
24                  a notice of proposed rulemaking; and

1           “(H) require notices of proposed rule-  
2           making and orders adopting a rule or amending  
3           an existing rule that—

4                   “(i) create (or propose to create) a  
5                   program activity to contain performance  
6                   measures for evaluating the effectiveness of  
7                   the program activity; and

8                   “(ii) substantially change (or propose  
9                   to substantially change) a program activity  
10                  to contain—

11                   “(I) performance measures for  
12                   evaluating the effectiveness of the pro-  
13                   gram activity as changed (or proposed  
14                   to be changed); or

15                   “(II) a finding that existing per-  
16                   formance measures will effectively  
17                   evaluate the program activity as  
18                   changed (or proposed to be changed).

19           “(3) INQUIRY.—Not later than 1 year after the  
20           date of the enactment of this section, the Commis-  
21           sion shall complete an inquiry to seek public com-  
22           ment on whether and how the Commission should—

23                   “(A) establish procedures for allowing a bi-  
24                   partisan majority of Commissioners to place an

1 order, decision, report, or action on the agenda  
2 of an open meeting;

3 “(B) establish procedures for informing all  
4 Commissioners of a reasonable number of op-  
5 tions available to the Commission for resolving  
6 a petition, complaint, application, rulemaking,  
7 or other proceeding;

8 “(C) establish procedures for ensuring that  
9 all Commissioners have adequate time, prior to  
10 being required to decide a petition, complaint,  
11 application, rulemaking, or other proceeding  
12 (including at a meeting held pursuant to section  
13 5(d)), to review the proposed Commission deci-  
14 sion document, including the specific language  
15 of any proposed rule or any proposed amend-  
16 ment of an existing rule;

17 “(D) establish deadlines (relative to the  
18 date of filing) for disposition of applications for  
19 a license under section 1.913 of title 47, Code  
20 of Federal Regulations;

21 “(E) assign resources needed in order to  
22 meet the deadlines described in subparagraph  
23 (D), including whether the Commission’s ability  
24 to meet such deadlines would be enhanced by

1 assessing a fee from applicants for such a li-  
2 cense; and

3 “(F) except as otherwise provided in sec-  
4 tion 4(r), publish each order, decision, report,  
5 or action not later than 30 days after the date  
6 of the adoption of such order, decision, report,  
7 or action.

8 “(4) DATA FOR PERFORMANCE MEASURES.—  
9 The Commission shall develop a performance meas-  
10 ure or proposed performance measure required by  
11 this subsection to rely, where possible, on data al-  
12 ready collected by the Commission.

13 “(5) GAO AUDIT.—Not less frequently than  
14 every 6 months, the Comptroller General of the  
15 United States shall audit the cost estimates provided  
16 by the Commission under paragraph (2)(D)(iii) dur-  
17 ing the preceding 6-month period.

18 “(b) PERIODIC REVIEW.—On the date that is 5 years  
19 after the completion of the rulemaking proceeding under  
20 subsection (a)(1), and every 5 years thereafter, the Com-  
21 mission shall initiate a new rulemaking proceeding to con-  
22 tinue to consider such procedural changes to its rules as  
23 may be in the public interest to maximize opportunities  
24 for public participation and efficient decisionmaking.

25 “(c) NONPUBLIC COLLABORATIVE DISCUSSIONS.—

1           “(1) IN GENERAL.—Notwithstanding section  
2           552b of title 5, United States Code, a bipartisan  
3           majority of Commissioners may hold a meeting that  
4           is closed to the public to discuss official business  
5           if—

6                   “(A) a vote or any other agency action is  
7                   not taken at such meeting;

8                   “(B) each person present at such meeting  
9                   is a Commissioner, an employee of the Commis-  
10                  sion, a member of a joint board or conference  
11                  established under section 410, or a person on  
12                  the staff of such a joint board or conference or  
13                  of a member of such a joint board or con-  
14                  ference; and

15                  “(C) an attorney from the Office of Gen-  
16                  eral Counsel of the Commission is present at  
17                  such meeting.

18           “(2) DISCLOSURE OF NONPUBLIC COLLABO-  
19           RATIVE DISCUSSIONS.—Not later than 2 business  
20           days after the conclusion of a meeting held under  
21           paragraph (1), the Commission shall publish a dis-  
22           closure of such meeting, including—

23                   “(A) a list of the persons who attended  
24                   such meeting; and

1           “(B) a summary of the matters discussed  
2           at such meeting, except for such matters as the  
3           Commission determines may be withheld under  
4           section 552b(e) of title 5, United States Code.

5           “(3) PRESERVATION OF OPEN MEETINGS RE-  
6           QUIREMENTS FOR AGENCY ACTION.—Nothing in this  
7           subsection shall limit the applicability of section  
8           552b of title 5, United States Code, with respect to  
9           a meeting of Commissioners other than that de-  
10          scribed in paragraph (1).

11          “(d) ACCESS TO CERTAIN INFORMATION ON COMMIS-  
12          SION’S WEBSITE.—The Commission shall provide direct  
13          access from the homepage of its website to—

14                 “(1) detailed information regarding—

15                         “(A) the budget of the Commission for the  
16                         current fiscal year;

17                         “(B) the appropriations for the Commis-  
18                         sion for such fiscal year; and

19                         “(C) the total number of full-time equiva-  
20                         lent employees of the Commission; and

21                         “(2) the performance plan most recently made  
22                         available by the Commission under section 1115(b)  
23                         of title 31, United States Code.

1 “(e) INTERNET PUBLICATION OF CERTAIN FCC  
2 POLICIES AND PROCEDURES.—The chairman of the Com-  
3 mission shall—

4 “(1) publish on the Internet website of the  
5 Commission any policies or procedures of the Com-  
6 mission that—

7 “(A) are established by the chairman; and

8 “(B) relate to the functioning of the Com-  
9 mission or the handling of the agenda of the  
10 Commission; and

11 “(2) update such publication not later than 48  
12 hours after the chairman makes changes to any such  
13 policies or procedures.

14 “(f) FEDERAL REGISTER PUBLICATION.—

15 “(1) IN GENERAL.—In the case of any docu-  
16 ment adopted by the Commission that the Commis-  
17 sion is required, under any provision of law, to pub-  
18 lish in the Federal Register, the Commission shall,  
19 not later than the date described in paragraph (2),  
20 complete all Commission actions necessary for such  
21 document to be so published.

22 “(2) DATE DESCRIBED.—The date described in  
23 this paragraph is the earlier of—

24 “(A) the day that is 45 days after the date  
25 of the release of the document; or

1           “(B) the day by which such actions must  
2           be completed to comply with any deadline under  
3           any other provision of law.

4           “(3) NO EFFECT ON DEADLINES FOR PUBLICA-  
5           TION IN OTHER FORM.—In the case of a deadline  
6           that does not specify that the form of publication is  
7           publication in the Federal Register, the Commission  
8           may comply with such deadline by publishing the  
9           document in another form. Such other form of publi-  
10          cation does not relieve the Commission of any Fed-  
11          eral Register publication requirement applicable to  
12          such document, including the requirement of para-  
13          graph (1).

14          “(g) CONSUMER COMPLAINT DATABASE.—

15          “(1) IN GENERAL.—In evaluating and proc-  
16          essing consumer complaints, the Commission shall  
17          present information about such complaints in a pub-  
18          licly available, searchable database on its website  
19          that—

20                  “(A) facilitates easy use by consumers; and

21                  “(B) to the extent practicable, is sortable  
22                  and accessible by—

23                          “(i) the date of the filing of the com-  
24                          plaint;

25                          “(ii) the topic of the complaint;

1 “(iii) the party complained of; and

2 “(iv) other elements that the Commis-  
3 sion considers in the public interest.

4 “(2) DUPLICATIVE COMPLAINTS.—In the case  
5 of multiple complaints arising from the same alleged  
6 misconduct, the Commission shall be required to in-  
7 clude only information concerning one such com-  
8 plaint in the database described in paragraph (1).

9 “(h) FORM OF PUBLICATION.—

10 “(1) IN GENERAL.—In complying with a re-  
11 quirement of this section to publish a document, the  
12 Commission shall publish such document on its  
13 website, in addition to publishing such document in  
14 any other form that the Commission is required to  
15 use or is permitted to and chooses to use.

16 “(2) EXCEPTION.—The Commission shall by  
17 rule establish procedures for redacting documents  
18 required to be published by this section so that the  
19 published versions of such documents do not con-  
20 tain—

21 “(A) information the publication of which  
22 would be detrimental to national security,  
23 homeland security, law enforcement, or public  
24 safety; or

1           “(B) information that is proprietary or  
2           confidential.

3           “(i) TRANSPARENCY RELATING TO PERFORMANCE IN  
4 MEETING FOIA REQUIREMENTS.—The Commission shall  
5 take additional steps to inform the public about its per-  
6 formance and efficiency in meeting the disclosure and  
7 other requirements of section 552 of title 5, United States  
8 Code (commonly referred to as the Freedom of Informa-  
9 tion Act), including by doing the following:

10           “(1) Publishing on the Commission’s website  
11 the Commission’s logs for tracking, responding to,  
12 and managing requests submitted under such sec-  
13 tion, including the Commission’s fee estimates, fee  
14 categories, and fee request determinations.

15           “(2) Releasing to the public all decisions made  
16 by the Commission (including decisions made by the  
17 Commission’s Bureaus and Offices) granting or de-  
18 nying requests filed under such section, including  
19 any such decisions pertaining to the estimate and  
20 application of fees assessed under such section.

21           “(3) Publishing on the Commission’s website  
22 electronic copies of documents released under such  
23 section.

24           “(4) Presenting information about the Commis-  
25 sion’s handling of requests under such section in the

1 Commission's annual budget estimates submitted to  
2 Congress and the Commission's annual performance  
3 and financial reports. Such information shall include  
4 the number of requests under such section the Com-  
5 mission received in the most recent fiscal year, the  
6 number of such requests granted and denied, a com-  
7 parison of the Commission's processing of such re-  
8 quests over at least the previous 3 fiscal years, and  
9 a comparison of the Commission's results with the  
10 most recent average for the United States Govern-  
11 ment as published on [www.foia.gov](http://www.foia.gov).

12 “(j) PROMPT RELEASE OF STATISTICAL REPORTS  
13 AND REPORTS TO CONGRESS.—Not later than January  
14 15th of each year, the Commission shall identify, catalog,  
15 and publish an anticipated release schedule for all statis-  
16 tical reports and reports to Congress that are regularly  
17 or intermittently released by the Commission and will be  
18 released during such year.

19 “(k) ANNUAL SCORECARD REPORTS.—

20 “(1) IN GENERAL.—For the 1-year period be-  
21 ginning on January 1st of each year, the Commis-  
22 sion shall prepare a report on the performance of  
23 the Commission in conducting its proceedings and  
24 meeting the deadlines established under subsection

1 (a)(2)(E) and the guidelines established under sub-  
2 section (a)(2)(F).

3 “(2) CONTENTS.—Each report required by  
4 paragraph (1) shall contain detailed statistics on  
5 such performance, including, with respect to each  
6 Bureau of the Commission—

7 “(A) with respect to each type of filing  
8 specified in subsection (a)(2)(E) or (a)(2)(F)—

9 “(i) the number of filings that were  
10 pending on the last day of the period covered  
11 by such report;

12 “(ii) the number of filings described  
13 in clause (i) for which each applicable  
14 deadline or guideline established under  
15 such subsection was not met and the average  
16 length of time such filings have been  
17 pending; and

18 “(iii) for filings that were resolved  
19 during such period, the average time between  
20 initiation and resolution and the  
21 percentage for which each applicable deadline  
22 or guideline established under such  
23 subsection was met;

24 “(B) with respect to proceedings before an  
25 administrative law judge—

1                   “(i) the number of such proceedings  
2                   completed during such period; and

3                   “(ii) the number of such proceedings  
4                   pending on the last day of such period; and

5                   “(C) the number of independent studies or  
6                   analyses published by the Commission during  
7                   such period.

8                   “(3) PUBLICATION AND SUBMISSION.—The  
9                   Commission shall publish and submit to the Com-  
10                  mittee on Energy and Commerce of the House of  
11                  Representatives and the Committee on Commerce,  
12                  Science, and Transportation of the Senate each re-  
13                  port required by paragraph (1) not later than the  
14                  date that is 30 days after the last day of the period  
15                  covered by such report.

16                  “(1) DEFINITIONS.—In this section:

17                  “(1) AMENDMENT.—The term ‘amendment’ in-  
18                  cludes, when used with respect to an existing rule,  
19                  the deletion of such rule.

20                  “(2) BIPARTISAN MAJORITY.—The term ‘bipar-  
21                  tisan majority’ means, when used with respect to a  
22                  group of Commissioners, that such group—

23                  “(A) is a group of three or more Commis-  
24                  sioners; and

1           “(B) includes, for each political party of  
2           which any Commissioner is a member, at least  
3           one Commissioner who is a member of such po-  
4           litical party, and, if any Commissioner has no  
5           political party affiliation, at least one unaffili-  
6           ated Commissioner.

7           “(3) PERFORMANCE MEASURE.—The term ‘per-  
8           formance measure’ means an objective and quantifi-  
9           able outcome measure or output measure (as such  
10          terms are defined in section 1115 of title 31, United  
11          States Code).

12          “(4) PROGRAM ACTIVITY.—The term ‘program  
13          activity’ has the meaning given such term in section  
14          1115 of title 31, United States Code, except that  
15          such term also includes any annual collection or dis-  
16          tribution or related series of collections or distribu-  
17          tions by the Commission of an amount that is great-  
18          er than or equal to \$100,000,000.

19          “(5) OTHER DEFINITIONS.—The terms ‘agency  
20          action’, ‘ex parte communication’, and ‘rule’ have  
21          the meanings given such terms in section 551 of title  
22          5, United States Code.”.

23          (b) EFFECTIVE DATES AND IMPLEMENTING  
24          RULES.—

25                  (1) EFFECTIVE DATES.—

1 (A) NONPUBLIC COLLABORATIVE DISCUS-  
2 SIONS.—Subsection (c) of section 13 of the  
3 Communications Act of 1934, as added by sub-  
4 section (a), shall apply beginning on the first  
5 date on which all of the procedural changes to  
6 the rules of the Commission required by sub-  
7 section (a)(1) of such section have taken effect.

8 (B) REPORT RELEASE SCHEDULES.—Sub-  
9 section (j) of such section 13 shall apply with  
10 respect to 2018 and any year thereafter.

11 (C) ANNUAL SCORECARD REPORTS.—Sub-  
12 section (k) of such section 13 shall apply with  
13 respect to 2017 and any year thereafter.

14 (D) INTERNET PUBLICATION OF CERTAIN  
15 FCC POLICIES AND PROCEDURES.—Subsection  
16 (e) of such section 13 shall apply beginning on  
17 the date that is 30 days after the date of the  
18 enactment of this Act.

19 (2) RULES.—Except as otherwise provided in  
20 such section 13, the Commission shall promulgate  
21 any rules necessary to carry out such section not  
22 later than 1 year after the date of the enactment of  
23 this Act.

1 **SEC. 202. CATEGORIZATION OF TCPA INQUIRIES AND COM-**  
2 **PLAINTS IN QUARTERLY REPORT.**

3 In compiling its quarterly report with respect to in-  
4 formal consumer inquiries and complaints, the Commis-  
5 sion may not categorize an inquiry or complaint with re-  
6 spect to section 227 of the Communications Act of 1934  
7 (47 U.S.C. 227) as being a wireline inquiry or complaint  
8 or a wireless inquiry or complaint unless the party whose  
9 conduct is the subject of the inquiry or complaint is a  
10 wireline carrier or a wireless carrier, respectively.

11 **SEC. 203. EFFECT ON OTHER LAWS.**

12 Nothing in this title or the amendments made by this  
13 title shall relieve the Commission from any obligations  
14 under title 5, United States Code, except where otherwise  
15 expressly provided.

16 **SEC. 204. APPLICATION OF ANTIDEFICIENCY ACT TO UNI-**  
17 **VERSAL SERVICE PROGRAM.**

18 Section 302 of Public Law 108–494 (118 Stat. 3998)  
19 is amended by striking “December 31, 2018” each place  
20 it appears and inserting “December 31, 2021”.

21 **SEC. 205. REPORT ON IMPROVING SMALL BUSINESS PAR-**  
22 **TICIPATION IN FCC PROCEEDINGS.**

23 Not later than 1 year after the date of the enactment  
24 of this Act, the Commission, in consultation with the Ad-  
25 ministrator of the Small Business Administration, shall  
26 submit to Congress a report on—

1 (1) actions that the Commission will take to im-  
 2 prove the participation of small businesses in the  
 3 proceedings of the Commission; and

4 (2) recommendations for any legislation that  
 5 the Commission considers appropriate to improve  
 6 such participation.

7 **SEC. 206. PUBLICATION OF ITEMS ON CIRCULATION.**

8 (a) AMENDMENT.—Section 4 of the Communications  
 9 Act of 1934 (47 U.S.C. 154) is amended by adding at  
 10 the end the following:

11 “(p) Not later than 24 hours after an order, decision,  
 12 report, or action is placed on circulation for review by the  
 13 Commissioners, the Commission shall publish on the  
 14 Internet website of the Commission the text of such order,  
 15 decision, report, or action.”.

16 (b) EFFECTIVE DATE.—The amendment made by  
 17 this section shall apply with respect to an order, decision,  
 18 report, or action that is placed on circulation after the  
 19 date of the enactment of this Act.

20 **SEC. 207. PUBLICATION OF ITEMS IN ADVANCE OF FCC**

21 **VOTING.**

22 (a) AMENDMENT.—Section 4 of the Communications  
 23 Act of 1934, as amended by section 206, is further amend-  
 24 ed by adding at the end the following:

1 “(q) The Commission may not adopt any order, deci-  
2 sion, report, or action by vote of the Commission, unless  
3 the Chairman causes the Commission to publish on the  
4 Internet website of the Commission the text of such order,  
5 decision, report, or action not later than 21 days before  
6 the date on which the vote is to occur.”.

7 (b) EFFECTIVE DATE.—The amendment made by  
8 this section shall apply with respect to an order, decision,  
9 report, or action that is placed on circulation after the  
10 date of the enactment of this Act.

11 **SEC. 208. TIMELY AVAILABILITY OF ITEMS ADOPTED BY**  
12 **VOTE OF THE COMMISSION.**

13 (a) AMENDMENT.—Section 4 of the Communications  
14 Act of 1934, as amended by sections 206 and 207, is fur-  
15 ther amended by adding at the end the following:

16 “(r) In the case of any order, decision, report, or ac-  
17 tion that is adopted by vote of the Commission, the Com-  
18 mission shall publish on the Internet website of the Com-  
19 mission the text of such order, decision, report, or action  
20 not later than 24 hours after the Secretary of the Commis-  
21 sion has received dissenting statements from all Commis-  
22 sioners wishing to submit such a statement with respect  
23 to such order, decision, report, or action.”.

24 (b) EFFECTIVE DATE.—The amendment made by  
25 this section shall apply with respect to an order, decision,

1 report, or action that is adopted after the date that is 30  
2 days after the date of the enactment of this Act.

3 **SEC. 209. COST-BENEFIT ANALYSIS.**

4 (a) AMENDMENT.—Section 4 of the Communications  
5 Act of 1934, as amended by sections 206, 207, and 208,  
6 is further amended by adding at the end the following:

7 “(s) The Commission shall include in each notice of  
8 proposed rulemaking proposing the adoption of a rule or  
9 the amendment of an existing rule (including the deletion  
10 of an existing rule) that may have an economically signifi-  
11 cant impact, and in each order adopting a rule or an  
12 amendment to an existing rule (including the deletion of  
13 an existing rule) that may have an economically significant  
14 impact—

15 “(1) an identification and analysis of the spe-  
16 cific market failure, actual consumer harm, burden  
17 of existing regulation, or failure of public institu-  
18 tions that warrants the adoption or amendment; and

19 “(2) a reasoned determination that the benefits  
20 of the adoption or amendment justify the costs (rec-  
21 ognizing that some benefits and costs are difficult to  
22 quantify), taking into account alternative forms of  
23 regulation and the need to tailor regulation to im-  
24 pose the least burden on society, consistent with ob-  
25 taining regulatory objectives.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply with respect to a notice of proposed  
3 rulemaking or order that is adopted after the date that  
4 is 90 days after the date of the enactment of this Act.

5 **SEC. 210. IDENTIFICATION AND DESCRIPTION OF ITEMS TO**  
6 **BE DECIDED ON AUTHORITY DELEGATED BY**  
7 **THE COMMISSION.**

8 (a) AMENDMENT.—Section 5(e) of the Communica-  
9 tions Act of 1934 (47 U.S.C. 155(e)) is amended by add-  
10 ing at the end the following:

11 “(10) Not later than 48 hours before the time when  
12 an order, decision, report, or action is made or taken pur-  
13 suant to delegation under paragraph (1), such order, deci-  
14 sion, report, or action shall be identified and briefly de-  
15 scribed on the Internet website of the Commission, unless  
16 the authority to which the delegation is made for good  
17 cause finds that such identification and description are  
18 likely to lead to a result described in a paragraph of sec-  
19 tion 552b(e) of title 5, United States Code. This para-  
20 graph shall not apply with respect to an order, decision,  
21 report, or action that—

22 “(A) does not receive a delegated authority  
23 number pursuant to the procedures of the Commis-  
24 sion;

1           “(B) is made or taken on authority delegated to  
2           an administrative law judge; or

3           “(C) is made or taken to address an immediate  
4           threat to health or safety that constitutes an emer-  
5           gency requiring an expedited response from the  
6           Commission.”.

7           (b) EFFECTIVE DATE.—The amendment made by  
8           this section shall apply with respect to an order, decision,  
9           report, or action made or taken after the date that is 90  
10          days after the date of the enactment of this Act.

### 11           **TITLE III—ADDITIONAL** 12           **PROVISIONS**

#### 13          **SEC. 301. INDEPENDENT INSPECTOR GENERAL FOR FCC.**

14          (a) AMENDMENTS.—The Inspector General Act of  
15          1978 (5 U.S.C. App.) is amended—

16               (1) in section 8G(a)(2), by striking “the Fed-  
17               eral Communications Commission,”; and

18               (2) in section 12—

19                     (A) in paragraph (1), by inserting “, the  
20                     Federal Communications Commission,” after  
21                     “the Chairman of the Nuclear Regulatory Com-  
22                     mission”; and

23                     (B) in paragraph (2), by inserting “the  
24                     Federal Communications Commission,” after  
25                     “the Environmental Protection Agency,”.

1 (b) **TRANSITION RULE.**—An individual serving as In-  
2 spector General of the Commission on the date of the en-  
3 actment of this Act pursuant to an appointment made  
4 under section 8G of the Inspector General Act of 1978  
5 (5 U.S.C. App.)—

6 (1) may continue so serving until the President  
7 makes an appointment under section 3(a) of such  
8 Act with respect to the Commission consistent with  
9 the amendments made by subsection (a); and

10 (2) shall, while serving under paragraph (1), re-  
11 main subject to the provisions of section 8G of such  
12 Act which, immediately before the date of the enact-  
13 ment of this Act, applied with respect to the Inspec-  
14 tor General of the Commission and suffer no reduc-  
15 tion in pay.

16 **SEC. 302. AUTHORITY OF CHIEF INFORMATION OFFICER.**

17 (a) **IN GENERAL.**—The Commission shall ensure that  
18 the Chief Information Officer of the Commission has a  
19 significant role in—

20 (1) the decision-making process for annual and  
21 multi-year planning, programming, budgeting, and  
22 execution decisions, related reporting requirements,  
23 and reports related to information technology;

24 (2) the management, governance, and oversight  
25 processes related to information technology; and

1 (3) the hiring of personnel with information  
2 technology responsibilities.

3 (b) CIO APPROVAL.—The Chief Information Officer  
4 of the Commission, in consultation with the Chief Finan-  
5 cial Officer of the Commission and budget officials, shall  
6 specify and approve the allocation of amounts appro-  
7 priated to the Commission for information technology,  
8 consistent with the provisions of appropriations Acts,  
9 budget guidelines, and recommendations from the Direc-  
10 tor of the Office of Management and Budget.

11 **SEC. 303. ELIMINATION OF DAILY NEWSPAPER CROSS-OWN-**  
12 **ERSHIP RULE.**

13 (a) NO FORCE OR EFFECT.—Paragraph (d) of sec-  
14 tion 73.3555 of title 47, Code of Federal Regulations,  
15 shall have no force or effect after the date of the enact-  
16 ment of this Act.

17 (b) REMOVAL FROM RULES.—Not later than 1 year  
18 after the date of the enactment of this Act, the Commis-  
19 sion shall complete all actions necessary to remove such  
20 paragraph from its rules.

21 **SEC. 304. OFFICE OF ECONOMICS AND DATA.**

22 (a) IN GENERAL.—Section 5 of the Communications  
23 Act of 1934 (47 U.S.C. 155) is amended by adding at  
24 the end the following:

1 “(f)(1) The Commission shall establish within the  
2 Commission an Office of Economics and Data (in this sub-  
3 section referred to as the ‘Office’).

4 “(2) The Office shall—

5 “(A) provide economic analysis for rulemaking  
6 proceedings, consideration of applications under sub-  
7 sections (a), (b), and (c) of section 214 and applica-  
8 tions under section 310(d), and the design and con-  
9 duct of systems of competitive bidding under section  
10 309(j);

11 “(B) advise the Commission on the manage-  
12 ment of the data resources of the Commission; and

13 “(C) conduct long-term research on ways to im-  
14 prove the policies of the Commission.”.

15 (b) DEADLINE.—The Commission shall establish the  
16 Office of Economics and Data required by subsection (f)  
17 of section 5 of the Communications Act of 1934, as added  
18 by subsection (a) of this section, not later than 1 year  
19 after the date of the enactment of this Act.

## In Their Own Words

### ISP Statements to Investors About Title II's Lack of Harmful Impacts

"Title II, it didn't really hurt us; it hasn't hurt us." - *Tom Rutledge, Chairman & CEO, Charter Communications Inc., Dec. 6, 2016*

"I think in terms of what actually happens – I've been asked this – it's the fear of what Title II could have meant, more than what it actually did mean. And, as you know, we very much believe in the principles behind what policy was trying to get at, but the overhang of where it could go in the future was something that I think had a chilling effect. Hopefully that chilling effect is gone; both from how investors look at the space and businesses look at the space." - *Mike Cavanagh, Comcast Senior EVP & CFO, Dec. 7, 2016*

"There is really no impact on how we think about pricing in net neutrality right now which is – the way that's – our networks architected is a non-issue, non-event." - *Leigh Fox, CFO, Cincinnati Bell Inc., Aug. 4, 2016*

"It has taken a lot of hard work, but less than 10 months from announcing 'Project Gigabit,' we will have completed the upgrade of our entire broadband network to the Gigasphere platform." - *JR Walden, Mediacom Chief Technology Officer, Dec. 7, 2016.*

"We remain committed to consistently investing in our networks for the future." - *Fran Shammo, EVP & CFO, Verizon Communications Inc., Jan. 21, 2016*

"I'm comfortable that if passed as we understand it, it will have no impact on music freedom. And relative to our competitors, I think we would continue to drive forward with our business as it is." - *John Legere, President & CEO, T-Mobile US Inc., Feb. 19, 2015*

"We're going to continue to make the necessary investments in our network. We're still fully committed to our densification and optimization strategy, including tens of thousands of small cells and more macros." - *Marcelo Claude, President & CEO, Sprint Corporation, May 3, 2016*

GREG WALDEN, OREGON  
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115  
Majority (202) 225-2997  
Minority (202) 225-3841  
September 6, 2017

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

Dear Chairman Pai:

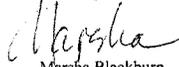
Thank you for appearing before the Subcommittee on Communications and Technology on Tuesday, July 25, 2017, to testify at the hearing entitled "Oversight and Reauthorization of the Federal Communications Commission."

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](mailto: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



Office of the Director

Federal Communications Commission  
Office of Legislative Affairs  
Washington, D.C. 20554

September 27, 2017

The Honorable Marsha Blackburn  
Chairman  
Subcommittee on Communications and Technology  
Committee on Energy and Commerce  
U.S. House of Representatives  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Blackburn:

Enclosed please find responses to Questions for the Record submitted for Chairman Ajit Pai regarding his appearance before the Subcommittee on Communications and Technology on July 25, 2017, at the hearing entitled "Oversight and Reauthorization of the Federal Communications Commission."

If you have further questions, please contact me at (202) 418-2242.

Sincerely,

  
Timothy B. Strachan  
Director

Additional Questions for the RecordThe 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?**

Response: Lawful callers have every right to expect that the calls they place will be successfully completed. The Commission has had a long-standing policy of ensuring that phone networks work seamlessly and that the Telephone Consumer Protection Act and carriers' blocking of unlawful robocalls do not prevent legitimate callers from reaching consumers. In the *Call Blocking Notice of Proposed Rulemaking/Notice of Inquiry*, the Commission sought public input on how we can best protect consumers from illegal robocalls while ensuring that lawful calls – including those from healthcare providers – are received by consumers. For example, we sought comment on allowing carriers to block calls where the Caller ID is spoofed so that the call appears to be coming from an invalid or unassigned phone number. It is extremely difficult to see why a legitimate caller would engage in such spoofing. Moreover, we sought comment on establishing a mechanism for legitimate callers to proactively avoid having their calls blocked. The Commission also sought comment on implementing a process to allow legitimate callers to notify voice providers when their calls are blocked and to require voice providers to cease blocking such calls immediately. With appropriate protections for legitimate callers, we can achieve our ultimate goal in this proceeding of ensuring that consumers receive fewer illegal robocalls while also preserving the ubiquity and reliability of the nation's communications network.

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?**

Response: A business or other robocaller unknowingly calling a reassigned number can annoy the new consumer, deprive the previous consumer of an expected call, and subject the caller to potential legal liability. With the *Reassigned Number Notice of Inquiry (NOI)*, the Commission took an important first step to address the issue of robocalls to reassigned phone numbers by exploring ways that businesses can verify whether a number has been reassigned prior to initiating a call. Specifically, the *NOI* sought public comment on the best way to structure a useful, cost-effective database that businesses, schools, and the like can use to avoid accidentally calling numbers that are no longer used by the consumer who gave their consent to receive these calls. Establishment of a comprehensive resource with an up-to-date list of reassigned numbers enjoys broad support among businesses and consumer advocates alike, and will benefit

consumers by ensuring that callers do not continue to place calls without realizing the number has switched hands. The Commission may move forward on further actions such as rulemakings based on the input we receive in response to the *NOI*.

**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?**

Response: On June 22, 2017, the Commission adopted a Notice of Proposed Rulemaking (NPRM) that proposed to add an alert option to the nation's Emergency Alert System (EAS) to help protect the nation's law enforcement officers. Called a "Blue Alert," the option would be used by authorities in states across the country to notify the public through television and radio of threats to law enforcement and to help apprehend dangerous suspects.

Blue Alerts can be used to warn the public when there is actionable information related to a law enforcement officer who is missing, seriously injured or killed in the line of duty, or when there is an imminent credible threat to an officer. A Blue Alert could quickly warn people if a violent suspect may be in their community, along with providing instructions on what to do if they spot the suspect and how to stay safe.

The NPRM proposes to amend the FCC's EAS rules by creating a dedicated Blue Alert event code so that state and local agencies have the option to send these warnings to the public through broadcast, cable, satellite, and wireline video providers. Comments on this proposal were due on July 31, 2017, and replies were due on August 29, 2017. The Commission is currently evaluating the record to determine next steps.

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?**

Response: The March 8, 2017 AT&T Mobility Voice-over LTE 911 outage exemplified the need for continuing coordination between industry and public safety answering points (PSAPs) to improve situational awareness during 911 outages, and for ongoing efforts to improve network reliability. Accordingly, the Bureau's Final Report committed to taking three next steps to address these issues: (1) release a Public Notice to remind industry of the importance of network reliability best practices; (2) conduct stakeholder outreach to promote these best practices; and (3) convene consumer groups, public safety entities, and service providers in the 911 ecosystem to participate in a workshop in order to discuss best practices and develop recommendations for improving situational awareness during 911 outages. The Bureau has completed each of these steps, as described below.

On July 13, 2017, the Bureau released a Public Notice encouraging communications service

providers to take measures to improve network reliability to prevent major service disruptions. The Commission's Federal Advisory Committee, the Communications Security, Reliability, and Interoperability Council (CSRIC), recommended the best practices that the Public Notice highlighted. The Public Notice also provided the industry with lessons learned from the Bureau's analysis of Network Outage Reporting System (NORS) reports on recent outages.

The Bureau used this Public Notice as a basis for stakeholder outreach to raise and reinforce awareness about network reliability best practices and lessons learned. The Bureau reached out to major service providers required to file in NORS, such as Verizon and T-Mobile, to small carrier associations, such as the Competitive Carriers Association and NTCA – The Rural Broadband Association, and to the Alliance for Telecommunications Industry Solutions's Network Reliability Steering Committee.

Finally, on September 11, 2017, the Bureau convened consumer groups, public safety entities and service providers in the 911 ecosystem to participate in a workshop. The workshop consisted of two roundtable discussions. The first roundtable focused on identifying best practices for communicating outage information among service providers and PSAPs. The second roundtable focused on identifying best practices for communicating 911 outage information to the public. The Bureau is currently evaluating the record from the workshop and identifying next steps to build upon the best practices discussed during the roundtables. The Bureau intends to present the Office of the Chairman with its recommendations within the next 60 days.

**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?**

Response: The *Mid-band Notice of Inquiry* was adopted on August 3, 2017, and comment and reply comments are due on October 2, 2017 and November 1, 2017, respectively. Our open and transparent process will allow interested parties, including incumbent licensees, to provide input on how to share the band to enhance the efficient use of the spectrum between 3.7 GHz and 24 GHz, with specific focus on 3.7-4.2 GHz, 5.925-6.425 GHz, and 6.425-7.125 GHz bands. We will work collaboratively with stakeholders, including federal government partners, to determine appropriate next steps.

**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?**

Response: I have heard from countless consumers about the importance of increasing broadband deployment and heard from numerous ISPs that access to existing poles, conduit, and rights-of-way is critical to delivering better, faster, cheaper broadband. That's part of the reason why I established the Broadband Deployment Advisory Committee (BDAC)—to provide advice and recommendations to the Commission on how to accelerate deployment of broadband by reducing and removing regulatory barriers to infrastructure investment. Among other issues, the BDAC Working Group on Competitive Access to Broadband Infrastructure is developing recommendations on measures to promote speedier and more efficient competitive access to utility poles, while ensuring safety and the integrity of existing attachments. I look forward to seeing recommendations from the BDAC on that issue.

In addition, in April, the Commission proposed and sought comment on a number of actions designed to accelerate the deployment of next-generation networks and services by removing barriers to infrastructure investment. In particular, that document seeks comment on how to reform the FCC's pole attachment rules to make it easier, faster, and less costly to access the poles, ducts, conduits, and rights-of-way necessary for building out next-generation networks. Streamlining rules, accelerating approvals, and removing other barriers, where possible, will better enable broadband providers to build, maintain, and upgrade their networks, which in turn will lead to more affordable and accessible Internet access and other broadband services for consumers and businesses alike.

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?**

Response: The 2011 pole attachment order took some important steps towards accelerating broadband infrastructure deployment. What we're hearing from many attachers, however, is that the cost and timeliness of the pole attachment process can still be an impediment, sometimes a significant impediment, to deploying broadband.

To that end, the Commission's April *Wireline Infrastructure Notice of Proposed Rulemaking* item sought comment on a number of different options to further reform the pole attachment process to facilitate broadband deployment. First, that item seeks comment on a number of alternatives to speed access to poles, ranging from accelerating the Commission's existing four-stage pole attachment timeline to instituting a completely different pole attachment process.

Second, the item explores steps to ensure that "make ready" charges for poles are reasonable and transparent and that pole attachment rates do not reflect charges that have already been recovered as part of the make-ready process.

Third, the item seeks public input as to whether incumbent local exchange carriers should receive reciprocal access to the poles and related infrastructure of other local exchange carriers.

And fourth, the item seeks comment on the adoption of a 180-day shot clock for resolving pole attachment access complaints, which might lead to more swift resolution of pole access disputes.

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?**

Response: During my tours, I have tried to meet and hold roundtables with a wide variety of parties. Expanded broadband deployment is an important issue for a wide range of stakeholders, and it is therefore critical that we work together to advance this common goal. For example, I have tried to bring together state and local government representatives, broadband providers, representatives from the business, education, health care, and agricultural sectors, and public safety officials (for whom Next Generation 911, which involves Internet Protocol-based public safety networks, is critical) to discuss this issue. I've also tried to visit as much of the country as I can to explore these issues, from Wardensville, West Virginia to Mission, South Dakota to Flagstaff, Arizona.

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?**

Response: I am firmly committed to ensuring that whatever reforms the Commission undertakes with respect to broadband deployment take into account legitimate concerns about safety and the protection of existing infrastructure, including the reliability of the electrical grid. For instance, as the April *Wireline Infrastructure Notice of Proposed Rulemaking* stated with respect to pole attachments, the Commission is working "toward an approach that facilitates new attachments without creating undue risk of harm." To that end, we will be closely reviewing the submissions from, and consulting with, electrical utilities and other relevant parties that are participating in the proceeding.

**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?**

Response: I believe in a free and open Internet, and the Commission is currently considering the best regulatory framework for securing that value and providing broadband providers with strong incentives to build and expand next-generation networks. Any decision that the FCC makes in

this proceeding will be based on the facts and the law, and we will look to the comments filed in the record to guide our determinations on the relevant issues. Right now, we are reviewing the extensive record that has been compiled in the proceeding, and I have made no final decision on the way forward.

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?**

Response: As an initial matter, it is important to point out that the Wireline Competition Bureau did, in fact, extend the deadline for reply comments in the *Restoring Internet Freedom* docket by two weeks. The Bureau found that granting “an additional two weeks in which to file their reply comments [would] allow parties to provide the Commission with more thorough comments, ensuring that the Commission has a complete record on which to develop its decisions.” I supported that decision.

In terms of your specific question, the Commission will treat all comments filed in compliance with our rules the same.

- b. **When did you make the public aware that your decision to make the draft available early would substitute for extensions for replies?**

Response: I made no such decision. In fact, not only did my pre-meeting publication of the *Notice of Proposed Rulemaking* give the public three more weeks to comment on the specific text of the proposal than they received with respect to the related notice issued during the prior Administration, but also, as indicated above, the deadline for submitting reply comments in the proceeding was extended for two weeks.

- 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?**

Response: I see all comments filed in compliance with the Commission’s rules before the vote on the Notice of Proposed Rulemaking the same as those filed after the vote.

- d. **Has any court ever approved your interpretation of the Administrative Procedure Act (APA)?**

Response: After the Notice of Proposed Rulemaking was approved by the Commission and released, the public had over three months to submit comments. That is significantly longer than the typical comment period for FCC matters and is well within the range of comment cycles that have been approved by courts under the Administrative Procedure Act.

- 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?

**Response:** I do not believe that the premise of your question is accurate. The initial draft of the NPRM was released three weeks before the vote on the NPRM. By contrast, the comment cycle on the NPRM approved by the Commission lasted for more than three months. I therefore never made the decision referred to in your question.

**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?

**Response:** In the *Business Data Services Order (BDS Order)*, based on the data and other information that was part of the proceeding, the Commission found that there is substantial and growing competition in the provision of BDS in areas served by price cap incumbent local exchange carriers. Upon review of the record, the Commission adopted a new framework for BDS regulation of price cap carriers. In those counties where competitive conditions justifying pricing deregulation exist, the Commission provided for a 36-month transition to pricing deregulation for DS1 and DS3 end user channel terminations. In counties where the data did not indicate that competitive conditions exist, the Commission provided for continuing price cap regulation, with some modifications. Recognizing change will occur over time, the Commission adopted a process for updating the results of the competitive market test every three years using data collected by the Commission.

The Commission also reminded stakeholders that all telecommunications services remain subject to the Commission’s regulatory authority under sections 201 and 202 of the Communications Act of 1934, as amended, requiring carriers to provide services at rates, terms, and conditions that are just and reasonable and that do not unreasonably discriminate. If a party believes that another party is not complying with sections 201 or 202, or with the *BDS Order* and adopted rules, it may file a complaint with the Commission pursuant to section 208 of the Act. The annual tariff filing process each summer, which requires the submission of tariff review plans to support proposed revisions to rates, also provides an opportunity for FCC staff to monitor the application of sections 201 and 202 of the Act, as well as the *BDS Order*, as parties modify their tariffs to implement that *Order*.

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 compliant—formally or informally—will you commit to following through on it and undergoing a full and complete investigation?

Response: The Commission will enforce these rules just as it enforces all other rules that are on the books.

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?

Response: Since January 23, 2017, the Commission has taken 22 enforcement actions against businesses of many sizes, as well as individuals. For the purposes of this question, the Commission defines "enforcement action" as an action taken by the Commission resulting in a proposed or assessed monetary forfeiture, civil penalty, or settlement payment. Because we lack the relevant information to reliably categorize businesses as either large or small, for the purposes of this question I will distinguish the enterprise as being either "publicly traded" or "privately held." Under this standard, during the relevant period, the Commission has taken one enforcement action against publicly traded businesses (5%), 13 actions against privately held businesses (59%), and eight actions against individuals (36%).

**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)?

Response: On August 10, 2016, the Commission adopted an order attempting to resolve the 2010 and 2014 quadrennial broadcast ownership review proceedings. As part of this recent proceeding, the Commission reviewed the local radio ownership rule and concluded that the existing rule—including the market limits and the AM/FM subcaps—continued to serve the public interest. While several parties subsequently filed petitions for reconsideration of various aspects of this order, including an element of the radio ownership rules involving the treatment of so-called "embedded markets," no party sought reconsideration of the overall radio ownership rules. Consistent with its statutory obligation under section 202(h) of the Telecommunications Act of 1996, as amended, the Commission will once again review its broadcast ownership rules, including the local radio ownership rule, as part of its next quadrennial review proceeding. Any decision that the Commission makes in that proceeding will be based on the facts gathered in the record.

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?**

Response: As I mentioned in my May 8, 2017, letter to you, I share your goal of facilitating competition in the video marketplace and a diverse media. Indeed, diversity in the communications industry is of such importance that I created the Advisory Committee on Diversity and Digital Empowerment (ACDDE), which met for the first time on Monday, September 25, 2017. I have identified three working groups that will assist the ACDDE in carrying out its mission: (1) Broadcast Diversity and Development; (2) Digital Empowerment and Inclusion, and (3) Diversity in the Tech Sector. I envision that these working groups and the ACDDE, as a whole, will be instrumental in ensuring that all Americans have the opportunity to participate in the communications marketplace, no matter their race, gender, religion, ethnicity, or sexual orientation. I hope this advisory committee will help the Commission take important strides towards increasing diversity throughout the communications industry and bringing digital opportunity to all Americans.

The important work of the advisory committee is just getting underway, and I look forward to reviewing their recommendations, including any proposals for further FCC action to facilitate ownership diversity. In particular, I have asked the ACDDE to develop recommendations for how to structure an incubator program that would increase broadcast diversity. In the meantime, however, I would be open to further discussions and working with you to figure out what we can do within the existing legal framework to find ways to move forward on this very important issue.

**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.**

**Response:** The Commission is committed to promoting digital opportunity and access to modern communications services for the nation's low-income families. However, the Commission must always act within the legal authority given to it by Congress. State commissions continue to retain the primary authority to designate Lifeline-only eligible telecommunications carriers (ETCs), and ETCs that receive both high-cost and Lifeline funding, which are all eligible to receive Lifeline support for broadband.

Congress gave state governments, not the FCC, the primary responsibility for designating ETCs to participate in universal service under Section 214 of the Communications Act. Any ETC can receive universal service support for all Lifeline-supported services, including broadband. Section 54.201(j) of the Commission's rules only purports to limit state action with regard to Lifeline Broadband Providers (LBPs), and not to other ETC designations. States continue to play an important role in traditional non-LBP ETC designations, where state law grants them authority to do so. The statute and the Commission's rules do not prevent a state from exercising its jurisdiction to designate ETCs, which allows the designated carrier to provide and seek Lifeline reimbursement for voice and broadband services. Indeed, since February 2017, eleven companies in fourteen different states have received ETC designations to participate in the Lifeline program, including one company that was previously granted designation as an LBP.<sup>1</sup>

<sup>1</sup> See *Application of Boomerang Wireless, LLC d/b/a enTouch Wireless, Hiawatha, Iowa, Seeking Designation as an Eligible Telecommunications Carrier in the State of Nebraska for the Limited Purpose of Offering Wireless Lifeline Service to Qualified Households*, Nebraska Public Service Commission Application No. C-4852/NUSF-105 (Feb. 7, 2017); *Petition of Boomerang Wireless, LLC EnTouch Wireless, Hawai'i Public Utilities Commission, Decision And Order No. 34431* (Mar. 3, 2017); *Illinois Electric Cooperative, Illinois Commerce Commission, Order, 16-0191* (Mar. 22, 2017); *Midcontinent Communications Designated Eligible Carrier Application*, North Dakota Public Service Commission, Case No. PU-17-50 (Mar. 29, 2017); *Application of Midcontinent Comm'ns, A S. Dakota Gen. P'ship, for a Certificate of Convenience & Auth. to Provide Telecommunications Servs. Within the State of Kansas, & for Designation as an Eligible Telecommunications Carrier*, Kansas State Corporation Commission, Docket No. 17-MCCT-254-ETC (Apr. 13, 2017); *Application of Bommerang Wireless dba EnTouch Wireless for Designation as an Eligible Telecommunications Carrier*, South Dakota Public Utilities Commission, TC13-035 (Apr. 28, 2017); *Petition of Vitelcom Cellular Inc., for Designation as an Eligible Telecommunications Carrier – Lifeline Only*, Government of the Virgin Islands of the United States of America, Public Service Commission, Docket No. 661, Order No. 55/2017 (May 2, 2017); *Petition of the City of Burlington, Vermont, d/b/a Burlington Telecom, for Designation As an Eligible Telecommunications Carrier in the State of Vermont for the Purpose of Offering Lifeline Serv. to Eligible Low-Income Households*, Vermont Public Service Board, Case No. 8883 (May 22, 2017); *Application of BlueBird Communications, LLC, for Designation as an Eligible Telecommunications Carrier*, Wisconsin Public Service Commission, 626-TI-100 (June 5, 2017); *Petition of Peoples Telecom, LLC for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky*, Kentucky Public Service Commission, Case No. 2017-00061 (June 9, 2017); *Application of Flat Wireless, LLC d/b/a ClearTalk Wireless for Designation as an Eligible Telecommunications Carrier (ETC) & Eligible Telecommunications Provider (ETP)*, Texas Public Utility Commission, Docket No. 46667 (June 12, 2017); *The Application of Assist Wireless, Inc., for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(2) of the Communications Act of 1934, as Amended*, Michigan Public Service Commission, Case No. U-18348 (July 31, 2017); *Application of Glob. Connection Inc. of Am. d/b/a Stand Up Wireless to be Designated as an Eligible Telecommunications Carrier in the State of Nevada Pursuant to NAC 704.680461 & Section 254 of the Telecommunications Act of 1996*, Nevada Public Utilities Commission, Docket No. 17-05018 (Aug. 18, 2017); *Application of Cross Cable Television, LLC for Designation as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996*, Oklahoma Corporation Commission, Order No. 667619 (Aug. 30, 2017);

These designations enable the carriers to provide Lifeline-supported voice and broadband services within the designated service areas granted by the state.

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?**

Response: The Office of General Counsel has assured me that I appropriately consulted with agency ethics officials before my participation in any matter involving Securus and that my participation has fully complied with all ethics rules.

**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?**

Response: I will commit to continuing to evaluate the motion filed by INCOMPAS and the Oppositions filed in response to it as the Commission determines how best to proceed.

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?**

Response: The Commission recognizes the important role of unlicensed spectrum in the communications ecosystem as well as the need to accommodate greater access to spectrum for both licensed and unlicensed services and devices. That is why we recently initiated a *Notice of Inquiry* that, drawing in part on input we have received from the unlicensed community, asks whether parts of the “mid-band” spectrum between 3 and 24 GHz might be made available for broadband services, with a particular focus on potential new unlicensed access in the upper 6 GHz band. This item shows the importance of working with stakeholders to identify new spectrum targets for unlicensed use. We are also analyzing Phase 1 results from our testing program for potential sharing in the 5.9 GHz band for unlicensed operations.

*Application of Q Link Wireless LLC for Designation as an Eligible Telecommunications Carrier in the State of Arkansas*, Arkansas Public Service Commission, Order (Sept. 6, 2017).

- 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?**

Response: The record in this proceeding closed on February 22, 2017. The Commission is reviewing the record and considering next steps. On September 8, 2017, I announced the appointment of 31 members to the Advisory Committee on Diversity and Digital Empowerment (ACDDE), which includes a representative from the independent programming industry. The Committee met for the first time on Monday, September 25, 2017. The ACDDE's work will enhance the Commission's ability to promote policies favoring diversity of media voices. I hope this advisory committee will help our agency take important strides towards increasing diversity throughout the communications industry, especially for independent and minority 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?**

Response: I am deeply committed to doing everything within the FCC's power to close the digital divide. I believe an effective E-rate program—one that promotes better connectivity for students and library patrons alike—can be a powerful tool to help bridge that divide. This is why, four years ago, I said that "E-rate is a program worth fighting for."

Unfortunately, there have been serious flaws in the administration of the E-rate program, specifically related to the process by which schools and libraries apply for E-rate funding, that are preventing many schools and libraries from getting that funding. I have asked the Universal Service Administrative Company (USAC) to provide a detailed report on plans to fix the existing problems so it can administer the E-rate program in a manner that is fully compliant with our rules and that works for applicants and participants. Currently, my focus is on reducing unnecessary red tape and making it easier for schools and libraries to apply for the program and receive funding.

**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.**

Response: The FCC and USAC have spent considerable time and resources developing a system that interacts with multiple federal and state resources to create a Lifeline Eligibility Database (LED). This database, along with the existing National Lifeline Accountability Database (NLAD), form the National Verifier. In designing the user interfaces for subscribers and

carriers, the FCC and USAC considered compliance with the Lifeline rules and ease of use for end-users, especially consumers attempting to enroll in the program.<sup>2</sup> The FCC and USAC ultimately chose to employ a system that preserved direct control over the consumer form's language and certifications. This system will remove from carriers the burden of ensuring that consumer enrollment forms comply with the Commission's rules in National Verifier states and will reduce consumer confusion during the enrollment process. Additionally, this system will help detect and restrict abusive practices like requesting eligibility checks without consumer consent by requiring carriers and their agents to create individual entries for each enrollment.

- 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.**

Response: The 2016 Lifeline Order established that the National Verifier would be responsible for determining subscriber eligibility for the Lifeline program. The National Verifier will determine subscriber eligibility through connections to state and federal databases. If a subscriber's eligibility can be verified using those databases, the National Verifier will provide a real-time "yes" response. If not, the subscriber will need to provide documentation demonstrating eligibility, which will be reviewed by the Lifeline Support Center. The subscriber will be able to upload the documentation to the National Verifier and eligibility determinations will be made within minutes. The FCC and USAC estimate that the eligibility verification cost of the National Verifier will be \$2 per subscriber.<sup>3</sup> This is an estimated \$3 in per-subscriber savings versus what carriers are currently estimated to spend verifying eligibility.<sup>4</sup>

- 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.**

Response: The National Verifier is designed to provide automated near-real-time eligibility checks whenever possible. The National Verifier web portal is designed to collect eligibility information, documentation, and certifications in a manner that allows the system to determine the most efficient means to verify the subscriber's eligibility. Subscribers will be checked against all available federal and state data sources. If a subscriber's eligibility requires manual document review because they cannot be found in an automated data source, the Lifeline Support Center will review the eligibility documentation. Determinations based on manual review will be made within minutes during operational hours.

- 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.**

<sup>2</sup> Details about design development and system capabilities are included in the National Verifier plan submitted to the FCC by USAC. See USAC, National Verifier Plan (July 2017), <https://usac.org/res/documents/li/pdf/nv/Draft-National-Verifier-Plan.pdf> (*National Verifier Plan*).

<sup>3</sup> *National Verifier Plan* at 87.

<sup>4</sup> *Id.*

a. **Did the FCC consider potential barriers this may create for eligible Lifeline subscribers?**

Response: The FCC has endeavored to create a robust and efficient National Verifier to strengthen the integrity of the Lifeline program by minimizing fraud, waste, and abuse. In creating the National Verifier, the FCC and USAC seek to leverage and improve existing enrollment and certification practices while not allowing weaknesses in existing enrollment processes to damage the integrity of the National Verifier. Upon launch of the National Verifier in each state, the FCC and USAC must ensure that the Lifeline program provides support only for eligible subscribers in National Verifier states. The National Verifier will accomplish this by confirming the eligibility of all possible subscribers through automated connections to federal and state data sources, but we anticipate that a small percentage of subscribers will need to use documentation to demonstrate their eligibility. The FCC and USAC chose the July 2017 timeframe for allowing legacy documentation to be used to determine current Lifeline eligibility by balancing the risks of allowing outdated subscriber documentation against the burden on subscribers. This will ensure that subscribers in the National Verifier database have had their eligibility confirmed within a year, thus fulfilling the recertification requirement for many subscribers.

GREG WALDEN, OREGON  
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115  
Majority (2021 225-2927  
Minority (2021 225-3041  
September 6, 2017

The Honorable Mignon Clyburn  
Commissioner  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Dear Commissioner Clyburn:

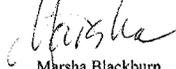
Thank you for appearing before the Subcommittee on Communications and Technology on Tuesday, July 25, 2017, to testify at the hearing entitled "Oversight and Reauthorization of the Federal Communications Commission."

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](mailto: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

**FCC Commissioner Mignon L. Clyburn**  
**Response to Additional Questions for the Record**  
**July 25, 2017 Hearing before the Subcommittee on Communications and Technology**  
**“Oversight and Reauthorization of the Federal Communications Commission”**

**The Honorable Yvette Clarke**

1. **Unlicensed spectrum – for uses like Wi-Fi – provides incredible value to the economy. By one estimate, that value will reach \$547 billion this year, provided that sufficient unlicensed spectrum is made available. But a February 2017 study by Quotient Associates forecasts a Wi-Fi spectrum shortfall in the United States of between 788 MHz and 1.6 GHz by 2025, and predicts a particular need for more contiguous Wi-Fi spectrum to support 160 MHz “Gigabit Wi-Fi” channels.**
  - a. **What can the FCC do to maintain U.S. leadership in Wi-Fi technology and ensure that sufficient unlicensed spectrum is made available to support ubiquitous access to Gigabit Wi-Fi among American consumers?**

Thank you for the question, Congresswoman. The value of unlicensed services is indubitable. They complement licensed services, serve an ever-increasing range of consumer needs, and contribute billions of dollars each year to our economy. We have learned that if our rules promote flexible, interoperable use of spectrum, we encourage market entry by small businesses and expedite deployment of new wireless services to consumers.

The Commission’s overall spectrum policy should seek to achieve a balance of licensed, unlicensed, and shared access spectrum to enable established industry players as well as entrepreneurs to develop innovative service offerings for consumers. To that end, as the Commission researches additional spectrum bands for wireless use, we must ensure that identifying bands to support unlicensed services remains an integral part of that process. We have done so in both the Spectrum Frontiers proceeding as well as the recently-initiated Mid-band Spectrum proceeding, but as you correctly point out, we must remain laser focused on this issue in order to ensure we have sufficient unlicensed spectrum to support innovative and novel use cases that will benefit American consumers.

**The Honorable Tony Cárdenas**

1. **I have concerns about the potential merger between Sinclair and Tribune. I particularly worry about what this merger will mean for diversity in the media, something that I have worked to be a champion for as a legislator and as co-chair of the Multicultural Media Caucus with my colleague Congresswoman Yvette Clarke. It’s troubling that the combined Sinclair/Tribune would have access to 72% of the households in the country.**

- a. Can you walk us through the FCC's role in approving or denying mergers like this one? What are the particular harms to consumers you'll be looking for?**

Thank you for the question, Congressman. The Commission's merger review standard is based on whether a proposed transaction is in the public interest. For me, the first question when evaluating a merger is: how will consumers be impacted? I follow up by asking will the transaction enhance viewpoint diversity and will it increase opportunities for new competition? Any transaction which results in a company exceeding the 39% national ownership cap established by Congress and leaves consumers with fewer unique local voices is one that would be deeply concerning to me.

It is also my view that a transaction of this magnitude warrants a vote by the full Commission and should not be adopted at the Bureau-level. I continue to strongly advocate for each Commissioner to review and vote on the Sinclair/Tribune transaction.

- 2. One of the hallmarks of the broadcast industry is localism—the idea that local stories and news ought to be covered. It's also one of the FCC's legal responsibilities to promote localism (as well as diversity, competition and public interest). I've heard reports, however, that Sinclair Broadcasting has recently started pushing so called "must-run" content to its stations. Not only does this must-run content undermine the local nature of the broadcasting, I also understand much of this content is politically charged. This is very disturbing to me.**

- a. Do you have similar concerns about the apparent waning importance of localism and the increasing prevalence of politically charged must-run programming being distributed over the nation's airwaves?**

Broadcasting from its earliest days has been about localism: delivering local news, weather, and emergency information to a station's community of license. While the internet has created new ways to access news and other information, traditional legacy media including broadcast television, radio, and newspapers are still the primary sources of information about local governments. The Communications Act requires licensees to operate in the "public interest, convenience and necessity." So yes, I do have concerns about reductions in local news because I believe that serving the public interest is a core responsibility of being a broadcaster.

- b. Do you have concerns about this merger's potential impact on competition in broadcasting at a national and local level?**

Without speaking to the specifics of a merger that is currently before the Bureau (not in front of the Commissioners, where it should be), I will reiterate my long-expressed view that we need greater, not less viewpoint diversity in broadcasting. Today, African-Americans own less than 1% of full power commercial television stations. Similarly, Latinos own only 4.5% of full power commercial stations, despite making up 17% of the U.S. population. So there is a simple question we must ask: will media consolidation

increase opportunities for women and minorities to enter the broadcast business or will it make it even harder to compete with large, established players? I am of the view, based on what we have seen from past transactions, that the latter is true.

GREG WALDEN, OREGON  
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115  
Majority (222) 225-2927  
Minority (222) 225-3641  
September 6, 2017

The Honorable Michael O'Rielly  
Commissioner  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Dear Commissioner O'Rielly:

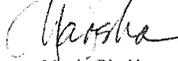
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Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Marsha Blackburn  
Chairman  
Subcommittee on Communications and Technology

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

Attachment



Mike O'Rielly  
Commissioner

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON DC

September 22, 2017

*Via U.S. Mail and Email*

Mr. Evan Viau  
Legislative Clerk  
Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, DC 20515

Re: Questions for the Record  
July 25, 2017 Hearing before the House Energy and Commerce  
Subcommittee on Communications and Technology  
"Oversight and Reauthorization of the Federal Communications Commission"

Dear Mr. Viau:

Please find enclosed my responses to the questions for the record in connection with my testimony at the July 25, 2017 hearing entitled "Oversight and Reauthorization of the Federal Communications Commission."

Thank you and please do not hesitate to contact me if you should have any questions.

Sincerely,



Michael O'Rielly  
Commissioner

Enclosure  
cc w/enc: [Evan.Viau@mail.house.gov](mailto:Evan.Viau@mail.house.gov)

Answers to Additional Questions for the Record by Michael O’Rielly, FCC CommissionerThe Honorable Gus M. Bilirakis

1. **During my in-person questioning, I asked Chairman Pai about the FCC field office closures that took place in early January. Due to your longstanding interest in combatting pirate radio in a timely and effective manner, do you believe that these closures have resulted in (or will result in) increased actions against pirate radio operators?**

While I expressed serious reservations regarding the closure of FCC field offices when enacted by the previous Commission, it is unlikely that this action will have a negative effect on the Commission’s ability to combat pirate radio stations. The problem with the previous Commission’s approach to pirate radio was a lack of commitment to enforcing the law and eliminating these illegal operations, not the lack of equipment, personnel, or offices. In particular, I was told by numerous individuals involved in the broadcasting industry that the previous Chairman’s leadership team had set pirate radio enforcement as a low priority. No amount of resources could overcome that misguided approach.

Thankfully, Chairman Pai has a much different view and enforcement of the law against those involved in pirate radio has increased substantially. The new Commission is committed to eliminating pirate radio “stations” and preventing such stations from developing in the future. Accordingly, I believe the FCC personnel, including in our Miami field office who I recently visited, are capable and committed to preventing pirate radio broadcasting from occurring anywhere within their oversight area.

- a. **Additionally, can you expand upon your written testimony regarding the repetitive warning process in place for pirate radio operators and the penalty restrictions the FCC faces in this area?**

Under longstanding Commission practices implementing current law, the Commission gives notice to those individuals who are not Commission station licensees and who may be in violation of Commission rules (e.g., pirate radio broadcasters) prior to actually issuing a Notice of Apparent Liability for such violations. Equally problematic, the statute limits the amount the Commission can fine those participating in pirate radio broadcasting to rather trivial amounts compared to other violations. For instance, individuals recently found guilty of pirate broadcasting within the AM, FM or TV bands have faced fines in the *thousands* of dollars. However, those recently found in violation of the law or Commission rules for slamming or illegal robocalling have faced fines in the hundreds of *millions*. Together, these limitations have emboldened pirate broadcasters, who know the Commission, no matter how committed, can only do so much to aggressively fight pirate broadcasting. Respectfully, I recommend that Congress review and amend the law to modify these specific provisions in the narrow case of pirate broadcasting. I would be more than pleased to provide any assistance, if needed, to you or other Committee Members for this purpose.

Subcommittee Ranking Member Michael F. Doyle**1. Do you believe that the Commission can unilaterally raise National Television Ownership cap?**

No, based on my personal experience when the national cap was last altered, I believe only Congress can change the cap via passage of legislation. My views are similar with regards to the UHF discount. My recollection is that it was the expressed wishes of Congress that the UHF discount could not be altered without a change in the national ownership cap, thus also requiring a change in law. Hopefully, this helps explain my vote earlier this year to reverse the last Commission's effort to eliminate the UHF discount, thereby undoing a change not permitted by the statute. Substantively, I do not agree with maintaining either the UHF discount or such a low national ownership cap, if one is to exist at all, but that is a matter for Congress to decide or affirmatively delegate to the Commission.

Others who were integrally involved with the last Congressional process argue that the statute only prohibits the Commission from modifying the national cap as part of a quadrennial review, pursuant to section 202(h) of the Telecommunications Act of 1996. While I don't agree with this reading of the law or how counterintuitive it would be in practice, such a view is not specifically prohibited and, with respect, the law could have been more clearly crafted. Accordingly, I have taken the position that this entire issue may need to be litigated out through the judicial process to determine which position is accurate, and I will support whatever action is necessary to see that the issue gets its day in court. I suspect my position will ultimately prevail at the end of the day, but I have been wrong before prognosticating court outcomes.

The Honorable Yvette Clarke

**1. Unlicensed spectrum – for uses like Wi-Fi – provides incredible value to the economy. By one estimate, that value will reach \$547 billion this year, provided that sufficient unlicensed spectrum is made available. But a February 2017 study by Quotient Associates forecasts a Wi-Fi spectrum shortfall in the United States of between 788 MHz and 1.6 GHz by 2025, and predicts a particular need for more contiguous Wi-Fi spectrum to support 160 MHz “Gigabit Wi-Fi” channels.**

**a. What can the FCC do to maintain U.S. leadership in Wi-Fi technology and ensure that sufficient unlicensed spectrum is made available to support ubiquitous access to Gigabit Wi-Fi among American consumers?**

As other people have stated more eloquently, the beauty of unlicensed spectrum is we have no idea what it will be used for in the future but we are likely to be surprised at the innovation and ingenuity when it occurs. I agree that it is paramount to have sufficient spectrum available for unlicensed purposes, such as Wi-Fi, especially given the numerous studies indicating a potential shortfall in the coming years and the already congested state of existing bands today.

To address the expected spectrum need and importance of unlicensed, I believe that the Commission should take a two-fold approach. Primarily, the Commission should examine and authorize unlicensed operations in bands where sufficient spectrum is not available through clearing or other mechanisms to make auctioned licenses

attractive and where harmful interference will not be caused to the primary licensees. High on this priority list must be 5.9 GHz. The Commission is currently conducting lab tests to determine whether, and if so how, unlicensed operations can occur in this band previously allocated for automobile safety services. Given its proximity to other unlicensed bands, this particular band would provide vast opportunities to offer wide channels, thus faster speeds and greater capacity than exists today.

At the same time, the Commission must reallocate additional bands for unlicensed operations. I appreciate that the Commission is actively exploring the best methods and bands to do so. For instance, the Commission's Spectrum Frontiers proceeding from last year allocated spectrum between 64 and 71 GHz for unlicensed services. The item also included a Notice of Proposed Rulemaking to consider whether to allocate additional spectrum in the 70 and 80 GHz bands for additional unlicensed use. Chairman Pai, with my wholehearted support, has indicated that the Commission will take action on that NPRM later this year.

Additionally, the Commission needs to free mid-band spectrum for unlicensed operations. It's one of the reasons I have advocated that the Commission seize upon an ad hoc industry proposal to reallocate the 3.7 to 4.2 GHz for licensed services and the 6 GHz band for unlicensed services. For the licensed portion, this action is necessary as US wireless carriers need mid-band spectrum to compete internationally in the global race to offer "5G" services. Similarly, reallocating 6 GHz for unlicensed purposes, while protecting incumbents or using market mechanisms to facilitate their exit, would complement the already existing unlicensed operations in the 5 GHz band.

