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Subject: 2020.11.23 - Gray Amicus Brief - Merits Stage.pdf
Date: Monday, November 23, 2020 12:43:42 PM
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Nos. 19-1231 & 19-1241

IN THE
Supreme Court of the United States

FEDERAL COMMUNICATIONS COMMISSION, ET AL.,
Petitioners,

v.

PROMETHEUS RADIO PROJECT, ET AL.,
Respondents.

NATIONAL ASSOCIATION OF BROADCASTERS, ET AL.,
Petitioners,

v.

PROMETHEUS RADIO PROJECT, ET AL.,
Respondents.

**On Writs of Certiorari to the
United States Court of Appeals for the Third Circuit**

**BRIEF OF GRAY TELEVISION, INC. AS *AMICUS
CURIAE* IN SUPPORT OF PETITIONERS**

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STATEMENT OF INTEREST¹

Gray Television, Inc. (“Gray”) is a national television broadcast company headquartered in Atlanta, Georgia. Gray owns or operates 169 television stations that collectively reach approximately 24% of U.S. television households in 94 Designated Market Areas, as defined by The Nielsen Company. While Gray owns stations in markets as large as Tampa, Florida (Designated Market Area #12 of 210), its stations are primarily concentrated in small and mid-sized markets across the country, with the majority in markets with fewer than 500,000 television households.

Gray has a substantial interest in this case because, as a national broadcast company, its business is governed by the media ownership regulations promulgated by the Federal Communications Commission (“FCC”). Gray has advocated for relief from the FCC’s outdated ownership rules for a decade. In comments and *ex parte* letters, Gray has repeatedly explained to the FCC why permitting duopolies in small and mid-sized markets would improve service to the public and help stations maintain their financial health in an environment of accelerating competition. Gray raised these same points in comments it

¹ No counsel for a party authored this brief in whole or in part, and no person other than amicus or its counsel made a monetary contribution to this brief’s preparation and submission. All parties consented to this filing. Undersigned counsel previously represented Cox Media Group (“CMG”), a broadcaster and an intervenor below and, by default, initially a respondent here. CMG did not participate on the merits below and informed this Court and all counsel of record that it will not participate in this case. Undersigned counsel does not currently represent CMG in this case.

submitted in the FCC proceeding that generated the 2017 revisions to station ownership rules, which were reversed by the decision of the U.S. Court of Appeals for the Third Circuit below.

Gray also has an interest in the case because it is directly affected by the decades-old ownership rules that the FCC seeks to modernize, but that were effectively reinstated by the Third Circuit's decision. Those obsolete rules directly impede Gray's business strategy for competing in today's media environment, which is to acquire leading television stations in small and mid-sized markets, improve and expand their local news and community programming, and then acquire a second station in those markets to obtain greater local scale and spread costs among multiple stations. Gray's experience provides a perspective that will aid the Court's analysis in reviewing the Third Circuit's decision in this case.

SUMMARY OF ARGUMENT

Section 202(h) of the Telecommunications Act of 1996 requires that the FCC review its regulations concerning the ownership of broadcast television stations every four years and repeal or modify any that do not serve the public interest "as the result of competition." Pub. L. No. 104-104, § 202(h), 110 Stat. 56, 111–12 (1996), *as amended by* Pub. L. No. 108-199, § 629, 118 Stat. 3, 99–100 (2004), *codified at* 47 U.S.C. § 303 note. As the statute's text, structure, purpose, and history establish, Section 202(h) directs that the effects of "competition" must be the primary consideration for the FCC's review.

The FCC followed that clear mandate to consider competition as the foundational consideration during its 2017 modernization of its decades-old ownership rules. But the Third Circuit vacated those updated rules because it found that the FCC did not sufficiently consider a different policy consideration—namely, diversity in who owns broadcast stations. The Third Circuit’s decision below—which reinstates the FCC’s outdated rules that are no longer in the public interest as a result of competition—contravenes Section 202(h)’s text, structure, purpose, and history and should not be permitted to stand.

The decision below also harms small and mid-sized communities around the nation by depriving them of the benefits of the FCC’s modernized rules. In an era when low-cost digital news sources undercut local journalism, these communities require substantial investment in order to receive high-quality local news and community programming. The FCC’s updated rules would facilitate that investment, as Gray’s business model and experience in developing and delivering award-winning local news and community programming illustrate. The FCC’s much-needed modernized broadcast ownership rules should, at long last, be allowed to take effect.

ARGUMENT

Since the dawn of broadcasting in the 1930s, the FCC has sought to limit the ownership of television stations that broadcasters can own on the national and local levels. *See In the Matter of Amendment of Section 73.3613 of the Commission’s Rules Regarding Filing of Contracts—Modernization of Media*

Regulation Initiative, 33 FCC Rcd. 10381 (2018). In creating and maintaining these restrictions, the FCC reasoned that structural ownership limitations were necessary to preserve competition, localism, and diversity of ownership in local television markets. *In the Matter of 2014 Quadrennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, 29 FCC Rcd. 4371, 4377, ¶ 14 (2014) (“The media ownership rules have consistently been found to be necessary to further the Commission’s longstanding policy goals of fostering competition, localism, and diversity.”).

Recognizing the FCC’s regulations could become outdated as competition affected market conditions, however, Congress directed the FCC to review and update its regulations regularly based on competition. Section 202(h) of the Telecommunications Act of 1996 provides that the FCC “shall” review its ownership rules quadrennially, “shall determine whether any of such rules are necessary in the public interest as the result of competition,” and “shall repeal or modify any regulation it determines to be no longer in the public interest.” 47 U.S.C. § 303 note.

That statutory command places prime emphasis on updating regulations in light of competition—a consideration that prompted the FCC to take action in the rulemaking at issue here to modernize broadcast ownership restrictions that are no longer warranted based on current market conditions. The Third Circuit’s decision vacating the FCC’s order and reinstating the prior ownership restrictions frustrates Congress’s directive that regulations outmoded “as the

result of competition” should not remain in place. *See id.* And the Third Circuit’s decision produces harmful consequences by preventing the FCC from implementing a much-needed modernization of its broadcast ownership rules that would permit companies like Gray to continue serving the public interest by offering high quality local news products. The Third Circuit’s decision is erroneous and should be reversed.

I. Properly Construed, Section 202(h) Directs The FCC To Modernize Ownership Rules Regularly Based On Competition.

In loosening broadcast ownership restrictions, the FCC took action that was consistent with—and indeed required by—the statute that triggered the rulemaking: Section 202(h) of the Telecommunications Act of 1996. Specifically, the FCC balanced multiple policy goals and found that its 2017 changes were necessary in part to provide media companies “a greater opportunity to compete and thrive in the vibrant and fast-changing media marketplace.” *In the Matter of 2014 Quadrennial Regulatory Review—Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, 32 FCC Rcd. 9802, 9803, ¶ 1 (2017) (“Reconsideration Order”). Section 202(h)’s text, context, purpose, and legislative history support the FCC’s analysis because they demonstrate that Congress enacted the statute to ensure that the FCC regularly modernized its ownership rules and, in doing so, considered “competition” as the principal factor animating its review. 47 U.S.C. § 303 note.

A. Section 202(h)'s Text Requires The FCC To Consider "Competition."

"It is axiomatic that [t]he starting point in every case involving construction of a statute is the language itself." *Landreth Timber Co. v. Landreth*, 471 U.S. 681, 685 (1985). Section 202(h) requires that the FCC "shall review . . . all of its ownership rules" every four years "and shall determine whether any of such rules are necessary in the public interest as the result of competition." 47 U.S.C. § 303 note. It also mandates that the FCC "shall repeal or modify any regulation it determines to be no longer in the public interest." *Id.*

The most straightforward reading of Section 202(h) is that it commands the FCC to repeal or modify ownership rules that are no longer necessary as a result of competition in the current media marketplace. As the FCC observed, in adopting Section 202(h), "Congress charged [the FCC] to implement policies that create opportunities for greater competition—both among broadcasters and between broadcasters and other outlets—that would lessen the need for prescriptive ownership regulations." *In the Matter of 2002 Biennial Regulatory Review—Review of the Commission's Broadcast Ownership Rules*, 18 FCC Rcd. 13620, 13638, ¶ 56 (2003) ("2002 Biennial Review").

To be sure, Section 202(h)'s reference to the "public interest" encompasses several factors, including the FCC's "policy goals of viewpoint diversity, localism, and competition." Reconsideration Order at 9810, ¶ 15. However, Section 202(h) specifically directs the FCC to consider whether a rule

is “in the public interest *as the result of competition.*” 47 U.S.C. § 303 note (emphasis added). Congress’s express statutory reference to “competition,” without calling out any other public interest factor for particular emphasis, elevates that consideration to carry prime importance in the public interest analysis.

That interpretation draws additional force from the “cardinal principle of statutory construction that a statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant.” *TRW Inc. v. Andrews*, 534 U.S. 19, 31 (2001) (internal quotation marks omitted); *see also, e.g., United States v. Menasche*, 348 U.S. 528, 538–39 (1955) (“It is [the Court’s] duty to give effect, if possible, to every clause and word of a statute.” (internal quotation marks omitted)). Prior to Section 202(h)’s enactment, the FCC had authority to regulate in the public interest and considered competition as one key policy goal. *See, e.g., United States v. Storer Broad. Co.*, 351 U.S. 192, 203 (1956) (noting the FCC “deals with the public interest” and regulates “for public protection with careful provision to assure fair opportunity for open competition”); *F.C.C. v. Sanders Bros. Radio Station*, 309 U.S. 470, 474 (1940) (“[T]he [Communications] Act [of 1934] recognizes that the field of broadcasting is one of free competition.”). Thus, the statutory reference to the “public interest” already included consideration of competition as one factor among several. By additionally and expressly requiring the FCC to evaluate whether ownership restrictions are in the public interest “as the result of competition,” 47 U.S.C. § 303 note, Congress placed paramount weight

on that factor in the public interest analysis the FCC must perform under Section 202(h).

If Section 202(h) were instead interpreted to encompass the FCC's ordinary public interest analysis, the phrase "as the result of competition" would do no work and be rendered superfluous. *See Young v. United Parcel Serv., Inc.*, 575 U.S. 206, 135 S. Ct. 1338, 1352–53 (2015) (rejecting interpretation of phrase in statute that would add "clarity" because it would also render phrase "superfluous"). To give meaning to each word of Section 202(h), the statute is properly interpreted to require the FCC to review and as necessary revise each of its ownership rules with the effect of competition as the central and mandatory public interest concern.

B. The Statute's Structure and Purpose Reinforce That "Competition" Is Section 202(h)'s Primary Goal.

The other provisions of Section 202 reinforce that Congress prioritized eliminating outdated regulations and promoting competition when it adopted the Telecommunications Act of 1996. Congress itself removed or relaxed a number of broadcast ownership rules with the clear purpose and effect of increasing competition. *See* Pub. L. No. 104-104, §§ 202(a), (b), (c)(1), (e), (f)(1), (i), 110 Stat. 56, 110–12. For example, Section 202(c)(1) addresses "National Ownership Limits" for television stations and requires the FCC to, among other things, "eliminat[e] the restrictions on the number of television stations that a person or entity may directly or indirectly own, operate, or control, or have a cognizable interest in, nationwide."

47 U.S.C. § 303 note. Another example is Section 202(f)(1), which addresses the “Elimination of Restrictions” in “Cable Cross Ownership” and orders the FCC to “revise . . . its regulations . . . to permit a person or entity to own or control a network of broadcast stations and a cable system.” *Id.* Against the backdrop of these other provisions, Section 202(h) further reflects Congress’s goal to increase competition by directing the FCC to review the ownership rules regularly and modify them considering competition on a going-forward basis. Thus, “[t]he broader statutory context points to the same conclusion the immediate text suggests.” *Wisconsin Cent. Ltd. v. United States*, 138 S. Ct. 2067, 2071 (2018).

Moreover, reading Section 202(h) in the context of the whole act supports that Congress intended “competition” to be the principal focus of the FCC’s quadrennial regulatory review. As stated in its preface, the purpose of the Telecommunications Act of 1996 is “to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.” Preamble, Pub. L. No. 104-104, 110 Stat. 56. In light of this “declared purpose of Congress,” it would be “unacceptable” to construe Section 202(h) as merely requiring the FCC to perform an ordinary public interest analysis and not to recognize competition as the chief consideration. *United States v. Turkette*, 452 U.S. 576, 589 (1981) (finding statute’s “declared purpose” persuasive in determining law’s scope).

C. Legislative History Corroborates That Congress Intended Section 202(h) To Focus On Competition.

Congress adopted the Telecommunications Act of 1996 “to provide for a pro-competitive, de-regulatory national policy framework” that would adjust rapidly to the advanced technologies being deployed by private entities by “opening all telecommunications markets to competition.” S. Rep. No. 104-230, at 1–2 (1996); H.R. Rep. No. 104-458, at 113 (1996) (same); *see also* H.R. Rep. No. 104-204, at 55 (1995) (choosing “to depart from the traditional notions of broadcast regulation and to rely more on competitive market forces”). As Congress found, “[i]n a competitive environment, arbitrary limitations on broadcast ownership and blanket prohibitions on mergers or joint ventures between distribution outlets are no longer necessary.” *Id.*

These statements by Congress as to the “purpose and design” of the Telecommunications Act of 1996 serve to “corroborate” the paramount importance of competition to the quadrennial review required by Section 202(h). *Digital Realty Trust, Inc. v. Somers*, 138 S. Ct. 767, 777 (2018). Section 202(h)’s “language and the accompanying legislative history reveal a belief that ‘opening all telecommunications markets to competition’ will best suit a marketplace compris[ing] diverse media platforms and shaped by technological advancement.” Pet. App. 49a–50a (quoting H.R. Rep. No. 104-458 at 113) (Scirica, J., concurring in part and

dissenting in part).² The legislative history thus further confirms that competition functions as the paramount concern in the FCC's quadrennial review under Section 202(h).

II. The Third Circuit's Decision Erroneously Ignores That Competition Is Section 202(h)'s Primary Consideration.

In accordance with Section 202(h), the FCC in the Reconsideration Order analyzed whether the broadcast ownership restrictions remained necessary in the public interest as the result of competition and determined that the restrictions should be modified. The FCC's analysis followed the statutory command to evaluate the need for reform based on the effects of competition and to update and modernize the rules in response to changed market conditions. In vacating the Reconsideration Order, the Third Circuit's decision overturned the FCC's work and contravened Congress's directive that the rules "shall" be modified as competition requires to serve the public interest. That decision is erroneous and should not be permitted to stand.

A. The FCC Correctly Revised Its Broadcast Ownership Duopoly Rule In Light Of Competition.

1. Federal law provides the FCC the power to grant broadcast licenses to television stations, with only a limited number of licenses available in any one geographic area. *See* 47 U.S.C. §§ 308, 309; 47 C.F.R.

² References to "Pet. App." are to the petition appendix submitted by Industry Petitioners in docket number 19-1241.

§ 73.622. Each commercial television station in the United States is assigned to a community located in one of 210 Designated Market Areas (“DMAs”) defined by The Nielsen Company. These markets are ranked by size according to the number of television households they contain, with the market having the most ranked 1 (New York City) and the market having the fewest ranked 210 (Glendive, Montana).³ Each DMA is an exclusive geographic area consisting of all counties (and in some cases, portions of counties) in which the home-market commercial television stations receive the greatest percentage of total viewing hours. *See USA Station Grp. P’ship of Atlanta v. Cmty. Cable Television*, 15 FCC Rcd. 6279, 6279, ¶ 2 (2000).

The Reconsideration Order concerns the FCC’s Local Television Ownership Rule, which limits the number of television stations an entity can own on a

³ *See* The Nielsen Company, *Local Television Market Universe Estimates* (2019–2020), <https://www.nielsen.com/wp-content/uploads/sites/3/2019/09/2019-20-dma-ranker.pdf>. For reference, top-ranked New York City has 6,824,120 television households. The tenth ranked DMA is Atlanta, with 2,269,270 households. The top 27 DMAs have more than 1,000,000 households each. DMAs 28–59 have between 500,000 and 1,000,000 households each. DMAs 60–105 have between 250,000 and 499,999 households each. DMAs 106–164 have between 100,000 and 249,999 households each. And DMAs 165–210 have fewer than 100,000 households each, with Glendive, Montana ranked DMA #210, with 3,630 households.

local basis. *See* 47 C.F.R. § 73.3555.⁴ The FCC adopted its first limitation on local television ownership in 1941. Federal Communications Commission, “Part 4—Broadcast Services Other Than Standard Broadcast,” 6 Fed. Reg. 2282, 2284–85 (May 6, 1941) (“1941 FCC Report”). Dubbed the “one to a market” rule, it prohibited a single owner from acquiring more than one full-power television station in any television market. *Id.*

When the “one to a market” rule was adopted, television was in its infancy and radio was by far the more popular form of broadcast media. 1941 FCC Report at 2284–85; *see also Golden Age of Radio in the US*, Digital Public Library of America.⁵ Local television stations, radio stations, and newspapers provided the only sources of information and entertainment for the majority of the population. *See* Steven Waldman, *The Information Needs of Communities*, Federal Communications Commission 59–60 (July 2011) (“Waldman”).⁶ While television

⁴ In addition, on a national basis, the FCC maintains a cap on the percentage of national television households any single owner of television stations can reach. That rule was not part of the proceeding that led to the Third Circuit’s decision in this case.

⁵ Available at <https://dp.la/exhibitions/radio-golden-age/radio-tv>.

⁶ Available at <https://www.fcc.gov/sites/default/files/the-information-needs-of-communities-report-july-2011.pdf>.

eventually eclipsed radio in audience and influence, this market structure persisted well into the 1980s. *See Radio News Surpassed by TV in Survey*, N.Y. Times (Sept. 1, 1984).⁷

Since the 1980s, local broadcast television stations have faced an ever-growing onslaught of new competitors. First, cable operators introduced video services that offered dozens, and later hundreds, of new video channels. These niche channels—offering 24/7 sports, movies, or national news programming—began to fragment a video audience that had previously belonged exclusively to broadcasters. Waldman at 105.

Then, beginning in the late 1990s with the advent of high-speed service connections, the Internet began delivering countless channels of information to an increasing number of households. *Id.* at 116. “Surfing the Net” further diminished the pull of local television and, as the Internet matured, websites like YouTube began offering an endless supply of competitive video programming. *Id.* at 118, 164. Since 1980, primetime television ratings have declined more than 70%. *See* Letter from Robert M. McDowell, Counsel to Gray Television, Inc., to Marlene H. Dortch, Secretary, FCC, MB Docket No. 14-50, *et al.*, at Exhibit A, Slide 9 (June 28, 2017) (“*Ex Parte* Letter”). Because the broadcast television business depends on selling advertising measured by audience size, this decline has irrevocably changed the competitive market in which local television stations operate. *See* U.S.

⁷ Available at <https://www.nytimes.com/1984/09/01/arts/radio-news-surpassed-by-tv-in-survey.html>.

Senate Commerce Committee, *Local Journalism: America's Most Trusted News Sources Threatened 21* (2020) (“Cantwell Report”) (“The rise of digital advertising has also decreased revenue for radio and television media.”).⁸

2. The “one to a market rule” remained in place for nearly sixty years, until 1999, when the FCC modestly relaxed the rule to allow an entity to own a second television station in a market if: (1) at least one of the stations was not ranked in the top four (the “Top 4 Test”), and (2) at least eight “independent voices”—*i.e.*, independently-owned full-power television stations—remained in the DMA after consummation of the transaction (the “Eight-Voices Test”). *In the Matter of Review of the Commission's Regulations Governing Television Broadcasting*, 14 FCC Rcd. 12903, 12932–33, ¶ 64 (1999). Unless prospective station owners could satisfy these two tests, they were generally prohibited from acquiring a second station in a DMA, a regulatory hurdle that became known as the “Duopoly Rule.”

Under the Duopoly Rule, ownership of more than one station in a television market was limited to markets with at least nine full-power television stations. Because the vast majority of small and mid-sized markets have fewer than nine stations, the 1999 Duopoly Rule perpetuated the prohibition on ownership of two full-power stations in most markets outside the top 50 DMAs. *Id.* at 12935, ¶ 70. Although the Duopoly Rule included a waiver process by which

⁸ Available at <https://www.cantwell.senate.gov/imo/media/doc/Local%20Journalism%20Report%2010.26.20> 430pm.pdf

a station owner could apply for permission from the FCC to acquire a second station in a DMA, the rule restricted waivers to extremely limited circumstances. *Id.* at 12936–41, ¶¶ 71–87.⁹ For station owners concentrating their efforts in small and mid-sized markets, the modest changes to the Duopoly Rule in 1999 made no practical difference, effectively leaving the FCC’s “one to a market” ownership limitations stalled in their 1941 tracks.

3. The Duopoly Rule remained essentially unchanged until 2017, despite the fact that the marketplace for local television service transformed dramatically during this time. In the Reconsideration Order, the FCC finally revised the Duopoly Rule both to eliminate the Eight-Voices Test and to modify the Top 4 Test to permit station owners to apply for permission to own two Top 4 stations in a market. Reconsideration Order at 9831, ¶ 66. In reversing its 2016 decision to retain the Duopoly Rule, the FCC found that the older Rule failed to respond to

⁹ Specifically, the 1999 Duopoly Rule permitted an owner to buy a second station in a DMA if the target station was a “failed” station that had not been in operation due to financial distress for at least four consecutive months immediately prior to the application, or was a debtor in an involuntary bankruptcy or insolvency proceeding at the time of the application. *Id.* at 12936–38, ¶¶ 71–77. In addition, an owner could purchase a second station if the acquisition target was a “failing” station that (1) had an all-day audience share of no more than 4%; (2) had negative cash flow for three consecutive years immediately prior to the application; and (3) consolidation of the two stations would result in tangible and verifiable public interest benefits that outweighed any harm to competition and diversity. *Id.* at 12938–40, ¶¶ 78–82.

marketplace changes and failed properly to credit the “importance of broadcast television stations in their local markets.” *Id.* at 9832, ¶ 69. In particular, the FCC found that marketplace changes and increasing competition justified relaxing the rules to ensure that broadcasters can compete fairly. *Id.* at 9833–34, ¶¶ 71–72. While broadcast television retains a central place in the local video market, the FCC recognized that the public interest does not justify regulation of local broadcast station ownership that would be otherwise unnecessary to promote competition, necessitating that the FCC modify its rules under Section 202(h). *Id.*

With respect to the Eight-Voices Test, the FCC reasoned that retaining the rule was arbitrary because there is nothing magic about the number eight and because prohibiting duopolies in markets with fewer stations “prevents combinations that would likely produce significant public interest benefits.” *Id.* at 9876, ¶ 8 (Appendix B). Moreover, the FCC found that “the Eight-Voices Test denies the public interest benefits produced by common ownership without any evidence of countervailing benefits to competition from preserving the requirement.” *Id.* at 9835–36, ¶ 77. The FCC consequently “repeal[ed] the Eight-Voices Test.” *Id.*

With respect to the Top 4 Test, the FCC found that the potential competitive harms it was originally intended to prevent would not occur in all markets and that “the rule may prohibit combinations that do not present public interest harms or that offer potential public interest benefits that outweigh any potential harms.” *Id.* at 9837, ¶ 79. Accordingly, the FCC

replaced the Top 4 Test with a case-by-case review of proposed transactions to determine whether a Top 4 combination is in the public interest. *Id.*

By making these revisions to the Duopoly Rule in the Reconsideration Order, the FCC implemented Section 202(h)'s mandate to update the ownership rules with a central focus on competition. The Reconsideration Order reflects the FCC's reasoned analysis that marketplace changes had eliminated any justification for the "one to a market" rule in small and mid-sized markets and that it was "in the public interest as the result of competition" to modify that rule. 47 U.S.C. § 303 note.

B. The Third Circuit Erred In Vacating The FCC's Reconsideration Order.

As amply demonstrated in Petitioners' opening briefs, the FCC's 2017 modernization of the Duopoly Rule appropriately placed competition in the media marketplace as the foremost concern, and "determined that 'dramatic changes in the marketplace' had rendered several ownership rules unnecessary or ineffective at promoting the public-interest values of competition, localism, and viewpoint diversity." Industry Petitioners' Br. 35–36 (quoting Pet. App. 67a); *see also* FCC Petitioners' Br. 27–32. Indeed, no party disputes "the FCC's core determination that the ownership rules have ceased to serve the 'public interest'" or "identifies any reason to question the FCC's key competitive findings and judgments." Pet. App. 55a (Scirica, J., concurring in part and dissenting in part). Under the proper construction of Section 202(h), those findings amply suffice to sustain the FCC's rule changes.

The Third Circuit, however, departed from the text, structure, purpose, and legislative history of Section 202(h) to vacate the Reconsideration Order because the court found that the FCC did not “g[i]ve a meaningful evaluation of th[e] effect” of “promoting ownership diversity.” *Id.* at 41a.¹⁰ The Third Circuit’s decision improperly overrides Section 202(h)’s mandate by raising one of the many agency policy goals over the primary factor—competition—that Congress expressly directed the FCC to consider.

In vacating the FCC’s order, the Third Circuit reinstated the older version of the Duopoly Rule containing the Eight-Voices and Top 4 Tests—thus effectively reverting the regulatory landscape to 1941 for small and mid-sized markets. That contradicts Congress’s mandate that ownership restrictions no longer necessary as a result of competition “shall” be repealed or modified. This Court should enforce Section 202(h) to permit the FCC’s 2017 rule changes to take effect, thus allowing the FCC to comply with Congress’s directive that it modify its ownership rules in response to the current competitive marketplace.

¹⁰ As Petitioners’ briefs explain, the Third Circuit improperly substituted its judgment for the FCC’s when evaluating ownership diversity. Industry Petitioners’ Br. 37–46; FCC Petitioners’ Br. 36–43. Gray agrees fully with those arguments and does not repeat them here.

III. The Third Circuit's Decision Harms Companies Like Gray, Which Seek To Improve And Expand Local News Coverage Through Increased Investment Allowed By Economies of Scale.

The Third Circuit's decision hindering the FCC from modernizing its broadcast ownership rules has a serious and negative effect on the development of local news and community programming in small and mid-sized markets. The decision's effect on Gray well illustrates that significant harm and exemplifies the practical problems produced by the Third Circuit's faulty analysis.

Gray's core business strategy depends on leveraging its national scope to acquire leading local television stations in small and mid-sized markets, and then invest in, expand, and modernize those stations' newsgathering and reporting capabilities. When possible, Gray also seeks to acquire a second television station in each local market to take advantage of economies of scale and spread its high fixed costs across two stations. Moreover, by associating the local brand of the leading station in the market with the second-acquired station and promoting Gray's news and community programming across both stations, Gray elevates the profile of the second station and both stations achieve higher ratings than either could on its own. As a result, both stations are better able to compete for advertising revenue against much larger digital platforms.

Gray has achieved great success with this approach, realizing increased revenue and improving local news coverage across the country. But the FCC's

outdated broadcast ownership rules present an enormous obstacle to Gray's ability to compete in the vastly changed modern media landscape. The consequences of the decision on Gray and other companies demonstrate how the Third Circuit's decision runs counter to the public interest and further support reversal here.

A. The Economics of Local Television.

Television station revenue is derived primarily from two sources: (1) local, regional, and national advertising; and (2) retransmission consent fees. *See In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, 32 FCC Rcd. 568, 609, ¶ 103 (2017) ("Video Competition Report"). First, advertising revenue mainly consists of payments for advertisements broadcast by television stations. *See id.* at 616, ¶¶ 120–21. Advertising rates are generally based on the size of the audience generated by a particular program aired on a particular station. *See id.* at 609, ¶ 103. With smaller populations and therefore fewer viewers, smaller markets necessarily generate less advertising revenue than larger markets. Reconsideration Order at 9835–36, ¶ 77.

With ever-increasing competition from digital advertising, television advertising revenue is falling. A recent report issued by U.S. Senate Commerce Committee Ranking Member Maria Cantwell (D-Washington) noted that, "[f]rom 2000–2018, local TV stations' advertising revenue fell by 40 percent, after accounting for inflation." Cantwell Report at 21 (citation omitted). And this source of revenue is being further "[w]alloped by COVID-19," with "local TV

stations experienc[ing] drops of 40-60 percent” in advertising revenue. *Id.* at 49 (citation omitted). Given these market conditions, purchasing or producing the highest rated programming with the largest number of viewers is crucial to the success of small and mid-sized market television stations.

The second major revenue source, retransmission consent fees, consists of payments by multichannel video programming distributors (“MVPDs”)—*e.g.*, cable and satellite television companies—in exchange for a television station’s permission for an MVPD to retransmit the station’s signal to its paying subscribers. Video Competition Report at 618, ¶ 124. Retransmission consent rates are largely driven by affiliation with one of the “Big 4” television networks (ABC, CBS, FOX, and NBC) and, to a lesser extent, the local ratings of an individual television station. Reconsideration Order at 9836, ¶ 77. Because retransmission consent rates are paid on a per-subscriber basis, smaller markets necessarily generate less retransmission consent revenue than larger markets.

The two types of programming most likely to drive a station’s audience ratings higher, and thus increase station revenues, are affiliation with a Big 4 network and building a strong local news brand. Video Competition Report at 614, ¶ 117 (comparing ratings of network-affiliated stations to independent stations); Pew Research Center, *For Local News, Americans Embrace Digital But Still Want Strong Community Connection* 4 (Mar. 26, 2019) (“Pew Report”) (“Local TV stations are turned to most for local news, primarily through the TV set; most other providers

have larger digital share.”)¹¹; U.S. Gov’t Accountability Office, GAO-10-369, *Media Programming: Factors Influencing the Availability of Independent Programming in Television and Programming Decisions in Radio* 19–20 (2010).

At the same time, it is resource intensive to purchase Big 4 network programming and to produce local news, requiring substantial capital investment and ongoing operating expenses. *See* Reconsideration Order at 9836, ¶ 77, n.229 (“In particular, the record suggests that local news programming is typically one of the largest operational costs for broadcasters; accordingly, stations may find that common ownership enables them to provide more high-quality local programming, especially in revenue-scarce small and mid-sized markets.”) (citing *Ex Parte* Letter at 3–4, 7–8); *see also* Adam Jacobson, *Retransmission Consent Revenue: An 11% Growth Engine*, Radio+Television Business Report (July 30, 2019).¹² Networks charge local stations substantial programming fees for network affiliation. *Id.* And local news production requires capital spending for facilities and equipment and continued expenses for talent and news production, making such production

¹¹ Available at <https://www.journalism.org/2019/03/26/for-local-news-americans-embrace-digital-but-still-want-strong-community-connection/>. While this Pew publication shows declining ratings for local television news in the past year, local news remains more highly rated than non-network, non-news programming.

¹² Available at <https://www.rbr.com/retransmission-consent-revenue-an-11-growth-engine/>.

one of broadcasters' largest operational costs. Reconsideration Order at 9836, ¶ 77.

The challenge of operating a profitable television station in small and mid-sized markets is that the station owner must find a way to afford the expenses of operating a top-rated station despite the fact that the station will necessarily generate smaller revenues than its larger-market counterparts.

B. Gray's Business Strategy.

Gray's business strategy is to acquire the leading station in a small or mid-sized market and, through heavy investment, expand and improve local news programming in that market. Often the top-rated station in its market—especially in smaller markets—held that position for decades but, because of intense competition for viewers' attention and advertising dollars from multi-billion-dollar digital platforms, the former owner can no longer afford the investments needed for the station to maintain its position. Once Gray acquires the station, it purchases new, state-of-the-art broadcast equipment and modernizes the workforce to increase efficiency and profitability. Gray also expands the station's local news programming, which typically includes hiring more journalists and news producers. With that leading station as a beachhead, Gray acquires a second station in the same market—usually one that is undervalued and underperforming—and invests the resources necessary to transform it into another top station.

Often the second station airs little or no local news programming before Gray acquires it. In these situations, Gray's top station will share its news

resources with the second station, expanding local news available in the market. Gray's top-rated station will heavily promote the availability of expanded news programming on both stations to drive higher ratings. Through this strategy, Gray acquires and converts stations that were providing limited or no news and public affairs programming into local-market news leaders. Gray thereby both improves the stations' profitability and creates an important community resource that was previously lacking.

Gray's strategy has been extremely successful. In 2019, Gray's stations were top-ranked in 68 of the 93 markets in which Gray was then operating and claimed one of the top two spots in 86 of those markets. At a time when local newspapers and radio stations continue to shrink the amount of local news they provide—particularly in small markets—the public services that Gray's stations provide are increasingly critical to viewers' ability to stay informed. *See* Cantwell Report at 7 (“The American public trusts local journalism based on its long history of unbiased reporting, factual accuracy, and its connection to and understanding of the communities it covers.”).

An example of Gray's substantial investments in smaller markets is WCJB TV20, which provides coverage to the Gainesville, Florida DMA and to Marion and Columbia Counties in North Central Florida, located in the Orlando and Jacksonville DMAs, respectively. Gray acquired WCJB in 2017. For decades WCJB has been the dominant market leader in Gainesville, yet soon after acquiring it, Gray invested more than half a million dollars in improving and expanding the station's local news coverage. As a

direct result of those investments, WCJB has (among other things) enlarged its Marion news bureau from 300 to 2,000 square feet, built a state-of-the-art news set with a nine-screen video array behind the anchor desk, and acquired new studio cameras and live-broadcast equipment (including four transmitters, two receivers, and several remote workstations), and an upgraded weather system with new local weather cameras. Gray immediately more than doubled WCJB's ability to conduct live broadcasts, allowing the station to broadcast four live shots in four different locations in one show. WCJB also invested in its staff, hiring an additional live reporter to its morning show team and a reporter for its expanded Marion news bureau, creating new digital executive producer and promotions producer positions, and adding shifts for digital-dedicated producers. WCJB is planning to add one more reporter position in the near future. With Gray's resources, WCJB raised its employees' salaries across the board, including a 20% higher starting pay for new reporters. These improvements allow WCJB to provide a better, more comprehensive local news product, and maintain WCJB's status as a "must-have" on cable and satellite providers because of increased ratings.

Of the many local news operations that Gray has launched or vastly improved following station acquisitions, other examples also stand out:

- Gray acquired two local television stations in Roanoke, Virginia: WDBJ in 2016 and WZBJ in 2018. WDBJ has been the clear market leader for most of its history. In contrast, WZBJ had barely achieved any ratings. Gray was only

able to acquire WZBJ because the FCC relaxed its local ownership rules in the Reconsideration Order. Since those purchases, Gray has added 15 hours per week of local news on WDBJ and 18.5 hours per week on WZBJ, which has turned WZBJ into a true market competitor.

- In 2016, Gray acquired KWCH and KSCW in Wichita, Kansas. KWCH was the unquestioned market leader in Wichita. Meanwhile, Gray was able to acquire KSCW pursuant to a special FCC failing-station waiver. Since then, Gray has added 17.5 hours of local news per week to both stations. The stations have further grown their viewership since Gray purchased them.

Gray's television stations do not just cover the news, they excel in the effort. In 2020, Gray's stations won 49 Regional Edward R. Murrow Awards for excellence in journalism, including two stations—WVLT in Knoxville, Tennessee and KFVS in Cape Girardeau, Missouri—that were recognized for overall excellence in local journalism.¹³ In 2019, Gray's stations won 57 Murrow Awards.¹⁴ Also in 2019,

¹³ Gray Television, Inc., *RTDNA Awards 4 Regional Edward R. Murrow Awards to 21 Gray Television Stations*, 1–2 (May 13, 2020), <https://graytv.gcs-web.com/static-files/efff5ea-2162-4755-b44a-a072c808c4f6>.

¹⁴ Gray Television, Inc., *Gray Television's Stations Awarded for Commitment to Excellence in Local Journalism With 57 Regional*

Gray's WCTV in Tallahassee, Florida won the prestigious National Association of Broadcasters Leadership Foundation Service to America Award for coverage of the devastation wrought by Hurricane Maria in Puerto Rico.¹⁵ Gray's investigative journalism initiative, InvestigateTV—in which each of Gray's stations participates—was awarded two national Headliner Awards in 2019, one for reporting on the opioid crisis and another for investigative reporting on the health and environmental effects of nuclear weapons storage.¹⁶ Further, Gray's New Orleans station, WVUE, was honored by the Society of Professional Journalists for its documentaries, investigative reporting, and public service

Edward R. Murrow Awards in 23 Gray Markets, GlobeNewswire (April 24, 2019), <https://www.globenewswire.com/news-release/2019/04/24/1808611/0/en/Gray-Television-s-Stations-Awarded-for-Commitment-to-Excellence-in-Local-Journalism-With-57-Regional-Edward-R-Murrow-Awards-in-23-Gray-Markets.html>.

¹⁵ Gray Washington News Bureau, *Gray Stations Honored at Service to America Awards in DC* (June 12, 2019), <https://www.graydc.com/content/news/Gray-stations-honored-at-Service-to-America-awards-in-DC-511195281.html>.

¹⁶ Gray Television, Inc., *Gray's InvestigateTV Receives Two First Place National Headliner Awards*, GlobeNewswire (April 22, 2019), <https://www.globenewswire.com/news-release/2019/04/22/1807332/0/en/Gray-s-InvestigateTV-Receives-Two-First-Place-National-Headliner-Awards.html>.

journalism.¹⁷ The list of accolades grows annually as Gray continues to invest in and improve local news programming all over the nation.

Gray's commitment to top-flight journalism is recognized by local leaders. For example, on April 15, 2020, Governor Asa Hutchinson of Arkansas wrote to the staff of KAIT-TV in Jonesboro, Arkansas to thank the station for its coverage of a recent tornado. Governor Hutchinson's letter stated, "[b]ecause of your keen understanding of Arkansas' weather patterns and knowledge of your community, you undoubtedly saved lives during last month's tornado that was a direct hit to the City of Jonesboro."¹⁸

Gray's investments in increasing and improving local news and community programming are made possible through the economies of scale and scope that come from operating a television business that is far larger than any single market. Given the limited revenue potential of the small and mid-sized markets where Gray operates, the company can support such high-quality local journalism only if it is permitted to build scale on both a national and a local basis.

Gray builds national scale by acquiring a large number of stations in a large number of markets. The

¹⁷ Gray Television, Inc., *WVUE Receives Three Sigma Delta Chi Awards from The Society of Professional Journalists*, 1 (April 29, 2019), <https://gray.tv/uploads/documents/pressreleases/Press%20Release%20re%20SPJ%20Awards.pdf>.

¹⁸ Glen Hale, *Gov. Hutchinson Thanks Region 8 News for Tornado Coverage*, KAIT8 (May 18, 2020), <https://www.kait8.com/2020/05/18/gov-hutchinson-thanks-region-news-tornado-coverage/>.

revenue enables Gray to invest in its stations. As newly acquired stations improve their performance, they fund additional acquisitions, resulting in additional opportunities for Gray to acquire and improve stations across the country. Gray also builds national news scale through maintenance of its Washington News Bureau, which provides relevant national news content to all Gray stations, and InvestigateTV, which produces in-depth investigative journalism addressing matters of national importance and is distributed by Gray stations nationwide.¹⁹ Gray accordingly can spread its national newsgathering costs across its entire station footprint, significantly reducing costs for each individual station.

Gray builds local scale by, where possible, buying more than one television station in a given market. This allows Gray to fund its investment in local service using two or more local or regional revenue streams. Gray also builds local scale by buying stations in adjacent markets and creating regional news bureaus to create content for local stations in multiple markets. Spreading these costs among multiple stations reduces the allocated cost for each station, and the improved quality from these investments

¹⁹ See Gray Television, Inc., *Gray Announces Opening of Washington, D.C. News Bureau to Deliver Hyper-Local Coverage and Analysis of National Issues*, Cision PR Newswire (Feb. 2, 2015), <https://www.prnewswire.com/news-releases/gray-announces-opening-of-washington-dc-news-bureau-to-deliver-hyper-local-coverage-and-analysis-of-national-issues-300028654.html>; Gray Television, Inc., *supra* note 16 (describing InvestigateTV initiative).

allows Gray's stations to better compete for viewers' attention against much larger digital platforms.

Gray's business strategy advances the significant, recognized public interest in improving local television service, particularly news and public affairs programming. 2002 Biennial Review at 13644, ¶ 79 ("We agree that the airing of local news and public affairs programming by local television stations can serve as a useful measure of a station's effectiveness in serving the needs of its community."). For example, an industry expert appointed by the FCC noted that:

Despite the industry's problems, the best of the local TV stations are still producing high-quality broadcast journalism of tremendous value to the community—while reaching a far broader audience than newspapers in terms of size, diversity, and socio-economic status. It is hard to overstate the importance and value of these broadcasts. During emergencies, the local TV station is often considered to be as vital a part of the local community as the police and fire departments, and despite cutbacks most local TV reporters and managers believe they still are able to excel in the midst of a crisis.

Waldman at 79.

Local news continues to provide the important public service of informing the American citizenry of critical current events, and it remains the most popular way for individuals to access the news. *See*

Pew Report at 4 (“Even as the preference for digital delivery creeps up on that for news via TV, local television stations retain a strong hold in the local news ecosystem. They top the list of nine types of local news providers, with 38% of U.S. adults saying they often get news from a local television station.”); Cantwell Report at 8 (“The balance, integrity, and credibility that local journalism uniquely provides is so important to communities and our nation because it is where Americans get their news.”). That is especially true, for example, during the ongoing COVID-19 pandemic because “[l]ocal television stations [] are experiencing higher viewership during the pandemic” and “have run hundreds of thousands of COVID-19 public service announcements” that “include critical information on how to help prevent [its] spread.” *Id.* at 9.

C. The Effect Of The Third Circuit’s Decision On Companies Like Gray.

Gray has replicated its strategy of improving local news based on economies of scale in dozens of markets across the United States and is eager to execute it in additional markets. Unfortunately, the FCC’s outdated ownership rules, now reinstated by the Third Circuit’s decision, greatly limit Gray’s ability to grow the local scale necessary to continue its investments.

Before the Third Circuit vacated the Reconsideration Order, the FCC’s modernization of the Duopoly Rule was working as intended. For example, in the window of time between the effective

date of the Reconsideration Order and the Third Circuit's decision, Gray completed three transactions:

- In 2018, Gray acquired WFFP-TV (now WZBJ) from Morning Star Broadcasting, LLC. This was Gray's second full-power station in the Roanoke-Lynchburg DMA, which has fewer than eight independently owned stations.
- As part of Gray's merger with Raycom Media in early 2019, the FCC approved Gray's ownership of two Top 4 combinations—in Honolulu, Hawaii and Amarillo, Texas—and the creation of a station combination in Richmond, Virginia, which lacks eight independently owned stations.
- In 2019, Gray acquired Top 4 station KDLT(TV) from Red River Broadcasting in Sioux Falls, South Dakota, Gray's second Top 4 station in that DMA, which was acquired pursuant to the FCC's now-suspended case-by-case review process for Top 4 combinations.

Gray has made substantial investments in those stations, providing viewers in those DMAs with comprehensive local news and public interest coverage. But all of these local station combinations would have violated the older version of the Duopoly Rule that was reinstated by the Third Circuit, and would not have been allowed by the FCC prior to its modernization of that Rule.

The FCC's modernized Duopoly Rule, if permitted to take effect, would allow Gray to implement its business strategy in additional small and mid-sized markets. For example, Gray's acquisition of WCJB in

Gainesville and subsequent investments in that station (as discussed above) secured WCJB's status as a ratings giant. The next logical step for Gray would be to acquire a second station to leverage its investments and build up the second station to provide more local news and community programming. The FCC's revisions to the Duopoly Rule would permit Gray to make further acquisitions in DMAs like Gainesville, thus providing viewers in such small and mid-sized markets the benefits of Gray's investments and its proven track record of improving news and other programming in local communities.

The Third Circuit's decision vacating the FCC's modernized ownership rules harms small and mid-sized communities and the companies like Gray that wish to serve them. That result is not justified under a proper application of Section 202(h). This Court should reverse the Third Circuit's decision and, at long last, allow the FCC's modernization of the Duopoly Rule to take effect.

CONCLUSION

The Third Circuit's decision should be reversed.

Respectfully submitted,

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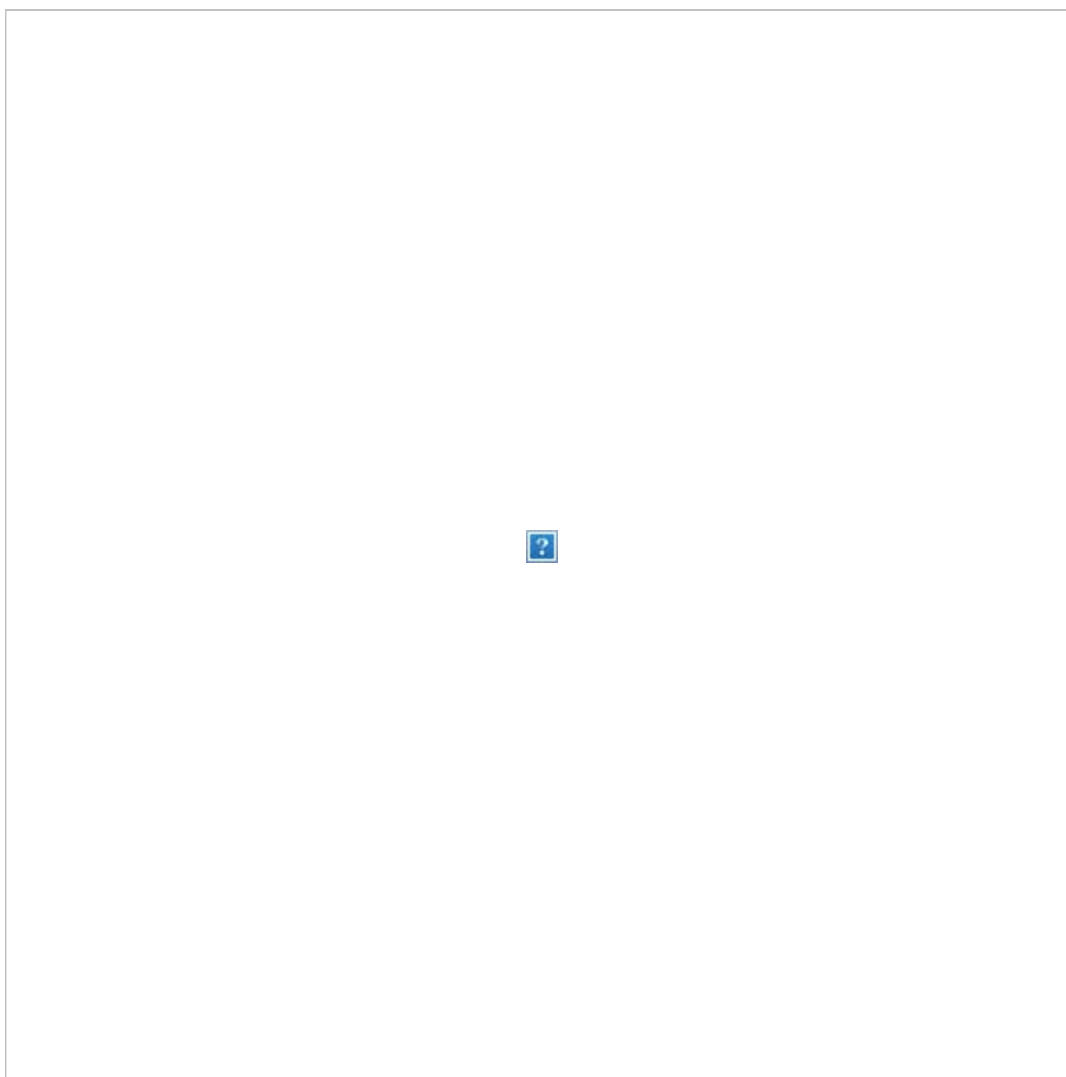
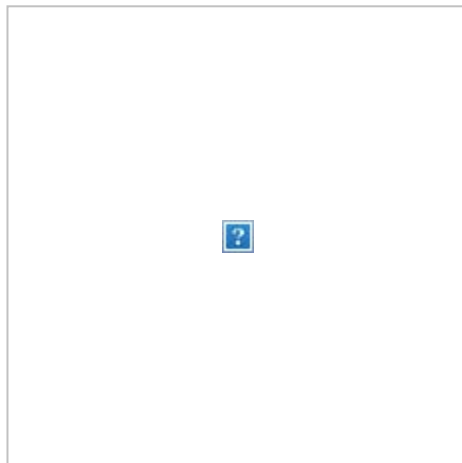
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November 23, 2020

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The **5th annual Aspen Cyber Summit** starts tomorrow, and we have new speakers to announce.

This year's event will run daily from noon to 4 p.m. ET tomorrow, Wednesday, and Thursday and will feature top leaders from Capitol Hill, CISA, Secret Service, NSA, and NGA, as well as senior executives from Facebook, Cloudflare, and more. See below for an updated list.

Our kick-off keynote interview tomorrow will feature former CISA Deputy Director **Matt Travis**, who was removed earlier this month by the Trump administration, in conversation with the *New York Times*' **Kara Swisher**. The two will look back at the 2020 election and the disinformation surrounding it.

For Wednesday's opening keynote, U.S. Secret Service Director **James Murray** will be interviewed by NBC News Justice Correspondent **Pete Williams** about the Secret Service's efforts to combat transnational cybercrime.

Thursday's opening event will feature two top CISOs in the healthcare sector—Johnson & Johnson's **Marene Allison** and Eli Lilly's **Meredith Harper**—in conversation with NPR correspondent **Dina Temple-Raston** to discuss efforts to secure the COVID-19 vaccine development and distribution process.

The Summit will also feature the release of the Aspen Cybersecurity Group's national cybersecurity agenda for the next term, making this the first major event to launch such a proposal. The agenda is centered on five policy areas where the incoming administration and Congress can make measurable progress in the next four years toward building a more resilient digital society.

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Meeting ID: 161 220 4838

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One tap mobile

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1612204838@sip.zoomgov.com <mailto:1612204838@sip.zoomgov.com>

Join by H 323

161 199 138 10 (US West)

161 199 136 10 (US East)

Meeting ID: (b) (6)

Passcode: (b) (6)

From: [Drema Johnson](#)
To: [Brendan Carr](#)
Subject: call with Jamie Susskind and Michael Petricone, CTA re Section 230

Oops – here is the bridge:

Toll-free dial-in number (U S and Canada):
(866) 814-9555

Conference code:

(b) (6)

From: Jamie Susskind <jsusskind@cta.tech>
Sent: Wednesday, September 23, 2020 11:57 AM
To: Drema Johnson <Drema.Johnson@fcc.gov>
Subject: Meeting w/Commissioner re Section 230

Hi Drema,

I hope you are doing well! (b) (6)

Michael Petricone and I (both of CTA) wanted to find some time to talk to the Commissioner about Section 230 if possible. I don't know that there is a particular rush, so just let us know what works for him.

Thanks!

Jamie

Jamie Susskind

Vice President, Policy and Regulatory Affairs

Consumer Technology Association, producer of CES®

d: (703) 907-7651

m: (703) 477-4378

CTA tech <https://urldefense.proofpoint.com/v2/url?u=https-3A__cta.tech_&d=DwMFaQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=it-kkUDJim4fMp5wRt2hSKYyd-bSYcRiYnUrCtkXD4&m=8Xx-Ay88WmmyknRQRNb7HXjF_em4_8jfnFTW7dATPmI&s=C-oBbWC3lxF5B4L0POIU2QVQchoIdsuwHnC6mClmqA&e=>> | CES tech <https://urldefense.proofpoint.com/v2/url?u=https-3A__ces.tech_&d=DwMFaQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=it-kkUDJim4fMp5wRt2hSKYyd-bSYcRiYnUrCtkXD4&m=8Xx-Ay88WmmyknRQRNb7HXjF_em4_8jfnFTW7dATPmI&s=T5QnoEBIBTJREroqs85Ta4msGXT9yjb9Hjo7Pt0Eu5Q&e=>>

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From: [Drema Johnson](#)
To: [Brendan Carr](#)
Subject: call with Neil Fried, Digital Frontiers Advocacy re RM-11862 on Section 230

Yes, that works. Thanks. My cell is (b) (6)

Neil

Sent from my iPhone

On Sep 22, 2020, at 1:59 PM, Drema Johnson <Drema.Johnson@fcc.gov <<mailto:Drema.Johnson@fcc.gov>> > wrote:

Hi Neil

Commissioner Carr is available on Thurs Oct 1 at 2:00pm. If that works for you can you a telephone number where he can reach you. Thanks Drema

-----Original Message-----

From: Neil Fried <neilfried@digitalfrontiersadvocacy.com <<mailto:neilfried@digitalfrontiersadvocacy.com>> >

Sent: Tuesday, September 22, 2020 11:48 AM

To: Drema Johnson <Drema.Johnson@fcc.gov <<mailto:Drema.Johnson@fcc.gov>> >

Subject: Request for meeting re: RM-11862: Section 230

Dear Ms. Johnson,

Now that the initial comment and reply deadlines in RM-11862 on section 230 have passed, I write to request a call with Commissioner Carr to discuss the matter. If he prefers, I am also available for an in-person meeting. Please let me know at your earliest convenience if he might be available. Please also advise whether it is your understanding that, if such a call or meeting does take place, I will be required to file an ex parte notice.

Many thanks.

Neil

From: [Drema Johnson](#)
To: [Brendan Carr](#)
Subject: CPI dinner

Hi all,

We're looking forward to this Thursday's dinner at CPI to discuss revising Section 230 and Big Tech's attack on conservative speech online.

To confirm, dinner is Thursday, Oct. 1st from 6:30pm-8pm at CPI:

300 Independence Avenue SE

Washington, DC 20003

Attendee List:

Rep. Gregory Steube
Rep. Louie Gohmert (And aide, Connie Hair)
Rep. Guy Reschenthaler
Rep. Debbie Lesko (And husband, Joe Lesko)
Rep. Ben Cline
Rep. Ken Buck
Rep. Tom McClintock
FCC Commissioner Brendan Carr
MRC President Brent Bozell
Jon Schweppe - American Principles Project
Craig Parshall - American Principles Project
Sarah Mills - Communications Director, Senator Marsha Blackburn
Rachel Bovard - Conservative Partnership Institute

Please confirm your attendance this Thursday, and we look forward to seeing you there!

--

Julie Mitchell

Outreach Assistant

Media Research Center <[<\[https://cdn.mrc.org/static/2020Branding/MRCBlock_Logo/MRC%20Block%20Logo/MRCBlock_Logo.png\]\(https://cdn.mrc.org/static/2020Branding/MRCBlock_Logo/MRC%20Block%20Logo/MRCBlock_Logo.png\)>](https://urldefense.proofpoint.com/v2/url?u=http-3A__mrc.org&d=DwMFaQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=it-kkUDJm4fMp5wRt2hSKYyd-bSYcRiYnUrCtkXD4&m=Fjy3PvejaE2fKfuYBYNdn5gRp4xIqbqP7yWf5iNdLUQ&s=6hia9YsPXoUdOFCFkVdktlxc3m5ixEOyiye-mstLcIM&e=>1900 Campus Commons Drive, Suite 600 Reston, VA 20191 (571) 267-3453</p></div><div data-bbox=)

CPI: 300 Independence Avenue SE

Washington, DC 20003

From: [Drema Johnson](#)
To: [Brendan Carr](#)
Subject: Dinner at CPI
Attachments: [APP_Sec230_paper_web\(1\).pdf](#)

As FYI

From: Julie Mitchell <jmitchell@mrc.org <mailto:jmitchell@mrc.org> >
Sent: Thursday, September 10, 2020 11:31 AM
To: Christian Robey <crobey@mrc.org <mailto:crobey@mrc.org> >
Subject: Confirmation: Dinner at CPI on Monday

Hi all,

We're all looking forward to the dinner next week at CPI to discuss revising Section 230 of the Communications Decency Act. We'll be discussing the proposal that American Principles Project has created on the topic (attached), and the work that the MRC has done on this front. This meeting is timely, as just this week Sens Blackburn, Wicker, and Graham introduced <https://urldefense.proofpoint.com/v2/url?u=https-3A__thehill.com_policy_technology_515549-2Drepublican-2Dsenators-2Dintroduce-2Dnew-2Dsection-2D230-2Dreform-2Dbill&d=DwMFaQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=d1sGuDjZ3yGnvE-CUSoLQus_E6ZQBdkD8hJ39YgjXTE&m=sJrti4dMw7bc3F_7T0agUQY53eEZrfJvoXcLPYtno7w&s=2rw6t1Go1QMR593HIpKVU92gvE3dEw8TGfZfBzqOaYI&e=>> legislation that would modify Section 230.

To confirm, this working dinner will take place at Conservative Partnership Institute:

300 Independence Avenue SE

Washington, DC 20003

Monday, Sept 14 from 6:30pm-8pm

Attendee List:

Jon Schweppe - American Principles Project

Brent Bozell - Media Research Center

Christian Robey - Media Research Center

Rachel Bovard - Conservative Partnership Institute

Brendan Carr - Federal Communications Commission

Jon Adame - Office of Sen. Marsha Blackburn

Rep. Buddy Carter

Rep. Gus Bilirakis

Rep. Tim Walberg

Rep. Greg Walden

Rep. Robert Latta

Please don't hesitate to reach out with any questions.

Thanks!

--

Julie Mitchell

Outreach Assistant

Media Research Center <https://urldefense.proofpoint.com/v2/url?u=http-3A__mrc.org&d=DwMFaQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=d1sGuDjZ3yGnvE-CUSoLQus_E6ZQBdkD8hJ39YgjXTE&m=sJrti4dMw7bc3F_7T0agUQY53eEZrfJvoXcLPYtno7w&s=i7-KEpEDCW0VegxO_SQ_zSO1c16AS_6B9G9QwEKXIJl&e=>> 1900 Campus Commons Drive, Suite 600 Reston, VA 20191 (571) 267-3453

<https://cdn.mrc.org/static/2020Branding/MRCBlock_Logo/MRC%20Block%20Logo/MRCBlock_Logo.png>

Protecting Free Speech and Defending Kids

A Proposal to
Amend Section 230

JUNE 2020



AMERICAN
PRINCIPLES PROJECT

Authors



Craig Parshall

Craig Parshall is a civil liberties attorney serving as Special Counsel to the American Center for Law & Justice (ACLJ) and is the Founder of the John Milton Project for Digital Free Speech. Craig has represented clients before the U.S. Supreme Court, most of the U.S. Courts of Appeal, and several state supreme courts. He has testified frequently before committees of both houses of Congress on constitutional rights and before the Federal Communications Commission (FCC) on communication and media issues. Craig consults on free speech issues arising on “Big Tech” information platforms and writes and speaks widely on that subject.



Jon Schweppe

Jon Schweppe is the Director of Policy and Government Affairs for American Principles Project (APP). In this role, he develops and advances the organization’s legislative priorities by working with allied groups and with federal and state lawmakers. Prior to joining APP in late 2014, he worked on a number of political campaigns, focusing mainly on communications and policy. Schweppe was named a Lincoln Fellow at the Claremont Institute in 2020. He has been published at several outlets, including *First Things*, *the New York Post*, *The Federalist*, and the *Daily Caller*. He graduated from Augustana College in 2010 with majors in Economics and Finance.

Summary

Section 230, a provision of the Communications Decency Act (CDA), was sold to the American people as a necessary legal protection to remove pornography and obscenity from the Internet while also giving free speech the opportunity to flourish. Unfortunately, almost 25 years later, it's clear that the opposite has occurred: Big Tech platforms are removing free speech from the Internet, while pornography and obscenity are flourishing like never before.

We believe Section 230 still has value, but requires amendment in order to achieve what should be its dual mandate: 1.) protecting children from pornography and obscenity, and 2.) creating a digital public square where the value of free speech is cherished and where, as envisioned in the Findings of the original bill, "a true diversity of political discourse, unique opportunities for cultural development, and myriad avenues for intellectual activity" are promoted.

In short, we propose to amend Section 230 by:

- » Eliminating protection from civil liability for market-dominant Big Tech platforms that fail to make content moderation decisions pursuant to policies and practices reasonably consistent with the First Amendment standard under clearly established Supreme Court Law applicable to state actors;
- » Establishing a private right of action and broad compensatory damages for users who have had their expression treated adversely by a market-dominant Big Tech platform, if that speech would otherwise be protected against government state actor censorship under the First Amendment;
- » Creating a certification process through the Federal Trade Commission (FTC) and Department of Justice (DOJ). These certifications, while potentially admissible in civil actions against platforms, would not be determinative. The FTC would be tasked with reviewing whether a platform is "market-dominant" such that the requirements of this amendment would apply. It would also evaluate whether the content moderation policies and practices of such a platform "reasonably" track the First Amendment rulings of the Supreme Court, while taking into consideration the complexity of current technology. DOJ would review and certify this process;
- » Eliminating protection from civil liability for providers or users who actively participate in or materially contribute to illegal online conduct;
- » Eliminating protection from civil liability for providers or users who facilitate or knowingly permit an adult having illicit digital contact with a child;
- » Eliminating protection from civil liability for providers or users who facilitate or knowingly permit the distribution of content that is indecent, obscene, or harmful to children by failing to implement a system designed to effectively screen users under the age of 18 from accessing such content.



The Problem

- ✓ Online speech monopoly
- ✓ Viewpoint suppression
- ✓ Harmful content to children

A handful of Big Tech platforms possess a chokehold monopoly over online speech, opinion, and information.

Many have likened the development of the printing press in the 1500s to the Internet information revolution in the 21st century. But here is one devastating difference: a mere 50 years after the printing of the Gutenberg Bible, there were more than 1,000 similar printing presses operating across Europe, publishing more than 500,000 books. By contrast today there are only a handful of giant Big Tech platforms controlling the vast majority of online user-generated content.

This “chokehold” monopoly power has permitted Big Tech companies to regularly commit viewpoint suppression against user posts and opinions they don’t like. Big Tech has become intransigent and has refused to change its behaviors, despite multiple congressional hearings and public outcry, and despite the fact that such behaviors would seem to violate the original intent behind the provision in the Communications Decency Act now known as Section 230. This became frighteningly apparent during the COVID-19 crisis when government officials colluded with Big Tech to remove “dangerous” content that either contradicted the state-approved narrative or encouraged citizens to exercise their constitutional right to assemble in protest.

The free flow of information and opinion is essential to our Constitutional Republic, not only for an informed electorate, but for the future of citizen discourse and debate on important social, religious, and political issues, particularly because citizens now get a bulk of their news from online sources.



A small handful of Silicon Valley behemoths operate the portal for almost all of America’s online information: four of a handful of the world’s largest social media services are owned by Facebook, a platform that reaches nearly 2.5 billion people. PC magazine, former Facebook co-founder Chris Hughes, and members of Congress have all publicly recognized Facebook as a “monopoly;” Google controls more than 90 percent of online searches on the planet; Amazon controls nearly half of all book sales in the U.S. and dominates all online retail sales generally; Apple’s iTunes app store determines the commercial success or failure of every app so extensively that, as the Supreme Court recently noted in *Apple Inc. v. Pepper*, its signature “app” concept has become “part of the 21st-century lexicon;” and Twitter is reportedly the single digital source relied-on by 83 percent of all journalists who, in turn, deliver America’s news.

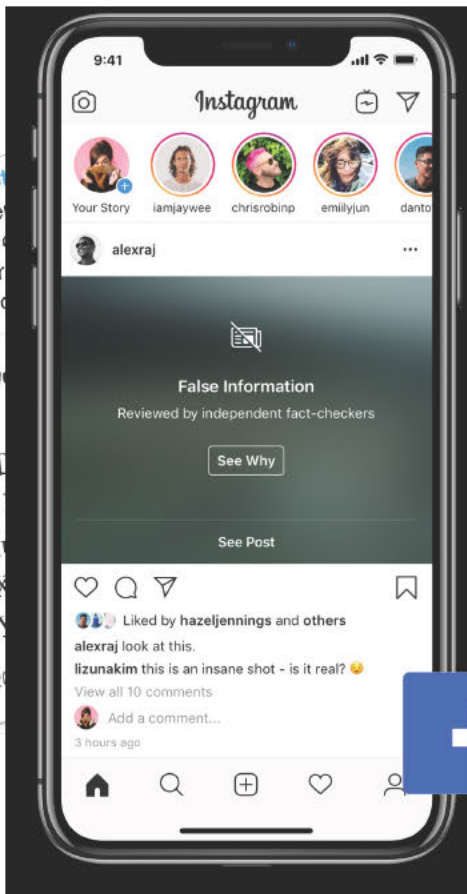
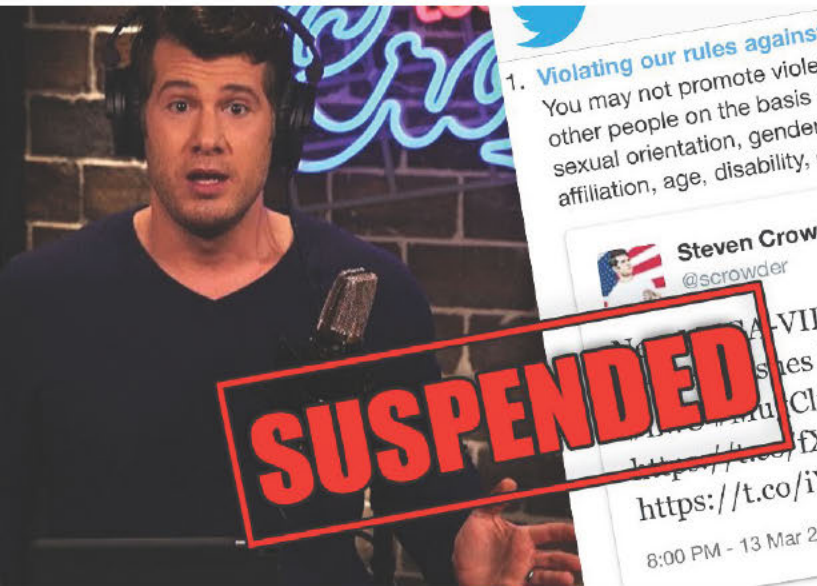
Big Tech platforms are consistently committing viewpoint suppression without consequences.

Big Tech platforms have: blatantly censored Senate Majority Leader Mitch McConnell and Republican Senator Marsha Blackburn; labeled a user's call for Prayer for President Trump "hate speech," blocked online ads from one of the largest TV cable programs because of its conservative views; blocked former Governor Mike Huckabee's Facebook page; voiced opposition to President Trump's next election bid; employed anti-conservatives as so-called "fact checkers" whose judgments are used to justify content and viewpoint bans; and have relied on the notoriously flawed "hate group" list of leftist Southern Poverty Law Center (SPLC) to deny donor benefits to conservative non-profit groups.

Big Tech platforms have also censored conservative Christian content by: blocking an ad by a Catholic college because it contained the iconic image of the Crucifix; striking a Christmas post containing a cartoon Santa kneeling before the

manger of Jesus; banning online sale of a book written by a Christian who describes why she left the lesbian lifestyle; refusing an ad by a Lutheran synod for vacation Bible school because it advanced a "religious affiliation;" and removing posts by a New Testament scholar for using politically incorrect references to gender identity.

Big Tech platforms have also launched an ever-expanding chokehold on information and suppression of ideas that contradict the private values of Silicon Valley companies by: banning COVID-19 information or views (including posts by doctors) that are deemed politically incorrect or out of line with the views of the UN's World Health Organization; imposing so-called "fact checks" and content warning labels on President Trump's posts; blocking conservative political ads; banning ads under the manipulative label of "false information," and limiting the ability for pro-life groups to communicate, such as LifeNews, which posted that Planned Parenthood is in the



“abortion business” and then was punished by having its online reach restricted due to publishing what the platform outrageously called “partly false” statements.

And, of course, there are no consequences. Due to the “sweetheart deal” granted by Congress to online platforms almost 25 years ago in the Communications Decency Act (CDA), lawsuits challenging Big Tech bans against specific viewpoints have failed, making Big Tech virtually immune to civil litigation regarding their content moderation decisions.

Platforms of all sizes are providing children with access to harmful and often horrific content.

The original intent of the Communications Decency Act (CDA) was to criminalize the transmission of obscene and indecent content to children under the age of 18, while providing interactive computer services with the ability to remove that content. The implication was a sort of quid pro quo – the idea that if platforms clean up the In-

ternet and create a healthy digital public square, they could enjoy a special immunity from civil litigation that no other industry enjoys.

Unfortunately, when the Supreme Court overturned much of the CDA in *Reno v. ACLU*, only one part of that deal remained – the special immunity. Now, platforms of all sizes allow children to access indecent and exploitative content that is harmful and often horrific without facing the consequences of successful civil litigation against them.

We believe that platforms should shoulder the duty of shielding families from indecent and exploitative content that is readily accessible to children – recognizing that their failure to do this actively endangers these families and children. The jurisprudence from *Reno v. ACLU*, while deeply flawed, still suggests that there is a state interest in protecting children from harmful content, but that an across-the-board restriction on content could pose an “undue burden” to adults’ access to speech.

However, platforms are well within their rights to impose their own restrictions on access to harmful content. The vast majority choose not to do so. A change to Section 230 that conditions their immunity from civil litigation would likely incentivize many of these platforms to change their behavior.



Donald J. Trump @realDonaldTrump · 2h
I can't stand back & watch this happen to a great American City, Minneapolis. A total lack of leadership. Either the very weak Radical Left Mayor, Jacob Frey, get his act together and bring the City under control, or I will send in the National Guard & get the job done right.....

26.5K 26.4K 109.1K

This Tweet violated the Twitter Rules about glorifying violence. However, Twitter has determined that it may be in the public's interest for the Tweet to remain accessible. [Learn more](#) **View**



The Solution

- ✓ Amend Section 230
- ✓ Restore original intent
- ✓ Incentivize free speech and free expression
- ✓ Require age-restricted screening of age-inappropriate content

Section 230 of the Communications Decency Act (CDA), intended to both promote free speech and restrict access to harmful content by children under the age of 18, has failed to achieve either objective.

Congress intended Section 230 of the CDA to create a digital public square where the value of free speech is cherished and where “a true diversity of political discourse, unique opportunities for cultural development, and myriad avenues for intellectual activity” are promoted.

Congress also intended Section 230 of the CDA to incentivize online platforms to remove indecent and exploitative content harmful to, and accessible by, children under the age of 18.

Both of these laudable goals have been frustrated and neither has been achieved by Section 230 as currently written and interpreted.

This amendment will restore online free expression and protect children and families, while also avoiding big government intrusion.

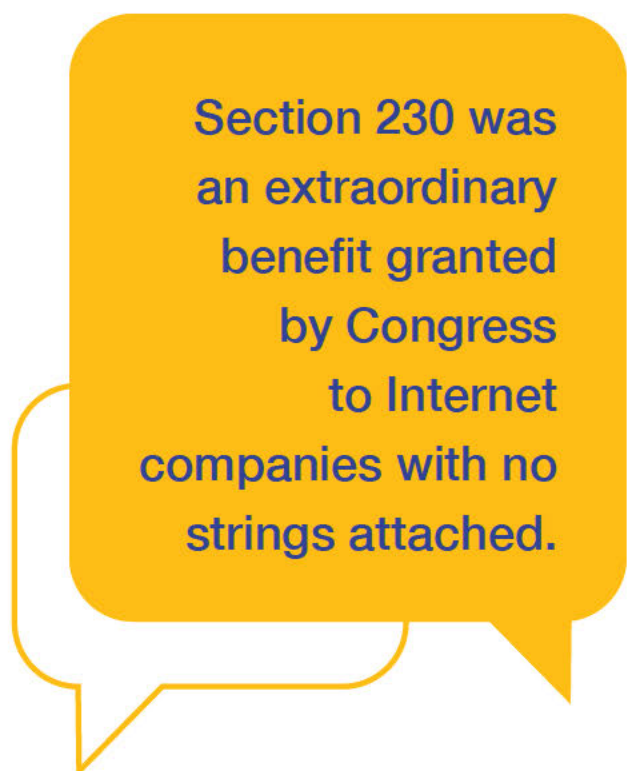
Regarding free expression: this amendment seeks to restore the original stated intent of Section 230 by using a small-government approach; the special benefits of Section 230’s protection from civil lawsuits would become *conditional*. It would open the gate to private lawsuits against Big Tech companies unless and until they choose to adopt viewpoint-neutral, First Amendment-type principles that will guide their decisions to ban or take other adverse actions against the content or viewpoints of users.

Regarding content harmful to children: this amendment would require any online platform

desiring Section 230 protections to implement an effective age-restricted screening of age-inappropriate content to avoid making indecent, harmful, or exploitative content accessible to children.

This legislative solution is constitutional.

Typically, the First Amendment only applies to “state actors;” i.e. government agencies and officials, not private Internet platforms. However, Section 230 was an extraordinary benefit granted by Congress to Internet companies with no strings attached. It has provided some of the largest companies in the world with powerful protection against civil lawsuits. In light of the abuses by Big Tech companies, Congress is within its authority to now attach reasonable and constitutional preconditions to that benefit.





The Supreme Court has declared that even media companies ... can be restrained.

Big Tech companies have a much weaker First Amendment defense against this proposal than traditional media companies, because, unlike newspapers and broadcasters, they are not primarily content providers, but are just conduits for content provided by others; i.e. *citizen content and citizen viewpoints*.

Nevertheless, the Supreme Court has declared that even media companies that use their monopoly-type power to choke off avenues of information can be restrained, because in that case they wield powers of censorship just as harmful as if the government were the one do-

ing it. If such chokehold monopoly power can be remedied by requiring media companies and broadcasters to adjust their abusive and suppressive conduct, then the same must hold true for non-media Internet Big Tech platforms that control the content, information, and viewpoints of American citizens.

The Supreme Court has upheld federal restrictions on media companies and broadcasters, requiring them to protect minors from harmful, indecent or exploitative content. Therefore, the same should also certainly hold true for online companies that are primarily mere *conduits* for the content of their users – and are not media content creators. Those online companies should not be able to use the First Amendment as a *shield* against this amendment to Section 230, while also using it as a *sword* to harm children and families.

About American Principles Project



When our Founders put this country together, they clearly articulated the essence of human dignity: that all are created equal, endowed by our Creator with certain unalienable rights, among them the rights to life, liberty, and the pursuit of happiness.

At APP, we believe these principles are central to what makes the American experiment so unique. We also believe that human dignity has often been overlooked in present-day policy debates. Therefore, we strongly affirm that emphasizing human dignity in our politics is fundamental to the flourishing of this country.

APP strives to put these values into action through our work in impacting key elections, promoting strategic legislation, and conducting groundbreaking research. We stand with all those Americans who believe, as we do, in re-establishing human dignity as the basis for American society.

To find out more information about APP, including how to further support our work, please visit our website at www.AmericanPrinciplesProject.org.



Public policy
with
human dignity
at its heart



AMERICAN
PRINCIPLES PROJECT

2800 Shirlington Road, Suite 1201, Arlington, VA 22206
202.503.2010 | www.americanprinciplesproject.org

From: [Drema Johnson](#)
To: [Brendan Carr](#); [Benjamin Arden](#)
Subject: FCBA Event - Section 230 - moderated Q&A
Attachments: [image002.jpg](#)

From: Brendan Carr <Brendan.Carr@fcc.gov>
Sent: Monday, September 14, 2020 12:48 PM
To: Roisman, Natalie <N.Roisman@wbklaw.com>
Cc: Benjamin Arden <Benjamin.Ardens@fcc.gov>; Drema Johnson <Drema.Johnson@fcc.gov>
Subject: Re: FCBA event on Section 230

Works for me! Adding Ben and Drema from my office who can help coordinate

From: Roisman, Natalie <N.Roisman@wbklaw.com>
Sent: Monday, September 14, 2020 10:48 AM
To: Brendan Carr <Brendan.Carr@fcc.gov>
Subject: RE: FCBA event on Section 230

Brendan,

I hope you had a great weekend

Thanks so much for your willingness to be so generous with your time and for being so flexible. We would love to have you do a moderated Q&A following the panel. The lineup would look like this:

- (1) Opening speaker -- Adam Candeub;
- (2) Short 101 presentation on Section 230 for newcomers-- Jess Miers (Tech Policy Lead @ Google and Law Student)
- (3) Panel -- Avery Gardiner (CDT); Olivier Sylain (Fordham); Jamie Susskind (CTA); (pro-Petition panelist tbd)
- (4) Q/A with you and another gov't official

If this works for you, we will identify someone to be part of the Q&A with you as well as a moderator and will get back to you on that asap. Should I work with anyone in your office? Let me know the easiest way from your perspective for us to proceed.

Thank you!

Natalie

Natalie

Roisman

202 383 3398

N.Roisman@wbklaw.com

From: Brendan Carr <Brendan.Carr@fcc.gov>
Sent: Friday, September 11, 2020 5:18 PM
To: Roisman, Natalie <N.Roisman@wbklaw.com>
Subject: Re: FCBA event on Section 230

Thanks - it does look like a good and full lineup. My instinct is to find a way to join this one in some capacity, perhaps a short, moderated Q&A after the panelists do their thing? That might allow a moderator to identify a few themes from the panel discussion and ask for my reactions or whatever.

No issue at all with inviting others. If there's another government or similar level person, I'm game for them being on a post-panel Q&A with me (Commissioner Starks has done some public speaking on these issues, for instance). I'm open to ideas. I'd want to leave the opening remarks spot for Adam alone to respect his role there. So the option above would be Adam - then panel - then a short Q&A with me and perhaps another person.

Happy to discuss

From: Roisman, Natalie <N.Roisman@wbklaw.com>
Sent: Friday, September 11, 2020 5:08 PM
To: Brendan Carr <Brendan.Carr@fcc.gov>
Subject: RE: FCBA event on Section 230

Hi, and thanks for your patience! Here is the event line-up for the 24th. As you can see, it's shaping up to be a fairly comprehensive event, so we likely wouldn't plan a second event on the same topic too close in time. Would you want to deliver opening remarks, or is there another role/time in the program that seems right to you? We of course would want to feature you prominently and are happy to tweak the rest of the program as needed. With respect to the panel, we still have an invitation outstanding for another pro-petition panelist. I should also note that because Acting Assistant Secretary Candeub is speaking, if you decide to join us we would likely extend an invitation to one of your Democratic colleagues to ensure we are balanced at the senior level as well. All of that said, I also completely understand if this program doesn't feel like the right fit.

Please let me know what you think, and thank you again for reaching out and for your flexibility! Happy to chat if that's better. (b) (6)

Have a great weekend,

Natalie

**

Section 230 — Ask the Experts Program

Date/Time: Thursday, September 24, 1:00 – 2:30 p.m.
Location: Virtual via the Zoom platform

Organized by the Young Lawyers Committee for all practitioners

Description: Section 230, the law that gives immunity to interactive communications services for their content moderation practices, has come under the microscope because of the content moderation choices of many social media platforms. In July, as required by a presidential Executive Order, NTIA filed a petition with the FCC seeking new rules to clarify the scope and application of Section 230. This event will help Section 230 newcomers get a baseline understanding of the statutory provision and also dive deep on key developments, including whether the FCC has authority to adopt rules interpreting Section 230, how section 230 has been interpreted to date, and the legal and policy implications that would result from changes to the law.

Opening Remarks: Adam Candeub, Acting Assistant Secretary of Commerce for Communications and Information, NTIA

Participants confirmed to date: Avery Gardiner, General Counsel and Senior Fellow for Competition, Data, and Power, Center for Democracy & Technology; Jamie Susskind, Vice President of Policy and Regulatory Affairs, Consumer Technology Association; Olivier Sylvain, Professor of Law, Fordham University School of Law; and Jess Miers, Teaching Assistant, Santa Clara University Law School

Moderators: Stephanie Weiner, Partner, Harris, Wiltshire & Grannis LLP; Chris Laughlin, Communications Associate, Kelley Drye & Warren LLP

Natalie

Roisman

202 383 3398

NRoisman@wbklaw.com <<mailto:NRoisman@wbklaw.com>>

From: Brendan Carr <Brendan.Carr@fcc.gov>
Sent: Tuesday, September 8, 2020 6:12 PM
To: Roisman, Natalie <NRoisman@wbklaw.com>
Subject: Re: FCBA event on Section 230

Great! Happy to participate in that one or if they're already far along in a different direction, no worries

From: Roisman, Natalie <NRoisman@wbklaw.com>
Sent: Tuesday, September 8, 2020 4:58 PM
To: Brendan Carr <Brendan.Carr@fcc.gov>
Subject: RE: FCBA event on Section 230

Brendan – great to hear from you, and hope you all are hanging in as well

Thank you so much for reaching out with this offer. We actually have been working on a 230 event for Sept 24 (and I think you'll appreciate in light of your FCBA lineage that it is being co-sponsored by the Young Lawyers Committee). We had assumed that you would not be interested in speaking on this topic while the petition was pending, but I really appreciate that you are! Let me check with the organizers and get back to you right away about some possible paths we can offer for your consideration. As always, I deeply appreciate your keeping the FCBA front of mind for opportunities.

Thanks so much,

Natalie

Natalie

G

Roisman

1800 M Street, NW
Suite 800N

Washington,

DC

20036

Tel:

202 383 3398 <<tel:3398>>

Main:

202 783 4141

Cell:

202 744 3757 <<tel:202.744.3757>>

[NRoisman@wbklaw.com](https://urldefense.proofpoint.com/v2/url?u=http-3A__NRoisman-40wbklaw.com_&d=DwMFaQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=d1sGuDjZ3yGnvE-CUSoLQus_E6ZQBDkD8h39YgjXTE&m=jpHeYktfeC0trPGUq0NxjQ8jH-ZAvy6U7zE9bIY_IAU&s=gAfPTz4TUXcbQHGLQ_e3SicbqpxXQ5zKCh8MjLJVIRQ&e=>) <https://urldefense.proofpoint.com/v2/url?u=http-3A__NRoisman-40wbklaw.com_&d=DwMFaQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=d1sGuDjZ3yGnvE-CUSoLQus_E6ZQBDkD8h39YgjXTE&m=jpHeYktfeC0trPGUq0NxjQ8jH-ZAvy6U7zE9bIY_IAU&s=gAfPTz4TUXcbQHGLQ_e3SicbqpxXQ5zKCh8MjLJVIRQ&e=>>

[www.wbklaw.com](https://urldefense.proofpoint.com/v2/url?u=http-3A__www.wbklaw.com&d=DwMFaQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=d1sGuDjZ3yGnvE-CUSoLQus_E6ZQBDkD8h39YgjXTE&m=IXVwU8mk1O9isRe2UAB8d_DTpmQnVzss3SaVsZ8hOEq&s=iPF7PPdUfHn5d9N9yjKrD0kFHOPRhjzNipmGWjwaU4&e=>) <https://urldefense.proofpoint.com/v2/url?u=http-3A__www.wbklaw.com&d=DwMFaQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=d1sGuDjZ3yGnvE-CUSoLQus_E6ZQBDkD8h39YgjXTE&m=IXVwU8mk1O9isRe2UAB8d_DTpmQnVzss3SaVsZ8hOEq&s=iPF7PPdUfHn5d9N9yjKrD0kFHOPRhjzNipmGWjwaU4&e=>>

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From: Brendan Carr <Brendan.Carr@fcc.gov> <mailto:Brendan.Carr@fcc.gov> >
Sent: Tuesday, September 8, 2020 4:24 PM
To: Roisman, Natalie <NRoisman@wbklaw.com> <mailto:NRoisman@wbklaw.com> >
Subject: FCBA event on Section 230

Hi Natalie! Hope you all are hanging in there - juggling kids and work right now is not easy for any family

Wanted to toss an FCBA event idea by you. If the subject line didn't give it away, I wanted to see if you all were interested in an event on Section 230. I think much of the discussion to date has produced more heat than light, as the saying goes, and think it could benefit from an FCBA event.

I'm happy to do a Q&A with you or someone else as part of the discussion with no holds barred on the questions of course.

Early October might be good timing on my end.

- Brendan

From: [Kerry Loughney](#)
To: [Brendan Carr](#); [Drema Johnson](#)
Subject: FCBA Section 230 Event

Good morning Commissioner Carr,

Here is the information to log in as a panelist for today's FCBA Section 230 event. Thank you for doing this!

Date Time Sep 24, 2020 01:00 PM Eastern Time (US and Canada)

If you have questions, please contact kerry@fcba.org <mailto:kerry@fcba.org>.

Join from a PC, Mac, iPad, iPhone or Android device

Please click this URL to join: <https://us02web.zoom.us/j/89538577013?tk=ZabxvP8S3zYz1sLG8XWSLOAWHboAtXaeBFU0B7XfF88.DQIAAAAU2OpCdRZWWkVUNG5paFFIQ0pNWHp1WmpuaDl3AAAAAAAAAAAAAAAAAAAAAAAAAAAA&pwd=SXBYRkdTR081WDB1TDdGSGJFbVFXZz09>
<https://urldefense.proofpoint.com/v2/url?u=https-3A__us02web.zoom.us_w_89538577013-3Ftk-3DZabxvP8S3zYz1sLG8XWSLOAWHboAtXaeBFU0B7XfF88.DQIAAAAU2OpCdRZWWkVUNG5paFFIQ0pNWHp1WmpuaDl3AAAAAAAAAAAAAAAAAAAAAAAAAAAA-26pwd-3DSXBYRkdTR081WDB1TDdGSGJFbVFXZz09&d=DwMFAG&c=y0h0omCetjAUGr4gAQ02Fw&r=d1sGuDjZ3yGnvE-CUSoLQus_E6ZQBdKd8h39YgJXTE&m=Hf3rICT4kTVEPIg19Re02b40qaz_rfikzdb5GpsTwm&s=I5PWZZLL1SN_JuY3LnUZizmsVEPJd2VifU7PIRD4gWw&e=>>

Note: This link should not be shared with others; it is unique to you.

Password (b)

Or iPhone one-tap

US +13126266799,,89538577013# or +19292056099,,89538577013#

Or Telephone

Dial (for higher quality, dial a number based on your current location)

US +1 312 626 6799 or +1 929 205 6099 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 6833 or +1 253 215 8782

Webinar ID (b) (6)

Participant ID (b)

Password (b)

International numbers available: https://us02web.zoom.us/j/89538577013?tk=ZabxvP8S3zYz1sLG8XWSLOAWHboAtXaeBFU0B7XfF88.DQIAAAAU2OpCdRZWWkVUNG5paFFIQ0pNWHp1WmpuaDl3AAAAAAAAAAAAAAAAAAAAAAAAAAAA&pwd=SXBYRkdTR081WDB1TDdGSGJFbVFXZz09&d=DwMFAG&c=y0h0omCetjAUGr4gAQ02Fw&r=d1sGuDjZ3yGnvE-CUSoLQus_E6ZQBdKd8h39YgJXTE&m=Hf3rICT4kTVEPIg19Re02b40qaz_rfikzdb5GpsTwm&s=I5PWZZLL1SN_JuY3LnUZizmsVEPJd2VifU7PIRD4gWw&e=>

From: [Drema Johnson](#)
To: [Brendan Carr](#); [Will Adams](#); [Benjamin Arden](#); [Joseph Calascione](#)
Subject: FedSoc virtual National Lawyers Convention- Panel Rule of Law
Attachments: [image002.jpg](#)
[NLC 2020 Confirmation - Carr.pdf](#)

Hi Hon Brendan Carr,

You are invited to a Zoom webinar

Date Time: Nov 10, 2020 02:00 PM Eastern Time (US and Canada)

Topic: Corporations, Securities & Antitrust and Telecommunications & Electronic Media: Regulating Social Media

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join https://fedsoc.zoom.us/j/94999075747?tk=--KT2ENFJBRgHa50aMKHt6VnejdxZyluw_g6P1J8PmC0_AG_EA6s3mP1nE6jv9jXZi1brnmcJkvJKBwYBMuL-Toev7D2Zronq_PdJ-UcfNZmL0AbqLKyrIGXVPeTnohOvfwwMShCcbf6K_vS5fsVXRtflZucbPH6JK5A_yvid46XKzzCyOCHe&pwd=Y0dnaUx5NTJEaExwYXRkWWpZWG5Pdz09-<https://urldefense.proofpoint.com/v2/url?url=https-3A__fedsoc.zoom.us_w_94999075747-3Ftk-3D-2DKT2ENFJBRgHa50aMKHt6VnejdxZyIuw-5Fg6P1J8PmC0_AG_EA6s3mP1nE6jv9jXZi1brnmcJkvJKBwYBMuL-2DT0ev7D2Zronq-5FPdJ-2DUcfNZmL0AbqLKyrIGXVPeTnohOvfwwMShCcbf6K_vS5fsVXRtflZucbPH6JK5A_yvid46XKzzCyOCHe-26pud-3DY0dnaUx5NTJEaExwYXRkWWpZWG5Pdz09&d=DwMFAg&c=y0h0omCe0jAUGr4gAQ02Fw&r=it-kkUDJim4fMp5wRt2hSKYyd-bSYcRiYnUrCtkXDu4&m=pC5azC4UqMiAEhtQne9xxJkoF8--LqGNyexqM5fFFs&s=V7S9zs1wf0P3rsJem7qLoAdhadTYHsOXQ2-BR7u2brc&e=>

Note: This link should not be shared with others; it is unique to you

Password: (b)

Description: https://fedsoc.org/conferences/2020-national-lawyers-convention/#agenda-item-corporations-securities-antitrust-and-telecommunications-electronic-media-<https://urldefense.proofpoint.com/v2/url?url=https-3A__fedsoc.org_conferences_2020-2Dnational-2Dlawyers-2Dconvention-3F-23agenda-2Ditem-2Dcorporations-2Dsecurities-2Dantitrust-2Dand-2Dtelecommunications-2Delectronic-2Dmedia&d=DwMFAg&c=y0h0omCe0jAUGr4gAQ02Fw&r=it-kkUDJim4fMp5wRt2hSKYyd-bSYcRiYnUrCtkXDu4&m=pC5azC4UqMiAEhtQne9xxJkoF8--LqGNyexqM5fFFs&s=ZowX6u9ihpHkUOEQHQAaMTC8NN663WqMexlPY5EgkA&e=>

For instructions on how to pay for and obtain CLE credit, please visit http://fedsoc.org/nlc-cle-<https://urldefense.proofpoint.com/v2/url?url=http-3A__fedsoc.org_nlc-2Dcle&d=DwMFAg&c=y0h0omCe0jAUGr4gAQ02Fw&r=it-kkUDJim4fMp5wRt2hSKYyd-bSYcRiYnUrCtkXDu4&m=pC5azC4UqMiAEhtQne9xxJkoF8--LqGNyexqM5fFFs&s=ZE2RDPdM7wH054cnC-ExszZDhNGGPhshUNI7UZJLQA&e=>

Please join with video via a computer using the link above. If you cannot join on a computer or device with video and you need to call in, you can use the Dial-In option below:

Toll Free Phone Number: 877 853 5257

Webinar ID: (b) (6)

Participant ID: (b)

The Federalist Society is holding its annual National Lawyers Convention virtually this year the week of November 9. The theme is “Rule of Law.” As you know, I chair the Telecommunications & Electronic Media Practice Group and wondered if you would be interested in participating on a panel on Tuesday, November 10 from 2:00-3:30 pm. The title of the panel is “Friends or Foes: Social Media, Big Tech, and Federal Law” and will be co-hosted with the Federalist Society’s Corporations, Securities & Antitrust Practice Group. We envision having four speakers, including you, and the discussion will focus on the role of federal statutes, including the antitrust laws and Section 230, in the development and evolution of modern technology and online platforms—as well as what role those statutes should play to protect further innovation, growth, and competition in today’s fast-changing online era.

More information about the convention will be available soon at: https://fedsoc.org/national-lawyers-conventions-<https://urldefense.proofpoint.com/v2/url?url=https-3A__fedsoc.org_national-2Dlawyers-2Dconventions&d=DwMFAg&c=y0h0omCe0jAUGr4gAQ02Fw&r=it-kkUDJim4fMp5wRt2hSKYyd-bSYcRiYnUrCtkXDu4&m=sq3OakhKpMoab8RMruzgDRAAxCOCWZvjtyv8dKFDORw&s=XvhxJtryiVbNltbPZAUS5DzFBAEmwLVFMbF704P2288o&e=>

Please let us know if you have any questions. We hope that you are able to join us virtually!

Bryan

N

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20036

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202 383 3331 <tel:3331>

Main:

202 783 4141

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October 14, 2020

Dear Commissioner Carr,

I am writing to confirm your participation in the Federalist Society's annual National Lawyers Convention, scheduled to take place the week of November 9 - 13, 2020. The theme of the Convention this year will be "The Rule of Law and the Current Crisis" which will be developed around a series of virtual showcase panels, debates and addresses.

We are confirming you to take part in a panel jointly sponsored by our Telecommunications & Electronic Media Practice Group and our Corporations, Securities & Antitrust Practice Group, scheduled for Tuesday, November 10 from 2:00 – 3:30 pm ET. The live panel, entitled "Regulating Social Media," will be delivered with no in-person audience, but broadcast via Zoom and other formats to a national, virtual audience. We expect over a thousand people to 'attend'. Each panel is live-streamed, recorded, and transcribed. Transcripts from panels are sometimes published in various law reviews.

Once we have confirmed all of the participants for this panel, we will reach out to schedule a "Tech Test" Zoom meeting. In this meeting we will test audio, video and ensure everyone is able to successfully access the Zoom meeting room. We will also discuss the logistics of the panel, including the order that speakers will give their opening remarks, how much time will be allotted for each segment of the panel and answer any questions that speakers have. You will receive an email from Juli Nix who will schedule this call; please reply to her email with your availability for the "Tech Test."

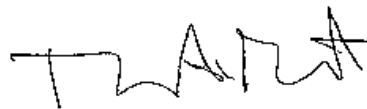
Please complete the Speaker Information form available [HERE](#). The information you provide will help us complete the Convention program. In addition, it will give us information about what you require for your participation, including PowerPoint uploading.

We also attempt to provide as much CLE credit as possible to attorneys who attend our conventions, and thus ask that you send a few sources of written materials that would aid us in providing CLE of the utmost quality. Please email these to our CLE coordinator, Greg Walsh, at greg.walsh@fedsoc.org by October 25th.

In the meantime, if you have any questions about the convention, please feel free to contact me at 202-822-8138 or via e-mail at Dean.reuter@fed-soc.org.

Again, thank you for agreeing to participate in our Convention.

Very truly yours,



Dean A. Reuter
General Counsel, Vice President, and
Practice Groups Director

From: [Tramont, Bryan](#)
To: [Brendan Carr](#)
Cc: [Thumann, Danielle](#); [Drema Johnson](#); [Rosemary C. Harold](#)
Subject: for monday class
Date: Thursday, November 19, 2020 12:25:55 PM
Attachments: [image011262.jpg](#)

Looking forward to seeing you Monday ☐ thanks again for doing this ☐ proposed
☐uestions below:

- Describe your career path to date - including your CUA experience. Did you plan on becoming an FCC commissioner?
- What role did CUA play in your career path? Your externships? This class?
- How important is the LTI network to you at this stage in your career? Does CUA Law's general reputation matter once you've gotten the first job?
- If you could go back to law school and change one thing about your time at CUA, what would it be?
- How do you balance being a commissioner with having a young family?
- We are all working on the Section 230 docket – how did that become your thing? Can you walk us through your views on it?
- What is a typical day like?
- What makes a commissioner good at his or her job?
- How does your experience at a law firm, in the FCC's Office of General Counsel, and in Chairman Pai's office affect how you perform your job now?
- Which policy issues have been at the top of your personal FCC agenda?
- What do you look for in staff?
- On contentious issues, how much do you rely on outside input to inform your position?
- What makes written comments effective?
- What makes an ex parte presentation effective?
- What events or tasks have you most enjoyed as a commissioner? Tell us a bit about your tower climbing experience!
- What are the most difficult/unpleasant parts of the job?
- When you're not working, what do you do for fun and relaxation?



Bryan N. Tramont

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please notify us by telephone at 202.783.4141 or by electronic mail administrator@wbklaw.com immediately.

From: eraufly@gmail.com
To: "Twitter"; [Ajit Pai](#); [Mike O'Rielly](#); [Brendan Carr](#); [Jessica Rosenworcel](#); [Geoffrey Starks](#)
Cc: [Hotline](#); kevin.eichinger@mail.house.gov
Subject: Honorable Congressman Jim Jordan
Date: Thursday, November 12, 2020 9:15:32 PM
Attachments: [~WRD0000.jpg](#)
[image004.jpg](#)
[image005.jpg](#)
[image006.jpg](#)
Importance: High

Congressman Jim Jordan
2056 Rayburn House Office Building
Washington, DC 20515
Phone: (202) 225-2676
Fax: (202) 226-0577

Honorable Jordan,

Below is an email received from Twitter, Inc., regarding a commonly known statement of fact that is being suppressed by their young and incompetent support team. They have locked me out of my account and have threatened me with permanent suspension and or being removed from Twitter if I refuse to delete those public commonly known statements.

The exact opposite from our liberal colleagues is much worse, but they continue to give them a pass; I have documented those similar tweets that were submitted to Twitter, who DENY and or stated it didn't violate any of the same rules they are attempting to use against me. Their attempt to SUPPRESS conservative accounts continue, despite Jack Dorsey's statement made under oath that no such suppression was being done.

I respectfully request that the House Judiciary committee revoked their Section 230 so that the public can have a legal action option against this suppression.

Any consideration on this request would be appreciated, and any notification to Twitter, Inc., to stop their hypocritical actions against Conservative accounts immediately. Additionally, they are giving Liberal accounts stating much worse than the below tweets a pass; please make an official entry into your House Judiciary record meeting with Jack Dorsey on this additional evidence of his lying under oath.

Respectfully yours,

/s/Glenn Carter, usn(ret)

eraufly@gmail.com

Phone: (407) 505-9935

Fax: (202) 595-0202



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From: Twitter <notify@twitter.com>

Sent: Thursday, November 12, 2020 7:54 PM

To: Glenn Carter <eraufly@gmail.com>

Subject: Your Twitter account has been locked



Hi Glenn Carter ,
Your account, @eraufly has been locked for violating the [Twitter Rules](#).

Specifically for:

[Violating our rules against posting misleading information about voting.](#)

You may not post content providing false information about voting or registering to vote.



Glenn Carter
@eraufly

@politicususa AZ; PA; WI; CA; NV; MI;GA False narrative and storyline by @politicususa meanwhile Democratic whistleblowers come forward with their affidavits of #VoterFraud, CFE-Certified Fraud Examiners with statistical evidence! #VoterFraudIsReal

[Violating our rules against posting misleading information about voting.](#)

You may not post content providing false information about voting or registering to vote.



Glenn Carter
@eraufly

@JoeBiden Stand Down CANDIDATE!! The MSM is fraudulently reporting a win for Candidate @JoeBiden this is FALSE!! The media doesn't determine the elections it's the CERTIFICATION of votes and

ELECTORAL COLLEGE! #FakeNewsMedia
#FakeFoxNews #HammerScoreCard
<https://t.co/4G40YOWBLh> eCard
<https://t.co/4G40YOWBLh> YOWBLh

Please note that repeated violations may lead to a permanent suspension of your account. Proceed to Twitter now to fix the issue with your account.

[Go to Twitter](#)

[Need some help?](#)

Twitter, Inc. 1355 Market Street, Suite 900 San Francisco, CA 94103



From: [Alethea Lewis](#)
To: [Alexander Sanjenis](#); [Alisa Valentin](#); [Allison Baker](#); [Anne Veigle](#); [Arielle Roth](#); [Aurelle Porter](#); [Austin Bonner](#); [Benjamin Arden](#); [Blaise Scinto](#); [Brendan Carr](#); [Brian Hart](#); [Catherine Schroeder](#); [Cecilia Sulhoff](#); [Charles Mathias](#); [Christopher Santini](#); [Dana Shaffer](#); [Diane G. Holland](#); [Donald Stockdale](#); [Erika Olsen](#); [Erin Fitzgerald](#); [Erin McGrath](#); [Ethan Lucarelli](#); [Evan Swarztrauber](#); [Geoffrey Starks](#); [Giulia McHenry](#); [Holly Saurer](#); [Jamison Prime](#); [Jesse Jachman](#); [Jessica Rosenworcel](#); [Joel G. Miller](#); [John Schauble](#); [Joseph Calascione](#); [Justin Faulb](#); [Kate Black](#); [Kathryn OBrien](#); [Katie Gorscak](#); [Kris Monteith](#); [Lauren Kravetz](#); [Lisa Fowlkes](#); [Lisa Gelb](#); [Mark Stephens](#); [Matthew Berry](#); [Matthew Pearl](#); [Michael Carowitz](#); [Michelle Carey](#); [Mike ORielly](#); [Montana L. Hyde](#); [Nadja SodosWallace](#); [Nancy Zaczek](#); [Nicholas Degani](#); [OLA Distribution List](#); [Patrick Webre](#); [Preston Wise](#); [Rachel Kazan](#); [Rosemary Harold](#); [Sean Spivey](#); [Susan Mort](#); [Thomas Johnson](#); [Thomas Sullivan](#); [Travis Litman](#); [Umair Javed](#); [Wesley Platt](#); [Will Adams](#); [Will Wiquist](#); [William Davenport](#); [Zac Champ](#); [Zenji Nakazawa](#)
Subject: Incoming Congressional Correspondence for Today
Date: Monday, November 30, 2020 3:45:39 PM
Attachments: [Maloney et al 945.pdf](#)
[Clarke et al 944.pdf](#)

Cong. Carolyn Maloney, et al. – Operational Excellence – Human Resources – (OMD)

- Requests information on conversions of political appointees to civil service positions during the Trump Administration.
- Poses several questions.
- Requests a response by December 9, 2020.

Cong. Yvette Clarke, et al. – Connect America – E-rate – (WCB)

- Asks the Commission to expand the E-rate program to cover digital classrooms in students' or teachers' homes.
- Asks the Commission to designate additional services under Section 254(c) or investigate the agency's forbearance authority as appropriate to ensure that no student is locked out of the virtual classroom.
- States that expanding the program would benefit the low-income households most in need of connectivity.

Alethea Lewis
Congressional Liaison Specialist
Federal Communications Commission
Office of Legislative Affairs
(202) 418-0103
Alethea.Lewis@fcc.gov

Congress of the United States
Washington, DC 20515

November 25th, 2020

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

Dear Chairman Pai,

We write you to urge the Federal Communications Commission (FCC) to support schools and students across the country as we continue to adjust to distanced learning by expanding the reach of the E-rate program to cover digital classrooms in students' or teachers' homes. We know that, to date, you have interpreted the use of "classroom" in the statute establishing the program narrowly, to cover only classrooms physically located in a school, and not the digital classroom many children are attending during this crisis. As the pandemic rages on and the damage to teachers and students without a reliable, high-speed internet connection worsens, we urge you to reconsider your approach and also explore using the FCC's authority to designate additional services under Section 254(c) or investigate the agency's forbearance authority as appropriate to ensure that no student is locked out of the virtual classroom.

In light of the ongoing coronavirus pandemic, school districts have been forced to scramble to accommodate a new teaching paradigm or risk allowing their students to fall behind. Existing FCC programs, such as the E-Rate program, can provide critical assistance to the jurisdictions most in need of additional aid to close the digital learning gap. Unfortunately, the FCC has adopted an unnecessarily limited interpretation of how it can marshal these funds during the pandemic. This school year, even as school districts push to reopen schools as much as possible, the home has become the classroom. Programs such as the E-Rate program must now adapt to this new reality if they hope to improve the ability for our students to succeed. With this in mind, we urge you to adjust your interpretation of the E-Rate program to allow for spending to provide broadband access to disconnected students.

As schools push to reopen nationwide, for most students the bedroom now doubles as the classroom. In order to lower the likelihood of transmission, many of the largest school districts in the country have chosen to transition to a distanced learning model this fall.¹ While this gives us our best chance to overcome this virus, it also creates distinct financial challenges for students and school districts. Nearly 30% of all households lack personal broadband Internet access,

¹ Grayer, Annie. "Several big US school districts are extending remote classes into the fall." *CNN*. July 15, 2020

rising to over 40% for low-income households throughout the country.² Making matters worse, as the pandemic has ground business to a halt, state and local governments will continue to collect fewer taxes creating a structural strain on school budgets. This has presented schools with the impossible choice of either allocating resources to support the necessary capital improvements and safety protocols to reopen schools or to provide students with the supplies they need to assimilate to distanced learning. Fully utilizing the E-Rate program will help alleviate this financial burden on school districts and provide students with the resources they need to succeed.

Expanding the E-Rate program would most directly benefit the low-income households most in need of connectivity. This pandemic has ravaged low-income households, first targeting them for transmission and then compounding the pain via economic devastation. From the beginning of the pandemic, it became clear that low-income households with essential workers were most at risk of negative health outcomes.³ Necessary social distancing regulations disproportionately impacted many low-income jobs, effectively shuddering the leisure and hospitality sectors causing job postings to drop by nearly 22%.⁴ Moreover, low-income students have historically been inordinately prone to absenteeism leading to negative educational outcomes.⁵ Taken together, it becomes clear that low-income households stand the most to lose both from the pandemic and from a failure to close the digital learning gap. Failure to provide low-income households with the resources they need will only compound the impact of socio-economic inequality. Low-income students without steady, affordable access to broadband will fall behind in school, potentially causing irreparable harm to their academic achievement. We must take every opportunity available to us to help level the playing field such that all students have an opportunity to succeed.

The transition to distanced learning will persist long enough to justify a more expansive E-Rate program. Ultimately, the crisis caused by this pandemic will only truly subside once a vaccine has been approved and widely distributed. In September, Dr. Fauci told Congress that he does not expect a vaccine to be proven safe and ready for public consumption until the end of 2020 or beginning of 2021.⁶ From there, numerous complications related to distribution from storage to transportation could extend the timeline for mass distribution of a successful vaccine to April 2021, or later.⁷ In other words, this pandemic and the associated necessary public health protocols will likely persist throughout most of the school year. In the meantime, school districts will likely continue to push to safely reopen schools – potentially suffering through fits and starts of reopening as virus clusters arise. Students without steady broadband access will oscillate

² New American Economy. “Back to School: A Look at the Internet Access Gap.” *New American Economy Research Fund*. August 6, 2020

³ Goldstein, Amy. “Income emerges as a major predictor of coronavirus infections, along with race.” *Washington Post*. June 22, 2020

⁴ Chetty et al. “Percent Change in Employment.” *Opportunity Insights Economic Tracker*. Accessed: Nov. 1, 2020

⁵ Garcia, Emma; Weiss, Elaine. “Student Absenteeism: Who misses school and how missing school matters for performance.” *Economic Policy Institute*. Sept. 25, 2018

⁶ Lovelace Jr., Berkeley. “Fauci tells Congress the US could have enough coronavirus vaccine doses for every American by April.” *CNBC*. Sept. 23, 2020

⁷ Roubein, Rachel; Goldberg, Dan. “Vaccine distribution isn’t as easy as Trump wants people to think.” *Politico*. Sept. 18, 2020

between being able to participate in the classroom while risking their own physical health and being completely locked out from their government mandated education.

Therefore, we urge the FCC to work to update the E-Rate program to address this crisis, including but not limited to the following:

- 1) Make the purchase of hardware and off-premise internet access E-Rate eligible;
- 2) Waive relevant competitive bidding and contractual requirements for the E-Rate program, as appropriate;
- 3) Ensure that internet accessed through the expanded program follows appropriate rules to protect children online, as required by the E-Rate statute;

Using E-Rate to meet this moment would not only fit neatly with the program's underlying statutory authority, but it would also address a key issue of equity amidst the pandemic. We look forward to your response on this critical program.

Sincerely,

Handwritten signature of Yvette D. Clarke in black ink, with the initials "M.C." written in small letters at the bottom right of the signature.

Yvette D. Clarke
Member of Congress

/s/ Nanette Diaz Barragán
Member of Congress

/s/ Adriano Espaillat
Member of Congress

/s/ Joseph D. Morelle
Member of Congress

/s/ Carolyn B. Maloney
Member of Congress

/s/ Jerrold Nadler
Member of Congress

/s/ Raul Ruiz, M.D.
Member of Congress

/s/ Max Rose
Member of Congress

Congress of the United States
Washington, DC 20515

November 25, 2020

Dear Department, Agency, or Office Head:

We are writing to request information on conversions of political appointees to civil service positions during the Trump Administration at your department, agency, or office, including all component entities. Protecting the nonpartisan expertise of the career civil service is essential to the safety and security of the American people. Federal law requires that personnel actions are carried out in such a way that the “selection and advancement” of employees in the civil service are “determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition,” rather than on the basis of “partisan political purposes.”¹

We are seeking a full accounting of political appointees who have already been hired into career positions or are being considered for such conversions.² The merit system principles of the federal workforce put in place guardrails to ensure that competitive service requirements are not bypassed to inappropriately place political appointees in permanent career service positions. In accordance with civil service protections, the Office of Personnel Management (OPM) requires all agencies to seek its “approval prior to appointing any current or former political appointee to a permanent position ... in the civil service.”³ Following such requests, OPM reviews proposed selections to determine whether conversions are appropriate.⁴

We are also seeking a full accounting of any positions converted, or being considered for conversion, under the new Schedule F recently created through Executive Order 13957.⁵ The creation of this schedule would be a dramatic change in the composition of the civil service and expose it to undue political influence and intimidation.⁶ It is critical that Congress receive timely

¹ Civil Service Reform Act of 1978, Pub. L. No. 95-454.

² For the purposes of this request, political appointees are those requiring Senate confirmation (PAS), those not requiring Senate confirmation (PA), those defined under 5 U.S.C. §§ 5312-5316, Schedule A appointees (5 C.F.R. §§ 213.3101-3199, 5 C.F.R. §213.3102 (c) and (z)), Schedule C appointees (5 C.F.R. §§ 213.2201-3302)), Schedule F appointees (85 Fed. Reg. 67631), SES appointees (5 U.S.C. §3122(a)(5-7); and 5 C.F.R. § 317 (F)), appointees serving in a political capacity under agency-specific authority, and Provisional Political Appointments to be a “political appointee.” See also Office of Personnel Management, *Frequently Asked Questions: Which Types of Political Appointments Are Subject to OPM’s Pre-Hiring Approval?* (online at www.opm.gov/FAQs/QA.aspx?fid=023f2059-dff7-4307-89b4-c553c218af1d&pid=08248d29-d26e-44b6-9988-57655358d509); Exec. Order No. 13957, 85 Fed. Reg. 67631 (Oct. 21, 2020).

³ Memorandum from Kathleen McGettigan, Acting Director, Office of Personnel Management, to Heads of Departments and Agencies, *Political Appointees and Career Civil Service Positions* (Feb. 23, 2018) (online at <https://chcoc.gov/content/political-appointees-and-career-civil-service-positions-3>).

⁴ *Id.* citing 5 C.F.R. § 315 (F) and 5 C.F.R. § 337 (B).

⁵ Exec. Order No. 13957 (Oct. 21, 2020).

⁶ Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight Reform, Chairman Gerald E. Connolly, Subcommittee on Government Operations, et al., to Michael J. Rigas, Acting Deputy Director for Management, Office of Management and Budget, and Michael J. Rigas, Acting Director, Office of Personnel

information about any potential and actual conversions made pursuant to this Executive Order.

Based on our legislative and oversight authorities, including those set forth in House Rule X, our Committees request that you produce the following documents and information:

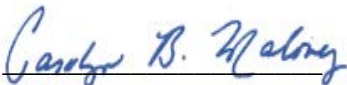
1. A list of all positions not excepted from the competitive service by statute for which your department, agency, or office has petitioned the Director of OPM under Section 5(a)(i) of Executive Order 13957 to place in Schedule F;
2. A list of all positions excepted from the competitive service by statute that your department, agency, or office has determined are of a confidential, policy-determining, policy-making, or policy-advocating character and are not normally subject to change as a result of a Presidential transition, and has identified for placement in Schedule F under Section 5(a)(ii) of Executive Order 13957;
3. A list of all individuals whose positions have been converted to Schedule F or who otherwise have been placed in a Schedule F position at any time, including for each individual:
 - a. the individual's name and dates of employment;
 - b. the title of the individual's most recent position that was not in Schedule F;
 - c. the title of the individual's Schedule F position;
 - d. if the individual was terminated after conversion or placement in Schedule F, the final date of employment;
 - e. a justification for the conversion or placement; and
 - f. if available, the race, gender, and ethnicity of the individuals on the list.
4. Copies of any petition your department, agency, or office has made to the Federal Labor Relations Authority under Section 5(e) of Executive Order 13957 to determine whether any Schedule F position must be excluded from a collective bargaining unit under section 7112(b) of title 5, United States Code;
5. Copies of any rules your department, agency, or office has established to prohibit the same personnel practices prohibited by section 2302(b) of title 5, United States Code, with respect to any employee or applicant for employment in Schedule F of the excepted service, as required by Section 6 of Executive Order 13597; and
6. A list of all individuals who held positions as political appointees since January 20, 2017, who are now employed in permanent competitive positions, non-

political excepted service positions, or career Senior Executive Service (SES) positions, including for each individual:

- a. the individual's name;
- b. the title of the position to which the individual was appointed (or positions, if more than one or if they changed over time);
- c. the start and end dates of such appointment(s);
- d. the title of the individual's current position;
- e. the start date of the individual's current position; and
- f. if available, the race, gender, and ethnicity of the individuals on the list.

We ask that you provide an initial response with the information requested to the Committee on Oversight and Reform and your department, agency, or office's committees of jurisdiction by December 9, 2020. Thereafter, we ask that you produce additional updated responses on a biweekly basis through January 20, 2021. An attachment to this letter sets forth a list of departments, agencies, and offices to which this letter is being sent. Thank you for your cooperation.

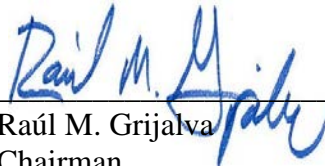
Sincerely,



Carolyn B. Maloney
Chairwoman
Committee on Oversight
and Reform



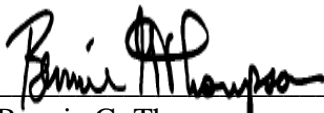
Maxine Waters
Chairwoman
Committee on Financial
Services



Raúl M. Grijalva
Chairman
Committee on Natural
Resources



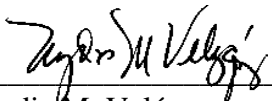
Nita M. Lowey
Chairwoman
Committee on Appropriations



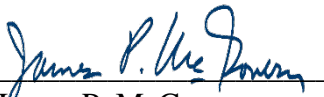
Bennie G. Thompson
Chairman
Committee on Homeland
Security



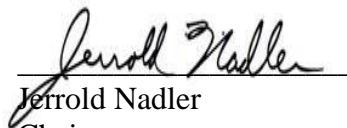
Mark Takano
Chairman
Committee on Veterans'
Affairs



Nydia M. Velázquez
Chairwoman
Committee on Small
Business



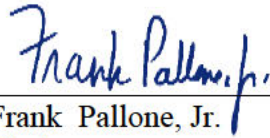
James P. McGovern
Chairman
Committee on Rules



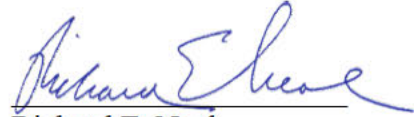
Jerrold Nadler
Chairman
Committee on the Judiciary



Collin C. Peterson
Chairman
Committee on Agriculture



Frank Pallone, Jr.
Chairman
Committee on Energy
and Commerce



Richard E. Neal
Chairman
Committee on Ways
and Means




Zoe Lofgren
Chairperson
Committee on House
Administration



Peter A. DeFazio
Chairman
Committee on Transportation
And Infrastructure



Adam B. Schiff
Chairman
House Permanent Select
Committee on Intelligence



Eliot L. Engel
Chairman
Committee on Foreign
Affairs



Robert C. "Bobby" Scott
Chairman
Committee on Education
and Labor

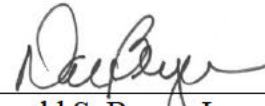


John Yarmuth
Chairman
Committee on Budget



Eddie Bernice Johnson
Chairman
Committee on Science, Space
and Technology

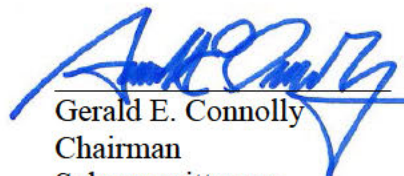
Adam Smith
Chairman
Committee on Armed
Services



Donald S. Beyer, Jr.
Vice Chairman
Joint Economic Committee



Kathy Castor
Chairwoman
Select Committee on the
Climate Crisis



Gerald E. Connolly
Chairman
Subcommittee on
Government Operations
Committee on Oversight
and Reform



Al Green
Chairman
Subcommittee on Oversight
and Investigations
Committee on Financial
Services

cc: The Honorable James R. Comer, Ranking Member
Committee on Oversight and Reform

The Honorable Patrick McHenry, Ranking Member
Committee on Financial Services

The Honorable Rob Bishop, Ranking Member
Committee on Natural Resources

The Honorable Kay Granger, Ranking Member
Committee on Appropriations

The Honorable Mike Rogers, Ranking Member
Committee on Homeland Security

The Honorable Dr. Phil Roe, Ranking Member
Committee on Veterans' Affairs

The Honorable Steve Chabot, Ranking Member
Committee on Small Business

The Honorable Tom Cole, Ranking Member
Committee on Rules

The Honorable Jim Jordan, Ranking Member
Committee on the Judiciary

The Honorable Neal Dunn, Ranking Member
Committee on Agriculture

The Honorable Greg Walden, Ranking Member
Committee on Energy and Commerce

The Honorable Kevin Brady, Ranking Member
Committee on Ways and Means

The Honorable Rodney Davis, Ranking Member
Committee on House Administration

The Honorable Sam Graves, Ranking Member
Committee on Transportation and Infrastructure

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michael T. McCaul, Ranking Member
Committee on Foreign Affairs

The Honorable Virginia Foxx, Ranking Member
Committee on Education and Labor

The Honorable Steve Womack, Ranking Member
Committee on the Budget

The Honorable Frank Lucas, Ranking Member
Committee on Science, Space and Technology

The Honorable Mac Thornberry, Ranking Member
Committee on Armed Services

The Honorable Mike Lee, Chairman
Joint Economic Committee

The Honorable Garrett Graves, Ranking Member
Select Subcommittee on the Climate Crisis

The Honorable Jody B. Hice, Ranking Member
Subcommittee on Government Operations
Committee on Oversight and Reform

The Honorable Andy Barr, Ranking Member
Subcommittee on Oversight and Investigation
Committee on Financial Services

Department, Agency, and Office Heads

1.	Administrative Conference of the United States (ACUS)	Mr. Matthew Lee Weiner Vice Chairman and Executive Director
2.	Agency for Global Media (USAGM)	The Honorable Michael Pack Chief Executive Officer
3.	Agency for International Development (USAID)	Mr. John Barsa Acting Deputy Administrator
4.	Central Intelligence Agency (CIA)	The Honorable Gina C. Haspel Director
5.	Commodity Futures Trading Commission (CFTC)	Mr. Anthony “Tony” C. Thompson Executive Director
6.	Consumer Financial Protection Bureau (CFPB)	The Honorable Kathleen Kraninger Director
7.	Consumer Product Safety Commission (CPSC)	The Honorable Robert S. Adler Commissioner and Acting Chairman
8.	Defense Intelligence Agency (DIA)	Lieutenant General Scott D. Berrier Director
9.	Department of Agriculture (USDA)	The Honorable Sonny Perdue Secretary
10.	Department of Commerce (Commerce)	The Honorable Wilbur L. Ross, Jr. Secretary
11.	Department of Defense (DOD)	The Honorable David L. Norquist Deputy Secretary
12.	Department of Education (DoEd)	The Honorable Betsy DeVos Secretary
13.	Department of Energy (DOE)	The Honorable Dan Brouillette Secretary
14.	Department of Health and Human Services (HHS)	The Honorable Alex M. Azar II Secretary
15.	Department of Homeland Security (DHS)	Mr. Chad F. Wolf
16.	Department of Housing and Urban Development (HUD)	The Honorable Benjamin S. Carson Secretary
17.	Department of Justice (DOJ)	The Honorable William P. Barr Attorney General

18.	Department of Labor (DOL)	The Honorable Eugene Scalia Secretary
19.	Department of State (State)	The Honorable Michael R. Pompeo Secretary of State
20.	Department of the Interior (Interior)	The Honorable David Bernhardt Secretary
21.	Department of the Treasury (Treasury)	The Honorable Steven T. Mnuchin Secretary
22.	Department of Transportation (DOT)	The Honorable Elaine L. Chao Secretary
23.	Department of Veterans Affairs (VA)	The Honorable Robert L. Wilkie Secretary
24.	Election Assistance Commission (EAC)	The Honorable Mona Harrington Executive Director
25.	Environmental Protection Agency (EPA)	The Honorable Andrew R. Wheeler Administrator
26.	Equal Employment Opportunity Commission (EEOC)	The Honorable Janet Dhillon Chair
27.	Executive Office of the President (EOP)	Mr. Pat A. Cipollone Counsel to the President
28.	Export-Import Bank of the United States (EXIM)	Ms. Kimberly A. Reed President and Chairman
29.	Farm Credit Administration (FCA)	Mr. Glen R. Smith Chairman and Chief Executive Officer
30.	Federal Communications Commission (FCC)	The Honorable Ajit Pai Chairman
31.	Federal Election Commission (FEC)	Mr. James E. "Trey" Trainor III Chair
32.	Federal Energy Regulatory Commission (FERC)	The Honorable James Danly Chairman
33.	Federal Housing Finance Agency (FHFA)	The Honorable Mark Anthony Calabria Director
34.	Federal Labor Relations Authority (FLRA)	The Honorable Colleen Duffy Kiko Chairman
35.	Federal Maritime Commission (FMC)	Mr. Michael A. Khouri Chairman

36.	Federal Reserve System	The Honorable Jerome H. Powell Chair, Board of Governors
37.	Federal Trade Commission (FTC)	The Honorable Joseph J. Simons Chairman
38.	General Services Administration (GSA)	The Honorable Emily W. Murphy Administrator
39.	Interagency Council on Homelessness (USICH)	Mr. Robert Marbut Executive Director
40.	International Development Finance Corporation (DFC)	Mr. Andrew Herscowitz Chief Development Officer
41.	International Trade Commission (ITC)	Mr. Jason E. Kearns Chair
42.	Merit Systems Protection Board (MSPB)	Tristan Leavitt General Counsel
43.	Millennium Challenge Corporation (MCC)	Mr. Sean Cairncross Chief Executive Officer
44.	National Aeronautics and Space Administration (NASA)	The Honorable James F. Bridenstine Administrator
45.	National Archives and Records Administration (NARA)	The Honorable David S. Ferriero Archivist of the United States
46.	National Credit Union Administration (NCUA)	The Honorable Rodney E. Hood Chairman
47.	National Geospatial-Intelligence Agency (NGA)	Vice Admiral Robert D. Sharp Director
48.	National Labor Relations Board (NLRB)	The Honorable John F. Ring Chairman
49.	National Reconnaissance Office (NRO)	The Honorable Christopher Scolese, Ph.D. Director
50.	National Science Foundation (NSF)	The Honorable Dr. Sethuraman Panchanathan Director
51.	National Security Agency (NSA)	The Honorable General Paul M. Nakasone Director
52.	Nuclear Regulatory Commission (NRC)	The Honorable Kristine L. Svinicki Chairman
53.	Office of the Director of National Intelligence (ODNI)	The Honorable John Ratcliffe Director of National Intelligence

54.	Office of Management and Budget (OMB)	The Honorable Russell T. Vought Director
55.	Office of Personnel Management (OPM)	The Honorable Michael J. Rigas Acting Director
56.	Office of Special Counsel (OSC)	The Honorable Henry J. Kerner Special Counsel
57.	Peace Corps	The Honorable Josephine K. Olsen Director
58.	Pension Benefit Guaranty Corporation (PBGC)	The Honorable Gordon Hartogensis Director
59.	Securities and Exchange Commission (SEC)	The Honorable Jay Clayton Chairman
60.	Small Business Administration (SBA)	The Honorable Jovita Carranza Administrator
61.	Social Security Administration (SSA)	The Honorable Andrew Saul Commissioner

From: [Drema Johnson](#)
To: [Brendan Carr](#); [Benjamin Arden](#)
Subject: interview with John Hines, OAN re censorship (via skype if you need number 202-368-4696)

(b) (6)

From: John Hines <John.Hines@oann.com <mailto:John.Hines@oann.com>>
Sent: Friday, October 16, 2020 9:10 AM
To: Drema Johnson <Drema.Johnson@fcc.gov <mailto:Drema.Johnson@fcc.gov>>
Cc: Benjamin Arden <Benjamin.Arden@fcc.gov <mailto:Benjamin.Arden@fcc.gov>>; Guy Yang <Guy.Yang@oann.com <mailto:Guy.Yang@oann.com>>
Subject: Re: Reaction to TRUMP EO
Importance: High

11:30 is perfect. Thank you.

Should you need to reach me my number is 202-368-4696.

BUT we will need the Commissioner's SKYPE address please.

Thank you.

On Oct 16, 2020, at 9:05 AM, Drema Johnson <Drema.Johnson@fcc.gov <mailto:Drema.Johnson@fcc.gov>> wrote:

Should we use 202-368-4696 <tel:202-368-4696>

Let me know

Thanks Drema

From: John Hines <John.Hines@oann.com <mailto:John.Hines@oann.com>>
Sent: Friday, October 16, 2020 7:53 AM
To: Benjamin Arden <Benjamin.Arden@fcc.gov <mailto:Benjamin.Arden@fcc.gov>>
Cc: Drema Johnson <Drema.Johnson@fcc.gov <mailto:Drema.Johnson@fcc.gov>>
Subject: Re: Reaction to TRUMP EO

11:10 to about 1 would be ideal. OR 9 to 10

Or 2 to 4

Great to hear from you, Drema and Ben! Thank you .

.....

John Hines

DC Bureau Chief One America News

101 Constitution Ave , NW, DC <x-apple-data-detectors://1/0>

John.Hines@oann.com <mailto:John.Hines@oann.com> 202-368-4696 <tel:202-368-4696>

YouTube - One America News_John Hines <https://urldefense.proofpoint.com/v2/url?u=https-3A__www.youtube.com_playlist-3Flist-3DPLtMdjeOHhE3Y6HnH9KeA7C34NoRTL32PD&d=DwMGaQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=it-kkUDJim4fMp5wRt2hSKYyd-bSYcRiYnUrCtkXDdu4&m=CyGjHp4w0GDltzI76S4YXrL.Aih-UdRQL7fDoDbDI3HA&s=jTm7-RX9fA_P16x3e7GSaqvxPiEg9Uf8ON6ksEM-lq4&e=>>

On Oct 15, 2020, at 8:11 PM, Benjamin Arden <Benjamin.Arden@fcc.gov <mailto:Benjamin.Arden@fcc.gov>> wrote:

Hi, John.

Commissioner Carr is available tomorrow for a remote interview. If that works, what times do you have in mind?

Thanks.

Ben

From: John Hines <John.Hines@oann.com <mailto:John.Hines@oann.com>>
Sent: Thursday, October 15, 2020 5:30pm PM
To: Drema Johnson <Drema.Johnson@fcc.gov <mailto:Drema.Johnson@fcc.gov>>
Subject: Re: Reaction to TRUMP EO

Dream,

Love to get Mr. Carr's thoughts about latest incident of twitter/Facebook censorship involving a specific news article in the New York Post. Perhaps Friday ?

Thank you !

.....

John Hines

DC Bureau Chief One America News

101 Constitution Ave , NW, DC

John.Hines@oann.com <mailto:John.Hines@oann.com> 202-368-4696 <tel:202-368-4696>

YouTube - One America News_John Hines <https://urldefense.proofpoint.com/v2/url?u=https-3A__www.youtube.com_playlist-3Flist-3DPLtMdjeOHhE3Y6HnH9KeA7C34NoRTL32PD&d=DwMGaQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=it-kkUDJim4fMp5wRt2hSKYyd-bSYcRiYnUrCtkXDu4&m=hMJxit--hc81nC6gVj6mYmYfY3KfofMsCsB3Vs6CVi0&s=aD8TPEnWvS9W9K-p3IY2biK7JFMXszmXA6dED5oALWE&e=>>

From: ybentley@ccianet.org
To: [Drema Johnson](#); [Brendan Carr](#)
Subject: Invitation: CCIA meeting with Commissioner Carr Sec. 230 @ Thu Oct 22, 2020 11am - 11:30am (EDT) (brendan.carr@fcc.gov)
Attachments: [invite.ics](#)

You have been invited to the following event

CCIA meeting with Commissioner Carr Sec 230

When
Thu Oct 22, 2020 11am – 11:30am Eastern Time - New York

Calendar
brendan.carr@fcc.gov

Who
•
ybentley@ccianet.org
- organizer
•
drema.johnson@fcc.gov
•
brendan.carr@fcc.gov

more details » <[Dial-in information:](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.google.com_calendar_event-3Faction-3DVIEW-26eid-3DM3ZidWJqdHVnOHR2MTVmcWExZTE3dDl0NWggYnJlbnRhibi5jYXJyQGZjYy5nb3Y-26tok-3DMjAjdmJlbnRsZSXIAY2NpYW5ldC5vcmcyZmE5Mzk4OTNmMzk3ZmQ3YmUzMmM2ZjdiZjMwZGJmTdlOTZjOTZm-26ctz-3DAmerica-252FNew-5FYork-26hl-3Den-26es-3D0&d=DwMFAQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=d1sGuDjZ3yGnvE-CUSoLQus_E6ZQBdKd8hJ39YgjXTE&m=ZzTDDnMu76RWtEqQFQ0lWo_qXrEFYyGvVZK5DT7Cfu0&s=CTIHK2yTLOcNsTWP_9JvjN4rGMYz3n08GC7ep276OIA&e=></p></div><div data-bbox=)

(US) +1 315-968-2407 (PIN: **(b) (6)**)

Attendees:

Matt Schruers, President, CCIA
Arthur Sidney, VP Public Policy, CCIA
Ali Sternburg, Senior Counsel, CCIA
Vann Bentley, Counsel, CCIA

Going (brendan.carr@fcc.gov)?

Yes < [-](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.google.com_calendar_event-3Faction-3DRESPOND-26eid-3DM3ZidWJqdHVnOHR2MTVmcWExZTE3dDl0NWggYnJlbnRhibi5jYXJyQGZjYy5nb3Y-26rst-3D1-26tok-3DMjAjdmJlbnRsZSXIAY2NpYW5ldC5vcmcyZmE5Mzk4OTNmMzk3ZmQ3YmUzMmM2ZjdiZjMwZGJmTdlOTZjOTZm-26ctz-3DAmerica-252FNew-5FYork-26hl-3Den-26es-3D0&d=DwMFAQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=d1sGuDjZ3yGnvE-CUSoLQus_E6ZQBdKd8hJ39YgjXTE&m=ZzTDDnMu76RWtEqQFQ0lWo_qXrEFYyGvVZK5DT7Cfu0&s=T_k58s-6bkx3a0SStZuaKDsXvn1zpfBvs83Yi9Zbss0&e=> - Maybe <<a href=)

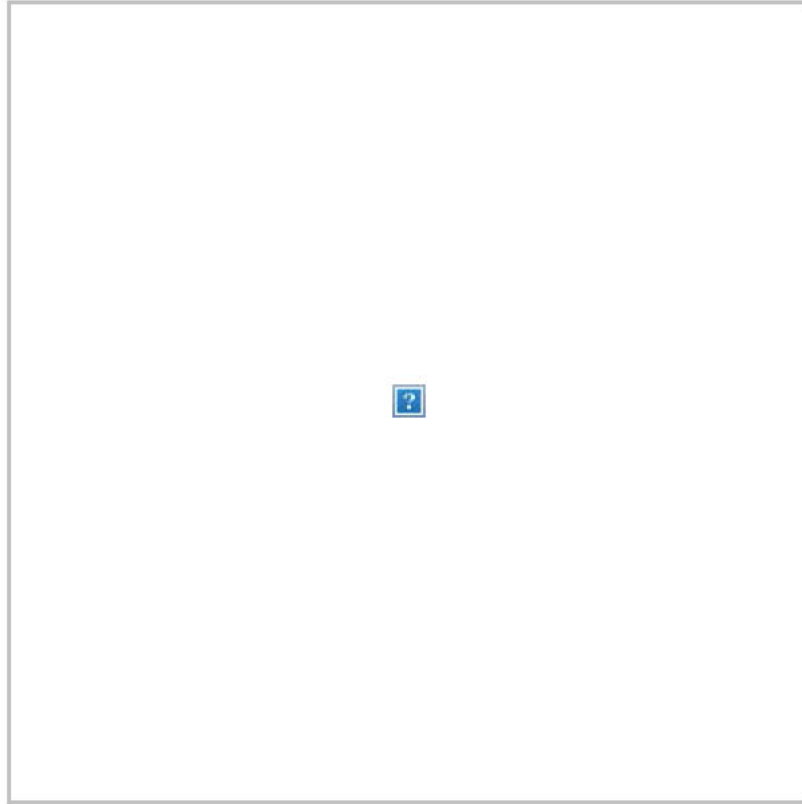
No <

Invitation from Google Calendar <[You are receiving this courtesy email at the account \[brendan.carr@fcc.gov\]\(mailto:brendan.carr@fcc.gov\) because you are an attendee of this event](https://urldefense.proofpoint.com/v2/url?u=https-3A__www.google.com_calendar_&d=DwMFAQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=d1sGuDjZ3yGnvE-CUSoLQus_E6ZQBdKd8hJ39YgjXTE&m=ZzTDDnMu76RWtEqQFQ0lWo_qXrEFYyGvVZK5DT7Cfu0&s=VtkJxBr__7dncPmFA20PhqjJlIfcPkm602fWDbuOs&e=></p></div><div data-bbox=)

To stop receiving future updates for this event, decline this event. Alternatively you can sign up for a Google account at <https://www.google.com/calendar/> and control your notification settings for your entire calendar

Forwarding this invitation could allow any recipient to send a response to the organizer and be added to the guest list, or invite others of their own invitation status, or to modify your RSVP. Learn More <

From: [Dan Schneider](#)
To: [Brendan Carr](#)
Subject: It's not over "till it's over
Date: Friday, November 20, 2020 1:03:46 PM



Dear Brendan,

More than two weeks have passed since Election Day, and despite what the national media outlets would have us believe, we still don't know for sure who won.

But here's what we **do** know.

At the American Conservative Union, our mission remains unchanged, and we are forging ahead. Whether President Trump remains in office for another four years or not, as conservatives committed to advancing the cause of individual liberty, we've got work to do.

Here's what we're doing this week to achieve that mission:

What's New with ACU



READ NOW

"The harder we try to push the problem to the edges of society...the worse it gets." Read the latest from David Safavian, Director of ACU's Center for Criminal Justice Reform.

[Read full story>>](#)



NEXT WEEK

The fourth annual CPAC Japan is on December 5th. Featured speakers include Matt Schlapp, KT McFarland, Ted Cruz and more!

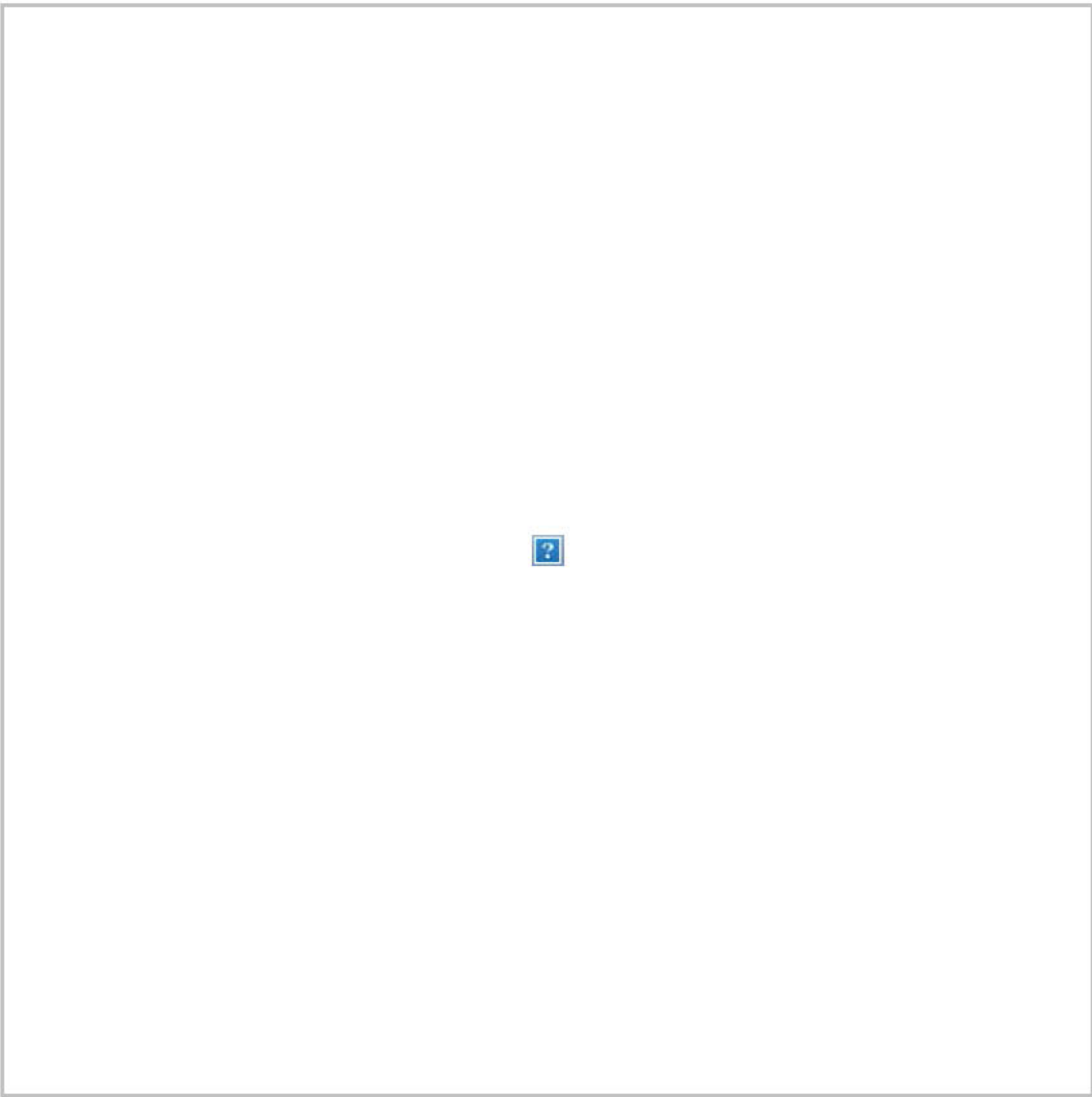
[Watch Live here >>](#)



MUST WATCH

Chairman Matt Schlapp has been on the ground with Team Trump in Nevada, uncovering massive corruption at play in the 2020 Election.

[Hear the latest >>](#)



Our documentary, filmed in 6 different countries around the world and throughout the U.S., is now available for streaming on [Amazon Prime](#) or through our [YouTube](#) channel. This film follows the ACU team and highlights our international work promoting freedom throughout the world. Click the image to watch now!



ACU is countering Leftists' attacks on our election integrity by investing a great deal of resources to expose their schemes and to insist upon a remedy for the voters they've disenfranchised.

We appreciate your constant support of our efforts. Keep heart and fight on!

In Freedom,
Dan Schneider
Executive Director

P.S. CPAC 2021 Registration will be opening soon - we look forward to sharing more details soon.

[Donate to ACU](#)



Our mailing address is:
American Conservative Union
1199 N Fairfax Street
Alexandria, VA 22301

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From: [Drema Johnson](#)
To: [Benjamin Arden](#); [Brendan Carr](#)
Subject: Joe Pags show re 230

live (b) (6) [REDACTED]

From: [Matt Murray](#)
To: [Brendan Carr](#)
Subject: Join me at WSJ's Newsmakers Event, Dec 7
Date: Wednesday, November 25, 2020 11:05:50 AM
Attachments: [Newsmakers Invitation.pdf](#)

Dear Commissioner Carr,

I hope you'll join me and The Wall Street Journal CEO Council for Newsmakers, an online event December 7, 2020. We'll be exploring the impact on business of this pivotal moment in American political history.

Join us to hear from the incoming Biden administration and the heirs to Donald Trump's presidency. What shape will the Democratic business agenda take? And is the Republican Party in transition or already transformed?

I have attached a formal invitation. Please note it is non-transferable. To RSVP or receive additional information, please email ceocouncil@wsj.com.

I look forward to welcoming you to this event.

Sincerely,

Matt Murray

Editor in Chief

The Wall Street Journal

THE WALL STREET JOURNAL.

CEO Council

The Wall Street Journal
Editor in Chief Matt Murray
invites you to

Newsmakers

A premier evening program with
The Wall Street Journal CEO Council

December 7, 2020

7:00–8:30 p.m.

RSVP

CEOCOUNCIL@WSJ.COM

THIS INVITATION IS NONTRANSFERABLE.

From: [D'wana Terry](#)
To: [D'wana Terry](#)
Subject: Office of Workplace Diversity Observes Native American Heritage Month & Announces Virtual Event on Monday, November 16th at 2 pm
Date: Thursday, November 12, 2020 3:34:39 PM
Attachments: [image001.png](#)
[image002.png](#)

***Office of Workplace Diversity
Observes
Native American Heritage Month***



On October 30, 2020, President Donald Trump issued a proclamation designating November 2020 as National Native American Heritage Month and November 27th as Native American Heritage Day. In doing so, President Trump stated, “[d]uring National Native American Heritage Month, we honor the storied legacy of American Indians and Alaska Natives in our Nation. Their cherished legacy, rich cultures, and heroic history of military service inspire us all.” According to the United States of America Department of Interior’s Office of Assistant Secretary – Indian Affairs, there are 574 federally recognized American Indian tribes and Alaska Native villages in the United States.

The theme for this year’s National Native American Heritage Month, “Resilient & Enduring: We are Native People,” is reflective of the efforts and desire for a national honoring of Native Americans. The earliest recorded efforts were spearheaded by individuals. Dr. Arthur Caswell Parker was a Cattaraugus Seneca and a founder of the Society of American Indians and the National Congress of American Indians. Dr. Parker, known for his advocacy of United States citizenship for American Indians, was instrumental in the Boy Scouts of America designating a day for the “First Americans” from 1912 to 1915. In 1915, the Congress of American Indian Association directed its President, Reverend Sherman Coolidge, an Arapaho minister, to seek a national day of observance for American Indians. On September 18, 1915, he issued a proclamation declaring the second Saturday of each May as “American Indian Day.” While, as early as 1916, there have been state observances of “American Indian Day,” a national observance came later. In 1976, Congress passed a resolution authorizing President Gerald Ford to proclaim a week in October as “Native American Awareness Week,” which President Ford issued on October 8, 1976. In 1988, September 23-30, 1988 was designated as “National American Indian Heritage Week.” In 1990, the observance was expanded to a month with November being designated as “National American Indian Heritage Month.” In 1991, Congress passed Senate Joint Resolution 172 (Pub. L. 102-103) authorizing and requesting the President to proclaim the month of November 1991, and the month of each November thereafter, as American Indian Heritage Month. Since 2008, the day after Thanksgiving has been designated as “Native American Heritage Day.”

With this e-mail, the Office of Workplace Diversity continues its observance of Native American Heritage Month and invites you to our upcoming virtual event on **Monday, November 16 at 2:00 p.m. via MS Teams. During this event, you will meet Derik Goatson of**

the Consumer and Governmental Affairs Bureau's Office of Native Affairs and Policy. Derik is a member of the Navajo Nation and will share information about his Native American heritage.

We hope you will mark your calendars for this informative session. To RSVP for the event and receive additional information, send an e-mail to: owdinfo@fcc.gov by Friday, November 13, 2020. Requests for accommodation also can be sent to owdinfo@fcc.gov.

The Office of Workplace Diversity's observance of Native American Heritage Month responds to President Trump's call to celebrate the "critical role [of Native Americans] in the health and vitality of our great Nation...[by] honor[ing] their vibrant cultures. As business owners, artists, teachers, writers, courageous members of our Armed Forces, and so much more."



(Image of banner, "Native American Heritage Month" & "November")

D'wana R. Terry

Acting Director

Office of Workplace Diversity

Federal Communications Commission

*** Non-Public: For Internal Use Only ***

From: [Benjamin Arden](#)
To: [Drema Johnson](#); [Brendan Carr](#)
Subject: RE: Radio Interview - Washington, D.C. / WMAL - Wednesday AM - FCC Commissioner Brendan Carr
Date: Tuesday, November 17, 2020 3:27:25 PM

He's good for 8:05.

Ben

Acting Legal Advisor, Media

Office of Commissioner Brendan Carr

202-418-0288

From: Drema Johnson <Drema.Johnson@fcc.gov>
Sent: Tuesday, November 17, 2020 3:06 PM
To: Brendan Carr <Brendan.Carr@fcc.gov>; Benjamin Arden <Benjamin.Arden@fcc.gov>
Subject: FW: Radio Interview - Washington, D.C. / WMAL - Wednesday AM - FCC Commissioner Brendan Carr

Importance: High

Let me know

From: Heather Hunter <dcheathersmith@gmail.com>

Sent: Tuesday, November 17, 2020 3:05 PM

To: Drema Johnson <Drema.Johnson@fcc.gov>

Subject: Radio Interview - Washington, D.C. / WMAL - Wednesday AM - FCC Commissioner Brendan Carr

Hi Drema,

WMAL's morning-drive radio show in Washington, D.C. would love to have **FCC Commissioner Brendan Carr** join us on **Wednesday at 7:35 or 8:05 AM ET for 10 mins via phone.**

TOPIC: Reaction to the Big Tech hearing today: On Sec. 230, Twitter's Jack Dorsey says it has enabled "so much goodness and innovation" and says Twitter wouldn't have been possible without it... says he thinks it's possible to "build" on 230.

<https://twitter.com/BrendanCarrFCC/status/1328735544533282818>

SHOW: Washington, D.C.'s morning-drive news-talk radio show "Mornings on the Mall" is on WMAL and **hosted by VINCE COGLIANESE and MARY WALTER.** The show airs in the Washington, D.C. area (DC, VA, MD and West VA) from 5-9 AM EDT on 105.9 FM and online at WMAL.com. Twitter @WMALDC.

Please let me know if he can join us and the best number to reach him for the interview.

Thank you!

Heather Hunter

Executive Producer, Mornings on the Mall

WMAL Radio 105.9 FM

4400 Jenifer Street NW, 4th Floor

Washington, D.C. 20015

202-906-9955 mobile

Studio hotline: 202-840-7906

www.wmal.com

Twitter: [@heatherhunterdc](https://twitter.com/heatherhunterdc) [@WMALDC](https://twitter.com/WMALDC)

[WMAL is the #1 radio station in the Washington, D.C. area.](#)

Want to join the rest of Washington, D.C. in listening to WMAL?

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- Listen to our [WMAL app](#) on your smartphone or iPad.
- Listen online at [WMAL.com](#).
- Tell your Amazon Alexa: "Hey Alexa, play W-M-A-L"
<https://www.wmal.com/listenlive/>

From: [Benjamin Arden](#)
To: [Brendan Carr](#)
Subject: RE: Segment with Commissioner Carr - Censorship of Conservative Media
Date: Monday, November 30, 2020 1:58:42 PM

Very good. I'll confirm.

From: Brendan Carr <Brendan.Carr@fcc.gov>
Sent: Monday, November 30, 2020 1:58 PM
To: Benjamin Arden <Benjamin.Arden@fcc.gov>
Subject: Re: Segment with Commissioner Carr - Censorship of Conservative Media
Thursday 5:00 is good.

From: Benjamin Arden <Benjamin.Arden@fcc.gov>
Sent: Monday, November 30, 2020 1:26 PM
To: Brendan Carr <Brendan.Carr@fcc.gov>
Subject: RE: Segment with Commissioner Carr - Censorship of Conservative Media
Flagging again to make sure you didn't miss it.
Thursday at 5 for Pags?

From: Benjamin Arden
Sent: Monday, November 30, 2020 12:06 PM
To: Brendan Carr <Brendan.Carr@fcc.gov>
Subject: RE: Segment with Commissioner Carr - Censorship of Conservative Media
Asking for Thursday at 5. Yes?

From: Brendan Carr <Brendan.Carr@fcc.gov>
Sent: Monday, November 30, 2020 12:00 PM
To: Benjamin Arden <Benjamin.Arden@fcc.gov>
Subject: Re: Segment with Commissioner Carr - Censorship of Conservative Media
(b) (5)

From: Benjamin Arden <Benjamin.Arden@fcc.gov>
Sent: Monday, November 30, 2020 11:59 AM
To: Brendan Carr <Brendan.Carr@fcc.gov>
Subject: FW: Segment with Commissioner Carr - Censorship of Conservative Media
(b) (5)

From: Sam Pags <Sam@joepags.com>
Sent: Monday, November 30, 2020 11:54 AM
To: Drema Johnson <Drema.Johnson@fcc.gov>; Benjamin Arden <Benjamin.Arden@fcc.gov>
Subject: RE: Segment with Commissioner Carr - Censorship of Conservative Media
Hey Drema – would love to have Commish Carr on the program today to discuss Section 230. Let me know if 4p ET works via video.

Thank you!

Sam

Sam Pags

Producer | The Joe Pags Show

From: Drema Johnson <Drema.Johnson@fcc.gov>
Sent: Friday, April 3, 2020 10:10 AM
To: Sam Pags <Sam@joepags.com>; Benjamin Arden <Benjamin.Arden@fcc.gov>
Subject: Re: Segment with Commissioner Carr - Censorship of Conservative Media
Thanks Sam. We are all set.
Drema

From: Sam Pags <Sam@joepags.com>
Sent: Friday, April 3, 2020 11:01 AM
To: Benjamin Arden <Benjamin.Arden@fcc.gov>; Drema Johnson <Drema.Johnson@fcc.gov>
Subject: Re: Segment with Commissioner Carr - Censorship of Conservative Media
Hey Ben - thanks for circling back. We are confirmed for 5:30p ET.
Number to call: 210.742.5742
Thank you!
Sam
Sam Pags
Producer | The Joe Pags Show
Please excuse any typos. Fat fingers on little phone.

From: Benjamin Arden <Benjamin.Arden@fcc.gov>
Sent: Friday, April 3, 2020 8:42:45 AM
To: Sam Pags <Sam@joepags.com>; Drema Johnson <Drema.Johnson@fcc.gov>
Subject: Re: Segment with Commissioner Carr - Censorship of Conservative Media
Good morning, Sam.
It looks like the Commissioner was doing some outreach to the show, as well, and is now scheduled to appear today at 5:30PM.
Can you please confirm the time and provide the call-in information, and we will get it on his calendar?
Thanks!
Ben

Acting Legal Advisor, Media

Office of FCC Commissioner Brendan Carr

From: Benjamin Arden
Sent: Thursday, April 2, 2020 3:21 PM
To: Sam Pags <sam@joepags.com>
Subject: Segment with Commissioner Carr - Censorship of Conservative Media
Hi, Sam.

I wanted to reach out to see if there is interest in a segment with Commissioner Carr to discuss the Free Press petition asking the FCC to censor broadcasts related to the President's COVID-19 press conferences. They specifically call out the Joe Pags Show, among others:

"Other misleading broadcast statements include:

- *Mar. 13: "Should we be doing what we're doing right now — and I don't mean us on this*

show, I mean in this country, on the globe, when it comes to this pandemic? No. I think that it's overblown for political reasons." - Joe "Pags" Pagliarulo"

The Commissioner is speaking out against the blatant attempt to weaponize the FCC against conservative media outlets.

Happy to discuss logistics, if you are interested.

<https://twitter.com/BrendanCarrFCC/status/1245763388266942492?s=20>

<https://thefederalist.com/2020/04/02/far-left-media-group-asks-fcc-to-censor-trump-press-conferences/#.XoYZl83OOQg.twitter>

[https://www.freepress.net/sites/default/files/2020-](https://www.freepress.net/sites/default/files/2020-03/free_press_petition_for_inquiry_to_fcc_re_broadcast_misinformation.pdf)

[03/free_press_petition_for_inquiry_to_fcc_re_broadcast_misinformation.pdf](https://www.freepress.net/sites/default/files/2020-03/free_press_petition_for_inquiry_to_fcc_re_broadcast_misinformation.pdf)

Benjamin D. Arden

Acting Legal Advisor, Media

Office of Commissioner Brendan Carr

Federal Communications Commission

Washington, DC 20554

202-418-0288

From: [Neil Fried](#)
To: [Brendan Carr](#)
Subject: Section 230 doesn't need to be repealed. We can reform it.
Date: Monday, November 30, 2020 9:44:02 AM



Section 230 doesn't need to be repealed. We can reform it.

30 Nov 09:09 AM



Neil Fried...[Read More](#)

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From: [Drema Johnson](#)
To: [Brendan Carr](#)
Cc: [Benjamin Arden](#); [Will Adams](#); [Joseph Calascione](#)
Subject: Section 230 event with Lincoln Network

From: "Brendan Carr" <Brendan.Carr@fcc.gov <mailto:Brendan.Carr@fcc.gov> >
Date: Wednesday, September 2, 2020 at 9:09:04 AM
To: "Drema Johnson" <Drema.Johnson@fcc.gov <mailto:Drema.Johnson@fcc.gov> >
Cc: "Benjamin Arden" <Benjamin.Arden@fcc.gov <mailto:Benjamin.Arden@fcc.gov> >, "Will Adams" <Will.Adams@fcc.gov <mailto:Will.Adams@fcc.gov> >, "Joseph Calascione" <Joseph.Calascione@fcc.gov <mailto:Joseph.Calascione@fcc.gov> >
Subject: Sept 16 event

That Lincoln Network event on Section 230 will now be on September 16 (not 10th) and it will be at 2:00 eastern

From: [Juli A. Nix](#)
To: [Brendan Carr](#); [Drema Johnson](#); [Harold Feld](#); kathleen.ham@t-mobile.com; cwilson3@ftc.gov; [Lewis, Tina M.](#); [Duane Benton@ca8.uscourts.gov](mailto:Duane_Benton@ca8.uscourts.gov); [Nicholas Marr](#); [Dean Reuter](#); [Guniganti, Pallavi](#)
Subject: Thank you for participation in the Federalist Society's Lawyers Convention Regulating Social Media
Date: Friday, November 20, 2020 1:36:59 PM

Thank you all very much for participating in our 2020 National Lawyers Convention. As you know, this was our first ever all-virtual Convention. We are very pleased to let you know that the full Convention was very well attended, as was your panel. We heard only good things, and lots of them, about the Convention from attendees all week long, and the success we enjoyed was made possible by your participation.

Your panel was watched live by approximately 775 viewers across all platforms, with an additional 1,890 views to date on YouTube after the live program ended.

We have posted [videos of all of the sessions to our YouTube channel](#), and you should feel free to forward that link as widely as possible. Also, we hope to be able to possibly publish the transcript of your panel in a law review. When we find an interested law review, we will only allow publication with the understanding that all panelists and the moderator would be permitted to review and edit the transcripts prior to publication.

Again, thank you so very much for your participation in a Convention, which meant a lot to the organization and to our attendees.

All the best,

Juli

photo **Juli A. Nix**
Director, Conferences, The Federalist Society
Direct: 202-810-8652 | Main: 202-822-8138 | Fax: 202-810-8653
fedsoc.org



On Tue, Nov 10, 2020 at 1:43 PM Juli A. Nix <juli.nix@fed-soc.org> wrote:

If the link to access our Zoom webinar is not on your calendar, please search your email for:

- Subject line--"Panelist for Corporations, Securities & Antitrust and Telecommunications & Electronic Media: Regulating Social Media".
- This is the same link you used for our Zoom planning/test run.

If you are unable to find your link, please let me know as soon as possible by calling me at

(b) (6)

Juli

Juli A. Nix
Director, Conferences, The Federalist Society
Direct: 202-810-8652 | Main: 202-822-8138 | Fax: 202-810-8653
fedsoc.org

photo



On Tue, Nov 3, 2020 at 9:01 AM Juli A. Nix <juli.nix@fed-soc.org> wrote:

Hi All,

Just a quick reminder about our Planning/Zoom Test Run scheduled for today, 11/3, at 1:00 p.m. ET.

To access the Zoom Test, please search for this email:

- Subject line--"Panelist for Corporations, Securities & Antitrust and Telecommunications & Electronic Media: Regulating Social Media".
- Sender--"The Federalist Society," which was sent directly from Zoom.
- **Although the email from Zoom only has the date of the actual panel (11/10), the link will be used for today's Tech Test (11/3); please click on that link to join today's test run at 1:00 p.m. ET.**
- Please put the link in your calendar for the actual webinar, we will need you to log on to Zoom with that same link on Tuesday, November 10 @ 1:45 p.m. ET, 15 minutes before the start of the webinar.

On this Zoom Test:

- Our digital team will check the technology for each panelist.
- We will discuss the panel and its format, please come prepared with a few sentences explaining your planned "thesis" statement for your opening remarks, so we can discuss and plan the panel.
- Please review the attached document that has tips for your participation in the Zoom webinar.

Here is our panel description and list of panelists, as a starting point, to use as you consider your thesis statement:

Federal statutes, like the Communications Decency Act (and its Section 230), as well as more federal common-law disciplines, like antitrust laws, have played a role in the development and evolution of modern technology and online platforms we use every day. What role will or should federal law play in protecting future innovation, growth, and competition in today's fast-changing online era in which massive data sets are the most precious commodity, the next generation of innovators are often acquired before they turn their first profit, and online ecosystems often have the freedom to make their own rules? In light of recent public policy debates and investigations by federal and state antitrust enforcers, this panel takes stock of where communications and antitrust law stand and where they may go following the 2020 elections.

- Hon. Brendan Carr, Commissioner, Federal Communications Commission
- Mr. Harold Feld, Senior Vice President, Public Knowledge
- Ms. Kathleen Ham, Senior Vice President, Government Affairs, T-Mobile

- Hon. Christine Wilson, Commissioner, Federal Trade Commission
- Moderator: Hon. Duane Benton, United States Court of Appeals, Eighth Circuit

Please let me know if you are unable to find your link or have any difficulties logging on today. Thank you again for your participation and we look forward to hearing from you today.

All the best,

Juli

photo

Juli A. Nix
Director, Conferences, The Federalist Society

Direct: 202-810-8652 | Main: 202-822-8138 | Fax: 202-810-8653
fedsoc.org



On Tue, Oct 27, 2020 at 10:28 AM Juli A. Nix <juli.nix@fed-soc.org> wrote:
Thank you for your responses.

We have scheduled the Zoom Tech Test for Tuesday, 11/3, 1:00 p.m. - 1:30 p.m. ET.

Unfortunately, there was no time that all of our speakers were available for the test run. If you are unable to be on the test run at this date/time, please send a few sentences explaining your planned "thesis" statement for your opening remarks. We will share that with your fellow panelists and it will inform the decision on how to proceed with the panel.

If you have any thoughts on the format of the panel; time for opening remarks and whether you prefer time for rebuttals, please let me know. I will pass that along to the moderator and panelists so your thoughts can be included in the discussion.

Once we have held the Zoom Tech Test we will report back to anyone not on the call what was decided. You will continue to receive all of the communications about this, so you are not inadvertently left off of other important communications.

For the Zoom Tech Test, you will receive a link from "The Federalist Society" which is a direct link from Zoom with your unique link. This link will be used for the Tech Test AND the webinar panel, although the email will not reference the date/time of the Tech Test. Please use that link to access the Zoom Tech Test on Tuesday, 11/3 at 1:00 p.m. ET.

Please let me know if you have any questions before the call.

All the best,

Juli

photo



Juli A. Nix

Director, Conferences, The Federalist Society

Direct: 202-810-8652 | Main: 202-822-8138 | Fax: 202-810-8653

fedsoc.org



On Fri, Oct 16, 2020 at 6:41 PM Juli A. Nix <juli.nix@fed-soc.org> wrote:

Thank you all for agreeing to participate in the Federalist Society's National Lawyers Convention webinar panel discussing "Regulating Social Media."

This webinar will be hosted on Tuesday, November 10, 2020 from 2:00 p.m. - 3:30 p.m. ET. This will be hosted as a Zoom webinar. On the day of the event we will need you to log on at 1:45 p.m. ET.

We will be sending you a unique link that should only be used by you. Audience members will receive their own link for the Zoom call. Our audience will also be watching via Facebook and YouTube.

We will need to do a Tech Test and discussion of the panel format, logistics, using Zoom. [Please respond to this Doodle Poll](#) to let me know your availability over the next few weeks for the Zoom Tech Test. Specifically, we are looking to see all of the dates/times you are available from those listed. I apologize for the large number of choices, but there are many peoples' schedules to consider, so the more dates/times we have information for, the better. We expect the Zoom Tech Test to take about 30 minutes.

We will need you to log on to the Zoom Tech Test from the same computer/device/equipment, from the same location, using the same lighting that you plan to use on the day of the actual webinar. It will be helpful for our digital team to be able to troubleshoot any potential problems before the actual webinar. Please keep that in mind when responding with your availability.

Please let me know if you have any questions, otherwise I will get back to you all once I hear from all of the speakers and we are able to schedule a time for the Zoom Test Tech.

All the best,

Juli

photo



Juli A. Nix

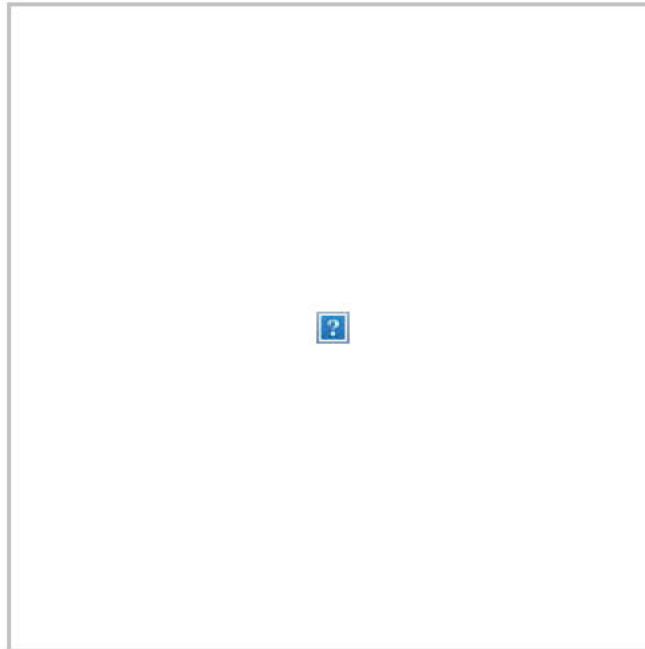
Director, Conferences, The Federalist Society

Direct: 202-810-8652 | Main: 202-822-8138 | Fax: 202-810-8653

fedsoc.org



From: [Dan Schneider](#)
To: [Brendan Carr](#)
Subject: Thank You
Date: Friday, November 27, 2020 1:03:23 PM



Dear Brendan,

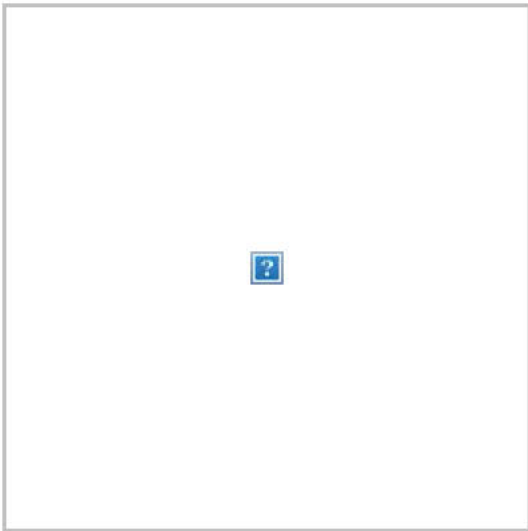
This Thanksgiving week, as our country takes a step back from the recent turmoil to remind ourselves of all we have to be thankful for, we'd like to take a moment to thank **you**.

At ACU, we have a great deal for which we are thankful. We're thankful to live in the greatest country in the world. We're thankful for our wonderful staff and their commitment to our cause. But most of all, we're thankful for our fellow conservatives, and we're thankful for **you**.

Together, we're stronger. And there is no "together" without you. We may not know what the future holds, but we know who holds the future. Rest assured that we will never stop fighting for America no matter the circumstances and we're thankful to fight alongside **you**.

Breaking News in NV

Matt Schlapp, alongside Team



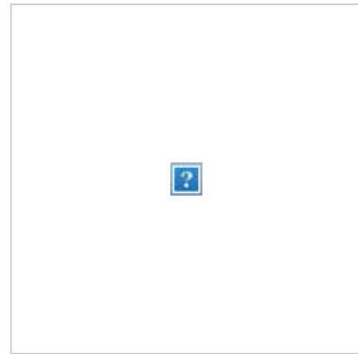
Trump in Nevada, just secured a court date to show their evidence of widespread voter illegality.

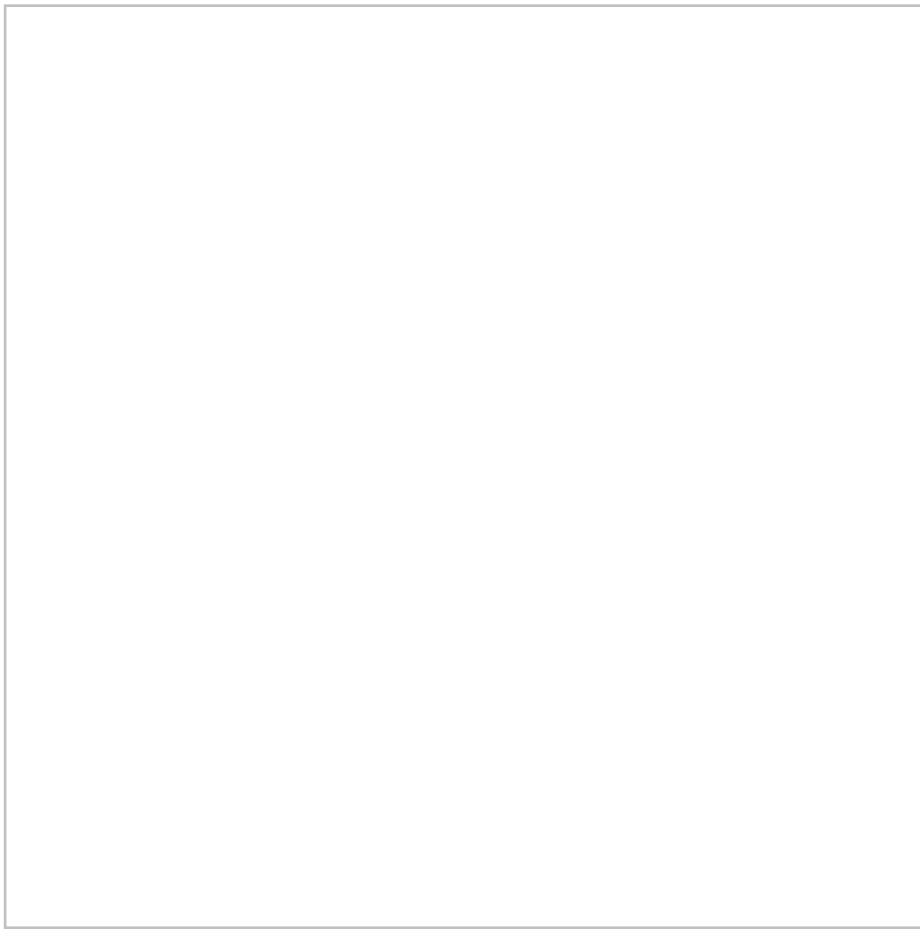
[Hear the latest update >>>](#)

CPAC Japan

The fourth annual CPAC Japan is happening live next week. Tune in on December 5th to hear from amazing international speakers including: Matt Schlapp, Senator Ted Cruz, KT McFarland and more!

[Click to watch live >>>](#)






The countdown has officially begun for **#CPAC2021**. Mark your calendars for February 25th - 28th. More details to come soon ☐

Thank you for standing strong with us. As you enjoy some time with family, some leftover turkey, or some great sales, know that the folks at ACU will always have your back.

To continue supporting us in our work, please click [here](#) to let us know you appreciate us, too.

In Gratefulness,
Dan Schneider
Executive Director



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Our mailing address is:

1199 N Fairfax Street
Alexandria, VA 22301

Want to change how you receive these emails?
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From: [Drema Johnson](#)
To: [Brendan Carr](#)
Subject: Webex test in preparation of the E&C Hearing
Attachments: [How to Set-up Webex.pdf](#)
[How to Join as Panelist via Computer \(Witnesses Only\).pdf](#)
[How to Join as Panelist via iPad \(Witnesses Only\).pdf](#)
[How to Join as Attendee via Computer \(Staff Only\).pdf](#)
[How to Join as Attendee via iPad \(Staff Only\).pdf](#)

Got it, thanks! Below is the info with a link for tomorrow's test, the link for Commissioner Carr to use on Thursday, and a separate one for staff to use on Thursday. I have also attached a few pdf "how to"s in case you need them. I know you mentioned he will be logging in from a laptop is that the same device that he will be using Thursday?

Test Tuesday at 1 00 <x-apple-data-detectors //3> pm

Event address for Witnesses https://ushr.webex.com/ushr/onstage/g.php?MTID=e2a96b38b358bd7e17c14191f336d0c19-https://urldefense.proofpoint.com/v2?url=https-3A_ushr.webex.com_ushr_onstage_g.php-3FMTID-3De2a96b38b358bd7e17c14191f336d0c19&d=DwMFaQ&c=L93KkjKsAC98uTvC4KvQDdTDRAeWDDRMG6S3YXIIH0&r=sooi2Hhg1LDvnlcjEiZjdDVgnjUjg8HrbqlAOBUISY&m=BBx-qxT0dhkCC4u9tPPA4EYdGIL_RtyYU_AhXJoKI8&s=qq4-Lsu34TjQ6zQ-MxtZODrxZG7hQU_7l-idwVSEMQ&e=>

Password 

Hearing Thursday at 10 00 am

Event address for Witnesses https://ushr.webex.com/ushr/onstage/g.php?MTID=e2be978383ab09b954bda1446bc99d034-https://urldefense.proofpoint.com/v2?url=https-3A_ushr.webex.com_ushr_onstage_g.php-3FMTID-3De2be978383ab09b954bda1446bc99d034&d=DwMFaQ&c=L93KkjKsAC98uTvC4KvQDdTDRAeWDDRMG6S3YXIIH0&r=sooi2Hhg1LDvnlcjEiZjdDVgnjUjg8HrbqlAOBUISY&m=WrD7S2WjWlTmCps4cs8jkZl-VPoPvyV45LrXOwgWk&s=jm-NYZKQohgexvTB31YeFdZcjIRx4Cz42B15p2elWEA&e=>

Password 

Event address for staff https://ushr.webex.com/ushr/onstage/g.php?MTID=ea5a5a57727052981e87c09489d5fee0b-https://urldefense.proofpoint.com/v2?url=https-3A_ushr.webex.com_ushr_onstage_g.php-3FMTID-3Dea5a5a57727052981e87c09489d5fee0b&d=DwMFaQ&c=L93KkjKsAC98uTvC4KvQDdTDRAeWDDRMG6S3YXIIH0&r=sooi2Hhg1LDvnlcjEiZjdDVgnjUjg8HrbqlAOBUISY&m=WrD7S2WjWlTmCps4cs8jkZl-VPoPvyV45LrXOwgWk&s=n2zjNKLEBGY3xM01h8-A5zZQwZDuJcKxkFQ9WkR70A&e=>

Best,

Joe

From: Will Adams <Will.Adams@fcc.gov <mailto:Will.Adams@fcc.gov>>
Sent: Monday, September 14, 2020 1 05 PM
To: Orlando, Joe <Joe.Orlando@mail.house.gov <mailto:Joe.Orlando@mail.house.gov>>
Cc: Drema Johnson <Drema.Johnson@fcc.gov <mailto:Drema.Johnson@fcc.gov>>
Subject: Re: Invitation to Testify Before the House Committee on Energy and Commerce (w/ Instructions for Submitting Testimony)

He'll be logging in from his laptop at home, so he told me it would be easier if he just does it himself. Thanks!

On Sep 14, 2020, at 12:49 PM, Orlando, Joe <Joe.Orlando@mail.house.gov <mailto:Joe.Orlando@mail.house.gov>> wrote

Thanks Will! If you feel the Commissioner doesn't need to walk through the software himself that's fine. Other offices are just asking a staff member to familiarize someone on their team with it. That being said if he wants to be on, we are happy to work around his schedule.

From: Will Adams <Will.Adams@fcc.gov <mailto:Will.Adams@fcc.gov>>
Sent: Monday, September 14, 2020 12:33 PM
To: Orlando, Joe <Joe.Orlando@mail.house.gov <mailto:Joe.Orlando@mail.house.gov>>
Cc: Drema Johnson <Drema.Johnson@fcc.gov <mailto:Drema.Johnson@fcc.gov>>
Subject: RE: Invitation to Testify Before the House Committee on Energy and Commerce (w/ Instructions for Submitting Testimony)

Hi Joe,

Drema, CCed, can schedule time for Commissioner Carr to test the software that you're using for the hearing. I think his best availability is tomorrow (Tuesday).

Will

From: Orlando, Joe <Joe.Orlando@mail.house.gov <mailto:Joe.Orlando@mail.house.gov>>
Sent: Monday, September 14, 2020 10:36 AM
To: Will Adams <Will.Adams@fcc.gov <mailto:Will.Adams@fcc.gov>>
Subject: RE: Invitation to Testify Before the House Committee on Energy and Commerce (w/ Instructions for Submitting Testimony)

Hi Will,

We are starting to hear back from some of the other offices. Would 1 or 2pm tomorrow work on your end?

Thanks,

Joe

From: Orlando, Joe
Sent: Friday, September 11, 2020 11:37 AM
To: Will Adams <Will.Adams@fcc.gov <mailto:Will.Adams@fcc.gov>>
Subject: RE: Invitation to Testify Before the House Committee on Energy and Commerce (w/ Instructions for Submitting Testimony)

Hi Will,

We are also trying to schedule a walkthrough with our digital director to get everyone comfortable with the video conference system and make sure there are no issues. Are you or someone from your team available Tuesday from 10-3pm or Wednesday 10-12pm?

Best,

Joe

From: Orlando, Joe
Sent: Thursday, September 10, 2020 4:39 PM
To: Will Adams <Will.Adams@fcc.gov <mailto:Will.Adams@fcc.gov>>
Cc: Hoehn-Saric, Alex <Alex.Hoehn-Saric@mail.house.gov <mailto:Alex.Hoehn-Saric@mail.house.gov>>; Leverich, Gerald <Gerald.Leverich@mail.house.gov <mailto:Gerald.Leverich@mail.house.gov>>; Rodriguez, Chloe <Chloe.Rodriguez@mail.house.gov <mailto:Chloe.Rodriguez@mail.house.gov>>; Davis, Sharon <Sharon.Davis@mail.house.gov <mailto:Sharon.Davis@mail.house.gov>>
Subject: Invitation to Testify Before the House Committee on Energy and Commerce (w/ Instructions for Submitting Testimony)

Dear Commissioner Carr

Thank you for agreeing to testify before the House Committee on Energy and Commerce's Subcommittee on Communications and Technology. The hearing – entitled "Trump FCC: Four Years of Lost Opportunities" – will be held on Wednesday, September 17, 2020, at 10 a.m. via the Committee's Webex platform.

Attached please find a formal invitation to testify from Representative Mike Doyle, Chairman of the Subcommittee, as well as other materials to assist you in preparing for your testimony. The first document ("1_Witness Information Guidelines_116th Congress_2020_FedGov_CAT") will be the most instructive in helping submit written testimony and other required paperwork. The second and third documents provide details on how to submit the Truth in Testimony form. The remaining documents are for informational purposes regarding Committee rules and procedures.

Once completed, please submit any written materials and paperwork to Sharon Davis, Chief Clerk, Chloe Rodriguez, and myself (all cc'ed here). Please do not hesitate to contact us with any questions at (202) 225-2927.

Thank you very much, and we look forward to seeing you at the hearing.

Sincerely,

Joseph Orlando

Policy Analyst

Committee on Energy and Commerce

U.S. House of Representatives

(202) 225-2927

<image001.png> <https //energycommerce.house.gov/>

<image002.png> <https //urldefense.proofpoint.com/v2/url?u=https-3A__twitter.com_energycommerce&d=DwMFAg&c=y0h0omCe0jAUGr4gAQ02Fw&r=tQleX3WATV0cMbGfnxleP7-1Qp5XYhz_mmlL5oYF2GFs&m=X9zY6l4nh_5BCuc7QrMIWaeAChew-K71vS2A63Q6JTE&s=GmROWjvKW2qtY5uDaCKcL1abRAvH1y1BHNB1JQeeWSc&e=>

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From: [Drema Johnson](#)
To: [Brendan Carr](#); [Benjamin Arden](#)
Subject: WMAL Mornings on the Mall hosted by Vince Coglianese/Mary Walter re Reaction to Big Tech Hearing

Terrific We'll call him tomorrow at 8:05 AM ET Backup: Studio hotline: 202-840-7936

Heather Hunter

Executive Producer, Mornings on the Mall

WMAL Radio 105.9 FM

4400 Jenifer Street NW, 4th Floor

Washington, D C 20015

202-906-9935 mobile

Studio hotline: 202-840-7936

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Twitter: [@heatherhunterdc](https://urldefense.proofpoint.com/v2/url?u=http-3A__twitter.com_heatherhunterdc_&d=DwMFaQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=it-kkUDJm4fMp5wRt2hSKYyd-bSYcRiYnUrCtkXD4&m=lx82MbOxZkZyg_9zAhQeZfK-baQuJTh27Ot9HvAgRro&s=JzPBwdMwf9ECIAaserRc6nEsFjuA0CGRj0aKfsgBIDU&e=>) <https://urldefense.proofpoint.com/v2/url?u=http-3A__twitter.com_heatherhunterdc_&d=DwMFaQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=it-kkUDJm4fMp5wRt2hSKYyd-bSYcRiYnUrCtkXD4&m=lx82MbOxZkZyg_9zAhQeZfK-baQuJTh27Ot9HvAgRro&s=JzPBwdMwf9ECIAaserRc6nEsFjuA0CGRj0aKfsgBIDU&e=>> / [@WMALDC](https://urldefense.proofpoint.com/v2/url?u=https-3A__twitter.com_WMALDC_&d=DwMFaQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=it-kkUDJm4fMp5wRt2hSKYyd-bSYcRiYnUrCtkXD4&m=lx82MbOxZkZyg_9zAhQeZfK-baQuJTh27Ot9HvAgRro&s=Y9SY2p-0Yw8eQbMEs3qPYigYHz2_TGbxgT96kPwF59Y&e=>) <https://urldefense.proofpoint.com/v2/url?u=https-3A__twitter.com_WMALDC_&d=DwMFaQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=it-kkUDJm4fMp5wRt2hSKYyd-bSYcRiYnUrCtkXD4&m=lx82MbOxZkZyg_9zAhQeZfK-baQuJTh27Ot9HvAgRro&s=Y9SY2p-0Yw8eQbMEs3qPYigYHz2_TGbxgT96kPwF59Y&e=>>

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- Tell your Amazon Alexa: "Hey Alexa, play W-M-A-L"

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On Tue, Nov 17, 2020 at 3:40 PM Drema Johnson <Drema.Johnson@fcc.gov> <<mailto:Drema.Johnson@fcc.gov>>> wrote:

Hi Heather

Commissioner Carr is good for 8:05am Will you call him? – if so his number is 703-307-1778 (cell)

From: Heather Hunter <dcheathersmith@gmail.com> <<mailto:dcheathersmith@gmail.com>>
Sent: Tuesday, November 17, 2020 3:05 PM
To: Drema Johnson <Drema.Johnson@fcc.gov> <<mailto:Drema.Johnson@fcc.gov>>
Subject: Radio Interview - Washington, D C / WMAL - Wednesday AM - FCC Commissioner Brendan Carr

Hi Drema,

WMAL's morning-drive radio show in Washington, D C would love to have FCC Commissioner Brendan Carr join us on Wednesday at 7:35 or 8:05 AM ET for 10 mins via phone

TOPIC: Reaction to the Big Tech hearing today: On Sec 230, Twitter's Jack Dorsey say it has enabled "so much goodness and innovation" and says Twitter wouldn't have been possible without it – says he thinks it's possible to "build" on 230

<https://twitter.com/BrendanCarrFCC/status/1328735544533282818> <https://urldefense.proofpoint.com/v2/url?u=https-3A__twitter.com_BrendanCarrFCC_status_1328735544533282818&d=DwMFaQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=it-kkUDJm4fMp5wRt2hSKYyd-bSYcRiYnUrCtkXD4&m=104pYBYNEABIX4zYD174nvb3X1MEJkldqvUJ_cZYONg&s=x_yPVNYVnaOcr3_GDMV3nXHaqXeKnjuvEMRi8GwQBNG&e=>>

SHOW: Washington, D C's morning-drive news-talk radio show "Mornings on the Mall" is on WMAL and hosted by VINCE COGLIANESE and MARY WALTER The show airs in the Washington, D C area (DC, VA, MD and West VA) from 5-9 AM EDT on 105.9 FM and online at WMAL.com Twitter

@WMALDC

Please let me know if he can join us and the best number to reach him for the interview

Thank you!

Heather Hunter

Executive Producer, Mornings on the Mall

WMAL Radio 105.9 FM

4400 Jenifer Street NW, 4th Floor

Washington, D.C. 20015

202-906-9935 mobile

Studio hotline: 202-840-7936

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Twitter: @heatherhunterdc <[https://urldefense.proofpoint.com/v2/url?u=https-3A__twitter.com_WMALDC_d=DwMFaQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=it-kkUDJim4fMp5wRt2hSKYyd-bSYcRiYnUrCtkXDu4&m=104pYBYNEABIX4zYD174nvb3X1MEJkIdqvUJ_cZYONg&s=2Y4Y7pL8rHgN59vXDMwRsvZYPP4mpoS1LTkuBD04mzM&e=>](https://urldefense.proofpoint.com/v2/url?u=http-3A__www.twitter.com_heatherhunterdc_d=DwMFaQ&c=y0h0omCe0jAUGr4gAQ02Fw&r=it-kkUDJim4fMp5wRt2hSKYyd-bSYcRiYnUrCtkXDu4&m=104pYBYNEABIX4zYD174nvb3X1MEJkIdqvUJ_cZYONg&s=brhbJZX9fgyStmk2aoJ0s_CPchBYZxERYhRgm0YP6Zg&e=> / @WMALDC <<a href=)

From: [Drema Johnson](#)
To: [Brendan Carr](#)
Subject: Working on a Section 230 event with Lincoln Network

placeholder for September 10 where I am working on a Section 230 event with the Lincoln Network.

From: [Drema Johnson](#)
To: [Brendan Carr](#); [Joseph Calascione](#); [Will Adams](#); [Benjamin Arden](#)
Subject: Zoom discussion with Congressman Rob Wittman, re rural broadband buildout, telecommunication jobs, 5G progress, and what the FCC is doing during to help during the Coronavirus pandemic.
Attachments: [image001.png](#)
[Commissioner Carr Invite to Zoom Fireside Chat with Rep Wittman.pdf](#)
[fireside chat.docx](#)
[RJW Questions to FCC Carr Final-JC.docx](#)

Topic: Rep. Wittman/FCC Commissioner Carr Broadband Zoom Fireside Chat

Time: Aug 24, 2020 10:00 AM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/86050622084> <https://urldefense.proofpoint.com/v2/url?u=https-3A__us02web.zoom.us_j_86050622084&d=DwMFAG&c=y0h0omCe0jAUGr4gAQ02Fw&r=it-kkUDJim4fMp5wRt2hSKYyd-bSYcRiYnUrCtkXD4&m=xNqnsGzyA_JIBIGdvkanXuKFN45Xy2o237oKnsP-O-Y&s=XSRGVheqXalkCCCZovXmZLVYJMrGUiZUA7yp41qTCg&e=>>

Meeting ID: (b) (6)

One tap mobile

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Dial by your location

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+1 253 215 8782 US (Tacoma)

Meeting ID: (b) (6)

Find your local number: <https://us02web.zoom.us/j/86050622084> <https://urldefense.proofpoint.com/v2/url?u=https-3A__us02web.zoom.us_u_kdlMlPyy9K&d=DwMFAG&c=y0h0omCe0jAUGr4gAQ02Fw&r=it-kkUDJim4fMp5wRt2hSKYyd-bSYcRiYnUrCtkXD4&m=xNqnsGzyA_JIBIGdvkanXuKFN45Xy2o237oKnsP-O-Y&s=HWyPnNRLJfV1GtVXE37aQKGuBzmRAX-LZJfzphmPg&e=>>

Best,

Chris Hall

Legislative Assistant

Office of Congressman Rob Wittman (VA-01)

2055 Rayburn House Office Building

Washington, DC 20515

202-225-4261

August 5, 2020

The Honorable Brendan Carr
Commissioner, Federal Communications Commission
445 12th St, S.W.
Washington, D.C. 20554

Dear Commissioner Carr:

It would be my honor to formally invite you to participate in a discussion/fireside chat regarding rural broadband initiatives, particularly the Rural Digital Opportunity Fund and Telehealth Initiatives at the Federal Communications Commission.

Thousands of Virginians are stranded with no access to broadband and therefore cannot fully experience the benefits of the digital age such as telemedicine, online education, and applications that help small businesses grow and compete in the 21st Century. Moreover, the COVID-19 pandemic has put an even greater emphasis on connectivity. An estimated 50 percent of rural Virginians do not have access to broadband at the 25Mbps/3Mbps threshold, while nearly 30 percent of those lack access to broadband service at any speed.

As you may be aware, in the 116th Congress, I am a co-chair of the House Rural Broadband Caucus. Also, to help these unserved and underserved Virginians unleash the educational, health, and economic benefits that come with high speed broadband, I created Virginia's 1st Congressional District Broadband Task Force. The purpose of the Broadband Task Force is to engage various stakeholders, local, state, and federal, to discuss obstacles and solutions to bring high speed broadband to underserved and unserved areas of Virginia.

President Trump, as part of his Coronavirus response and infrastructure priorities, has dedicated numerous resources to rural infrastructure—including broadband build out and telehealth. Furthermore, through your leadership, I am pleased to see the advancement of the FCC's Rural Digital Opportunity Fund (RDOF). RDOF is certain to bring high speed fixed broadband service to rural homes and small businesses that lack it and help close the digital divide.

It is my honor to invite you to participate in in this discussion/fireside chat (conducted over Zoom). This discussion will focus on the FCC's work in regards to Coronavirus response, rural broadband buildout, telehealth initiatives, and the Rural Digital Opportunity Fund. The discussion is scheduled for August 24, 2020 at 10:00am.

For reference, the Zoom discussion will be between Commissioner Carr and myself with pre-drafted questions that you will be provided ahead of time. The zoom discussion will be recorded as to disseminate to our constituents and other 1st District broadband stakeholders.

Agenda details, Zoom instructions, and pre-drafted questions will be in body of this email.

Thank you for your consideration in joining me to address the critical need for rural high-speed broadband and telehealth in Virginia's First Congressional District.

Sincerely,

A handwritten signature in blue ink that reads "Robert J. Wittman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Robert J. Wittman
Member of Wittman

Rep. Wittman Questions to Commissioner Carr

Rural Broadband

1. During the COVID-19 pandemic, the issue of broadband access has been accentuated, especially in rural America. The ability to access telehealth, distance-learning, agri-business, and business communications is critical to getting America running again. Can you tell us some of the work the FCC has done during this pandemic to help consumers and rural residents?
 - a. \$200m COVID-telehealth program
 - b. Working with the Dept. of Education on how to best use the \$16 billion in remote learning funds from the CARES Act.
 - i. Also waived E-Rate rules that prevented carriers from giving equipment and services to schools and families.
 - c. Granted special temporary authority to dozens of wireless providers to give them the capacity they need to meet the current demands.
 - d. Waived our Lifeline rules that might have resulted in termination of service for low-income households.
 - e. Waived rules that would've inhibited providers of calling services for the deaf and hard of hearing to respond to the pandemic.
2. Some members of Congress have pushed for a larger broadband infrastructure package that would eliminate the digital divide once and for all.
 - Do you believe the FCC is the best equipped agency to take a large influx of Congressional funding?
 - i. The FCC has been working in this area for decades, and has the expertise in funding next-generation broadband networks.
 - ii. My colleagues at the USDA and NTIA each play a role in broadband deployment, but as we saw with the telehealth funding under the CARES Act, our staff at the FCC can move very quickly, and possess deep expertise on rural broadband deployment.
 - Do you believe Congress should allocate these dollars towards existing federal broadband programs?
 - i. I obviously defer to the expertise of Congress on this question.
 - ii. There are efficiencies that come with using an existing program as a vehicle to disburse the money.
 - iii. But on the other hand, we sometimes find there are encumbrances in the existing USF programs that limit what we can fund. This was the case under the CARES Act which allowed us to fund more than we could've under the usual USF programs.
3. As part of the upcoming Rural Digital Opportunity Fund Auction, the FCC has made clear that broadband providers will be thoroughly vetted to ensure they are actually able to provide the broadband service required by the FCC to win in the auction.
 - What exactly is the procedure the FCC plans to implement in this vetting process?
 - i. The providers will have to submit so-called "long form applications" detailing the plans for their deployment – what technologies they plan to use, system design, including the specific spectrum they plan to use (for

- wireless) – certified by an engineer, which will then be reviewed by our expert staff.
- ii. They'll also have to describe their funding plans to demonstrate that they can actually deploy with the RDOF funding they'll receive.
 - iii. As a further protection, we also have providers put up letters of credit to essentially insure the funds, in case they don't meet their obligations.
4. Is the FCC considering allocating block grant funding for Broadband expansion to states? The Virginia Telecommunications Initiative has been extremely effective in expanding broadband over the past 3 years.
- a. We're always looking for innovative new ways to fund broadband deployment.
 - b. Years ago, it was just the intercarrier compensation regime providing implicit subsidies, and then we moved toward explicit subsidies under the universal service fund.
 - c. But we're still innovating. In the early days of the fund it was about rate of return, then price cap, and then a cost model. In the last few years we've had great success with reverse auctions where providers bid for the support.
 - d. We're really excited about the upcoming Rural Digital Opportunity Fund auction coming up in October where over \$16 billion in high cost support will be made available. The two phases of this fund –coupled with better maps we're developing—should close the digital divide.
 - e. But as recent history has shown, we're constantly innovating and looking at new approaches, so I can't rule anything out, or commit to an approach in the future.
5. In the past, you have pointed out the importance of making certain FCC and USDA broadband deployment programs do not conflict with each other. In addition, Congress often points out the need for coordination. In your experience, what are some of the struggles in general with trying to work with other agencies to make sure all the federal broadband programs are working in unison?
- a. I personally routinely interact with other agency officials, from HHS, USDA, NTIA, among others.
 - b. We all have slightly different missions, and different statutory authority.
 - c. I think we can—and have been—harness each agency's strengths by keeping up frequent dialogue at both the top level and the staff level, so for instance, USDA isn't trying to use its tools to accomplish what the FCC can do better, or vice-versa.

Telehealth

1. The CARES Act included a \$200M allocation to support COVID-fighting telehealth. This funding was distributed in both rural and urban areas.
 - What role can the FCC play in support telehealth in rural areas that suffer from higher incidences of chronic and acute conditions than urban areas, and which are challenged further by fewer doctors and specialists?
 - i. Traveling the country I've found that Americans in rural areas suffer from greater health challenges than those in urban areas. It's primarily a problem of access. I met a woman in rural Laurel Fork, VA who struggled for years with uncontrolled diabetes because treatment required a two-hour trip to her doctor. After a few years, her A1C had skyrocketed to

15.5, a level that can cause strokes and heart attacks. Once her doctors signed her up for a new remote monitoring program, she was able to get the treatment she needed on a daily basis and cut her A1C in half in six months.

- a. Is the FCC the best agency to lead this effort?
 - i. I think so. We have been funding broadband for rural healthcare for over 20 years, and I think telehealth in an extension of that. It's extending the connection one leg out to the patient.
 - ii. I have been spearheading a new program at the FCC called the Connected Care Pilot program. We're officially launching the program in the fall, taking applications from healthcare providers who need funding to connect their patients to remote monitoring programs.
- What type of coordination might be possible among the FCC and other agencies such as HHS?
 - i. We have been coordinating with HHS on the Connected Care Pilot program for a while as we moved through the regulatory process.
 - ii. A major obstacle to physicians adopting a telehealth model is billing. If they receive any payment for a telehealth service, it's usually a fraction of an office visit. CMS has made a number of reforms on this front during the pandemic, which have been really helpful.
 - iii. State licensing laws can also impede the benefits that telehealth could otherwise provide – if a doctor in North Carolina can't treat a patient in Virginia, it really limits the market.
2. The FCC has a Connect2HealthFCC Task Force. Can you tell us a bit about that entity and what its intended purposes are and how it benefits rural residents?
 - a. It is an internal task force made up of staff from across the FCC as well as a few outside advisors that looks for ways that broadband can improve health outcomes.
 - b. It takes a broad view on how connectivity can help physicians, social services providers, pharmacies, grocery stores, and fitness centers, for example, work with each other (as well as with consumers and caregivers) to help individuals lead healthy lives.
 - c. It predates the coronavirus pandemic, having worked with our Rural Health Care programs, as well as spectrum management for wireless medical applications.

Tribal Issues

1. It is my understanding that the FCC may be limiting eligibility for the 2.5GHz Rural Tribal Priority Window to those tribes with Tribal lands as the FCC has defined here: See 2.5 GHz Rural Tribal Window, FEDERAL COMMUNICATIONS COMMISSION, available at <https://www.fcc.gov/25-ghz-rural-tribal-window>.
 - Is that correct? As many Virginia tribes do not have official tribal lands, this may hinder their abilities to compete.
 - Any federally recognized Tribe or Alaska Native Village is eligible. It is designed to serve Tribal lands, which have historically suffered from limited connectivity.
 - There is a complex web of regulations regarding Tribes and Tribal lands at both state and federal levels, but the problem the 2.5 Tribal Priority

Window is designed to solve is specifically related to Tribal lands lacking connectivity.

From: [Benjamin Arden](#)
To: [Drema Johnson](#); [Brendan Carr](#); [Joseph Calascione](#)
Subject: Re: Invite for Commissioner Carr from ABA Forum on Communications Law
Date: Friday, November 20, 2020 4:04:18 PM
Attachments: [image001.png](#)

Thanks, Drema.

(b) (5)

From: Drema Johnson <Drema.Johnson@fcc.gov>
Sent: Friday, November 20, 2020 11:30 AM
To: [Brendan Carr](mailto:Brendan.Carr@fcc.gov) <Brendan.Carr@fcc.gov>; [Benjamin Arden](mailto:Benjamin.Arden@fcc.gov) <Benjamin.Arden@fcc.gov>; [Joseph Calascione](mailto:Joseph.Calascione@fcc.gov) <Joseph.Calascione@fcc.gov>
Subject: Fwd: Invite for Commissioner Carr from ABA Forum on Communications Law

(b) (5)

From: "Kirby, Kathleen" <KKirby@wiley.law>
Date: Friday, November 20, 2020 at 11:15:04 AM
To: "Drema Johnson" <Drema.Johnson@fcc.gov>
Subject: Invite for Commissioner Carr from ABA Forum on Communications Law

Hi Drema,

I hope this finds you keeping well!

On behalf of the Governing Board of the ABA Forum on Communications Law, I would like to invite Commissioner Carr to participate in the Forum's Annual Conference, which will be held virtually during the last week of January 2021. Specifically, we would welcome opening remarks (10 -15 minutes) from Commissioner Carr before a panel discussion focused on Section 230 reform – the panel will be held on Thursday, January 28 at 1:30 PM ET.

I expect that Commissioner Carr is familiar with the Forum – more information may be found here https://www.americanbar.org/groups/communications_law/

I'd be happy to discuss or answer any questions as he considers.

Have a wonderful Thanksgiving,

Kathy



Kathleen A. Kirby
Attorney at Law
kkirby@wiley.law

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Subject: [NARUC-SSTCOM-SF] FYI - Covid-19 Negotiations end till after the election?
Date: Tuesday, October 6, 2020 3:32:45 PM
Attachments: [ATT00001.txt](#)

Trump says he's breaking off talks with Democrats over a second round of stimulus relief --- In a tweet, President Trump said the economy is doing well and so he has "instructed my representatives to stop negotiating until after the election." This comes after more than two months of negotiations over more unemployment aid for workers, stimulus checks for the public and more grants for businesses.

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Subject: [NARUC-SSTCOM-SF] Just saw this ITIF webcast --- wasn't on the list of online events in this morning's update....keep safe. brad
Date: Monday, June 15, 2020 2:20:46 PM
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The FCC's Role In Reforming Section 230

Video Webinar

President Trump recently issued an executive order about online speech that requested the Federal Communications Commission (FCC) clarify Section 230 of the Communications Decency Act, a key law of the digital economy that says Internet companies are not liable for content posted by users. In particular, the executive order calls on the FCC to identify when Internet companies may no longer qualify for the "good faith" provision of the law, such as for removing viewpoints that they oppose. This development comes at a time when a growing number of policymakers have suggested Section 230 should be revised, and there is a raging debate about how social media platforms should moderate user content while fighting disinformation and protecting free speech.

Join ITIF for a discussion about how the FCC may shape the debate about Section 230. FCC Commissioner Starks will provide introductory remarks and discuss these issues with ITIF Vice President Daniel Castro. Following this discussion, panelists will offer reactions to the Commissioner's remarks.

When: Wednesday, June 17, 2020, 12:00-1:00 PM EDT

[Register now and submit questions in advance.](#)

James Bradford Ramsay

General Counsel

National Association of Regulatory Utility Commissioners

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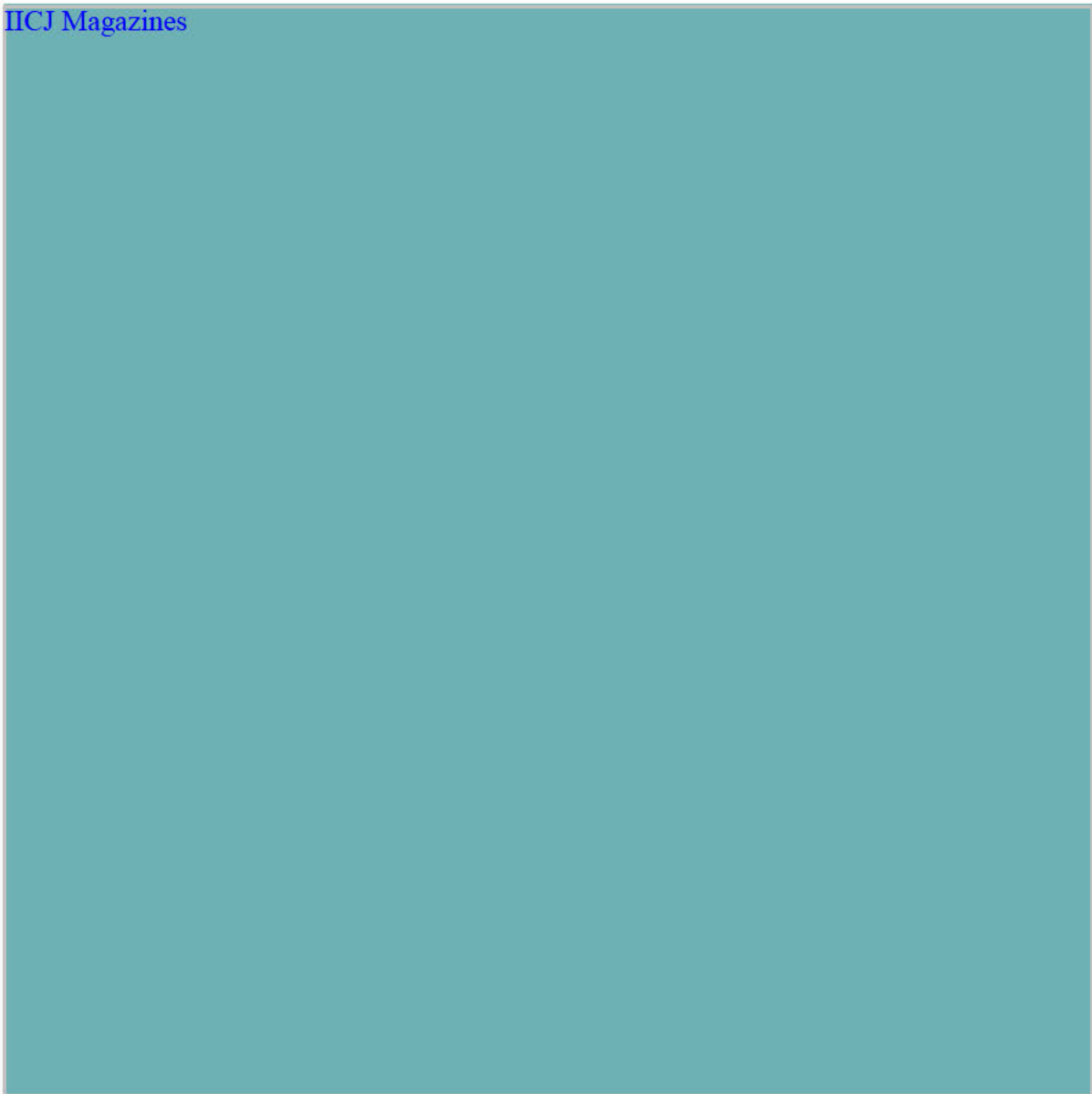
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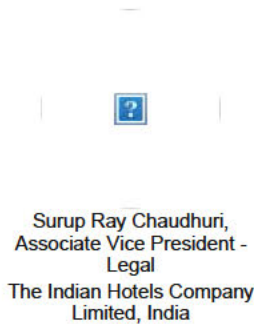


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


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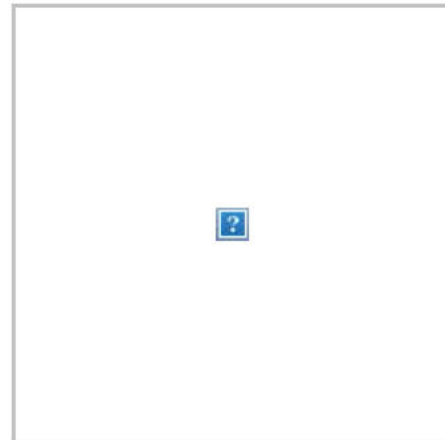
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By Jacqueline Thomsen

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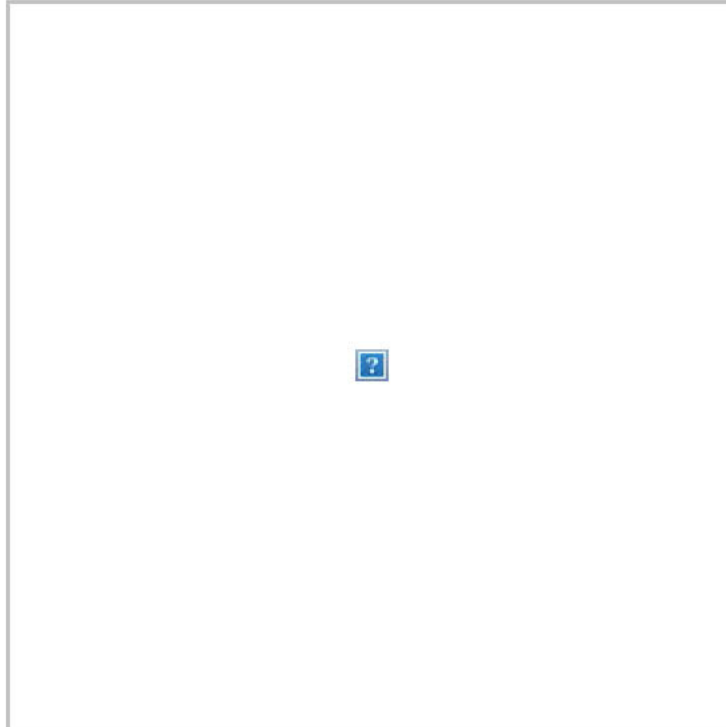
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Date: Tuesday, October 20, 2020 9:36:27 AM



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October 20, 2020

BROADBAND

"Legal Issues in Broadband Public-Private Partnerships: Finding a Private Partner" (Jim Baller) :: [Benton Institute for Broadband & Society](#)

"Broadband from the Bottom Up: How Community Organizations Can Shape the Broadband Future" :: [HR&A](#)

US Ignite issues funding RFP for Project OVERCOME - "The goal of the OVERCOME project is to select, launch and oversee proof-of-concept efforts to deploy novel broadband technology solutions to both rural and urban underserved communities."; webinar Nov. 10, full proposals due Jan. 8 :: [US Ignite](#)

"Why Local Communities Should Pay Attention to the West Des Moines Broadband Project" :: [CLIC](#)

California developing broadband plan; EFF suggests: "1. Prioritize local private and public

options and de-emphasize reliance on large national ISPs tethered to 3 to 5 years return on investment formulas." :: [EFF](#)

Michigan considers Broadband Extension Act :: [9and10News](#)

"Norfolk [Connecticut] looking at installing town broadband network" :: [Winsted Phoenix](#)

"Henry County, Tennessee Commits to Universal Broadband Access" :: [Institute for Local Self-Reliance](#)

"Broadband Funding Resource Guide" (from Craig Settles) :: [ETI Software Solutions](#)

"U.S. Senator Joe Manchin (D-WV) has announced he has submitted over 2,000 broadband speed tests to the Federal Communications Commission. Senator Manchin says this proves the FCC's broadband coverage maps are wrong and must be fixed before the Rural Digital Opportunity Fund is distributed incorrectly." :: [WSAZ](#)

Sen. Shelley Capito (R-W.V.) pushes for rural broadband :: [Fox News](#)

"AT&T, FCC Abandon Rural Broadband Customers" :: [Benton Institute for Broadband & Society](#)

"The Regulatory Struggle to Maintain Copper Networks" :: [POTs and PANs](#)

"Remote learning is deepening the divide between rich and poor" :: [Washington Post](#)

WIRELESS

Virginia Tech, Google explore CBRS use cases :: [FierceWireless](#)

Ascension Parish, Louisiana finalizes small cell ordinance :: [The Advocate](#)

"COVID-19 fails to put brakes on 5G rollout" :: [Light Reading](#)

"Nextlink taps Nokia for CBRS deployment in rural U.S." :: [FierceWireless](#)

"NASA and Finnish telecommunications firm Nokia have announced plans to build a 4G cellular network on the moon. The system is on track to launch in 2022" :: [Fast Company](#)

VIDEO

"[A]nalysts are expecting a mixed third quarter [for cable industry], as video losses pick up and the torrid pace of high-speed data additions begins to slow." :: [NextTV](#)

OTHER NEWS

"What the FCC can and can't do to Section 230" :: [Vox](#)

"How Should States, Local Areas Prepare for Drone Deliveries?" :: [Government Technology](#)

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Subject: CWA President Chris Shelton: We Must Win Elections
Date: Thursday, June 11, 2020 4:59:47 PM



NEWSLETTER

June 11, 2020

Send tips to news@cwa-union.org or [@CWANews](#).

- [CWA President Chris Shelton: We Must Win Elections](#)
- [CWAers Stop Work to Take a Stand Against Racism and Police Violence](#)
- [Organizing Update](#)
- [NewsGuild-CWA and District 2-13 Denounce Racist Management Decisions at the Pittsburgh Post-Gazette](#)
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CWA President Chris Shelton: We Must Win Elections

Share This Article:



In his keynote address to CWA's Virtual Legislative-Political Conference on Monday, CWA President Chris Shelton discussed our national economic, health, and racial justice crises and the importance of this fall's elections.

"CWA needs you to fight as you never have before over the next five months," Shelton urged members. "The future of our union and our jobs depends on it. The future of our families depends on it. The future of our

country – and the future of our planet – depend on it."

Shelton also reviewed the need for a strong congressional response to the COVID-19 crisis. "I fear that tens of thousands more layoffs lie ahead – especially if Congress doesn't act to provide funds to keep vital public services in the states functioning and continue critical assistance. This pandemic has demonstrated that every worker needs the freedom to join a union so that they can protect themselves from the abuse of corporate power."

[Watch a video of the speech here.](#)

The conference, which concludes tomorrow, included presentations and panels featuring CWA activists, with sessions on taking back the Senate and electing Joe Biden, as well as discussions on universal broadband access, and building power to dismantle racism. Anna Flemings, a Maximus worker and member of CWA's Call Center Workers United national organizing committee, participated in [a joint event with the Congressional Progressive Caucus Center](#) that examined the way corporations are putting workers' lives at risk during the COVID-19 pandemic. CWA Secretary-Treasurer Sara Steffens will close out the conference tomorrow with a panel on the policies that are necessary to protect working people as we recover from the economic crisis caused by COVID-19.

Stay up-to-date with CWA's Legislative and Political priorities by subscribing to the CWA Collective Briefing newsletter at cwapolitical.org/collective-briefing.

CWAers Stop Work to Take a Stand Against Racism and Police Violence

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Today, CWA members across the country participated in actions to take

a stand against racism and police violence. Many members stopped work for 8 Minutes and 46 Seconds □ the length of time the Minneapolis police officer who viciously murdered George Floyd had his knee on his neck.

CWA members have supported the protests his tragic killing has sparked across the country, and started conversations with each other about [how to dismantle racism](#).

[Visit our Facebook page](#), where we will be posting photos as they come in.

CWA Against Racism



Organizing Update

Share This Article:



Pop-Up Magazine Productions

Just weeks after media workers at Pop-Up Magazine Productions announced their union campaign, they have won voluntary recognition.

The group organized around issues including job security, transparency, career growth, and compensation. Though the organizing drive began long before the COVID-19 pandemic, the crisis added to the urgency of the campaign.

The bargaining unit, consisting of roughly two dozen employees at *Pop-Up Magazine* and *California Sunday Magazine*, will join Media Guild of the West, TNG-CWA Local 39213.

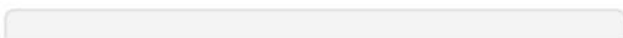
###

Lawrence School District Paraeducators

Paraeducators from the Lawrence, Kan., school district are requesting voluntary recognition from the school board to form a union. The organizing committee requested recognition at the school board meeting's public comment portion.

"Having a community of paras is irreplaceable and it would mean a lot to us if you could be able to recognize us and recognize our union," Tatyana Younger, a paraeducator and member of the group's organizing committee said, [according to the Lawrence Journal World](#).

NewsGuild-CWA and District 2-13 Denounce Racist Management Decisions at the Pittsburgh Post-Gazette



Share This Article:



Last week, *Pittsburgh Post-Gazette* Reporter Alexis Johnson posted a tweet deemed controversial by management. Top editors quickly took steps to remove her from covering stories related to the protests in Pittsburgh, citing a social media policy that is not in the union contract. Johnson, who is one of just a few Black journalists at the *P-G*, was punished for reporting while Black.

Johnson was disciplined without just cause and The Newspaper Guild of Pittsburgh filed a grievance. It, along with many, many others, is pending against a company determined to fight journalists instead of building a publication accountable to Pittsburgh and the truth.

NewsGuild President Jon Schleuss and District 2-13 Vice President Ed Mooney issued a statement denouncing the racist management decisions at the *Post-Gazette*.

"There is only one respectable thing for *Post-Gazette* managers to do: apologize to Alexis, remove the ban they placed on her coverage, and let talented, dedicated, loyal *P-G* journalists do their life's work to the benefit of our paper, our readers, our community, and our democracy," Schleuss and Mooney wrote.

[Read the full statement here.](#)

Trump NLRB Comes After Workers Rights

Share This Article:



Trump's NLRB is at it again – taking advantage of a pandemic to take away workers' rights. The agency has issued a new terrible decision this week redefining "solicitation" to include conversations among co-workers encouraging support for union representation. This decision opens the door for employers to enact policies that prohibit these conversations.

[This joins other recent Trump NLRB decisions](#) like ruling that employers can restrict the use of work email outside of work time to discuss workplace issues, can prevent workers from discussing ongoing workplace investigations into illegal and unethical behavior, such as sexual harassment, and more.

"Corporations have far too much power over working people's lives," said Communications Workers of America President Chris Shelton. "The National Labor Relations Board is supposed to safeguard workers' freedom to join together and fight back against injustice at their workplaces and protect workers when their employers abuse their power. President Trump's NLRB has done just the opposite. With every decision, they make it harder for workers to speak out and easier for employers to silence them."

Is COVID-19 Surging in Your Community?

Share This Article:



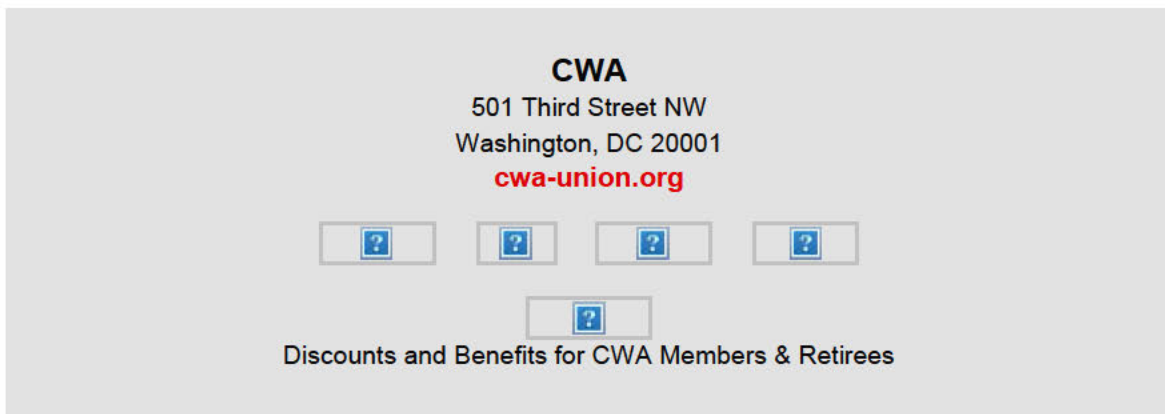
While social distancing directives have reduced COVID-19 infections and hospitalizations in many areas, several states are reporting spikes and record numbers of cases.

All CWA members should continue to practice appropriate protocols for avoiding infection. If you are at high risk for exposure at work, your employer should be providing appropriate Personal Protective Equipment. For those who are not at high risk, and for guidance when you are off the job, make sure to review our tips for non-medical/community face masks at <https://cwa-union.org/non-medical-face-masks>.

If you have concerns about COVID-19 protocols in your workplace, contact your shop steward or a local officer.

If you have been exposed to COVID-19 or are experiencing symptoms

consistent with infection, contact your healthcare provider immediately and follow reporting procedures established by your employer. Also notify your CWA Local or District as soon as possible.



Text CWACTION to 69866 to Join Our Rapid Response Text List

Communications Workers of America, AFL-CIO, CLC.

Sent via ActionNetwork.org. To update your email address, change your name or address, or to stop receiving emails from CWA, please [click here](#).

From: [FCBA Notices](#)
To: [Gregory Cooke](#)
Subject: FCBA Event: Section 230 – Ask the Experts ~ Thursday, 9/24, 1:00 – 2:30 p.m.
Date: Wednesday, September 16, 2020 1:19:25 PM
Attachments: [image001.jpg](#)
[image002.jpg](#)
[image003.jpg](#)
[image004.jpg](#)
[image005.jpg](#)
[image006.jpg](#)
[image007.jpg](#)



SECTION 230 — ASK THE EXPERTS EVENT

Date/Time: Thursday, September 24, 1:00 – 2:30 p.m.

Location: Virtual via the Zoom platform

Organized by the Young Lawyers Committee for all practitioners.

Topic: Section 230 – Ask the Experts

Section 230, the law that gives immunity to interactive communications services for their content moderation practices, has come under the microscope because of the content moderation choices of many social media platforms. In July, as required by a presidential Executive Order, NTIA filed a petition with the FCC seeking new rules to clarify the scope and application of Section 230. This event will help Section 230 newcomers get a baseline understanding of the statutory provision and also dive deep on key developments, including whether the FCC has authority to adopt rules interpreting Section 230, how section 230 has been interpreted to date, and the legal and policy implications that would result from changes to the law.

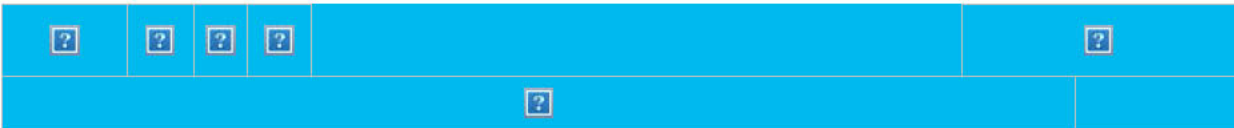
Opening Remarks: Adam Candeub, Acting Assistant Secretary of Commerce for Communications and Information, NTIA

Participants confirmed to date: Avery Gardiner, General Counsel and Senior Fellow for Competition, Data, and Power, Center for Democracy & Technology; Jamie Susskind, Vice President of Policy and Regulatory Affairs, Consumer Technology Association; Olivier Sylvain, Professor of Law, Fordham University School of Law; and Jess Miers, Teaching Assistant, Santa Clara University Law School

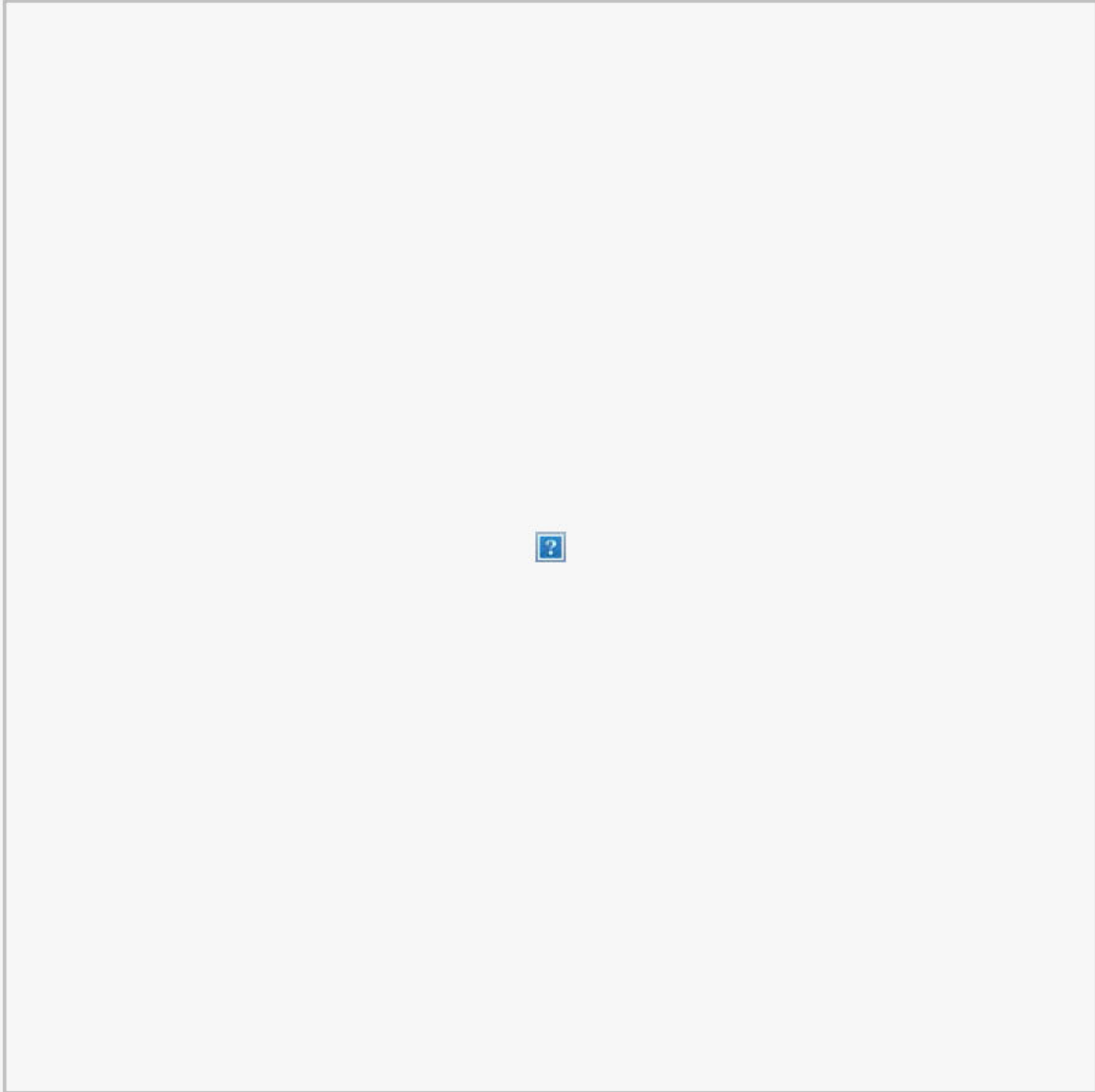
Moderators: Stephanie Weiner, Partner, Harris, Wiltshire & Grannis LLP; Chris Laughlin, Communications Associate, Kelley Drye & Warren LLP

Cost: \$45.00 for Private Sector Members; \$20.00 for Government/Academic/Transitional Members; No charge for Law Student Members; \$60.00 for Non-Members

[Click here to register.](#)



From: [TechFreedom](#)
To: [Gregory Cooke](#)
Subject: FCC Has No Authority to Issue Section 230 Rules
Date: Thursday, October 15, 2020 6:04:43 PM



For immediate release
October 15, 2020

media@techfreedom.org
(475) 655-4777

FCC Has No Authority to Issue Section 230 Rules

WASHINGTON D.C. Today, FCC Chairman Ajit Pai [announced](#) that the FCC would move forward with proposing rules requested by the Trump Administration to reinterpret Section 230, the 1996 law that limits when providers and users of Internet services can be sued for the decisions they make about handling content created by others. Pai cites an opinion issued by Justice Thomas earlier this week as evidence of "concern" about how courts have interpreted the law. TechFreedom issued the following statement in response:

When a Democratic FCC Chairman pushed neutrality regulations at the behest of President Obama, Ajit Pai [said](#): "We shouldn't be a rubber stamp for political decisions made by the White House." Now Pai's doing essentially what he lambasted Tom Wheeler for: proposing sweeping "neutrality" rules at a President's behest based on unprecedented claims of legal authority to regulate Internet services. Only now, "neutrality" isn't just rhetoric used to excite the base. Republicans are trying to coerce social media companies to change how they exercise their First Amendment rights to gain advantage just weeks before the election. Having been among Pai's strongest supporters in 2015, we could not be more disappointed.

The Wheeler FCC lost repeatedly in court because Wheeler was all too eager to attempt anything his general counsel told him the agency *might* get away with. Pai's legacy could have been finally breaking the FCC of that habit. Pai fought the notion of regulating Internet services as common carriers, yet now he's embracing NTIA's startling claims that the FCC can use Section 201(b) the heart of Title II, to regulate even non-common carrier services. When Democrats use this argument for their own ends, Republicans will bitterly regret that Pai embraced this dangerously broad conception of the FCC's authority.

The overwhelming consensus among commenters was clear: Congress didn't intend for the FCC to issue rules and any rules the agency might issue will be given no deference by courts. In plowing

forward undaunted by concerns about its legal authority or the First Amendment, Pai is committing exactly the kind of administrative overreach that Justices Thomas, Kavanaugh and Gorsuch and other conservative jurists have sought to rein in.

The last line of Pai's statement illustrates that this is far more about political talking points than legal. Pai implies that newspapers and broadcasters don't benefit from Section 230, echoing Republican claims that the law is a special subsidy for "Big Tech." Contrary to Pai's claims, Section 230 doesn't protect only big "platforms." Without Section 230, traditional media could be sued for any comment any user posted on their websites — so they'd likely shut down the comment sections on their sites. Without Section 230, their journalists could be sued merely for retweeting potentially defamatory material. President Trump himself [has used](#) Section 230 to dismiss lawsuits based on his retweets.

Relying on Thomas's opinion as some kind of authority underscores how little legal substance matters in this debate: Thomas's separate statement spoke for himself alone. None of the other sitting justices joined him. Further, his opinion was not issued in a case where the parties briefed the issues Thomas opined about.

For more analysis, read our [comments](#) and [reply comments](#) on the NTIA's petition to the FCC.

□□□

Find this release on our [website](#). We can be reached for comment at media@techfreedom.org. See more of our work on free speech and [Section 230](#) on our website, including:

- Our [Twitter thread](#) critiquing Justice Thomas's opinion
- Our [analysis](#) of legislation proposed by Sen. Josh Hawley, which would amend Section 230 to do essentially the same things the NTIA is asking the FCC to do through a rulemaking.
- Our Twitter [thread](#) breaking down the White House EO
- Our Twitter [thread](#) addressing FCC Commissioner Carr's Interview on the matter

Our [letter](#) to the Senate Judiciary analyzing the EARN IT Act. [PR](#) on the letter

- A coalition [letter](#) by 27 civil society organizations and 50 academics a set of [seven principles](#) to guide conversation about amending Section 230 of the Communications Decency Act of 1996
- Our [statement](#) on Sen. Hawley's proposed legislation on regulating the Internet
- Our [op-ed](#) "Some conservatives need a First Amendment refresher"
- Our [letter](#) to AG Sessions "DOJ Inquiry re Tech Companies Bias is Misguided"
- Our [blogpost](#) "Reality Check for Trump and Republicans Crying 'Bias'"
- Berin Szoka's [testimony](#) before the House Judiciary Committee on the filtering practices of social media platforms
- Our [statement](#) on the passage of SESTA
- Our [statement](#) on the takedown of Backpage and its implications for Section 230 and recent sex trafficking legislation
- [Tech Policy Podcast #251](#): SESTA/FOSTA Hurts Victims It Aims to Protect

About TechFreedom:

[TechFreedom](#) is a non-profit, non-partisan technology policy think tank. We work to chart a path forward for policymakers towards a bright future where technology enhances freedom, and freedom enhances technology.

**Please direct all media inquiries & requests for
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
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Subject: Former Key Trump-Era DOJ Leader Ethan Davis Returns to King & Spalding
Date: Monday, October 26, 2020 1:07:45 PM

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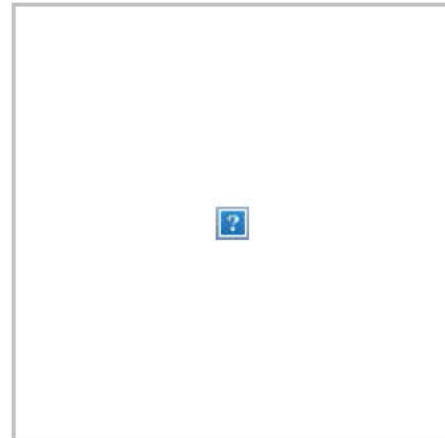
Oct 26, 2020

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Former Key Trump-Era DOJ Leader Ethan Davis Returns to King & Spalding

Ethan Davis had been a partner at King & Spalding for three years before joining the Trump administration's Justice... [Read More](#)





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From: [InsideSources](#)
To: [Gregory Cooke](#)
Subject: Funding Process Failed Most Small Businesses
Date: Monday, May 4, 2020 2:53:45 PM

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What Washington's Talking About

Trump Says It's Safe to Reopen States as Governors Grapple With
Loosening Restrictions

[\[The Washington Post\]](#)

Trump Says Blame China. Supporters Are Listening.

[\[Politico\]](#)

Pence Says He Should Have Worn Mask During Mayo Clinic Visit

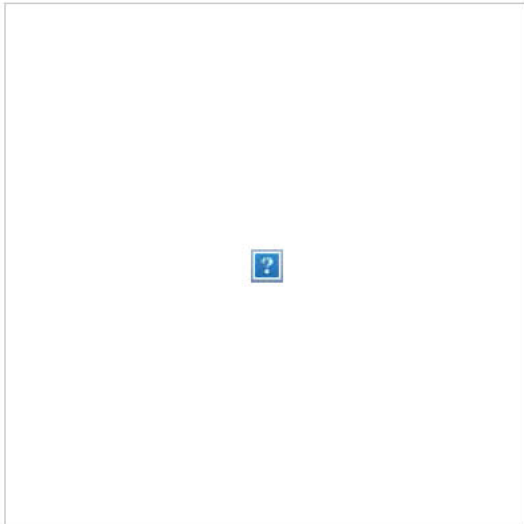
[\[The Hill\]](#)

CBS New Poll: Elizabeth Warren Tops Democrats' Wish List for
Biden's Vice President

[\[CBS News\]](#)

Exclusive: Hotel Industry Issues Coronavirus Safety Guidelines
Ahead of Anticipated Travel Surge

[\[USA Today\]](#)



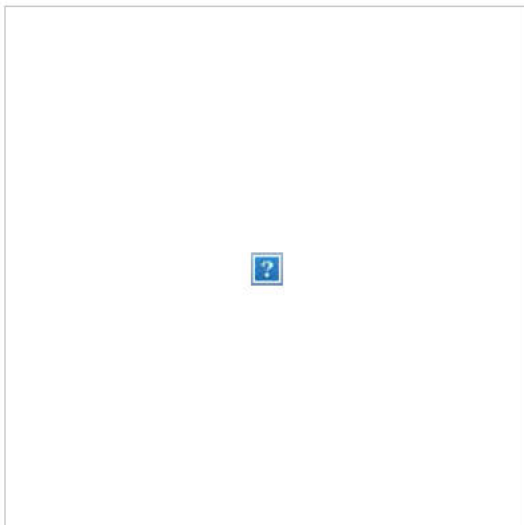
[IS] Opinions ■ Politics

Shut Down Public Transit Now!

By [Randal O'Toole](#)

A recent study found that that New York City subways were "a major disseminator — if not the principal transmission vehicle — of coronavirus infection." So why are public transit systems still running?

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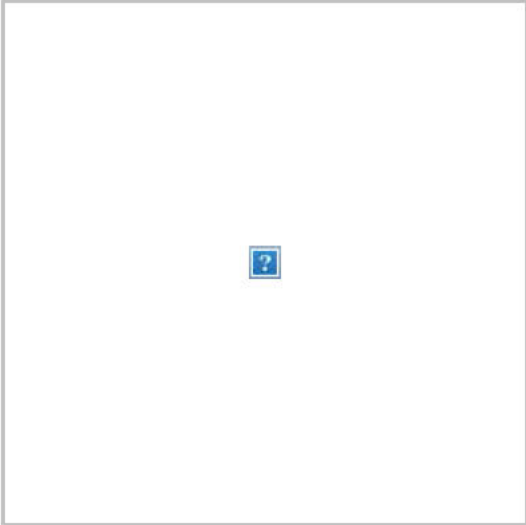
[IS] Opinions ■ Politics

Pandemic Changes Americans' Views of Online Voting

By [Judy Perry Martinez](#)

A new survey by the American Bar Association shows the American public believes the pandemic should change the way we exercise the most important of our legal rights — the right to vote.

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News ■ Politics

FDA Turns Up the Heat on Vaping Products Designed to Attract Kids

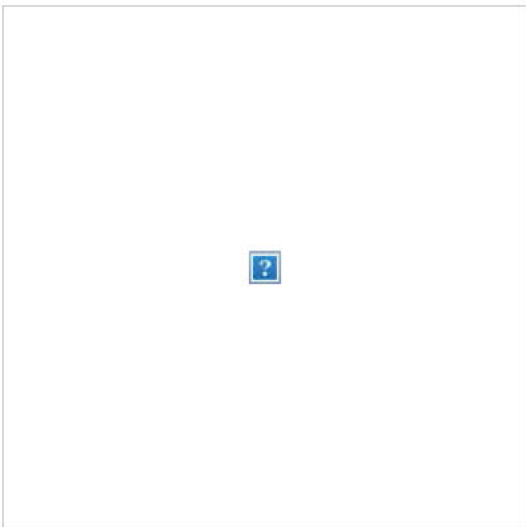
By [Hiram Reisner](#)

The Food and Drug Administration has issued 10 warning letters to retailers and manufacturers who sell, manufacture and/or import vaping products targeted to youth.

[READ MORE](#)

"They always said Lincoln, nobody got treated worse than Lincoln. I believe I am treated worse."

President Trump on his treatment by the press.



[IS] Opinions ■ Finance

Not a Shining Moment for Big Business

By [Thomas A. Hemphill](#)

While some large firms have returned millions of dollars in Paycheck Protection Program loans to the U.S. Treasury, most larger firms have not joined them.

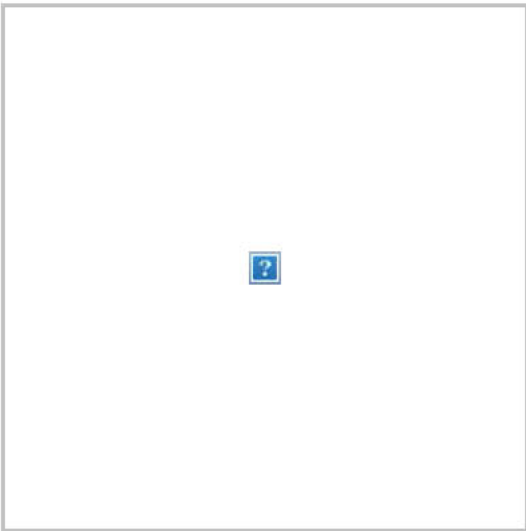
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News ■ Politics

Funding Process Failed Most Small Businesses

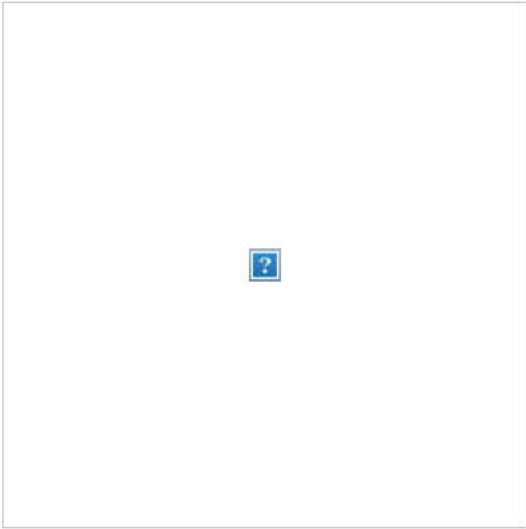
By [Frank Knapp, Jr.](#)

Small-business owners were promised a chance for the Paycheck Protection Program loans, but



the process was set up for most of them to fail. Private lenders are still allowed to discriminate.

[READ MORE](#)



[IS] Opinions ■ Politics

COVID-19 Crisis Highlights Plastic's Positive Role in Health and Safety

By [Kerry Jackson](#)

The COVID-19 pandemic has provided policymakers with a number of lessons, not the least of all that plastic is invaluable in times of national crisis.

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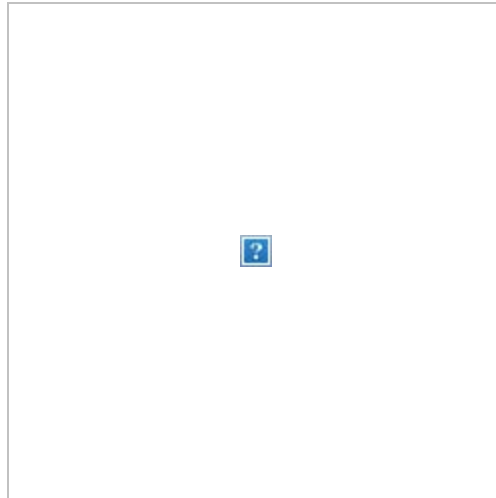


From: [Gregory Cooke](#)
To: [Matthew Duchesne](#)
Cc: [Barbara Esbin](#); [Emmitt Carlton](#)
Subject: Fw: The Trump Administration Is Supporting Indian Country in Response to COVID-19
Date: Tuesday, May 5, 2020 7:00:33 PM
Attachments: [image001.png](#)
[image002.jpg](#)
[The Trump Administration Is Supporting Indian Country in Response to COVID-19.pdf](#)

FYI.

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From: Pottebaum, Nic D. EOP/WHO <Nicholas.D.Pottebaum@who.eop.gov>
Sent: Tuesday, May 5, 2020 6:04 PM
To: Pottebaum, Nic D. EOP/WHO <Nicholas.D.Pottebaum@who.eop.gov>
Cc: Hoelscher, Douglas L. EOP/WHO <Douglas.L.Hoelscher@who.eop.gov>; Swint, Zachariah D. EOP/WHO <Zachariah.D.Swint2@who.eop.gov>; Campana, Ariella M. EOP/WHO <Ariella.M.Campana@who.eop.gov>
Subject: The Trump Administration Is Supporting Indian Country in Response to COVID-19



State Leaders and Staff,

As we collectively work together to address the Coronavirus pandemic, the Trump Administration continues to prioritize collaborative partnerships in Indian Country and provide support and resources for Tribal governments as part of a whole-of-government, all-of-America response. As you know, our citizens are best served when response is locally executed, State/Tribally managed, and Federally supported. The Federal government scales best practices, coordinates key priorities, provides regulatory flexibilities, guidance, and key resources to supplement, but not replace, private sector, local, State, and Tribal resources. On January 31, the Trump Administration **declared** the Coronavirus a public health emergency. The declaration set in motion the Administration's whole-of-government approach to protecting the health of all Americans in response to the Coronavirus. Working

in partnership with State, Local, and Tribal leaders, the President and Administration have and continue to leverage all resources to respond to the Coronavirus, bringing together government and private industry in a collaborative response.

Ty Mote (@tmote54) | Twitter



Attached, please find a fact sheet (***The Trump Administration Is Supporting Indian Country in Response to COVID-19***) overviewing Federal coordination and assistance provided to Tribal governments and Indian Country. The attached information is bolstered by hundreds of additional actions by the Federal government to help Tribal citizens in partnership with State and Tribal governments. We would also like to highlight a Fact Sheet (***President Donald J. Trump Is Protecting the Native American Community as We Combat the Coronavirus***) outlining the Trump Administration's continued partnership in Indian Country on a host of shared priorities. Through engagement with Tribal governments, leaders, and partners over the past 12 months alone, the Administration has driven results on important issues, including public safety (e.g. ***Proclamation on Missing and Murdered American Indians and Alaska Native Awareness Day, 2020***), economic development, rural prosperity, infrastructure, cultural resources and Veterans' affairs. And in another significant announcement, the White House **reactivated** the Council on Native American Affairs and appointed Tyler Fish as Executive Director to support continued inter-agency coordination with Indian Country.

Looking ahead, the White House Office of Intergovernmental Affairs (WH IGA) will continue to coordinate across Federal agencies and with the White House Council on Native

American Affairs to share pertinent information as it becomes available. Please do not hesitate to reach out to our office if we can be of assistance.

Thanks,
Nic

--

Nicholas D. Pottebaum

Special Assistant to the President and Deputy Director

White House Office of Intergovernmental Affairs

O: 202-456-2132 | C: 202-881-7803 | E: Nicholas.D.Pottebaum@who.eop.gov

President Donald J. Trump is Protecting the Native American Community as We Combat the Coronavirus

“We will leverage every resource we have to bring safety to our tribal communities, and we will not waver in this mission.”

President Donald J. Trump

COMBATING CORONAVIRUS IN NATIVE AMERICAN COMMUNITIES: President Donald J. Trump is supporting Native American communities impacted by the coronavirus.

- President Trump is working to make sure Native American communities have the support they need to combat the coronavirus.
- The President signed the CARES Act into law, providing \$8 billion to address coronavirus preparedness, response, and recovery for American Indians and Alaska Natives.
 - The initial allocation of this funding, totaling nearly \$5 billion, will be one of the largest programmatic investments in Indian Country in our Nation's history.
- The Administration has also allocated over \$1 billion through the Indian Health Service (IHS), to support tribes, tribal organizations, and Urban Indian Organizations in their coronavirus response efforts.
- In early March, the Trump Administration established a multi-agency coordinating group tasked with ensuring effective Federal coordination on tribal issues.
- The President has also acted to expand telehealth capacity and availability across IHS regions, allowing patients to get the care they need, while staying at home.

DELIVERING VITAL SUPPLIES: The Trump Administration has rapidly delivered critical medical supplies to Native Americans communities in need.

- Unprecedented supplies of critically needed medical equipment have been delivered by the Trump Administration to Native American communities.
- The Federal Government delivered 250 Abbott testing systems to IHS and they have been distributed to IHS and tribal healthcare facilities throughout Indian Country.
 - These systems allow for rapid testing at the time and place of patient care and expands testing capacity, especially important for harder to reach and

vulnerable populations.

- The Administration sent 100 ventilators to Arizona to support Indian Country.
- The Trump Administration has worked closely to provide relief—including the delivery of 50 ventilators—to the Navajo Nation, which has seen significant impacts from the coronavirus.
 - The Federal Government has also deployed two Disaster Medical Assistance Teams and constructed three 50-bed Federal Medical Stations for the Navajo Nation.

SUPPORTING TRIBAL COMMUNITIES: President Trump remains committed to supporting the wellbeing of our American Indians and Alaska Natives.

- President Trump signed the first-ever presidential proclamation officially recognizing the grave issue of missing and murdered American Indians and Alaska Natives.
 - The President issued the first ever Executive Order establishing a task force on missing and murdered American Indians and Alaska Natives whose work is underway.
- To examine systemic problems at IHS, the President launched his Presidential Task Force on Protecting Native American Children served by the IHS.
- President Trump has also worked to enhance coordination between the Federal Government and tribal leaders on promoting economic growth and improving standards of living.
- President Trump re-activated the White House Council on Native American Affairs to promote economic development and rural prosperity in Indian Country.

The Trump Administration Is Supporting Indian Country in Response to COVID-19

We will leverage every resource we have to bring safety to our tribal communities, and we will not waver in this mission.

– President Donald J. Trump

Overview: Response and recovery efforts are locally executed, State and Tribal Government managed, and federally supported. Successful emergency management requires nationwide cooperation and unity of effort, combining the strength and ingenuity of our citizens and private sector with a sweeping, all-inclusive, and whole-of-government response. The below is a partial overview of Federal assistance provided to the 574 federally recognized Tribes in the United States to combat the Coronavirus. The information is bolstered by hundreds of additional actions by the Federal Government to help Tribal governments, their leaders, and Tribal citizens. Implementation of the CARES Act and other supplemental funding is ongoing and will also bring additional support to Indian Country. President Donald J. Trump and Vice President Mike Pence have appreciated the strong partnership with Tribal leaders, Tribal public health officials, and Indian Country professionals nationwide.

Supportive Actions by President Donald J. Trump:

- **President Trump Declares a National Emergency:** On March 13, President Trump **declared** a national emergency concerning COVID-19. The emergency declaration authorized direct Federal assistance, temporary facilities, commodities, equipment, and emergency operation costs for all States and Tribes of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. A Tribal government may choose to be a sub-recipient under a state that has chosen to be a recipient of FEMA assistance or choose to be a direct recipient of FEMA. As of May 4, 40 Tribes have signed agreements with FEMA making them eligible for assistance under the emergency declaration. Additional information and guidance can be found **[here](#)**.
- **Tribal Government Disaster Declarations:** In addition to assistance available to Tribal governments under the nationwide emergency declaration, Tribal governments have the option to request assistance under a Presidential major disaster declaration. For the first time in history, every State in the country has received a major disaster declaration, which means every Tribal government in the country is covered by a major disaster declaration (should a Tribe opt to be a sub-recipient under the State declaration). More **[here](#)**.
- **Coronavirus Guidelines for America:** On March 16, President Trump and the White House Coronavirus Task Force **announced** guidelines (*15 Days to Slow the Spread*) to assist State, Local, and Tribal leaders in preventing the spread of the Coronavirus. On March 31, President Trump **announced** revised guidelines (*30 Days to Slow the Spread*) extending mitigation measures through April 30.
- **Historic Economic Relief:** On April 24, President Trump **signed** the *Paycheck Protection Program and Health Care Enhancement Act* into law. The law provides further unprecedented economic relief to American citizens, small businesses, workers, healthcare providers, and State, local, and Tribal governments and builds on the *Coronavirus Aid, Relief, and Economic Security (CARES) Act*, *Families First Coronavirus Response Act*, and the *Coronavirus Preparedness and Response Supplemental Appropriation*. More **[here](#)**.
- **Guidelines for Opening Up America Again:** On April 16, President Trump and the White House Coronavirus Task Force unveiled **guidelines** for the reopening of America. Developed by the top medical experts from across the Government, the guidelines outline a phased return to reopening and include specific steps for State, Local, and Tribal officials to follow in tailoring their response.

Testing, Resource & Logistics Support: The Federal Emergency Management Agency (FEMA) is working with the U.S. Department of Health & Human Services (HHS), other Federal agencies, and private sector

partners, to produce, allocate, and distribute key resources to the Indian Health Service (IHS) and key Tribal health facilities nationwide. Most notably, these include personal protective equipment (PPE), testing supplies, ventilators, and the expedition of critical supplies from overseas to various U.S. locations.

- On March 6, 2020, the IHS activated the IHS Incident Command Structure (ICS) in response to COVID-19. This formally established ICS sections charged with leading Agency activities. Each section facilitates activities that may assist Tribes in their response and recovery to COVID-19.
- HHS, the Centers for Disaster Control and Prevention (CDC), and the Food and Drug Administration (FDA), are providing unprecedented regulatory flexibilities, resources, and guidance to expand the availability of testing and to assist States and Tribes across the country in scaling testing. Learn more from the CDC [here](#) and FDA [here](#). In addition, CARES Act and other supplemental disbursements, alongside FEMA resources, are important avenues for Tribal governments to scale testing.
- The IHS continues to scale COVID-19 testing and contact tracing for Indian Country. IHS [distributed](#) 250 Abbott ID Now test machines through IHS area offices to Federal and Tribal health care facilities. Through these efforts, IHS testing has increased 10-fold over since April 1. Data reported from IHS, Tribal, and Urban Indian Organization facilities can be found [here](#).
- For the first time in history, all ten FEMA regions are concurrently activated. Each of the ten FEMA regions has Regional Tribal Liaisons that have and continue to coordinate with Tribes located within that respective region. More [here](#). FEMA has also dedicated a National Tribal Advisor Desk to help ensure Tribal response for COVID-19 in FEMA's National Response Coordination Center (NRCC).
- Response and recovery efforts are locally executed, State/Tribally managed, and federally supported. The White House, in coordination with FEMA and Federal Agency partners, provided a [disaster response primer](#) for the benefit of State, Local, and Tribal governments to navigate the COVID-19 response and recovery process. FEMA has also provided specific guidance for Tribal Governments [here](#) and [here](#).
- In support of the White House Coronavirus Task Force, FEMA and HHS/IHS are coordinating a whole-of-America approach to source PPE, ventilators, testing supplies, and other critical resources for States, Tribes, and Territories. The effort is led by Rear Admiral John Polowczyk of the Joint Chiefs of Staff and supported by Rear Admiral Michael Weahkee, Director, Indian Health Service. [Project Air Bridge](#), a coordinated public-private partnership, is a key component of this strategy.
- Through the Strategic National Stockpile, other FEMA/HHS procurements, and donations, FEMA has distributed 7.3 M face shields, 111.8 M surgical masks, 896,183 coveralls, 929.9 M gloves, 65.5 M N95 respirators, and 18.1 M gowns across the country. These distributions do not include efforts to support supply chains in every State through Project Air Bridge and other sources. More [here](#).
- As of April 28, FEMA has obligated more than \$358,000 in support of ongoing Tribal response efforts.
- FEMA, in coordination with the U.S. Army Corps of Engineers (USACE) and HHS/IHS, is providing direct support to Tribal Governments in response to COVID-19. For example, FEMA and Arizona State Health mission have assigned a Disaster Medical Task Force to Tuba City Regional Health Care and provided subject matter expertise and other assistance. FEMA has also deployed two Disaster Medical Assistance Teams (DMAT), two 50 bed Federal Medical Stations, and 100 ventilators to assist in response and capacity efforts. HHS/IHS has deployed a liaison to assist the Navajo Nation Health Command Operations Center and assist with coordination.

Federal Agency Support: The Trump Administration continues to provide unprecedented resources, guidance, and regulatory flexibilities for State, local and Tribal governments to develop and deploy innovative solutions for COVID-19 response. To date, the Administration has distributed billions of dollars in resources and supplemental funding to Tribal Governments and entities.

- U.S. Department of Health and Human Services

Indian Health Service (IHS)

- The IHS has allocated a total of \$1.096 B from COVID-19 supplemental appropriations. On April 3, IHS began distributing \$600 million of CARES Act funding to IHS, Tribal, and Urban Indian Organizations following consultations with Tribal governments. On April 24, IHS began distributing the remaining \$367 M in CARES Act funds. On March 27, the IHS began distribution of the full \$64 M provided in the second supplemental appropriation for COVID-19 testing.
- The IHS has and continues to provide guidance and resources to IHS, Tribal, and Urban Indian Health Organizations. Through partnership with Johns Hopkins University, IHS created COVID-19 [materials](#) for Tribal use focused on community prevention education. IHS has also conducted ten COVID-19 webinars aimed at increasing prevention and treatment resources.
- The IHS has [expanded](#) telehealth across the agency. Telehealth services means patients can reduce their risk of infection and also keep healthcare workers and others in waiting rooms and emergency departments safe from COVID-19. It also means frontline emergency physicians have instant access to critical care consultation across miles where the service has traditionally been very difficult to access.
- The IHS is activating Alternative Healthcare Sites (ACS) to address insufficient ambulatory care or hospital capacity, as well as the need to screen and isolate select patients.

Centers for Disease Control and Prevention (CDC)

- CDC is providing direct funding to Tribes and Tribal organizations to address COVID-19. As of April 28, CDC's COVID-19 spend plan for Tribes totals more than \$200 million across CARES Act and other supplemental funding streams. Specific allocations include:
 - \$10.4 M, including \$8 million to the National Council of Urban Indian Health and sub-awards to 41 Urban Indian Health Centers, through CDC's existing cooperative agreement (more [here](#));
 - \$36 M, including to 11 regional Tribal organizations with capacity to each more than 500 Tribes and more than 2 million American Indians and Alaska Natives as well as funding to four Tribal nations serving populations of 40,000 or more through CDC's existing cooperative agreement (more [here](#));
 - As of April 28, \$1.17 M from \$159 M in non-competitive grants to federally recognized Tribes, Tribal organizations, and bona fide agents (more [here](#)).
- CDC is providing guidance, training, tools, and information to Tribes, Tribal organizations, and individual Tribal members to assist them in addressing COVID-19. Many of these resources, such as guidance on *Social Distancing for Tribal Communities with Local COVID-19 Transmission*, can be found on CDC's COVID-19 [website](#).
- CDC is actively working with the Agency for Toxic Substances and Disease Registry (ASTDR) to share information and gain input from Tribal leaders on the challenges Tribal nations are experiencing in addressing COVID-19.

Centers for Medicare and Medicaid Services (CMS)

- CMS has approved waivers under the authority granted to the Secretary in section 1135 of the Social Security Act that provide a range of flexibilities in response to COVID-19. These waivers apply to Medicare and Medicaid providers, including IHS, Tribal and Urban Indian Programs that participate in Medicare and Medicaid. Examples of flexibilities include:
 - CMS is authorizing States and Territories to temporarily suspend Medicaid fee-for-service prior authorization requirements through the termination of the emergency declaration.
 - CMS is temporarily waiving certain provider requirements in States and Territories. For example, States and Territories may request that CMS temporarily waive payment of application fee, criminal background checks, and site visits to temporarily enroll a provider; permit providers located out of State/Territory to provide care to an emergency state's Medicaid enrollee; temporarily cease revalidation of providers who are located in the state or otherwise directly

impacted by the emergency; and, temporarily waive requirements that physicians and other health care professionals be licensed in the state in which they are providing services, so long as they have equivalent licensing in another state.

Administration for Children and Families (ACF)

- Through the Administration for Native Americans (ANA), ACF supports critical programs that are important for Tribes and Native American communities as they respond to COVID-19. Specific resources, guidance, and programs offered through the ANA can be found [here](#).
- ACF is hosting calls with the ACF Tribal Advisory Committee on a biweekly basis to connect Tribal regional representatives with ACF program leadership and representative to discuss ACF COVID-19 response and communications.
- The CARES Act provided \$3.5 billion for the Child Care and Development Block Grant (CCDBG) program for the prevention, preparedness, and response as it relates to child care programs on April 13, 2020. ACF awarded over \$96 M of this supplemental funding to all Child Care Tribal grantees. Lead Agencies can utilize this funding for, among other things, immediate assistance to child care providers to sustain their operations during decreased enrolment or closures, and to otherwise support child care for families, including for healthcare workers, first responders, and others playing critical roles during this crisis.
- As a result of the CARES Act, over \$10 M in Low Income Energy Assistance Program (LIHEAP) COVID-19 supplemental funding will be awarded to approximately 137 Tribes/Tribal communities.
- As a result of the CARES Act, over \$5.6 M in Community Service Block Grant (CSBG) COVID-19 supplemental funding will be awarded to approximately 96 Tribes/Tribal communities.

Health Resources and Services Administration (HRSA)

- The HRSA is the primary Federal agency for improving health care to people who are geographically isolated, economically or medically vulnerable. *The Coronavirus Preparedness and Response Supplemental Appropriations Act* funding enabled HRSA to [award](#) \$100 million to 1,381 health centers across the country. This included 35 Tribal and Urban Indian health centers that received over \$2 M.
- The CARES Act provided HRSA with \$1.32 B in emergency funding for 1,387 health centers across the country. As a result of this funding, 35 Tribal and Urban Indian health centers [received](#) over \$22 M in supplemental awards, to detect coronavirus, prevent, diagnose, and treat COVID-19, and maintain current health center capacity and staffing levels, for the duration of the national emergency.

Administration for Community Living (ACL)

- The Administration for Community Living (ACL) has distributed a total of \$30 million from COVID-19 supplemental appropriations for nutrition and supportive services to elders from the 282 American Indian, Alaskan Native and Native Hawaiian organizations that receive grants from ACL. The funds must be used in order to prevent, prepare for, and respond to the COVID pandemic. On April 20, ACL awarded \$20 million of CARES Act funding and on March 25, ACL distributed \$10 million in the first round of Coronavirus response funding. [More here](#).
- ACL has also coordinated with national aging organizations to provide weekly calls with Tribal organizations to discuss COVID response for Tribal elders.

Substance Abuse and Mental Health Services Administration (SAMHSA)

- On April 27, as part of its CARES Act Response grants, SAMHSA announced the distribution of over \$22 million in funding to Tribes, Tribal organizations, and urban Indian health organizations to provide crisis intervention services, mental and substance use disorder treatment, and other related recovery supports for children and adults impacted by the COVID-19 pandemic. SAMHSA received a tremendous response from Tribal entities and was able to award 50 Tribal programs from \$100k to \$500k for up to 16 months.

- Additionally, through the CARES Act, SAMHSA will allocate \$15 million to Tribes, Tribal organizations, urban Indian health organizations, or health or behavioral health service providers to Tribes. SAMHSA has consulted with Tribes on this funding and is working on its expeditious release.

- **U.S. Department of the Treasury (USDT)**

- As of May 1, the Internal Revenue Service has issued over 127.5 million Economic Impact Payments (EIP) totaling more than \$216.7 billion to eligible individuals across the country. [Authorized](#) under the CARES Act, EIPs are being automatically issued to eligible 2019 or 2018 Federal tax return filers who received a refund using direct deposit. Social Security recipients who do not file tax returns will automatically receive economic impact payments. More [here](#) and [here](#).
- Title V of the CARES Act provides \$8 billion through the [Coronavirus Relief Fund](#) (CRF) to cover expenses related to effective COVID-19 preparedness and response activities and programming to support American Indians and Alaska Natives. Following two rounds of consultation with tribal leaders, on May 5, the Department of the Treasury announced the beginning of distributions to Tribal governments in all states. More [here](#).

- **U.S. Department of Agriculture (USDA)**

- USDA is ensuring that Tribal citizens have food they need. USDA's Food Nutrition Service (FNS) is in the process of disbursing \$100 million for the Food Distribution Program on Indian Reservation ([FDPIR](#)) appropriated in the CARES Act, with \$50 M going towards facility improvements and equipment grades and the other \$50 M going towards additional costs related to additional food purchasing. Additionally, FNS is reviewing waivers for multiple nutrition programs, such as WIC, to ensure maximum flexibilities directly to Tribes.
- USDA has and continues to provide numerous flexibilities and resources to Tribal governments to ease program operations and protect the health of participants. A list of waivers broken down by Tribe can be found [here](#).
- USDA published a [COVID-19 Federal Rural Resource Guide](#) for rural residents, Tribal citizens, businesses, and communities to find information about Federal funding and partnership opportunities during the COVID-19 pandemic.
- On April 17, Secretary Perdue joined President Trump in announcing the Coronavirus Food Assistance Program ([CFAP](#)) to assist farmers, ranchers, and consumers across States and Tribal governments in response to COVID-19. This \$19 B relief program will provide \$16 B in direct support based on actual losses for agricultural producers and \$3 B in purchases of fresh produce, dairy, and meat, including producers in South Dakota.

- **U.S. Department of the Interior (DOI)**

- The Bureau of Indian Affairs (BIA) distributed more than \$355 M of the \$453 M it received in CARES Act funding directly to tribal governments in April to support their COVID-19 response efforts.
- The CARES Act provides \$69 M for education-related needs, including salaries, equipment, online curriculum development and other costs through the Bureau of Indian Education (BIE) to support the more than 46,000 tribal students, 183 BIE-funded schools, and tribal colleges and universities impacted by COVID-19.

- **U.S. Department of Education (ED)**

- To supplement the funds directly appropriated to the BIE, the CARES Act also provides support through the Education Stabilization Fund. In consultation with the Secretary of the Interior, the legislation directs the Secretary of Education to allocate \$153.75 M to Interior for programs operated or funded by BIE. ED and BIE recently concluded a joint Tribal listening session with Tribes, Tribal organizations, Tribal Colleges and Universities, and other stakeholders.

- ED granted several waivers to BIE regarding the assessment, accountability, and fiscal requirements under the Elementary and Secondary Education Act (ESEA). More [here](#).
- In recognition of the widespread school closures faced by school districts nationwide due to COVID-19, the Department has extended the deadline for eligible school districts to submit applications for FY2020 OIE Title VI Formula Grant funding. The Department will now accept OIE Title VI Formula Grant applications until the end of the day on June 19, 2020.

- **U.S. Department of Justice (DOJ)**

- The U.S. Department of Justice (DOJ) meets monthly with the Attorney General's Tribal Nations Leadership Council to discuss emergent issues in Indian country, including DOJ support for Tribes during the COVID-19 global pandemic. Information about DOJ funding and assistance has been disseminated to Tribes in each of the Bureau of Indian Affairs (BIA) regions through the Leadership Council. Additionally, DOJ is assisting with the inter-governmental coordination of Tribal public safety efforts to minimize COVID-19 exposure on Reservations as appropriate.
- The U.S. Department of Justice's United States Attorney's Offices are continuing their efforts, along with their Federal and state law enforcement partners, to coordinate with Tribal governments on public safety issues and to prosecute violent crime in Indian Country, especially domestic violence. Additionally, the Department's U.S. Attorney's Offices are engaging Tribal leaders and Tribal law enforcement within their districts to offer support and explore ways in which the Department can assist our Tribal partners impacted by the COVID-19 global pandemic.
- The Bureau of Justice Assistance (BJA) received \$850 M through the CARES Act for the purpose of assisting state, local, and Tribal jurisdictions with preventing, preparing for, and responding to the coronavirus. The BJA quickly developed the Coronavirus Emergency Supplemental Funding (CESF) program that will provide funding to all fifty states, six territories, and over 1,800 local and Tribal jurisdictions across the nation. Seventeen Tribes from seven states will be eligible applicants for the CESF grant funding totaling \$1,892,805. Ten of the seventeen Tribal applications have been started, and BJA staff continues outreach and application assistance to the remaining Tribes as needed. More [here](#).
- In response to feedback received over the past several years from Tribal leaders in a series of Tribal consultations, the Office for Victims of Crime (OVC) will allocate \$118 M from the FY 2020 Tribal Victim Services Set-Aside (TVSSA) funding through a discretionary administrative formula. The formula responds directly to concerns raised by Tribal leaders that Tribes not be required to compete against each other for OVC funding, and that OVC ensure that the maximum available set-aside funding be disseminated directly to Tribes. More [here](#).

- **U.S. Small Business Administration (SBA)**

- With funding authorization under the CARES Act, the SBA created additional loan/funding [programs](#), including the Paycheck Protection Program (PPP), to assist small businesses impacted by COVID-19. The PPP is available to small businesses, 501(c)(3) nonprofit organizations, veterans' organizations, sole proprietors, and independent contractors, including Tribal business concerns.
- With an initial authorization of \$349 B, SBA executed more loans to small businesses across the country in 14 days than the agency had in 14 years. SBA is currently issuing Round II of PPP loans with an additional \$310 B in authorized funding. In total, SBA has approved over 3.8 million loans to small businesses totaling more than \$500 B.
- SBA has approved Economic Injury Disaster Loan Assistance (EIDL) declarations as it relates to COVID-19 for every State. The declarations make SBA loans available statewide to small businesses and private, nonprofit organizations to help alleviate economic injury caused by the coronavirus. More [here](#).

- **U.S. Department of Commerce (DOC)**

- The CARES Act allocated \$50 M to the Hollings Manufacturing Extension Partnership (MEP), a National Institute of Standards and Technology (NIST) program, to help manufacturers respond to the coronavirus. For assistance, U.S. Tribal manufacturers should contact their [local](#) MEP Center.

- The CARES Act provided the Economic Development Administration (EDA) with \$1.5 B to “*prevent, prepare, and respond to coronavirus.*” In the coming weeks, EDA will accept applications for grants from eligible entities, including Tribal groups, to support a wide variety of economic development assistance. EDA also intends to directly contact and provide special instructions to Tribal groups on how to receive funds for economic recovery planning and coordination under the CARES Act.
- The Department of Commerce’s Minority Business Development Agency (MBDA) continues to do its part keeping America safe and resilient while encouraging minority owned businesses to do the same. Currently, MBDA offers its services to American Indian and Alaska Native (AIAN) entrepreneurs through a network of business development projects targeted specifically to AIAN businesses located across the country. Each project offers a range of services to AIAN businesses, including technical assistance, business consulting, access to capital and procurement opportunities, and strategic partnerships. More [here](#).
- The CARES Act authorizes the Secretary of Commerce to provide \$300 M in appropriated funds to assist fishery participants affected by COVID-19. The National Oceanic and Atmospheric Administration (NOAA) is currently operationalizing distribution of this supplemental assistance. Additional and updated information can be found [here](#). Other provisions in the CARES Act will help NOAA maintain continuity of operations and support the continued success of our nation’s fisheries.
- The U.S. Census Bureau is planning a listening session with federally and state recognized Tribes, and AIAN organizations across the country. This listening session continues ongoing communication with an update on 2020 Decennial Operations, the 2020 Disclosure Avoidance System (DAS) and the geographic hierarchy of DAS.

- **U.S. Department of Transportation (DOT)**

- In FY 20, the Federal Transit Authority (FTA) apportioned \$32,604,193 in funding under the Tribal formula to eligible recipients for capital, operating, planning, and administrative expenses for public transit projects that meet the growing needs of rural Tribal communities. More [here](#). With additional authorizations under the CARES Act, FTA [provided](#) another \$30 M to eligible recipients for qualified expenses. FTA is permitting Tribes to use funds for meal delivery or other essential deliveries for a 6-month period from January 20, 2020.
- On April 14, 2020, the Federal Aviation Administration (FAA) [announced](#) CARES Act grant allocations, including 22 grants for Tribal airport sponsors totaling \$470 K. This funding will help these general aviation airports prevent, prepare for, and respond to the impacts of the COVID-19 public health emergency.
- On April 17, 2020, the BIA Indian Highway Safety Program requested the first flexibility in use of traffic safety equipment for COVID-19 response activities. The majority of NHTSA-funded Tribal grants, totaling approximately \$5 M annually, are used for traffic enforcement and child passenger safety programs.

- **U.S. Department of Veterans Affairs (VA)**

- With the \$19.6 B allocated under the CARES Act, the VA is hiring new staff and procuring additional resources to deal with the evolving needs of the COVID-19 pandemic. This includes expanding free or subsidized telehealth services and waiving a requirement that VA State homes maintain a 90 percent occupancy rate in order to receive Federal benefits for times when the Veteran is not in the home. More [here](#).
- The VA traditionally provides Veterans’ healthcare, benefits and memorial affairs. In times of national crisis, such as the current COVID-19 pandemic, VA provides services to the Nation based on requests from States, while being clear that Veterans are our first priority. This is known as VA’s [Fourth Mission](#). In coordination with the Indian Health Service, the VA is exploring Tribal engagement opportunities, including surge planning in the Albuquerque, Navajo, and Oklahoma City Areas.
- The U.S. Department of the Treasury and VA [announced](#) that VA benefit recipients across the Nation will automatically receive \$1,200 in Economic Impact Payments provided for under the CARES Act.

- On April 3, the VA announced a number of actions to provide Native American and all Veterans across the Nation with financial, benefits and claims help as part of the VA's COVID-19 response. The financial relief actions include – until further notice – (i) suspending all actions on Veteran debts under the jurisdiction of the Treasury Department and (ii) suspending collection action or extending repayment terms on preexisting VA debts, as the Veteran prefers. More [here](#).

- **U.S. Department of Homeland Security (DHS)**

- The Cybersecurity and Infrastructure Security Agency (CISA) is assisting Tribes with their planning and response efforts to COVID-19 by providing direct technical assistance and response for emergency communications. This support included the development of 911 communication and practice standard guides for Tribal emergency communications dispatch and the development of communications guidance for alternate care sites and facilities. More [here](#).
- On March 16, CISA updated [critical infrastructure guidance](#) in response to the COVID-19 emergency. The guidance is intended to help State, local, and Tribal officials to protect their communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security. DHS/CISA continues to engage stakeholders on the guidance and issue revised/updated versions.
- The Homeland Security Information Network (HSIN) is supporting Tribal communities by providing information sharing solutions to support the virtual emergency operations center for COVID-19 situational awareness, planning and coordination among five Tribal nations in the Greater Duluth area (Bois Forte Band of Chippewa, Fond du Lac Band of Chippewa, Grand Portage Band of Chippewa, Leech Lake Band of Ojibwe, Mille Lacs Band of Ojibwe).

- **U.S. Department of Housing and Urban Development (HUD)**

- On April 3, HUD [announced](#) grants to more than 500 Tribes of \$200 M in supplemental Indian House Block Grants (IHBG-CARES). The funding primarily benefits low income American Indian families and is for Tribes and Tribally Designated Housing Entities (TDHEs) to carry out activities to protect the safety and health of their Tribal members and communities. Tribes and TDHEs in accordance with the [implementation notice](#).
- HUD will soon begin accepting applications for \$100 M in supplemental CARES Act funding for the Indian Community Development Block Grant (ICDBG-CARES) program. This funding provides support to Tribes and Tribal organizations across the country to respond to imminent threats related to COVID-19.
- HUD has issued multiple [waivers and alternative requirements](#) of statutory and regulatory provisions to facilitate and expedite the use of funds under both the IHBG-CARES and ICDBG-CARES programs to help address COVID-19 in Tribal communities.
- HUD has also taken many steps to protect Native American homeowners impacted by the COVID-19 emergency to allow them to stay stably housed in their homes. This includes imposing an initial 60-day foreclosure moratorium and a 120-day eviction moratorium under the Department's Section 184 Indian Home Loan Guarantee Program. HUD is developing guidance that will be issued very soon allowing borrowers to seek forbearance relief under their mortgage loans for up to 360 days, consistent with Section 4022 under the CARES Act, and much more.
- Additional resources and guidance from HUD's Office of Native American Programs can be found [here](#)

U.S. Department of Energy (DOE)

- DOE's Cybersecurity Energy Security and Emergency Response (CESER) continues to coordinate with State, local, and Tribal governments on energy security, preparedness, and response and provide COVID-19 response updates. On April 17, CESER held a briefing call for Tribal leadership.
- DOE's Energy Emergency Assurance Coordinators (EEAC) Program is communicating broadly with State, local, and Tribal governments and sharing access to information on energy supply, demand, pricing, and infrastructure.

From: [Gregory Cooke](#)
To: (b) (6)
Subject: FW: Trump's unexpected ally in the fight against tech
Date: Tuesday, June 2, 2020 11:23:00 AM

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Sent: Monday, June 1, 2020 9:00 PM
To: Gregory Cooke <Gregory.Cooke@fcc.gov>
Subject: Trump's unexpected ally in the fight against tech
Trump's unexpected ally in the fight against tech

By John Hendel

06/01/2020 08:59 PM EDT

He rails against the "far left's" hoaxes. He says the World Health Organization has been "beclowned" over its response to the coronavirus. And he describes a "secret and partisan surveillance machine" run by House Intelligence Chairman [Adam Schiff](#).

Those aren't President Donald Trump's words. They came from Brendan Carr, the junior Republican on the Federal Communications Commission, who is embracing a flavor of distinctly Trumpian rhetoric that could help him leapfrog his way to the chairmanship of the five-member regulatory agency.

The FCC, though it has no direct authority over social media, could play a key role in assisting Trump's efforts to rein in the power of Twitter and other online companies. And Carr has spent months echoing some of the president's favorite rhetoric, from hammering the alleged partisan biases of Silicon Valley tech giants to accusing Beijing's Communist leaders of allowing the coronavirus' spread.

Carr has caught Trump's attention in the past week with a series of appearances on conservative and business-oriented television shows, in which the commissioner backed the president's fight against platforms like Twitter.

"This is really welcome news," Carr told Lou Dobbs on Fox Business on Thursday, hours after Trump signed an executive order that threatens to reduce the online industry's protections from lawsuits. Carr argued that the "far left" is "committed to not letting these platforms stay neutral in the run-up to 2020."

The previous night, Carr joined Tucker Carlson and Shannon Bream in separate appearances on Fox News, while slipping in other interviews ahead of the signing — one on Yahoo Finance, another with former Trump aide Sean Spicer on right-leaning Newsmax. On Friday,

he was back on Fox Business joining Neil Cavuto, and on Monday morning he popped up on CNBC.

He was the only commissioner to make such a wide-ranging media tour, and his message was consistent: It's about time.

“Since the 2016 election, the far left has popped from hoax to hoax to explain the loss at the ballot box,” Carr remarked to Carlson. “They have decided, Twitter, to engage the president of the United States with its own partisan political viewpoint.”

If the goal was getting on Trump's radar, he succeeded.

Within hours, [Trump tweeted](#) Carr's interview with Dobbs from his personal account, as did the official White House Twitter account. Trump also retweeted Carr's statement praising the executive order. Donald Trump Jr., the president's son, has also shared Carr's smackdowns of social media companies. And it's not a first, either. Earlier in May, the White House [retweeted Carr](#) accusing POLITICO of spreading “Communist propaganda” by publishing an article that quoted Chinese social media users' mockery of Trump's handling of the pandemic.

Winning Trump's favor via television is an established playbook that has aided past administration officials, such as former national security adviser John Bolton and former White House communications director Anthony Scaramucci, who both got their jobs after becoming prominent on right-wing cable news.

“We're in a world where there are people sitting in high government positions right now, or previously, because the president saw them on TV, saw them on Fox News,” Gigi Sohn, who advised former Democratic FCC Chairman Tom Wheeler, said in an interview. “There may be a method to this madness.”

Carr, a 41-year-old former communications lawyer who became a commissioner in 2017, is hitting just the right notes to appeal to Trump, who could soon use a new FCC chairman if he wins a second term November. Trump's first chairman, Ajit Pai, has helmed the agency for about 3 1/2 years and faces questions about what he may want to do next.

“I just think it's unfortunate when an FCC official goes way out of his lane just to try to audition to be the chairman in a possible second Trump administration,” Sohn remarked. “I've been very shocked by how far out on a limb he's gone to try to get the White House's attention.”

A director at one industry-supported tech policy think tank also expressed dismay with Carr's rhetoric.

“Commissioner Carr has broken with traditional Republican orthodoxy and put all his chips on team Trump,” said Doug Brake, a director at the Information Technology and Innovation Foundation.

"This [executive order] is problematic for all sorts of reasons, and clearly not the proper process or forum to have a discussion around content moderation," Brake added. "I suspect Carr himself knows this."

But Carr told POLITICO that the issues he's discussing surrounding social media and the Chinese government are a natural outgrowth of his long-running interests at the commission.

The politics, he said, is “not my focus.”

He added that he hopes Pai — a “rock star” as chairman — will stay at the commission as long as his term allows, through 2022.

“I don’t think the White House has anything on their radar at this point in terms of FCC chair other than Ajit Pai,” Carr said.

Under Trump’s executive order, the Commerce Department is supposed to petition the commission to narrow the scope of the liability protections that online companies enjoy under a 1996 law. If Carr becomes chairman, he would be in a position to implement Trump’s wishes with a rulemaking, despite the agency’s independence from the executive branch and FCC Republicans’ past objections to inserting the government into the internet marketplace.

Some critics question whether the FCC should have any role here. Democratic Commissioner Jessica Rosenworcel, another outspoken voice at the agency, said she worries the order may turn the FCC into Trump’s [“speech police.”](#)

Carr has expressed no such qualms, and even before the order’s release, Carr told the cable news hosts that the government should rethink the liability protections. He also suggested that social media giants like Facebook merited a crackdown from the Federal Trade Commission, whose duties include consumer protection, on the apparent grounds that they had committed unfair and deceptive business practices when telling Congress they were politically neutral.

He told POLITICO he had not learned of the executive order’s details from the White House directly prior to its unveiling.

Carr has spent recent months picking apart what he sees as contradictions and biases among the major tech companies. That has included skeptical probing of members of [Facebook’s new global content review board](#) — who, he noted Monday on CNBC, include a Stanford Law School professor who testified as an impeachment witness against Trump.

But Carr has disputed the notion that party politics drives his advocacy for free expression, citing his [defense of political satire](#) by former Democratic presidential contender Mike Bloomberg.

“I’m a free speech guy,” Carr said in his interview with POLITICO. “We want more speech.”

But Carr’s dominant attention has been on the anti-conservative biases he sees permeating social media.

Carr’s tone lately has become bolder and louder than in his early years at the agency.

Carr rose up fast after arriving at the commission in 2012 as an aide to Pai during the chairman’s years as a minority commissioner. He became the agency’s general counsel after Pai became chair in January 2017. By that August, with Pai’s advocacy, he bypassed several other GOP contenders to fill an open commissioner spot, winning unanimous confirmation from the Senate.

He built a reputation as a loyal ally to Pai, often being the quickest commissioner to back the chairman’s efforts to roll back Obama-era net neutrality rules and streamline regulations on wireless infrastructure. The portfolio Carr built emphasized the buildout of 5G wireless, a

national shortfall in workers who climb telecommunications towers, and the country's telehealth needs.

Ahead of the 2020 election, Carr has taken to jabbing some of the prominent Democrats vying for Trump's office. Sen. [Elizabeth Warren](#) (D-Mass.) “has no issue leaving rural America behind,” [he tweeted](#) in November, when she was running in the presidential primaries. “No plan to deliver competitive 5G & high-speed Internet to every community-not just Big Cities.”

This March, [he attacked Schiff](#) just weeks after Trump’s Senate impeachment trial, questioning how House members collected and published phone records as part of the impeachment inquiry.

In contrast, the other likely GOP contender to succeed Pai — the more senior Commissioner Mike O’Rielly — has taken a quieter approach to his duties.

Both Carr and O’Rielly would be capable chairs, American Enterprise Institute scholar Roslyn Layton said in an interview, citing their extensive bonafides among conservatives. But O’Rielly has built a reputation for wonkishness, and that more traditional telecom work is how he has tried to stay on Trump’s radar. (Quite literally: He wrote to the president this year urging him to help free up more of the Pentagon’s spectrum for 5G wireless.)

O’Rielly reacted to Trump's executive order [by tweeting](#) that he would need to review it and that, while concerned about conservative voices being “stifled by liberal tech leaders,” he thought the First Amendment governed much of the outcome.

But O’Rielly also faces more immediate challenges compared with Carr — he needs to secure a reconfirmation vote from the Senate this year or lose his seat on the commission. Democrats could resist, hoping to hold the seat open and reclaim the commission's majority if Joe Biden wins in November.

Pai has also held several contentious votes to free up airwaves for the wireless industry, frustrating prominent lawmakers — another potential obstacle for O’Rielly advancing.

Commissioners “all have an eye on how to become chairman,” one longtime industry consultant said, requesting anonymity to speak frankly.

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From: [Emmitt Carlton](#)
To: [Gregory Cooke](#); [Aliza Katz](#)
Subject: Fwd: 4 GOP state AGs support Trump's efforts to involve FCC in tech fight
Date: Thursday, September 3, 2020 2:57:32 PM

FYI

From: "POLITICO Pro Technology" <politicoemail@politicopro.com>
Date: Thursday, September 3, 2020 at 1:36:41 PM
To: "Emmitt Carlton" <Emmitt.Carlton@fcc.gov>
Subject: 4 GOP state AGs support Trump's efforts to involve FCC in tech fight

4 GOP state AGs support Trump's efforts to involve FCC in tech fight

By John Hendel

09/03/2020 01:35 PM EDT

Four Republican state attorneys general are backing the Trump administration's petition to have the FCC narrow the liability protections of social media companies, they told the commission in [a comment posted Thursday](#), arguing that the proposed tweaks would bolster state enforcement powers.

The letter — led by Texas Attorney General Ken Paxton and including Indiana's Curtis Hill, Louisiana's Jeff Landry and Missouri's Eric Schmitt — argues that the “online public squares” of social media can't be free “unless the participants understand the rules of the forum, and competition is able to provide alternatives when speech restrictions go too far.”

“That market cannot operate, or even come into being, unless those who use online platforms and those who wish to compete with them have timely access to accurate information about critical content moderation policies,” the AGs added.

Wednesday marked the deadline for submitting feedback to the FCC on the administration's requests. [Many of the comments showcased outcry](#) from tech and consumer groups that say the FCC has no legal role to play in policing online companies' content decisions.

Why these officials matter: Paxton has emerged as a leader in probing Silicon Valley giants. [He announced a multistate, bipartisan antitrust investigation](#) into Google one year ago and has scrutinized the search giant's advertising practices. [His office also opened a probe into Apple](#) over potential consumer protection violations.

Landry, meanwhile, recently headed the National Association of Attorneys General.

The administration's FCC petition came in response to President Donald Trump's executive order aimed at cracking down on tech companies over perceived bias against conservatives, an action he signed in May after Twitter began fact-checking the president's tweets on mail-in voting. [Paxton sided with Trump, writing an op-ed questioning biases of Twitter employees.](#)

The AGs now cite Twitter's behavior as one reason for their concerns. They also pointed to

incidents in which platforms labeled Covid-19 claims from licensed physicians as as "misinformation."

What they're telling the FCC: The GOP attorneys general say the administration's request strike the right balance for fine-tuning "erroneous and overly broad" interpretations of Section 230 of the Communications Decency Act, the 1996 statute shielding tech companies from liability over user-posted content.

“The Petition clarifies the scope of Section 230 and will empower states to properly enforce their laws without undermining protections for moderation of traditionally regulated content,” wrote the AGs, saying the request “leaves room for states to enforce consumer protection laws when fraudulent conduct occurs.”

They applaud the petition’s focus on greater platform transparency and the approach it preserves in fighting online sex trafficking.

To view online:

<https://subscriber.politicopro.com/tech/whiteboard/2020/09/4-gop-state-ags-support-trumps-efforts-to-involve-fcc-in-tech-fight-3983701>

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From: [Emmitt Carlton](#)
To: [Gregory Cooke](#); [Theodore Marcus](#)
Subject: Fwd: BREAKING NEWS: Court: Trump administration policing panel broke transparency law
Date: Thursday, October 1, 2020 12:40:06 PM

FACA. FYI

From: "POLITICO" <alert@email.politico.com>
Date: Thursday, October 1, 2020 at 12:35:16 PM
To: "Emmitt Carlton" <Emmitt.Carlton@fcc.gov>
Subject: BREAKING NEWS: Court: Trump administration policing panel broke transparency law

A blue-ribbon law enforcement panel created at the direction of President Donald Trump broke a federal open meeting law and must halt its work until it comes into compliance with the statute, a federal judge ruled Thursday.

U.S. District Judge John Bates said the administration violated the Federal Advisory Committee Act by placing only law-enforcement personnel on the 18-member commission and by holding closed meetings without advance public notice.

The commission's final report was set to go to Attorney General William Barr later this month, but Bates said no recommendations can be submitted until the panel remedies the legal violations.

Read more: <https://www.politico.com/news/2020/10/01/court-trump-administration-policing-panel-broke-transparency-law-424519>

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From: [Emmitt Carlton](#)
To: [Gregory Cooke](#)
Cc: [Theodore Marcus](#)
Subject: Fwd: Trump administration originally contemplated approving Ligado's 5G plan, records show
Date: Monday, June 29, 2020 5:51:53 AM

FYI

From: "POLITICO Pro Technology" <politicoemail@politicopro.com>
Date: Monday, June 29, 2020 at 5:02:59 AM
To: "Emmitt Carlton" <Emmitt.Carlton@fcc.gov>
Subject: Trump administration originally contemplated approving Ligado's 5G plan, records show

Trump administration originally contemplated approving Ligado's 5G plan, records show

By John Hendel

06/29/2020 05:01 AM EDT

The Trump administration originally contemplated a strategy for conditionally approving Ligado Networks' 5G plans — months before denouncing the company's proposal as a threat to national security, according to internal Commerce Department emails obtained by POLITICO.

The documents from early 2019 show that Commerce's National Telecommunications and Information Administration had discussed what conditions to impose if regulators greenlit the Virginia satellite company's plans. Months later, NTIA told regulators it simply could not support Ligado's project.

POLITICO obtained the emails [through a Freedom of Information Act request](#).

Why this is significant: The documents provide tangible evidence backing up congressional testimony this month from FCC Commissioner Mike O'Rielly, who [told senators](#) that NTIA had been more receptive to Ligado under former administrator David Redl. Ligado [subsequently told key House and Senate lawmakers](#) that it had had "direct discussions" with NTIA supporting O'Rielly's remarks.

Redl, who abruptly resigned on May 9 last year and has since registered as an industry lobbyist, declined to comment on the documents.

An administration food fight: Ligado has been caught this year in the middle of vicious interagency sparring, with the Pentagon accusing the company of endangering the nation's GPS signals with its plans to repurpose existing airwaves to 5G.

The FCC approved the plans in April, drawing vocal support from Attorney General Bill Barr and Secretary of State Mike Pompeo. But the executive branch as a whole — represented by NTIA — officially opposes the plans and has asked the FCC to reverse its decision.

FCC Chairman Ajit Pai has defended his independent agency's analysis and said the many conditions included in the approval should safeguard GPS.

Redl's role: Redl was President Donald Trump's only Senate-confirmed head of NTIA, and Trump has not nominated a replacement in more than a year of vacancy.

Redl had made a priority of trying to reconcile the differences in the Ligado fight since early on in his term. "We are waist-deep in that, to put it bluntly," he told House lawmakers during a March 2018 hearing, describing a goal to "get everybody at the table to yes."

Redl's tenure was marked by in-fighting at the Commerce Department, as [POLITICO has previously reported](#).

What the emails show: Redl deliberated with top aides on draft recommendations regarding Ligado's project and the proposed conditions that regulators could attach. The released emails black out the details of the drafts and the substance of the negotiations, but the fact that NTIA considered any proposed conditions contradicts the administration's later stance — the agency simply told the FCC [in December](#) that it couldn't support Ligado's plans, a message it reiterated [in April](#).

Redl himself appears to have endorsed these alternative earlier versions, according to the internal emails.

"He cleared it," NTIA official Peter Tenhula [wrote to Doug Kinkoph](#), an official who is now NTIA acting chief, on May 29, 2019, weeks after Redl's departure. Kinkoph signed the eventual December recommendations that rejected the Ligado bid.

Another [document obtained through POLITICO's request](#) shows that Redl signed off on the internal workflow in the department's tracking system to send the drafts on to his superiors at the Commerce Department, where Commerce Secretary Wilbur Ross and his deputies would have make any final calls.

"I urge you and your agency to promptly advance the L-band proceeding by forwarding Administrator Redl's analysis and recommendations to the FCC immediately," Long told Ross.

The Commerce Department never responded, Long's office told POLITICO. NTIA declined to comment on internal deliberations, pointing to the eventual public filing.

What's next: Tussling on Capitol Hill over Ligado is ongoing, with myriad committees seeking government briefings and lawmakers airing concerns and debating legislative countermeasures. Just this Thursday, House Transportation Chair [Peter DeFazio](#) (D-Ore.) [threatened legislation](#) over his concerns. Senate Armed Services Chair [Jim Inhofe](#) (R-Okla.) has been preparing legislation to curb the 5G effort's perceived dangers.

The dispute has also raised broader questions among some lawmakers about U.S. government stewardship of wireless spectrum.

During an FCC oversight hearing Wednesday, some lawmakers and commissioners questioned whether the federal government was correctly managing the airwaves, given many years of deliberation over the Ligado matter.

“I do fear that it might reflect a broken interagency process for spectrum decision-making,” Sen. [Mike Lee](#) (R-Utah) remarked. “If true, this would hinder U.S. leadership in technology.”

To view online:

<https://subscriber.politicopro.com/technology/article/2020/06/trump-administration-originally-contemplated-approving-ligados-5g-plan-records-show-1958225>

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From: [Emmitt Carlton](#)
To: [Gregory Cooke](#)
Subject: Fwd: Trump pressures head of consumer agency to bend on social media crackdown
Date: Friday, August 21, 2020 7:17:40 PM

FYI

From: "POLITICO Pro Technology" <politicoemail@politicopro.com>
Date: Friday, August 21, 2020 at 6:29:04 PM
To: "Emmitt Carlton" <Emmitt.Carlton@fcc.gov>
Subject: Trump pressures head of consumer agency to bend on social media crackdown

Trump pressures head of consumer agency to bend on social media crackdown

By Leah Nysten, John Hendel, Betsy Woodruff Swan

08/21/2020 06:28 PM EDT

President Donald Trump has personally pushed the head of the Federal Trade Commission to aid his crusade against alleged political bias in social media, according to two people familiar with the conversations — an unusually direct effort by a president to bend a legally independent agency to his agenda.

Trump's efforts have included at least one meeting in recent months in the Oval Office with Republican FTC Chair Joseph Simons, in which the president said he wanted the agency to take action on social media companies' alleged censorship of conservatives, according to a person familiar with the conversation. A second person confirmed that Trump and Simons met in the White House and discussed the executive order, but declined to describe the tone of the conversation.

Both people spoke on condition of anonymity to speak candidly about the private discussions.

Earlier this month, Simons told senators he didn't plan to act on the [president's May 28 executive order on social media](#) because he considers it outside the agency's jurisdiction.

The FTC and Simons declined to comment on the chairman's discussions with the president. The White House didn't respond to repeated requests for comment.

Trump, who [signed the order after Twitter began fact-checking his tweets](#), also stunned some GOP lawmakers this month by withdrawing the renomination of Michael O'Rielly, a Republican on the Federal Communications Commission who had expressed skepticism about Trump's order on free-speech grounds.

Both the FTC and FCC are independent agencies that are not subject to the president's commands — he nominates their commissioners, but he [cannot fire them](#) except in cases of "gross negligence." (Trump does, however, have the power to demote Simons from the chairmanship). But Trump has shown a frequent willingness to push the boundaries of his office's powers, and his attempted crackdown on Silicon Valley would be toothless if the two agencies don't follow through on his desires.

"It's very unusual" for an FTC chairman to be called to the White House, said William Kovacic, a Republican who chaired the agency near the end of the George W. Bush administration. Kovacic, who was unfamiliar with the latest incidents, said he communicated directly with the Bush White House only once — via the press office — about a speech by the president that touched on federal hurricane response.

He said policy disagreements have led to a change in an FTC chairmanship only once since 1950, when presidents began designating their picks: In 1981, Republican Commissioner Patricia Bailey lost out on her hopes of serving as acting FTC head for President Ronald Reagan, after she gave a speech critical of Office of Management and Budget director David Stockman.

Simons' term on the FTC ends in September 2024.

[Trump's order urged](#) the FTC to review whether internet companies have deceived their users by censoring political speech and asked that the FCC make judgments about when online companies should qualify for congressionally granted legal immunity over their content decisions. The order also directed the Commerce Department — which does report to Trump — to petition the FCC to take action on the issue, something the department did on July 27.

Some leaders at both agencies have been dubious about Trump's requests. At an Aug. 5 oversight hearing before the Senate Commerce Committee, Simons told senators that the FTC doesn't have jurisdiction to police political speech.

"Our authority focuses on commercial speech, not political content curation," Simons [said](#). "If we see complaints that are not within our jurisdiction, then we don't do anything."

In contrast, fellow FTC Republican Christine Wilson [said in June](#) that the commission should respond to Trump's order by looking into how social media companies make decisions about user content and targeted advertising.

The FCC's O'Rielly questioned Trump's social media pushback in [a July 29 speech](#), saying: "Like it or not, the First Amendment's protections apply to corporate entities."

Five days later, Trump [withdrew O'Rielly's nomination](#) for a new five-year term at the FCC. O'Rielly, who has served on the telecom agency since 2013, must now step down at the end of the year.

Without O'Rielly's backing, Republican FCC Chair Ajit Pai probably could not advance any proposed changes to online liability protections on the five-member commission, even if he were inclined to. The FCC is seeking public input on the administration's requests through September, a timeline that would likely push the conclusion to any rulemaking until after the November election.

The White House has offered no public explanation for why it yanked O'Rielly's nomination.

Trump's moves startled some traditional Republicans, including Senate GOP Whip [John Thune](#) (R-S.D.) and other lawmakers who had welcomed O'Rielly's perspective. The commissioner "represents mainstream conservative thought on these issues," former House Republican Rep. Barbara Comstock of Virginia told POLITICO, calling his yanked nomination "unfortunate."

“He's correct that those on the right calling for speech regulation are advocating a new Fairness Doctrine,” Comstock added, citing the long-abolished FCC rules that once forced broadcasters to give balanced coverage to issues of public importance. Republicans celebrated that policy's demise in the 1980s and have long warned against any attempts by Democrats to revive it.

Trump's pressure campaign comes as his administration elevates other leaders aligned with his views.

One of his newly ascendant tech advisers is Adam Candeub, a Michigan State University law professor who has represented clients such as a self-proclaimed white nationalist in free-speech lawsuits against Twitter and criticized social media companies' liability protections. He joined the Commerce Department in April and this month was tapped as the acting chief of the National Telecommunications and Information Administration, a key advisory agency on tech and telecom policy.

Historically, any hint of presidential meddling in the decision-making of independent agencies has proven controversial, at times explosively.

In 2014, when then-President Barack Obama recorded a video message urging his FCC chair to adopt strong net neutrality regulations, Republicans accused him of violating the independent agency's proceedings. In 2015, after the agency adopted such rules, Republicans summoned FCC commissioners to Capitol Hill repeatedly to air their grievances about Obama's intervention.

Obama's first FTC chair, Jon Leibowitz, [faced criticism](#) for meeting with White House officials in 2011 on the same days as senior Google officials while the company was under investigation by the agency for antitrust violations. Leibowitz and the Obama White House denied discussing the Google investigation, which was ultimately closed in January 2013 without FTC action.

Daniel Lippman contributed to this report.

To view online:

<https://subscriber.politicopro.com/technology/article/2020/08/trump-pushes-ftc-chair-on-social-media-crackdown-1982293>

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


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From: [The National Law Journal Newsroom Updates](#)
To: [Gregory Cooke](#)
Subject: "Implausible Speculation": 2nd Circuit Panel Dismisses Trump Objections to Manhattan DA's Subpoena for Financial Records | National Law Journal
Date: Wednesday, October 7, 2020 10:57:41 AM

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The National Law Journal

Breaking News

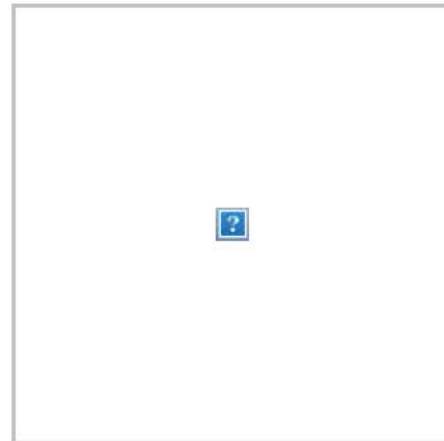
Oct 07, 2020

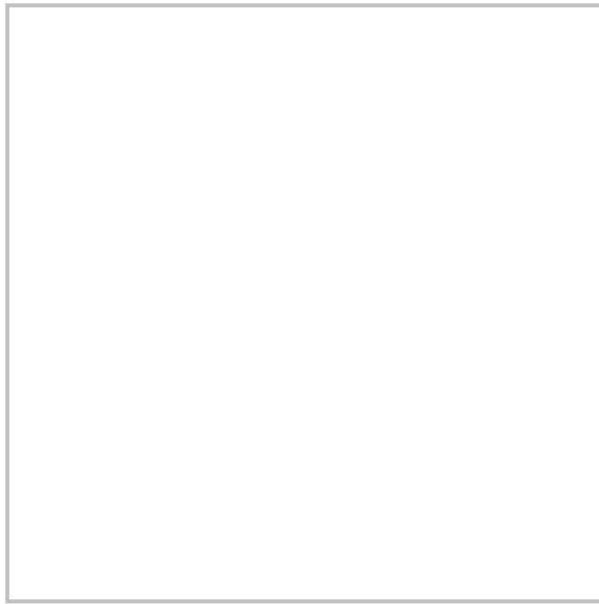
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From: [FCBA Notices](#)
To: [Gregory Cooke](#)
Subject: Important Update: Commissioner Carr and Gigi Sohn to discuss Section 230 at the FCBA's 9/24 Event
Date: Tuesday, September 22, 2020 5:52:45 PM
Attachments: [image001.jpg](#)
[image002.jpg](#)
[image003.jpg](#)
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[image006.jpg](#)
[image007.jpg](#)



[SECTION 230 — ASK THE EXPERTS PROGRAM](#)

Date/Time: Thursday, September 24, 1:00 – 2:00 p.m.

Location: Virtual via the Zoom platform

Organized by the Young Lawyers Committee for all practitioners.

Topic: Section 230 – Ask the Experts

Section 230, the law that gives immunity to interactive computer services for their content moderation practices, has come under the microscope because of the content moderation choices of many social media platforms. In July, as required by a presidential Executive Order, NTIA filed a petition with the FCC seeking new rules to clarify the scope and application of Section 230. This event will help Section 230 newcomers get a baseline understanding of the statutory provision and also dive deep on key developments, including whether the FCC has authority to adopt rules interpreting Section 230, how section 230 has been interpreted to date, and the legal and policy implications that would result from changes to the law.

Opening Remarks: Adam Candeub, Acting Assistant Secretary of Commerce for Communications and Information, NTIA

Back to Basics: What is Section 230: Jess Miers, Third Year, Santa Clara University Law School

Panel Discussion:

Avery Gardiner, General Counsel and Senior Fellow for Competition, Data, and Power, Center for Democracy & Technology

Jamie Susskind, Vice President of Policy and Regulatory Affairs, Consumer Technology Association

Olivier Sylvain, Professor of Law, Fordham University School of Law

Event Moderators:

Stephanie Weiner, Partner, Harris, Wiltshire & Grannis LLP

Chris Laughlin, Communications Associate, Kelley Drye & Warren LLP

Q&A with FCBA President Natalie Roisman :

Brendan Carr, Commissioner, Federal Communications Commission

Gigi Sohn, Distinguished Fellow, Georgetown Law Institute for Technology Law & Policy


Cost: \$45.00 for Private Sector Members \$20.00 for

Government/Academic/Transitional Members No charge for Law Student Members \$

\$60.00 for Non-Members

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From: [The National Law Journal Newsroom Update](#)
To: [Gregory Cooke](#)
Subject: In Nevada, Trump's Legal Team Includes Defense Lawyer for Michael Flynn
Date: Wednesday, November 4, 2020 10:28:26 AM

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The National Law Journal Newsroom Update

Nov 04, 2020

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ELECTION AND POLITICAL LAW


In Nevada, Trump's Legal Team Includes Defense Lawyer for Michael Flynn

By C. Ryan Barber

The race in Nevada was too close to call by Wednesday morning. The state is one of a handful—including Pennsylvania,... [Read More](#)





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From: [Pottebaum, Nic D. EOP/WHO](#)
To: [Pottebaum, Nic D. EOP/WHO](#)
Cc: [Hoelscher, Douglas L. EOP/WHO](#); [Swint, Zachariah D. EOP/WHO](#); [Campana, Ariella M. EOP/WHO](#)
Subject: Inside White House Summit on Reopening American Schools
Date: Wednesday, July 8, 2020 6:52:53 PM
Attachments: [image001.png](#)
[image008.jpg](#)
[image009.jpg](#)
[image010.jpg](#)
[image011.jpg](#)
[image012.jpg](#)



State Leaders and Staff,

Yesterday, the White House hosted a half-day Summit on Safely Reopening America's Schools focusing on reopening America's schools in safe ways that respect the holistic health and learning needs of America's students. The Summit included administrators, health professionals, higher education institution leaders, teachers, parents, state and local leaders, and students from across the nation.

In addition to the Summit, the Vice President [led](#) a discussion with the chief executives of approximately 50 States, territories, and the city of Washington, DC, and the White House Coronavirus Task Force to discuss best practices on safely reopening America's schools.



In the weeks ahead, educators and government officials at the state and local level will be making important decisions about when to safely reopen America's schools.

“Our shared goal should be to have students physically present in school this fall if at all possible,” the President of the American Academy of Pediatrics, Dr. Sally Goza, said at a White House summit yesterday on Safely Reopening America's Schools.

[Dr. Goza: Missing school has lasting effects on children](#)

President Trump and his Administration know that schools are a crucial part of every American community. More than \$13 billion from the President's CARES Act is dedicated to helping schools navigate the extraordinary challenges presented by the Coronavirus pandemic.

Yesterday's White House summit brought together health and education officials from across government and society, including Dr. Deborah Birx, Health & Human Services Secretary Alex Azar, and Education Secretary Betsy DeVos. Panels featured state and local leaders, healthcare professionals, school administrators, teachers, and parents.

First Lady Melania Trump—whose Be Best initiative focuses on improving child well-being—and Second Lady Karen Pence, a teacher, both joined the summit, as did President Trump and Vice President Pence.

[First Lady: Students “missing more than just time in the classroom”](#)

The American Academy of Pediatrics, or AAP, offered this statement urging local governments to reopen schools this fall: “The importance of in-person learning is well-documented, and there is already evidence of the negative impacts on children because of school closures in the spring of 2020.”

Long periods away from school, the AAP says, interrupts support services for children and often results in social isolation. These factors make it “difficult for schools to identify and address important learning deficits as well as child and adolescent physical or sexual abuse, substance use, depression, and suicidal ideation,” they add.

“**This, in turn**, places children and adolescents at considerable risk.”

Secretary Azar spoke on President Trump’s bold actions to both slow the spread of Coronavirus and get America back open for business. “Through this historic response to this unprecedented pandemic, we have the tools to get back to work, back to school, and back to healthcare,” he said.

[Secretary Azar: We can get American children back to school](#)

The CDC is encouraging schools to have plans in place that will help anticipate cases, minimize spread, and limit the need for school closures. Since every school is unique, each will require a different approach to safely welcome students back to the classroom.

Secretary DeVos said the Administration expects children to be back in their learning environments this fall—and urged decision-makers to think practically about the consequences if children do not return to the classroom this year.

[Secretary DeVos: Different states may require different solutions](#)

“**We want to reopen** the schools,” President Trump said. “Everybody wants it. The moms want it. The dads want it. The kids want it. It’s time to do it.” He added that America’s Coronavirus mortality rate is down tenfold from the peak of the crisis.

Now, as more states safely reopen under **[President Trump’s guidelines](#)**, local leaders must continue to put the critical needs of America’s children first.

[Get the facts: President Trump supports the safe reopening of American schools](#)

[Watch: The Trump Administration is working on all fronts to help students](#)
Below you will find additional information, guidance, links to the full Summit, and a fact sheet. Please let us know if you have any questions.

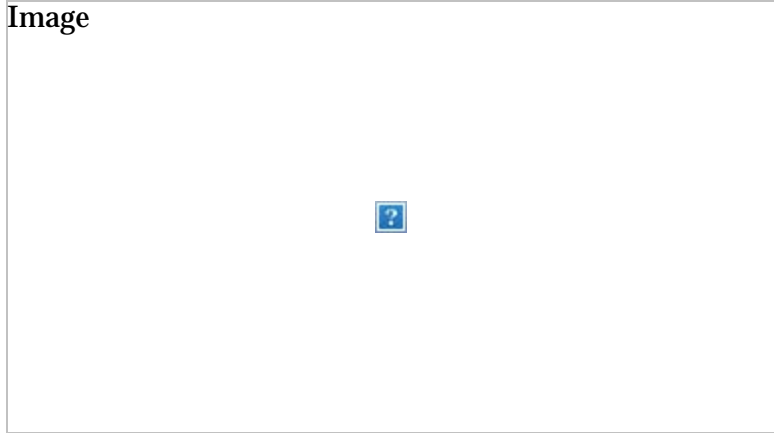
Thanks,

Nic

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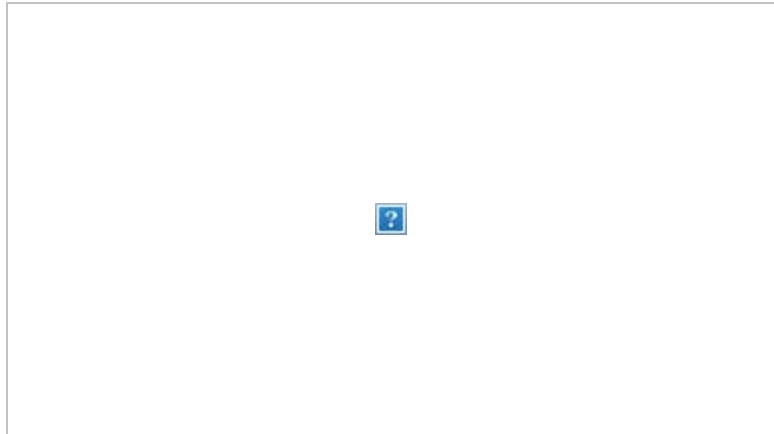
Nicholas D. Pottebaum
Special Assistant to the President and Deputy Director
White House Office of Intergovernmental Affairs

Guidance for Schools & Higher Education Institutions



American Academy of Pediatrics (AAP) COVID-19 Planning Considerations: Guidance for School Re-entry (Full Guidance [Here](#))

- Excerpt from guidance: **“the AAP strongly advocates that all policy considerations for the coming school year should start with a goal of having students physically present in school.** The importance of in-person learning is well-documented, and there is already evidence of the negative impacts on children because of school closures in the spring of 2020. Lengthy time away from school and associated interruption of supportive services often results in social isolation, making it difficult for schools to identify and address important learning deficits as well as child and adolescent physical or sexual abuse, substance use, depression, and suicidal ideation. This, in turn, places children and adolescents at considerable risk of morbidity and, in some cases, mortality. Beyond the educational impact and social impact of school closures, there has been substantial impact on food security and physical activity for children and families.”



CDC Guidance for Childcare, Schools, & Youth Programs (Full Guidance [Here](#))

The guidance includes information for schools, summer camps, youth sports, and childcare programs. Additionally, recorded stakeholder conference calls are available online along with resources for ongoing mitigation strategies and prevention and support.

- New - Interim Considerations for K-12 School Administrators for COVID-19 Testing (Full Guidance [Here](#))
- Considerations for K-12 Schools: Readiness and Planning Tool (Toolkit [Here](#))

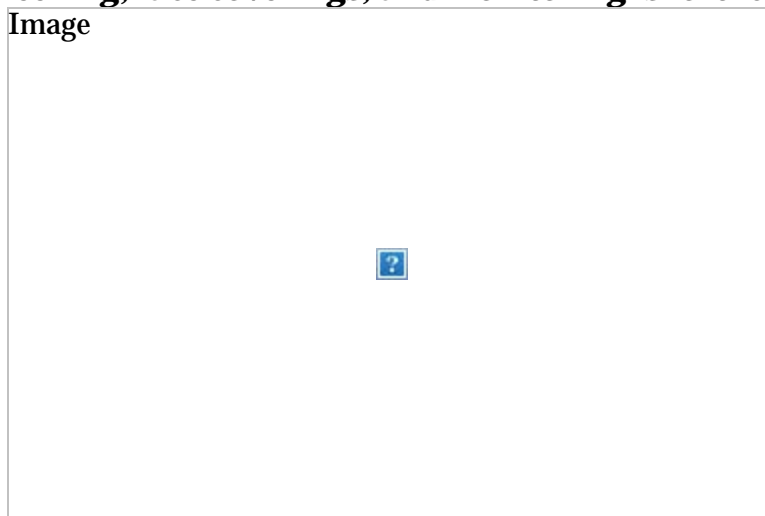
CDC Guidance for Colleges, Universities, and Higher Learning (Full Guidance [Here](#))

The guidance includes health consideration and tools along with information to plan, prepare, and respond. Additionally, recorded stakeholder conference calls are available

alone along with additional community resources, guidance for student travel, considerations for administrators, and much more.

- New - Interim Considerations for Institutions of Higher Education Administrators for COVID-19 Testing (Full Guidance [Here](#))

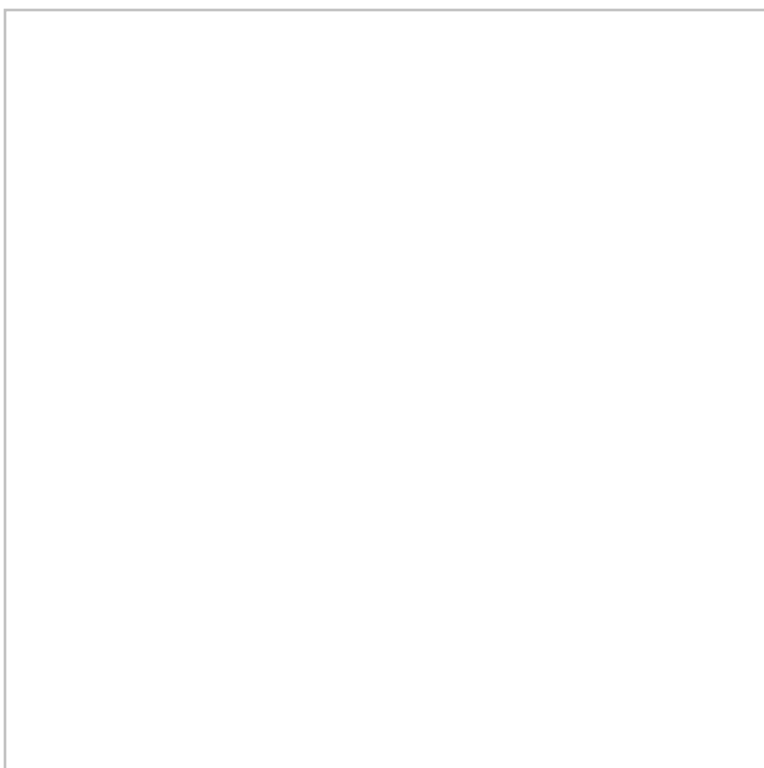
Additional CDC guidance for schools for communities, parents and caregivers, screening, face coverings, and monitoring is forthcoming.



Second Lady Karen Pence delivers remarks at White House summit on Safely Reopening America's Schools | July 7, 2020

Watch the Full Summit

- Full Summit ([Here](#))
- Remarks from Second Lady Pence ([Here](#))
- Remarks from White House Coronavirus Task Force Coordinator Dr. Deborah Birx, Education Secretary Betsy DeVos, and Health & Human Services Secretary Alex Azar ([Here](#))
- Panel Discussion – ABCs of Reopening Schools Safely ([Here](#))
- Panel Discussion – Implementing Safe School Reopenings ([Here](#))
- Roundtable with the President, First Lady, Vice President, & Second Lady ([Here](#))
- Transcript from the Roundtable with the President ([Here](#))



Fact Sheet - President Donald J. Trump Is Supporting the Safe Reopening of America's Schools

“Our country has got to get back, and it’s got to get back as soon as possible. And I don’t consider our country coming back if the schools are closed.” – President Donald J. Trump

SAFELY REOPENING SCHOOLS: President Donald J. Trump and his Administration are working to support the safe reopening of schools for the fall.

- Yesterday, President Trump is hosting a national dialogue with State, local, and tribal leaders, educators, and families to discuss the importance of reopening all of America’s schools in a safe way, starting from the premise of what is best for the children of America.
- President Trump knows that, for the wellbeing of our children and country, students must begin safely learning again and receiving supportive services from schools.
- As the American Academy of Pediatrics has said, “all policy considerations for the coming school year should start with a goal of having students physically present in school.”

PROMOTING SAFE AND EFFECTIVE LEARNING: The importance of in-person learning is well documented, and continued closures stand to negatively impact the welfare of America’s youth.

- Through educational advancement and the many supportive services they provide, our Nation’s schools are fundamental to child and adolescent development.
- Continued school closures could have serious consequences for the holistic health of children and communities, especially those who are most underserved, for

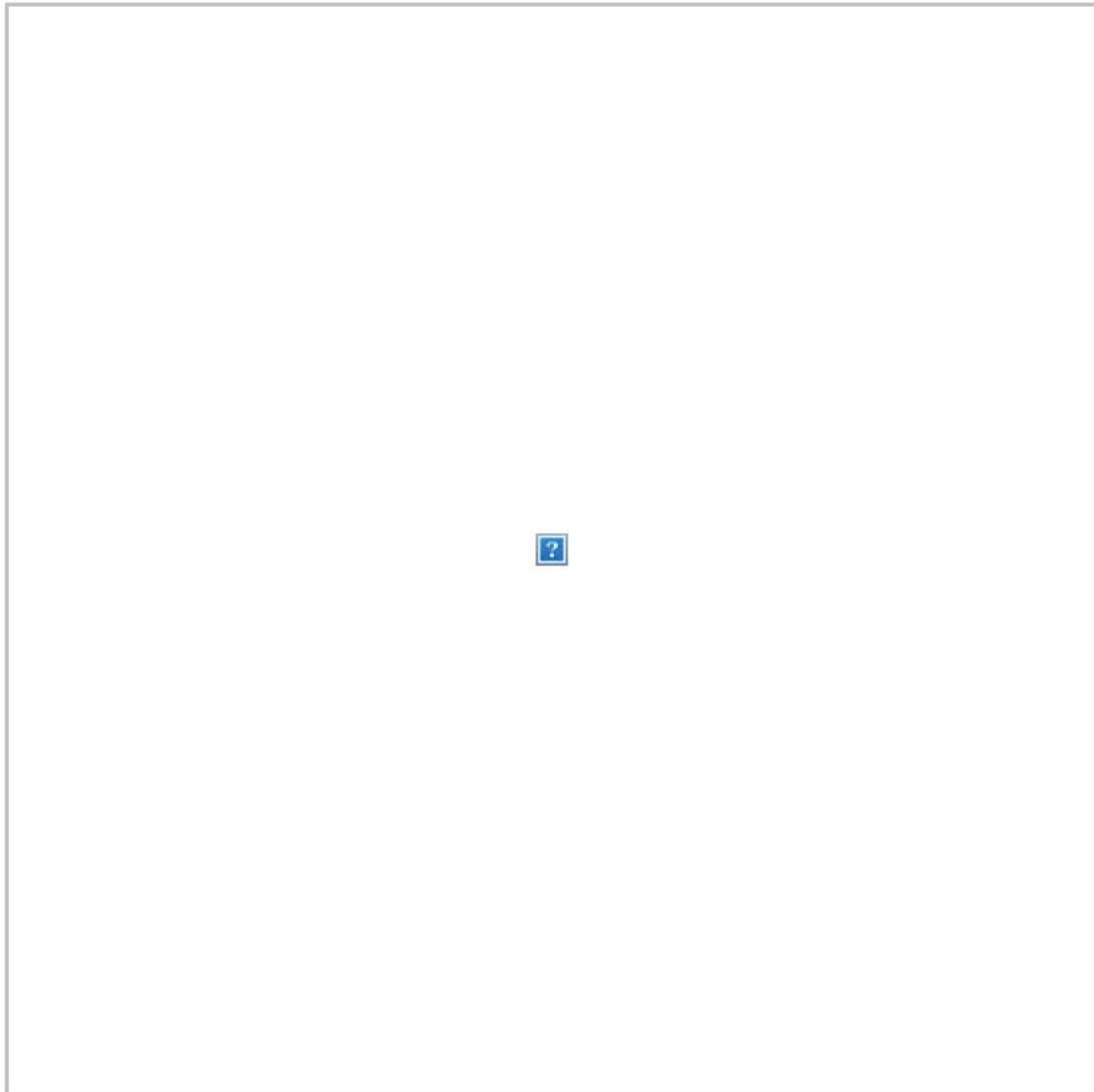
generations.

- Research has shown that school closures disproportionately affect the most vulnerable students, widening disparities in achievement and harming economic potential.
- Lengthy time away from schools – and associated interruptions in supportive services – make it difficult for schools to best serve their students' wellbeing.
 - While children are away from schools, educators are unable to effectively address important learning deficits, child and adolescent physical or sexual abuse, substance use, depression, and suicidal ideation.
- School closures also limit the availability of reliable, healthy meals for some students and take away physical activity options for children and families.

SUPPORTING STUDENTS AND SCHOOLS: The Trump Administration is providing strong support to ensure K-12 students continue to learn while mitigating the spread of the virus.

- The President has made more than **\$13 billion** available to support continued education for K-12 students enrolled in public, charter, and private schools affected by the coronavirus.
- Through the Treasury Department's \$150 billion **Coronavirus Relief Fund**, State and local governments can access funding to help school districts affected by the coronavirus.
- The Centers for Disease Control and Prevention (CDC) released detailed **guidance** to ensure school officials understand how to prepare for, prevent transmission of, and react quickly to coronavirus cases within an education system.
- The CDC has **offered** schools supplemental considerations on how to assess risks of in-person classes, class sizes, behaviors, and cleaning techniques and provided guidance to help schools determine the necessity of conducting screenings, testing, and contact tracing.
- The Trump Administration has **provided** flexibility for school breakfast and lunch programs, helping children access nutritious meals in a safe manner for the entire school-year.

From: [Information Technology & Innovation Foundation](#)
To: [Gregory Cooke](#)
Subject: ITIF UPDATE — Trump v. Biden on tech; 4th Industrial Rrevolution; Amending §230; GDPR adequacy; Webinars: China; Quantum; GTIPA; Book talks
Date: Monday, September 28, 2020 12:04:08 PM



Trump vs. Biden: Comparing the Candidates' Positions on Technology and Innovation

New Report

Tech policy broadly defined becomes more important each presidential election, and this one is no different. As it has in every cycle since 2008, ITIF provides a side-by-side comparison of the nominees' positions on key issues related to the progress of innovation. This year's edition catalogues President Trump and former Vice

President Biden's differences on key areas of tech and innovation policy—from innovation and R&D to the Internet and digital economy, broadband, life sciences, advanced manufacturing, and clean energy innovation.

[Read the report.](#)

Impact of Digital Technologies and the Fourth Industrial Revolution on Trade in Services

Recent Briefing for Think20

The shift to the digital economy has intensified during the COVID-19 pandemic as goods producers connect with customers via online platforms, and services like health, education, and entertainment are delivered online. Yet regulatory frameworks around the world are lagging, putting productivity gains at risk. In a recent briefing for G20 leaders, delivered through the auspices of the engagement group Think20, ITIF contributed to the development of eight recommendations to start shaping a trade policy agenda for a digital future.

[Read the briefing.](#)

The Next Production Revolution: Potential Impacts on Developing Nations

Essay in the New Book *Harnessing the Fourth Industrial Revolution: Challenges and Opportunities*

There is both excitement and trepidation about the so-called “Fourth Industrial Revolution” and its ability to power growth around the world—and one critical question is how its impacts may differ in developed and developing economies. In a new book by the Institute for Policy, Advocacy, and Governance (IAPG), ITIF President Rob Atkinson argues that while both developed and developing economies will benefit, developing economies will benefit less. That’s because their lower labor costs provide less incentive to replace labor with technology, and because new production systems appear to enable shorter production runs and smaller factories, both of which should enable reshoring to higher-wage nations.

[Get the book.](#)

New Attempts to Amend Section 230 Would Impede Content Moderation When It Is Needed Most

New Commentary in ITIF's *Innovation Files*

The recently introduced Online Freedom and Viewpoint Diversity Act and Online Content Policy Modernization Act threaten to change the language in Section 230 of the Communications Decency Act to make online services liable if they remove content that is not obscene, violent, harassing, or illegal. Tightening the standard for online platforms to be able to remove potentially harmful or illegal content without risking legal action would disincentivize content moderation. Policymakers should amend Section 230 in a way that improves on the existing law without hindering innovation, free speech, or content moderation.

[Read the commentary.](#)

Not Granting GDPR Adequacy to the UK Would Be a Mistake

Recent Op-Ed for the *International Association of Privacy Professionals*

The European Commission announced in its two-year review of the GDPR that it “cannot predict” whether the UK, a former member, will qualify for a data transfer adequacy agreement. But the UK has already shown its adherence to the GDPR, given that the EU Withdrawal Act incorporates the regulation into national law. Making it harder for the UK to engage in EU trade would be misguided; the EU relies on the UK’s flourishing digital economy. Rather than risking its competitiveness by obstructing data transfers, the EU should use this opportunity to focus on streamlining its adequacy decision-making process.

[Read the op-ed.](#)

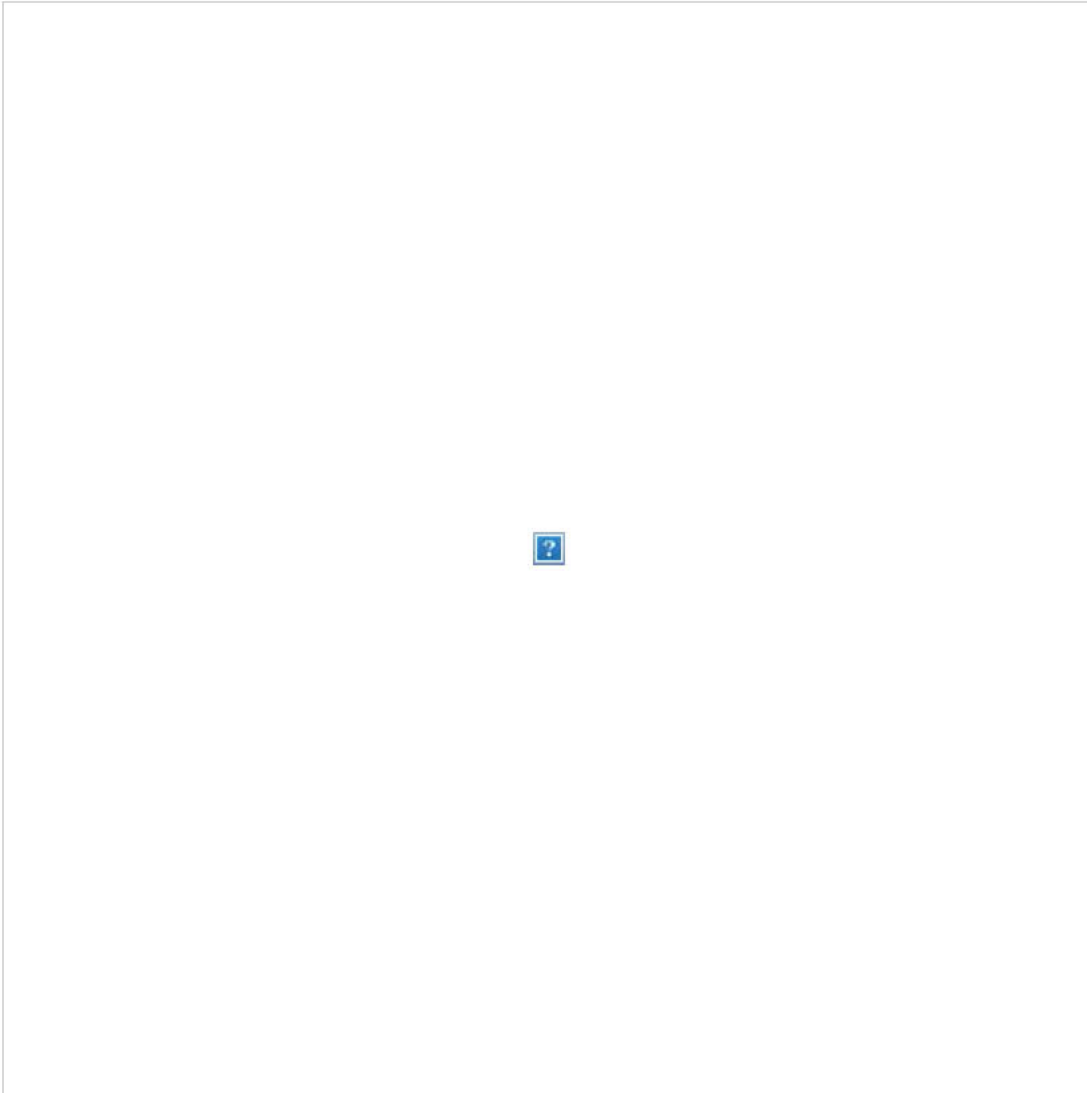
Technology Panic Attacks, From Radio to Social Media

New *Innovation Files* Podcast, With Amy Orben

If Netflix’s “The Social Dilemma” is to be believed, social media giants are surely responsible for the breakdown of our mental health, politics, and the economy.

Generations of fearmongers have found reasons to believe new technologies—from books and bicycles to video games and email—are to blame for society’s ills. Rob and Jackie take a deep breath and discuss these predictable panic cycles with Dr. Amy Orben, an expert in the history of technology panics at Emmanuel College, University of Cambridge.

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Book Talk on “Democratizing Our Data: A Manifesto,” With Julia Lane

Upcoming Webinar

Please join ITIF’s Center for Data Innovation for a conversation with Julia Lane about her new book [Democratizing Our Data: A Manifesto](#). The book argues that public

data is crucial to a well-functioning democracy, but America's public data infrastructure is crumbling. To address this, a new framework focused on automation, transparency, and accountability is needed to produce high-quality public data that can serve the public good.

When: October 2, 2020, 12:00–1:00 PM EDT

[Register now and ask questions in advance.](#)

How Can America and the West Successfully Compete With China?

Upcoming Webinar

China will likely be the biggest business disruptor of the 2020s because of its unique position as the world's largest market for many products, the leading supplier of many more, the toughest competitor, and the West's chief geopolitical rival. Indeed, China has already exceeded the economic impact of earlier rivals the West has faced, and going forward it will be much more difficult to counter. With Chinese companies coming under increased scrutiny in United States, and Western companies under similar scrutiny in China, bilateral relations increasingly look like a win-lose economic struggle that will test which nation is stronger and which is likely to prevail in specific industries. Tensions could defuse, but either way the 2020s will likely be the decisive decade.

Please join ITIF for a discussion of these issues, including how U.S. businesses are likely to be affected and what the U.S. government should do in response. An expert panel will discuss a [recent ITIF report](#) arguing the United States and its allies should focus on rebalancing global supply chains, bolstering competitiveness, adjusting to China's market size, and solidifying the West's appeal.

When: October 7, 2020, 12:00–1:00 PM EDT

[Register now and ask questions in advance.](#)

How Will Quantum Computing Shape the Future of AI?

Upcoming Webinar

Quantum computing holds the potential to revolutionize AI by harnessing the powers of quantum mechanics to solve problems that exceed the capabilities of traditional

supercomputers. By creating new quantum algorithms, it may be possible to substantially reduce the computing time needed for machine learning to solve complex problems such as formulating safe nanomaterials, enhancing climate forecasts, and discovering novel drug compounds. Taking these ideas from theory to practice will require significant resources, and the countries and companies that achieve quantum supremacy are likely to gain a competitive edge in the global AI race.

Join ITIF's Center for Data Innovation for a discussion about the impact quantum computing will have on AI, the current state of the field and near-term challenges, and the role policy can play in accelerating this paradigm shift in computing and AI.

When: October 14, 2020, 9:00–10:00 AM ET

[Register now and ask questions in advance.](#)

2020 Global Trade and Innovation Policy Alliance Virtual Summit

Upcoming Webinar

The 2020 Global Trade and Innovation Policy Alliance (GTIPA) Virtual Summit will bring together Alliance members with world-leading experts to explore creative solutions to difficult economic, trade, and innovation challenges facing the international community. The 2020 Summit will feature a panel of mayors from leading cities around the world discussing how globalization impacts cities and regions and sharing how community leaders are preparing their enterprises, universities, and workforces to compete in a global economy. A second panel will feature discussion of a new GTIPA report detailing member countries' economic and public health responses to the coronavirus crisis. A final panel will feature discussion of another new GTIPA report being released at the summit documenting the importance of e-commerce and digital trade to member nations and highlighting the benefits of maintaining the WTO e-commerce moratorium.

When: October 29, 2020, 8:30 AM – 12:30 PM EDT

[Register now.](#) | [About GTIPA.](#)

Book Talk on “The Reasonable Robot: AI and the Law” with Ryan Abbott

Upcoming Webinar

Join ITIF's Center for Data Innovation for a conversation with Ryan Abbott on his new book *[The Reasonable Robot: Artificial Intelligence and the Law](#)*. The book argues that, as a general principle, the law should not discriminate between AI and human behavior, and discusses how this principle should shape tax, tort, intellectual property, and criminal law.

When: November 13, 2020, 12:00–1:00 PM EDT

[Register now and ask questions in advance.](#)

ICYMI: Recent ITIF Video Webinar

How AI Can Help People Back to Work



Eline Chivot, Senior Policy Analyst, Center for Data Innovation; **Markellos Diorinos**, Co-Founder and CEO, Bryq; **Andrea Glorioso**, Principal Policy Officer Future of Work, DG Connect, European Commission; **Ben Mones**, Founder and CEO, Fama.io; **Lindsey Zuloaga**, Director of Data Science, HireVue.

ITIF in the News

[Axios](#): Where Trump and Biden stand on tech issues

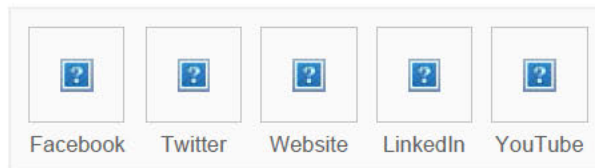
[Axios](#): Gene editing plants and animals could help fight climate change

[Washington Post](#): TikTok tussle shows the uneven economic 'decoupling' that has accelerated between U.S. and China

[Guardian](#): 'I will be cut off': Chinese Americans feel targeted by Trump's WeChat order

ITIF Seeks a Director of Antitrust Policy and an Economic Policy Research Assistant

Details about the positions and application processes are available at: itif.org/jobs.




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To: [Gregory Cooke](#)
Subject: Judge Orders That Trump Be Asked About Declassification Tweets in Mueller Info Fight
Date: Friday, October 16, 2020 1:13:19 PM

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The National Law Journal Breaking News

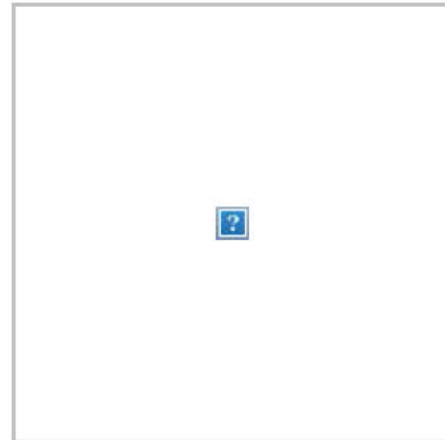
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
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From: [The National Law Journal Breaking News](#)
To: [Gregory Cooke](#)
Subject: Judge, Calling Trump's Tweets "Inartful," Rejects Bid to Release More Secret Mueller Info
Date: Wednesday, October 21, 2020 1:11:15 PM

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The National Law Journal Breaking News

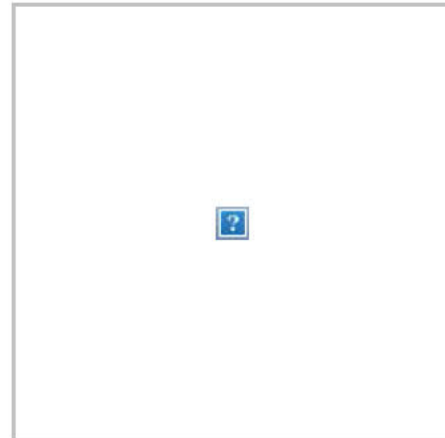
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"It is unfortunate that we are in this situation because obviously where there are references to the declassification... [Read More](#)





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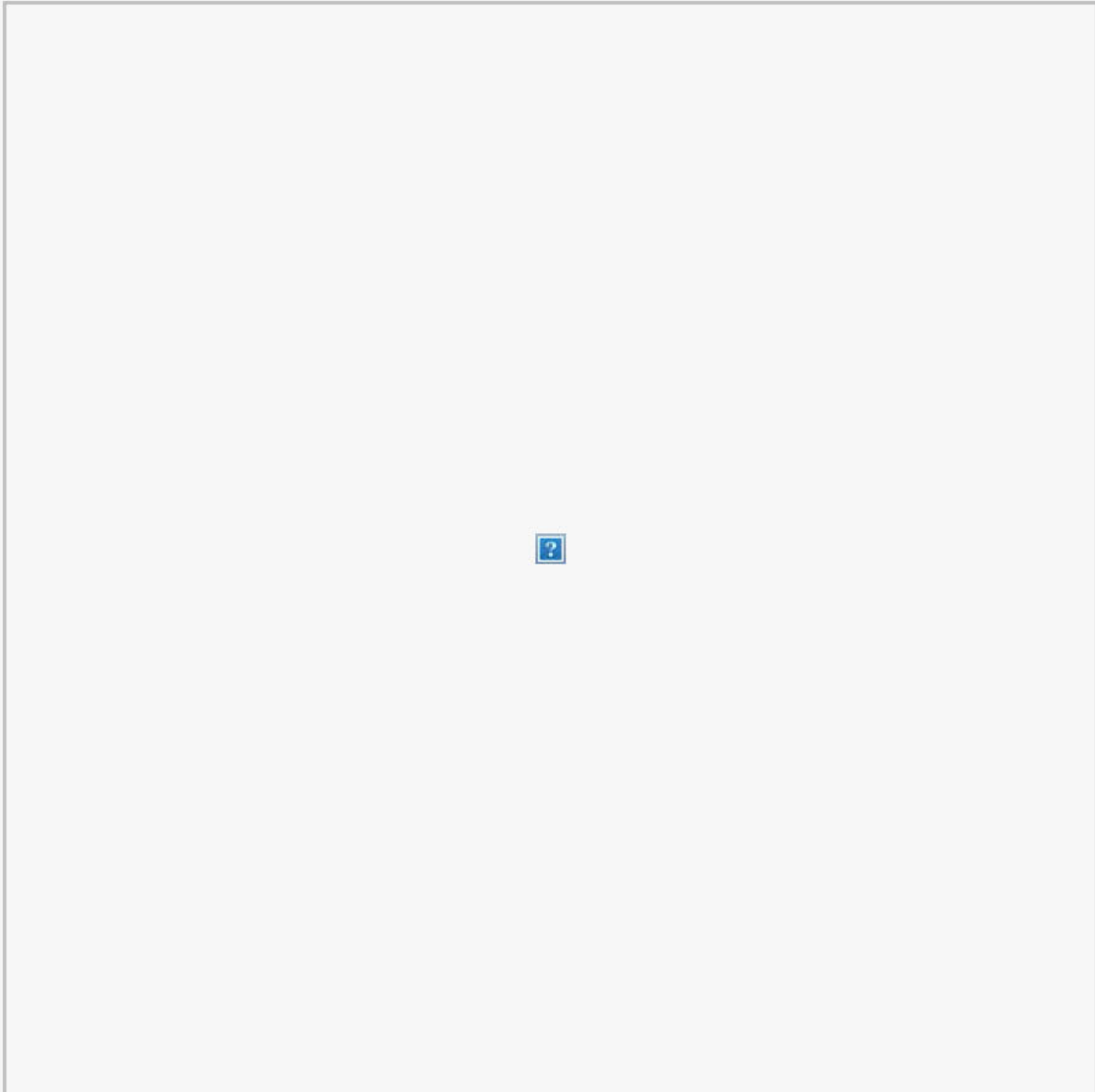
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From: [TechFreedom](#)
To: [Gregory Cooke](#)
Subject: Justice Thomas Garbles Section 230 in Unwarranted Judicial Commentary
Date: Tuesday, October 13, 2020 3:43:32 PM



For immediate release
October 13, 2020

media@techfreedom.org
(475) 655-4777

Justice Thomas Garbles Section 230 in Unwarranted Judicial Commentary

WASHINGTON D.C. □ Today, the Supreme Court declined to review the Ninth Circuit's [decision](#) in *Enigma Software v. Malwarebytes*. TechFreedom filed an [amicus brief](#) supporting a grant of cert. The court of appeals's decision imported a "good faith" requirement into Section 230(c)(2)(B), a little-noticed provision that protects those who offer content filtering tools to others. Despite the narrowness of the case, Justice Thomas issued a 10-page [opinion](#) agreeing that the Court should not have taken this case but lambasting what he claims is an overly broad reading of other provisions of the statute. His separate statement largely parallels arguments the Trump Administration and Congressional Republicans have been making all year that Section 230's protections for content moderation should be narrowed significantly.

Justice Thomas objected to courts "relying on purpose and policy when interpreting Section 230, yet that is precisely what the Ninth Circuit did—it's why the Supreme Court should have taken this case," said Berin Szoka, Senior Fellow at TechFreedom. "The appeals court read into the statute words that are not there. It makes sense that Congress required websites to prove 'good faith' when claiming the (c)(2)(A) immunity for their content moderation decisions. But that requirement makes no sense at all when a filtering tool developer is sued for providing its tool to others to make their own decisions and seeks protection under (c)(2)(B). **Letting the Ninth Circuit's decision stand invites litigation against the makers of malware software, parental controls and other tools that empower users to filter content online. That liability will cause many small developers to exit the market even before they are sued.**"

"This was an unfortunate act of 'Ready, fire, aim,'" Szoka continued.

"Justice Thomas often issues such statements when the Court decides not to take a case, to express his frustrations about the state of the law. Other justices sometimes do so, too, and there is nothing inherently wrong with such statements. But this is the very first time the Court has ever considered reviewing any case involving Section 230. The briefs in this case did not even address the issues Justice Thomas raises. Justice Thomas is free to call for fuller briefing on Section 230's meaning in, as he says, "an appropriate case,"

but this is not that case. **Justice Thomas had no need to express his own views, in extensive dicta, without the benefit of the briefing he acknowledges is needed.**”

The *Malwarebytes* decision involved only the interplay between (c)(2)(A) and (c)(2)(B), not the interplay between (c)(2)(A) and (c)(1) or the meaning of (c)(1). Justice Thomas argues that both provisions in 230(c) most naturally read to protect companies when they unknowingly *decline* to exercise editorial functions to edit or remove third-party content, 230(c)(1) and when they *decide* to exercise those editorial functions in good faith, 230(c)(2)(A). Section 230(c)(1) ensures that “no provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” Section 230(c)(2)(A) protects them for “any action voluntarily taken in good faith to moderate content they consider objectionable.”

“Justice Thomas’s opinion tracks political talking points advanced by this White House about the meaning of Section 230,” continued Szoka. “Those theories are framed in textualist terms, but they quickly break down upon close examination — as Justice Thomas himself might ultimately agree if he waited to hear from both sides. Across the board, Section 230 protects the same thing the First Amendment does: editorial discretion. That’s why Congress said website operators cannot be held liable “as publishers” for content they in no way created. Refusing to carry content one finds objectionable is a core function of any publisher. The courts have interpreted the statute correctly — as a way to short-circuit expensive litigation and thus avoid what one appeals court [called](#) “death by ten thousand duck-bites.” Instead of being able to resolve lawsuits over content moderation with a motion to dismiss, Justice Thomas’s interpretation would effectively force websites to litigate lawsuits through discovery — which, on average, accounts for [up to 90%](#) of the costs of litigation. That, in turn, will discourage content moderation.”

“The central purpose of Section 230 was to avoid the Moderator’s Dilemma: Congress wanted to ensure that websites weren’t discouraged from trying to clean up harmful or illegal content,” concluded Szoka. “If, as Justice Thomas argues, Section 230(c)(1) doesn’t protect websites from being held liable as distributors for content they knew, or should have known, was illegal, this liability will create a perverse incentive not to monitor user content — another version of the Moderator’s Dilemma. Holding websites liable for content they edit in any way, as Justice Thomas proposes, could, conversely,

discourage websites from attempting to make hard calls, such as by blotting out objectionable words, including racial epithets, while leaving other content up. They may simply take down content entirely. □

□□□

Find this release on our [website](#), and share it on [Twitter](#). We can be reached for comment at media@techfreedom.org. See more of our work on free speech and [Section 230](#) on our website, including:

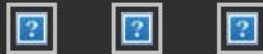
- Our [comments](#) and [reply comments](#) on the NTIA's petition asking the FCC to rewrite Section 230
- Our [coalition letter](#) explaining the constitutional and practice problems raised by the EARN IT Act
- Our [press release](#) on the previous draft of The EARN IT Act (March 5, 2020)
- Our post DOJ Section 230 Workshop blog posts on Techdirt: [Part I](#), [Part II](#), [Part III](#)
- A coalition [letter](#) by 27 civil society organizations and 50 academics a set of [seven principles](#) to guide conversation about amending Section 230 of the Communications Decency Act of 1996
- Our Twitter [thread](#) breaking down the White House Executive Order on Section 230
- Berin Szoka's [testimony](#) before the House Judiciary Committee on the filtering practices of social media platforms
- Our [statement](#) on the passage of SESTA
- Our [statement](#) on the takedown of Backpage and its implications for Section 230 and recent sex trafficking legislation

About TechFreedom:

[TechFreedom](#) is a non-profit, non-partisan technology policy think tank. We work to chart a path forward for policymakers towards a bright future where technology enhances freedom, and freedom enhances technology.

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
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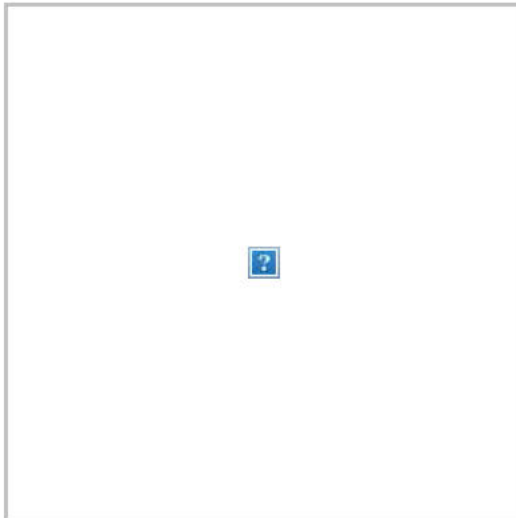
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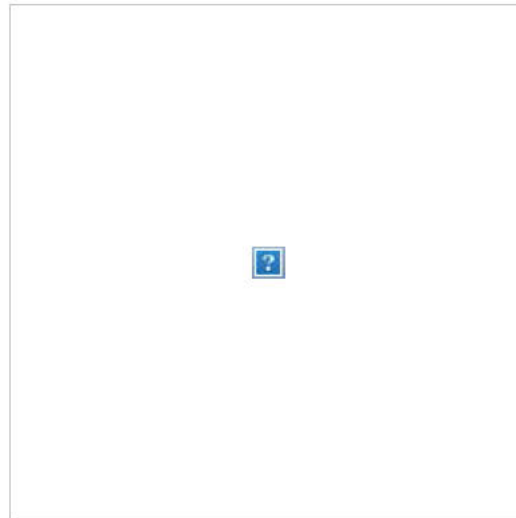


Meet Emily Murphy, the Trump Appointee Holding Up Biden's Transition

By C. Ryan Barber

GSA Administrator Emily Murphy's refusal to make a so-called "ascertainment" of Biden's victory was quickly criticized... [Read More](#)

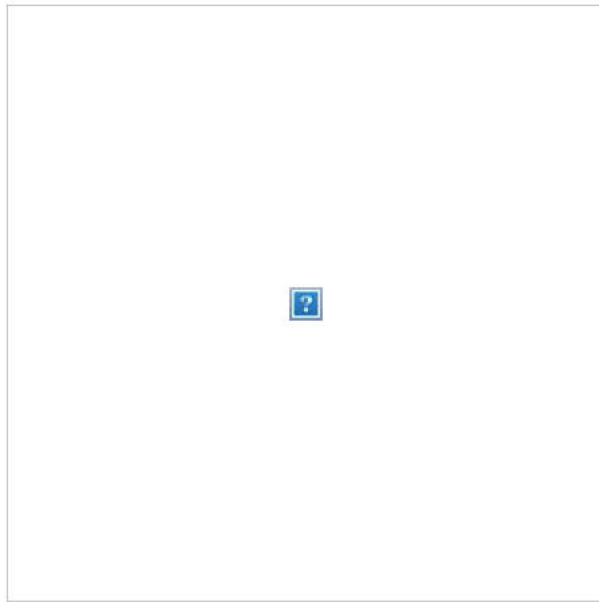
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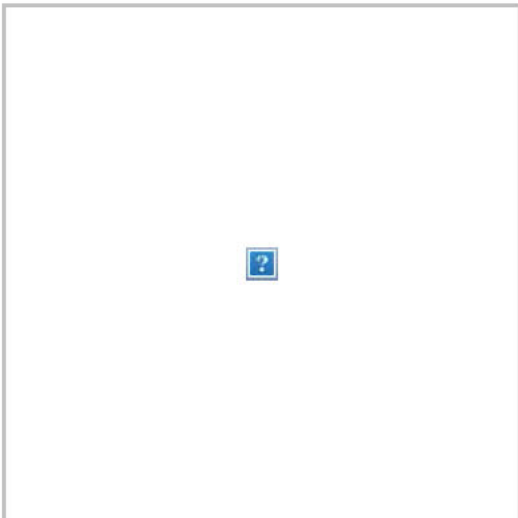
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By Tony Mauro

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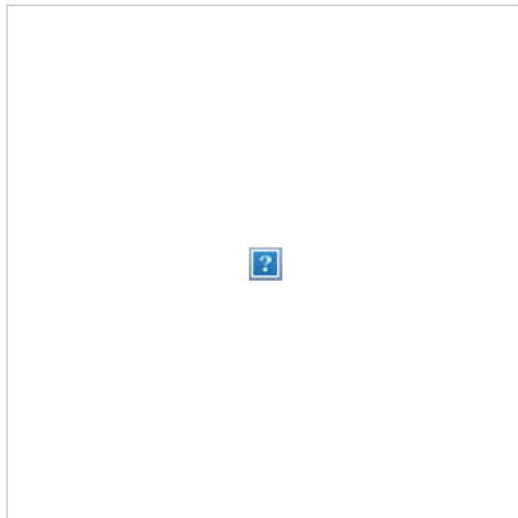
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By Patrick Smith

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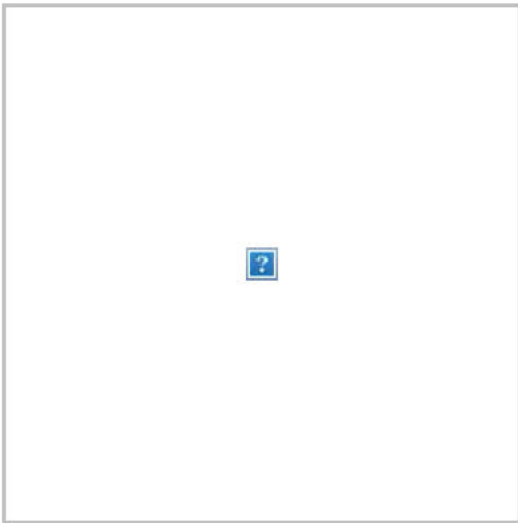


Who Are Trump's Election Litigation Lawyers?

By Dan Roe

Trump's lawyers, so far, include small firms and litigation boutiques that are GOP favorites. [Read More](#)

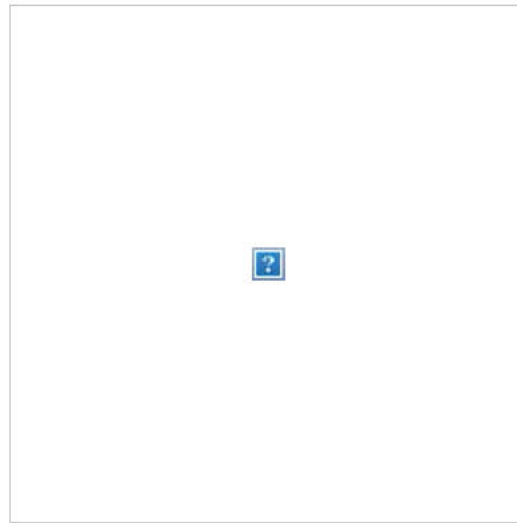
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The 2020 Appellate Hot List

By ALM Staff

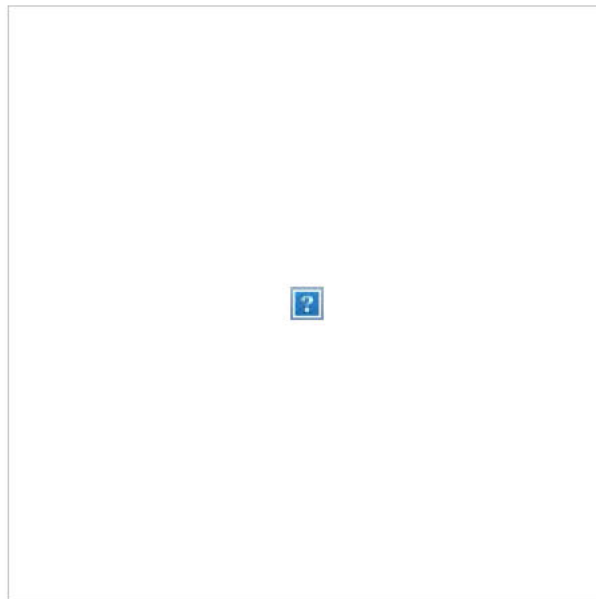
We salute these law firms and lawyers for their success before the U.S. Supreme Court and federal appeals courts. [Read More](#)

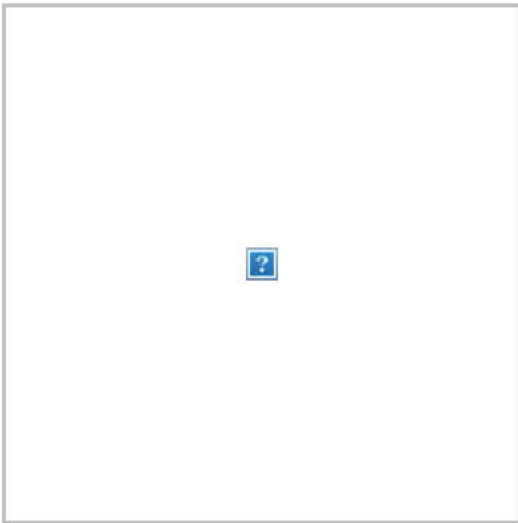


By the Numbers: What Biden's Win Means for the Law and the Courts

By Jacqueline Thomsen

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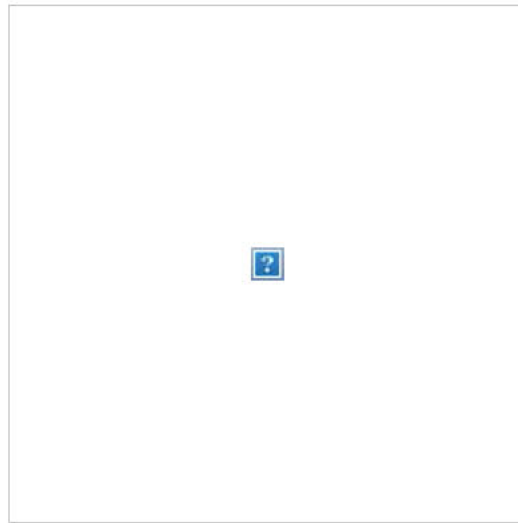




Did Public Shaming Finally Get to Cravath? Yes, Say Some Black Lawyers.

By Vivia Chen

"Shaming is a really powerful tool—it's straight up what millennials and Generation Z prefer." [Read More](#)



Legal Industry Adds Nearly 5,000 Jobs in Sixth Straight Month of Gains

By Dan Packel

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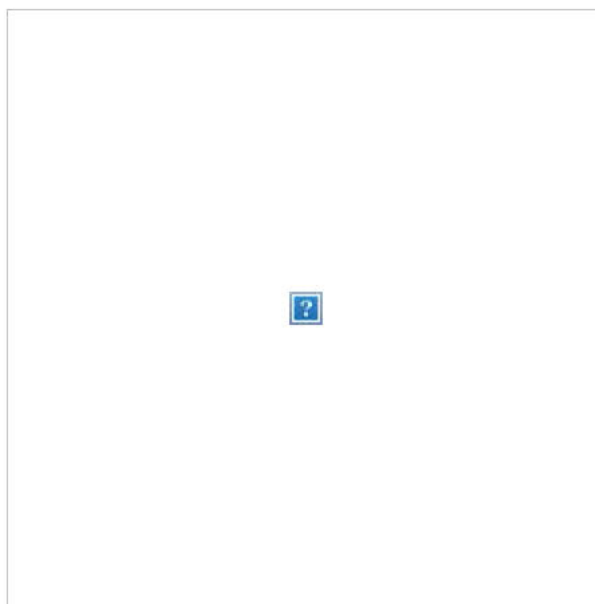
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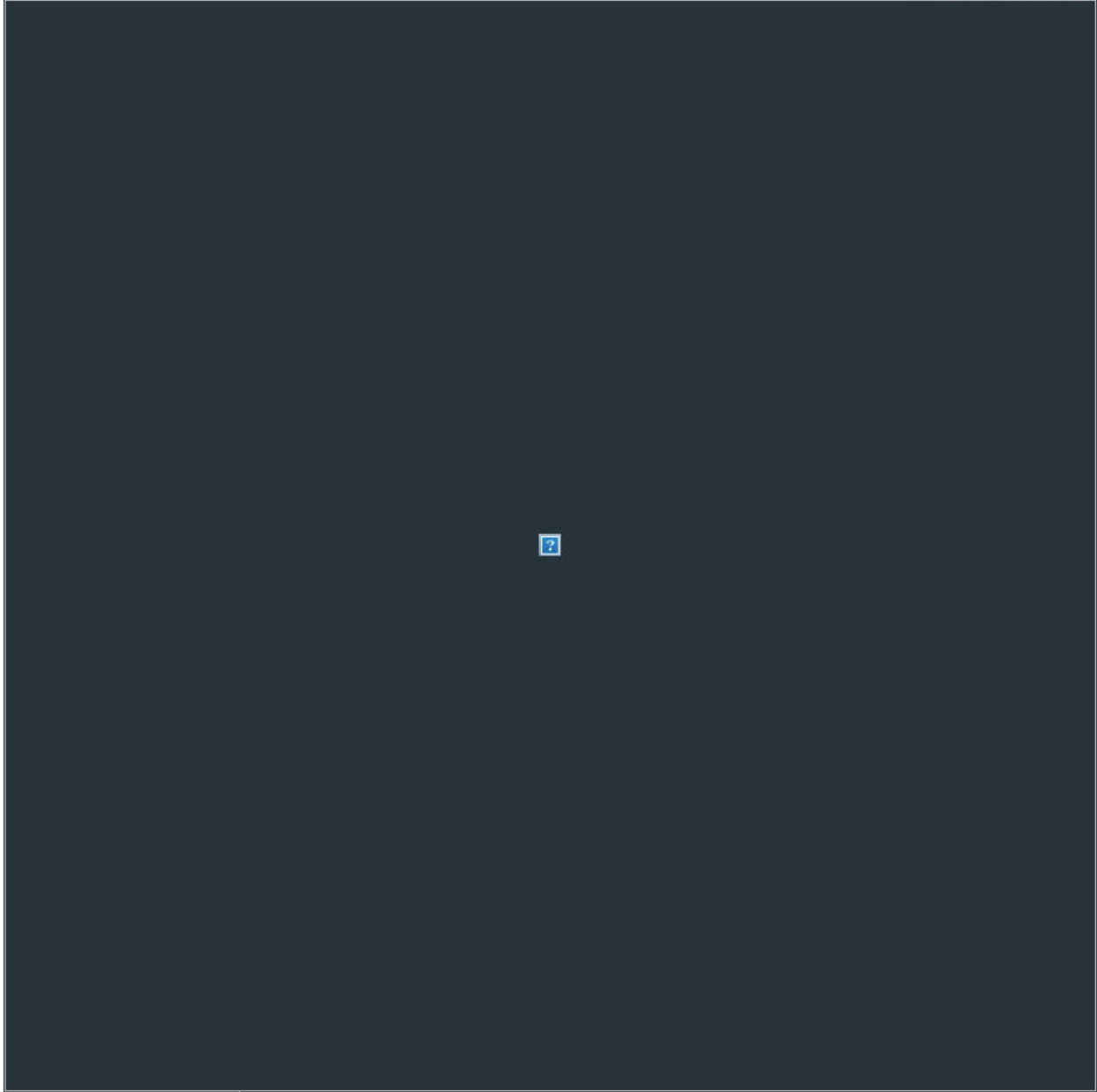


From: [MMTC | Multicultural Media Telecom and Internet Council](#)
To: [Gregory Cooke](#)
Subject: MMTC Fall 2020 Newsletter, Volume 1 - Tech, Media & Telecommunications
Date: Monday, October 5, 2020 2:55:55 PM

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October 5, 2020



Quick Links

- [MMTC Website](#)
- [Broadband and Social Justice Website](#)



MMTC has moved! Here's our new contact information.
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202.261.6543

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at 1250 Connecticut Avenue and say MMTC referred you!*

Support MMTC's Fall Fundraising Campaign and Fellows!



Learn more about the campaign [here](#).

What's in This Newsletter

In this newsletter, we share with you MMTC's engagement to help close the digital divide, connect diverse communities to opportunity, and ensure diverse leadership, ownership, and workforce in technology and communications:

- **MMTC Law and Policy Initiatives:**
 - ALLvanza, MMTC, and OCA-Asian Pacific American Advocates Convene "The Digital Divide in the Era of COVID-19" Event on October 14th
 - MMTC and Coalition Urge FCC to Accelerate Rural Broadband Deployment
 - MMTC Leads Civil Rights Groups in Submitting Section 230 Comments
 - MMTC and Center for Democracy & Technology-Led Coalition Oppose Online Content Policy Modernization Act, S.4632
- **MMTC Events and Presentations:**
 - MMTC CEO Maurita Coley Moderates "Black-Owned Networks: Two Titans Talk" session with Media Titans Robert L. Johnson and Byron Allen at Synopsis Media's Big TV Conference
 - Maurita Coley Speaks at Charter Communications and ACA Connects - America's Communications Association's Briefing on "Rural Broadband Solutions: How to Quickly Close the Gap"
 - MMTC Joins National Black Caucus of State Legislators Webinar on "COVID-19 Education: What about Our Students?"
- **MMTC News:**
 - MMTC Joins T-Mobile's External National Diversity and Inclusion Council
 - Meet MMTC's Fall Fellows
- **MMTC Talent Bank of Tech, Media, and Telecom Legal and Policy Employment Opportunities:**
 - Calling All Employers: Feature Tech, Media, and Telecom Legal and Policy Positions in MMTC Newsletter
- **MMTC Media & Telecom Brokers News:**
 - Radio World Interview with Jeff Chang of the Chang Media Group
- **MMTC Alumni News:**
 - Former MMTC Fellow Belen Crisp Joins ACT | The App Association
 - Former MMTC Pro Bono Attorney Sekoia Rogers Joins FCC
- **MMTC Partner News:**
 - Comcast NBCUniversal's Xfinity Launches "Fabric of America" During Hispanic Heritage Month
 - Charter Communications Relaunches Free 60-Day Spectrum Internet & WiFi Offer to Help Connect New Households With K-12 and College Students or Educators
 - NCTA - The Internet & Television Association and EducationSuperHighway Launch K-12 Bridge to Broadband initiative

MMTC Law and Policy Initiatives

ALLvanza, MMTC, and OCA-Asian Pacific American Advocates Convene 'The Digital Divide in the Era of COVID-19' Event on October 14th



Join ALLvanza, MMTC, and OCA-Asian Pacific American Advocates on October 14th from 4:00 p.m. to 5:30 p.m. ET for the first event in our Moving Underserved Communities Forward virtual event series: "The Digital Divide in the Era of COVID-19." The event kicks off with a Fireside Chat with FCC Commissioner Jessica Rosenworcel and Rosa Mendoza, Founder, President, and CEO, ALLvanza. It also includes a panel discussion with Doug Brake, Director, Broadband and Spectrum Policy, Information Technology and Innovation Foundation; Anna Gomez, Partner, Wiley Rein; Francella Ochillo, Executive Director, Next Century Cities; and Clint Odom, Executive Director, Washington Bureau, National Urban League, moderated by Maurita Coley, President and CEO, MMTC. Ken Lee, CEO, OCA - Asian Pacific American Advocates, will deliver opening and closing remarks.

The Moving Underserved Communities Forward event series brings together diverse leaders to discuss technology and telecommunications policy issues facing underserved communities. Our goal is to create a venue where new ideas can blossom into programs, partnerships, or policy strategies capable of providing meaningful solutions to urgent challenges. By convening diverse thought leaders to tackle some of our toughest problems, we are ensuring policymakers have a better understanding of the issues and possible solutions, making positive change for minority communities in the U.S. and creating a nation where all people have an equal shot at the American dream.

Register for the free event [here](#).

MMTC and Coalition Urge FCC to Accelerate Rural Broadband Deployment



MMTC and a coalition of civil rights organizations submitted a letter urging the FCC to take proactive steps to further broadband deployment in rural areas by clarifying and expediting the process through which providers engage with pole owners to upgrade and build out broadband for these areas.

Read the full letter [here](#).

MMTC Leads Civil Rights Groups in Submitting Section 230 Comments

MMTC filed comments with the FCC on Section 230 of the Communications Decency Act along with the Hispanic Federation, League of United Latin American Citizens, National Coalition on Black Civic Participation, National Council of Negro Women, and National Urban League.

The comments argue that "the NTIA Petition should be denied because (A) the FCC lacks the jurisdiction required to reform Section 230 as proposed in the NTIA Petition; and (B) even if the FCC had jurisdiction, implementation would (1) de-incentivize equitable and viewpoint-neutral content moderation by online platforms, (2) threaten small companies by creating a hostile regulatory environment, and (3) oppress marginalized peoples and activists by perpetuating discriminatory content moderation and hate speech. For its part, Congress should take steps to better protect users from racial and gender discrimination and hate speech online."

The comments go on to make specific recommendations, suggesting that "Platforms should not be immune from liability when they let their users create and spread discriminatory content like hate speech. Platforms should be immune from liability when they work to prevent users from creating and spreading discriminatory content like hate speech."

Read the full comments [here](#).

**MMTC and Center for Democracy & Technology-Led
Coalition Oppose Online Content Policy Modernization
Act, S.4632**



MMTC joined the Center for Democracy & Technology-led coalition of civil liberties and civil rights organizations in warning the Senate Judiciary Committee of **voter suppression** risk from the Senate Online Content Policy Modernization Act, S.4632. S.4632 would deter platforms from fact checking misleading information about voting and would interfere with social media services' ability to combat the spread of mis- and disinformation on their sites. It would narrow Section 230 so that online services would be exposed to liability if they remove content outside a limited set of categories. It would also create a new risk of liability for services that "editorialize" alongside user-generated content.

Read the full letter [here](#).

MMTC Events and Presentations

MMTC CEO Maurita Coley Moderates 'Black-Owned Networks: Two Titans Talk' session with Media Titans Robert L. Johnson and Allen at Cynopsis Media's Big TV Conference



MMTC President and CEO Maurita Coley moderated the "Black-Owned Networks: Two Titans Talk" panel with Robert L. Johnson, Founder and Chairman of The RLJ Companies; and Byron Allen, Founder, Chairman and CEO of Entertainment Studios on September 24, 2020. The panel focused on media ownership, social justice, and economic empowerment.

During the panel, Johnson and Allen discussed the importance of Black ownership. Johnson stated, "The problem in the Black community is that the ideas exist, the vision exists, the work ethic exists... what doesn't exist is access to capital... The definition of ownership is control. If you don't own it, you don't control it. So the idea of Black ownership is critical." Allen commented, "the talent in the Black community is enormous, if we're given the opportunity to play the game... I ended up owning 100 percent of my company because no one believed in me, and no one invested in me. What I went through for the first 30 years, no one should have to go through."

**Maurita Coley Speaks at Charter Communications
and ACA Connects - America's Communications
Association's Briefing on 'Rural Broadband
Solutions: How to Quickly Close the Gap'**



On September 22, 2020, MMTC President and CEO Maurita Coley served as a panelist for Charter Communications and ACA Connects - America's Communications Association's virtual briefing on "Rural Broadband Solutions: How to Quickly Close the Gap." Her co-panelists included Vanessa Sindors and Marc Paul, Charter Communications; Brian Hurley and Matt Polka, ACA Connects; and Katie McAuliffe, Digital Liberty. The briefing was moderated by Michelle Connolly, NCTA - The Internet & Television Association.

**MMTC Joins National Black Caucus of State
Legislators A Webinar on 'COVID-19 Education:
What About Our Students?'**



On August 21, 2020, MMTC Director of Communications, Policy, and Research Marcella Gadson spoke on the National Black Congress of State Legislators' (NBCSL) webinar on "COVID-19: Education - What About Our Students?"

NBCSL President Gilda Cobb-Hunter moderated the panel, joined by panelists Fredrick C. Ingram, President, Florida Education Association, and Perry Daniel, Ed. D., Sr. Director of School Partnerships and Compliance, K12. Panelists discussed the digital divide and issues impacting school systems and our nation's most vulnerable communities as millions of students embarked on a virtual school year but many still lack the tools necessary to get online for virtual learning.

MMTC News

MMTC Joins T-Mobile's External National Diversity and Inclusion Council



As a member of the National Diversity and Inclusion Council, MMTC is proud to partner with T-Mobile to address the topics of diversity, equity and inclusion both in the workplace and the places we live, to bring about a safer and equitable work environment and culture for all. Go [here](#) to learn more.

Learn about the members of T-Mobile's External Diversity and Inclusion Council including MMTC President and CEO Maurita Coley [here](#).

Meet MMTC's Fall Fellows

Meet MMTC's fall fellows:

Dawn Doughty is a third-year student at Florida International University College of Law, where she has maintained placement on the Dean's list every semester of her academic career. While attending school she also works as an Audit Director at one of the nation's largest telecommunications companies where she has been employed for the past twelve years. Dawn also has an M.B.A and is a Certified Fraud Examiner.

DeVaughn Jones is a third-year student at American University Washington College of Law. Since starting law school, DeVaughn has worked under some of the most prominent attorneys in the entertainment and technology industries. He has also researched, published, and given talks about civil rights, race and law, and the role of technology in advancing equity. He serves on the NAACP DC Branch's executive board. Upon graduation, he will work as an associate at Davis Wright Tremaine.

Adrianna Lopez-Colon is a third-year student at St. Thomas University School of Law. Adrianna applied to law school with hopes of becoming a leading advocate for minorities who have not been able to have the same opportunities to grow and be represented in media and telecommunications.

MMTC Talent Bank of Tech, Media, and Telecom Legal and Policy Employment Opportunities

**Calling All Employers:
Feature Tech, Media and Telecom
Legal and Policy Positions in MMTC Newsletter**

In an effort to expand and diversify the pipeline in the tech, media, and telecom industries, MMTC will feature employment, fellowship, and intern opportunities for lawyers, policy professionals, and graduate and undergraduate students in our newsletter. Send emails to media@mmtconline.org.

Career Opportunity

Vice President & Associate General Counsel at Facebook (Menlo Park, CA & Washington, DC): You'll serve as a subject matter expert and resource for teams across the company in areas of civil rights and advise Facebook teams working on new technologies. Apply [here](#).

MMTC Media & Telecom Brokers News

Radio World Interview with Jeff Chang of the Chang Media Group

Read Radio News article, "Keeping Sports Hot in the Age of Coronavirus" [here](#). It features Jeff Chang, president and CEO of Chang Media Group, about his media group and sports talk radio station.

About the Author

Suzanne Gougherty serves as the Director at MMTC Broadcasting, LLC and MMTC Media & Telecom Brokers.

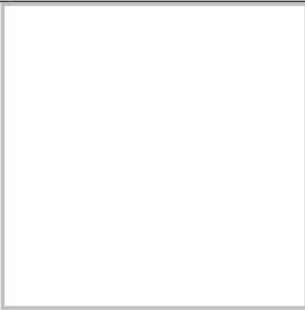


MMTC Alumni News

Belen Crisp, former MMTC 2019 Cathy Hughes fellow and recent graduate of American University Washington College of Law, accepted a position as a Policy Associate at ACT | The App Association.



Sekoia Rogers, former MMTC pro bono attorney, started a new position as an attorney advisor in the FCC Enforcement Bureau, Investigations and Hearings Division. Rogers will focus on investigating and resolving media and telecom related complaints. Prior to working at the FCC, Sekoia served as a fellow at Common Sense Media.



Calling MMTC Alumni!

Please share your updated contact information and career news with Dorrissa Griffin, MMTC Chief of Staff, at dgriffin@mmtconline.org.

MMTC Partner News

Comcast NBCUniversal's Xfinity Launches "Fabric of America" During Hispanic Heritage Month



As a part of its **Hispanic Heritage Month** celebration, Comcast NBCUniversal's Xfinity launched the "Fabric of America," an online space where visitors can share their own stories of strength, resilience and inspiration in their own voices. Share your story and listen to others' stories [here](#). Learn more about Comcast NBCUniversal's Hispanic Heritage Month celebration [here](#).

Charter Communications Relaunches Free 60-Day Spectrum Internet & WiFi Offer to Help Connect New Households With K-12 and College Students or Educators



Charter Communications relaunched of its Remote Education Offer providing free Spectrum Internet - with speeds up to 200 Mbps in most markets - and WiFi access for 60 days to households with K-12th graders, college students and/or educators. The promotion is available for customers who live in a Spectrum market and do not currently have Spectrum Internet services. Learn more [here](#).

NCTA - The Internet & TV Association and EducationSuperHighway Launch K-12 Bridge to Broadband initiative



NCTA-The Internet & Television Association and EducationSuperHighway partnered to launch K-12 Bridge to Broadband, an initiative that connect students in low-income families and help them participate in remote learning. Read the full announcement [here](#).

Download, Share, and Support MMTC's Jumpstart Tech Career and Business Guides

MMTC created the [Jumpstart Your Tech Career Guide](#) and [Jumpstart Your Tech Business Guide](#) to support those who are looking to start or strengthen their careers and businesses in the tech industry. The **MMTC Jumpstart Your Tech Career Guide** provides a four-step process along with resources to help you develop and execute your tech job search strategy. The four steps include:

- Step 1: Do relevant work.
- Step 2: Listen to the buzz.
- Step 3: Start applying.
- Step 4: Identify conferences and tech weeks to attend for training, resources, information sharing, and networking.

Whether you're a student, a recent graduate, or a mid-level or seasoned professional exploring tech entrepreneurship, the **MMTC Jumpstart Your Tech Business Guide** provides a five-step process along with resources to help you develop and execute a strategy to launch your business. The five steps include:

- Step 1: Launch Your Tech Business
- Step 2: Fund Your Tech Business
- Step 3: Target Funders Who Support Diversity
- Step 4: Partner with Corporate Supplier Diversity Programs
- Step 5: Identify Peer Groups, Continuing Education Opportunities, Conferences and Events

Download the **FREE** guides and share them with your network.

- Go [here](#) to get a copy of the MMTC Jumpstart Your Tech Career Guide
- Go [here](#) to get a copy of the MMTC Jumpstart Your Tech Business Guide

Help MMTC expand the guides with a donation. Go [here](#) to donate.

Subscribe to MMTC TV

Have you seen [MMTC TV](#) yet? Go [here](#) to watch videos of MMTC's Broadband and Social Justice Summits and Access to Capital and Telecom Policy Conferences.



Social Media Highlights

MMTC's August and September Social Media

Learn more about MMTC's work by visiting our Wakelet Blog:

- [August Activity Highlights](#)
- [September Activity Highlights](#)

Invest in MMTC

Help Expand MMTC's Work in Tech, Media & Telecom!

With our nonpartisan values of diversity and inclusion, MMTC continues to pursue our work with great determination notwithstanding our modest resources. We offer our sincere appreciation for support in helping us deliver our world-class advocacy, convenings, and policy leadership in industries regulated by the Federal Communications Commission.

TO SUPPORT MMTC, YOU CAN DONATE IN TWO WAYS:

- **Fellowship:** Help the next generation of media and telecom lawyers and policy professionals to advocate on behalf of our nation's multicultural, women, and underserved communities by investing in the new **Henry M. Rivera Fellowship**. Other fellowships you are invited to support are the **Cathy Hughes** and **Earle K. Moore** fellowships.
- **General:** Make a donation to general support.

MMTC Staff 2018



MMTC is recognized by the IRS under 26 U.S.C. §501(c)(3). All contributions are tax-deductible.

Your support makes it possible for MMTC to serve as an advocate for diversity, inclusion and equal opportunity in the nation's most important industries.

Thank You!

About MMTC

The Multicultural Media, Telecom and Internet Council (MMTC) is a non-partisan, national nonprofit organization dedicated to promoting and preserving equal opportunity in the tech, media, and telecom industries, and closing the digital divide. MMTC is generally recognized as the nation's leading advocate for

multicultural advancement in communications. We strongly believe that the breathtaking changes in communications technology and the new global forms of media partnerships must enhance diversity in the 21st century.

About MMTC Media & Telecom Brokers

As the nation's only nonprofit media and telecom brokerage, we invest time and effort in training a new generation of media and telecom entrepreneurs. Our brokerage services have expanded to include consulting. So please think of us if you have a client or a friend looking to enter the broadcast business that needs a seasoned brokerage firm. We are dedicated to our cause of promoting diverse broadcast ownership in media, telecom, and tech.

Want to learn more about MMTC Media & Telecom Brokers? Contact Suzanne Gougherty at sgougherty@mmtconline.org or David Honig at dhonig@mmtconline.org.

Multicultural Media, Telecom and Internet Council, 1250 Connecticut Avenue NW, 7th Floor, Washington, DC 20036

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From: [TechFreedom](#)
To: [Gregory Cooke](#)
Subject: NTIA's Section 230 Reinterpretations Violate First Amendment and FCC Lacks Authority to Implement Them
Date: Thursday, September 3, 2020 12:33:07 PM



For immediate release
September 3, 2020

media@techfreedom.org
(475) 655-4777

NTIA's Section 230 Reinterpretations Violate First Amendment and FCC Lacks Authority to Implement Them

WASHINGTON D.C. □ Yesterday, TechFreedom filed [comments](#) in response to the National Telecommunications and Information Agency's (NTIA's [Petition](#) for Rulemaking, which asks the Federal Communications Commission seeking to implement the White House's [Executive Order](#) entitled "Preventing Online Censorship." The Petition asks the FCC to write rules to require websites to prove that their content moderation was conducted with "good faith," and to define that term to include political neutrality. We've already [explained](#) why the Executive Order is unconstitutional. Here is the executive summary of our comments:

Section 230 is the law that made today's Internet possible. The law has allowed websites to host content created by users without, as the bill's author, Rep. Chris Cox (R-CA), warned in 1995, "spending vast sums of money trying to define elusive terms that are going to lead to a flood of legal challenges." Without the broad protections of 230(c)(1) in particular, websites would face "death by ten thousand duck-bites" in the form of massive litigation risks.

NTIA asks the FCC to turn this law on its head, but the FCC has no authority to reinterpret the statute. The plain language and the legislative history of Section 230 demonstrate that Congress did not intend to grant any regulatory authority to the FCC. Instead, as Rep. Cox declared, Congress did "not wish to have a Federal Computer Commission with an army of bureaucrats regulating the Internet." Under the statute's express terms, the "interactive computer service" providers protected by Section 230 are not "information service providers," nor are they otherwise subject to the FCC's jurisdiction. Both the courts and the FCC itself have concluded that Section 230 confers no authority on the Commission. The FCC's lack of delegated authority under Section 230 is demonstrated by the fact that no courts have deferred to the FCC, or awaited its

opinion on the meaning of the statute before applying it. NTIA's principal argument, that Section 201(b) confers plenary rulemaking powers to interpret any provision of the Communications Act, including Section 230, fails: this provision applies only to common carrier services, as this Commission itself argued in repealing the previous Commission's broad claims of power to regulate Internet services. The FCC also lacks authority to impose disclosure requirements on social media.

NTIA proposes a new, more arbitrary Fairness Doctrine for the Internet. But because social media sites are not public fora, the First Amendment protects the editorial discretion of their operators. The Supreme Court permitted the original Fairness Doctrine only because it denied full first Amendment protection to broadcasters — whereas new media, including social media, enjoys full First Amendment protection.. Conditioning eligibility for Section 230's protections on the surrender of editorial discretion violates the unconstitutional condition doctrine. NTIA's narrowing of Section 230 effectively seeks to compel social media to carry speech they do not wish to carry and associate themselves with views, persons and organizations they find repugnant — and places upon social media providers themselves the burden of defending the exercise of their editorial judgment. Finally, despite NTIA's rhetoric about neutrality, its proposal will empower the government to punish or reward editorial decisions on the basis of content and viewpoint.

NTIA insists that the representations of fairness or neutrality social media make about their services must be enforced, but it is basic principles of consumer protection and contract law, grounded in the First Amendment, — not Section 230 — that bar such claims. Broad statements about not making decisions for political reasons simply are not actionable, and the First Amendment does not permit the government to compel more "particular" promises. The disclosure requirements the FCC has imposed on Broadband Internet Access Service providers are utterly unlike those NTIA proposes for social media: by definition, BIAS services do not exercise editorial discretion, while social media services do. Enforcing BIAS providers' promises of "net neutrality" is nothing like second-guessing how social media provide "edited services." Only in narrow

circumstances will the First Amendment permit suit against media providers based on discrepancies between clear and specific representations about their editorial practices and those practices.

NTIA's statutory interpretations would turn Section 230 on its head, placing a heavy burden on websites to defend their exercise of editorial discretion each time they are sued for content moderation decisions. Courts have correctly interpreted 230(c)(1) to protect broadly the exercise of editorial discretion. NTIA is simply mistaken that this renders 230(c)(2)(a) superfluous: it protects content moderation decisions even when providers responsible for the creation of content, and it protects against other kinds of claims. NTIA would transform 230(c)(2) into the basis for micromanaging how social media operate. Similarly, by redefining which services are eligible for the 230(c)(1) immunity, NTIA would create exactly the kind of censorship regime Section 230 was intended to prevent.

The FCC should dismiss this petition for lack of authority to implement it, and because it violates the most basic precepts of the First Amendment. Evaluating the fairness of media, both offline and online is, as a Republican FTC Chairman eloquently put it, "is a task the First Amendment leaves to the American people, not a government agency." If consumers believe bias exists, it must be remedied through the usual tools of the media marketplace: consumers must vote with their feet and their dollars.

□□□

Download our full comments [here](#), find this release on our [website](#), and share it on [Twitter](#). We can be reached for comment at media@techfreedom.org. See more of our work on free speech and [Section 230](#) on our website, including:

- Our [analysis](#) of legislation proposed by Sen. Josh Hawley, which would amend Section 230 to do essentially the same things the NTIA is asking the FCC to do through a rulemaking
- Our Twitter [thread](#) breaking down the White House EO
- Our Twitter [thread](#) addressing FCC Commissioner Carr's Interview on the matter
- Our [letter](#) to the Senate Judiciary analyzing the EARN IT Act. [PR](#) on the

letter

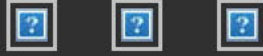
- A coalition [letter](#) by 27 civil society organizations and 50 academics a set of [seven principles](#) to guide conversation about amending Section 230 of the Communications Decency Act of 1996
- Our [statement](#) on Sen. Hawley's proposed legislation on regulating the Internet
- Our [op-ed](#) "Some conservatives need a First Amendment refresher"
- Our [letter](#) to AG Sessions "DOJ Inquiry re Tech Companies Bias is Misguided"
- Our [blogpost](#) "Reality Check for Trump and Republicans Crying 'Bias'"
- Berin Szoka's [testimony](#) before the House Judiciary Committee on the filtering practices of social media platforms
- Our [statement](#) on the passage of SESTA
- Our [statement](#) on the takedown of Backpage and its implications for Section 230 and recent sex trafficking legislation
- [Tech Policy Podcast #251](#): SESTA/FOSTA Hurts Victims It Aims to Protect

About TechFreedom:

[TechFreedom](#) is a non-profit, non-partisan technology policy think tank. We work to chart a path forward for policymakers towards a bright future where technology enhances freedom, and freedom enhances technology.

**Please direct all media inquiries & requests for
comment to media@techfreedom.org**





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To: [Gregory Cooke](#)
Subject: OPM pauses all agency diversity training programs | Trump returns to WH, outbreak fuel onsite employee fears
Date: Wednesday, October 7, 2020 3:14:47 PM

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10/7/2020



[OPM pauses all agency diversity training programs](#)

The Office of Personnel has put all diversity training and inclusion programs in the executive branch on hold pending a compliance review.

[Trump's return, worsening WH outbreak fuel onsite employee fears](#)

President Trump helicoptered back to the White House Oct. 5—after just three days of COVID treatment at Walter Reed hospital—climbed the stairs of the South Portico, and promptly removed his mask for an extended photo op. White House employees buzzed around, doing their jobs nearby—one photographer clearly within six feet of the unmasked, still clearly ill POTUS.



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FEND Highlights

Federal Employees News Digest (FEND) has supplied analysis and news to thousands of federal employees every week since 1951 – get access to these stories and more by [subscribing now!](#)

Fed hiring to emphasize education experience

In June, President Trump signed an executive order directing agencies to broaden the criteria considered in the hiring of federal employees—to still consider the weight of relevant education and experience, but to add skills assessments as an equal measure in the process.

Feds to get work flexibility to vote

As the 2020 presidential election nears, federal employees and managers have been reminded of longstanding policies that ensure they get time off from work to cast their vote if needed.

More from Federal Soup

GSA expands COVID data aggregation

GSA's COVID-19 data aggregation operation sharpens information and services as pandemic continues.

NASA delivers COVID contact tracing app

NASA leverages commercial software, CDO Council for the agency's COVID tracing app.



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Job of the Day

Clerk

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From: [Pottebaum, Nic D. EOP/WHO](#)
To: [Pottebaum, Nic D. EOP/WHO](#)
Cc: [Swint, Zachariah D. EOP/WHO](#); [Campana, Ariella M. EOP/WHO](#)
Subject: President Trump Delivers Unifying Message Celebrating American Independence & Greatness
Date: Monday, July 6, 2020 8:11:55 AM
Attachments: [image001.png](#)
[image002.jpg](#)
[image003.jpg](#)
[image004.jpg](#)
[image005.jpg](#)
[image006.jpg](#)
[image007.jpg](#)



State Leader and Staff,

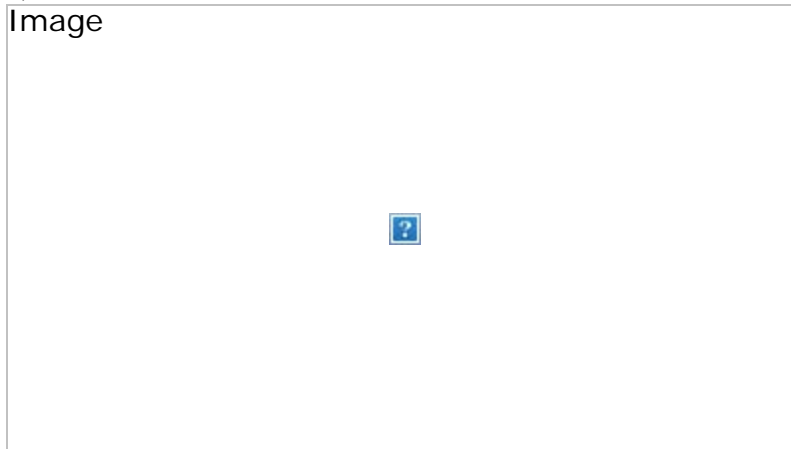
This past Fourth of July Weekend, President Trump delivered a unifying message to the American people celebrating American independence and greatness.

On Friday, July 3, the President paid homage to some of our country's great leaders beneath the shadows of Mount Rushmore in South Dakota. In his remarks, President Trump emphasized law, order and patriotism and defended traditional American principles – liberty, freedom, honor, bravery and spirit – that are now under “radical and unprecedented assault” (see [WSJ Editorial Board: Trump at Mount Rushmore](#)).

The President cast a unifying message for all Americans based on our shared history and values stating, “From this night and from this magnificent place, let us go forward united in our purpose and re-dedicated in our resolve. We will raise the next generation of American Patriots. We will write the next thrilling chapter of the American Adventure. And we will teach our children to know that they live in a land of legends, that nothing can stop them, and that no one can hold them down. They will know that in America, you can do anything, you can be anything, and TOGETHER, we can achieve anything,” the President stated (see *full remarks here* – [video](#); [transcript](#) – *additional excerpts below*).

President Trump also announced an [Executive Order](#) establishing a statuary park – National Garden of American Heroes – honoring many of our country's great citizens, including John Adams, Alexander Hamilton, Thomas Jefferson, Martin Luther King, Jr., Abraham Lincoln, Frederick Douglas, Dolley Madison, Betsy Ross, Harriet Tubman, and George Washington. “America owes its present greatness to its past sacrifices. Because the past is always at risk of being forgotten, monuments will always be needed to honor those who came before,” the President stated.

Image



On Saturday, July 4, at the *Salute to America*, President Trump – joined by front line workers and their families, including law enforcement, doctors, nurses, and others, as well as members of the military and their families – spoke to the tremendous courage and spirit of the American people in our collective fight against COVID-19 just as our forefathers did in the right to secure our independence. “Throughout our history, our country has been tested and tried – but we have always fought to victory. Whenever our way of life has been threatened, our ancestors have responded with the same resounding answer as those first patriots who fought for independence: We are Americans, and we never back down, we never give in, and we never give up, and we will never yield [in] defense of our nation. We love our nation. We will only fight to win (*see full remarks here – [video](#); [transcript](#)*). Also see [Presidential Message on the 244th Anniversary of the Adoption of the Declaration of Independence](#).

Below, find excerpts from the President’s remarks at Mount Rushmore as well as a series of tweets outlining the theme of the President’s remarks on the traditional American principles of liberty, freedom, honor, bravery, and spirit.

Thanks,

Nic

--

Nicholas D. Pottebaum

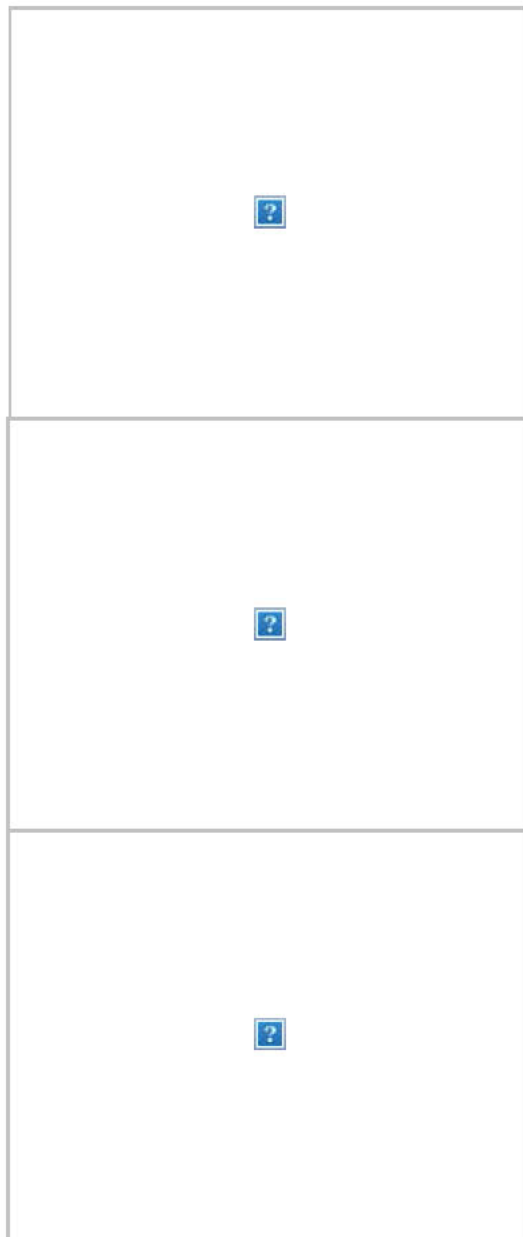
Special Assistant to the President and Deputy Director

White House Office of Intergovernmental Affairs

O: 202-456-2132 | C: 202-881-7803 | E: Nicholas.D.Pottebaum@who.eop.gov

Excerpts from President Donald J. Trump’s remarks at South Dakota’s 2020 Mount Rushmore Fireworks Celebrations (as prepared)





...

There could be no better place to celebrate America's Independence than beneath this majestic monument to four of the Greatest Americans who have ever lived! Today, we pay tribute to the exceptional lives and extraordinary legacies of George Washington, Thomas Jefferson, Abraham Lincoln, and Teddy Roosevelt. I am here as your president to proclaim before the country and the world: This monument will never be desecrated, these heroes will never be defaced, their legacy will never be destroyed, their achievements will never be forgotten, and Mount Rushmore will stand FOREVER as an eternal tribute to our Forefathers and to our FREEDOM!

...

Our Founders launched not only a revolution in government – but a revolution in the pursuit of justice, equality, liberty and prosperity. No nation has done more to advance the human condition than the United States of America. And no people have done more to promote human progress than the CITIZENS of our great nation.

...

Yet as we meet here tonight, there is a growing danger that threatens every blessing our ancestors fought, struggled and bled to secure.

...

Our nation is witnessing a merciless campaign to wipe out our history, defame our heroes, erase our values, and indoctrinate our children. Angry mobs are trying to tear down statues of our founders, deface our most sacred memorials, and unleash a wave of violent crime in our cities.

...

We will EXPOSE this dangerous movement, PROTECT our nation's children, END this radical assault, and PRESERVE our beloved American Way of Life!

...

This movement is openly attacking the legacies of every person on Mount Rushmore. [...] Before these figures were immortalized in stone, they were American giants in full flesh and blood, gallant men whose intrepid deeds unleashed the greatest leap of human advancement the world has ever known. Tonight, I will tell you and, most importantly, the youth of our nation, the true stories of these great men.

...

We will state the truth in full, without apology: We declare that the United States of America is the most just and exceptional nation ever to exist on earth.

...

Those who seek to erase our heritage want Americans to forget our pride and our great dignity, so that we can no longer understand ourselves or America's destiny. In toppling the heroes of 1776, they seek to dissolve the bonds of love and loyalty that we feel for our country, and for each other.

...

They would tear down the beliefs, culture, and identity that have made America the most vibrant and tolerant society in the history of the earth.

...

My fellow Americans, it is time to speak up loudly and defend the integrity of our country! It is time to summon the bravery and determination of our American ancestors. It is time to plant our flag and protect the greatness of this nation, for citizens of every race, in every city, and every part of this glorious land. For the sake of our honor, for the sake of our children, for the sake of our union, we must protect and preserve our history, our heritage and our heroes.

...

Here tonight, before the eyes of our forefathers, Americans declare again, as we did 244 years ago: we will not be tyrannized, we will not be demeaned, and we will not be intimidated! We will proclaim the ideals of the Declaration of Independence—and we will never surrender the spirit and the courage and the cause of July 4th, 1776!

...

Uplifted by the titans of Mount Rushmore, we will find unity that no one expected; we will make strides that no one thought possible. This country will be everything that our citizens hope, and that our enemies fear—because we will never forget that American Freedom EXISTS for American Greatness.

...

Excerpts contd.

Let us also send our deepest thanks to our wonderful Veterans, law enforcement, first responders, and the doctors, nurses, and scientists working tirelessly to kill the Virus.

...

We gather tonight to herald the most important day in the history of nations: July 4th, 1776. At those words, every American heart should swell with pride. Every American family should cheer with delight. And every American patriot should be filled with joy. Because each of you lives in the most magnificent country in the history of the world—and it will soon be greater than ever before!

...

Our Founders launched not only a revolution in government – but a revolution in the pursuit of justice, equality, liberty and prosperity. No nation has done more to advance the human condition than the United States of America. And no people have done more to promote human progress than the CITIZENS of our great nation.

...

It was all made possible by the courage of 56 patriots who gathered in Philadelphia 244 years ago and signed the Declaration of Independence. They enshrined a divine truth that changed the world forever when they said: “All Men Are Created Equal!” These immortal words set in motion the unstoppable march of freedom. Our Founders boldly declared that we are ALL endowed with the same divine rights –given to us by our CREATOR in Heaven. And that which God has given us, we will allow NO ONE to take away.

...

No movement that seeks to dismantle these treasured American legacies can possibly have a love of America at its heart. No person who remains quiet at the destruction of this resplendent heritage can possibly lead us to a better future.

...

We are proud of the fact that our country was founded on Judeo-Christian principles, and we understand that these values have dramatically advanced the cause of peace and justice throughout the world.

...

We believe in equal opportunity, equal justice, and equal treatment for citizens of every race, background, religion and creed. Every child, of every color – BORN AND UNBORN – is made in the holy image of God.

We want free and open debate – not speech codes or cancel culture.

We embrace tolerance – not prejudice.

...

We will never let them rip America’s heroes from our monuments, or from our hearts. By tearing down Washington and Jefferson, these radicals would tear down the very heritage for which men gave their lives to win the Civil War; they would erase the memory that inspired those soldiers to go to their deaths singing these words of the Battle Hymn of the Republic: “As He died to make men Holy, LET US DIE TO MAKE MEN FREE, while God is marching on!” They would tear down the principles that propelled the abolition of slavery in America and, ultimately, around the world—ending an evil institution that had plagued humanity for thousands of years. Our opponents would tear apart the very documents that Martin Luther King used to express his Dream, and the ideas that were the foundation of the righteous movement for Civil Rights. They would tear down the beliefs, culture, and identity that have made America the most vibrant and tolerant society in the history of the earth.

...

My fellow Americans, it is time to speak up loudly and defend the integrity of our country! It is time to summon the bravery and determination of our American ancestors. It is time to plant our flag and protect the greatness of this nation, for citizens of every race, in every city, and every part of this glorious land. For the sake of our honor, for the sake of our children, for the sake of our union, we must protect and preserve our history, our heritage and our heroes.

...

We must demand that our children are taught once again to see America as did Reverend Martin Luther King, when he said that the founders had signed “a promissory note” to every future generation. Dr. King saw that the mission of justice required us to fully embrace our founding ideals. He called on his fellow citizens not to rip down their heritage, but to LIVE UP to it.


...

From this night and from this magnificent place, let us go forward united in our purpose

and re-dedicated in our resolve. We will raise the next generation of American Patriots. We will write the next thrilling chapter of the American Adventure. And we will teach our children to know that they live in a land of legends, that nothing can stop them, and that no one can hold them down. They will know that in America, you can do anything, you can be anything, and TOGETHER, we can achieve anything.

Uplifted by the titans of Mount Rushmore, we will find unity that no one expected; we will make strides that no one thought possible. This country will be everything that our citizens hope, and that our enemies fear—because we will never forget that American Freedom EXISTS for American Greatness. Centuries from now, our legacy will be the Cities we built, the champions we forged, the good that we did, and the monuments we created to inspire us all.

From: [The National Law Journal Newsroom Update](#)
To: [Gregory Cooke](#)
Subject: Pressed on Trump Recusals, Barrett Won't Commit but Acknowledges Role of "Appearance"
Date: Tuesday, October 13, 2020 12:42:02 PM

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The National Law Journal Newsroom Update

Oct 13, 2020

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GOVERNMENT | NEWS

Pressed on Trump Recusals, Barrett Won't Commit but Acknowledges Role of 'Appearance'

By Jacqueline Thomsen | Marcia Coyle | Tony Mauro

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From: [The National Law Journal Afternoon Update](#)
To: [Gregory Cooke](#)
Subject: Quinn Emanuel Splits With Former Trump Adviser Steve Bannon
Date: Friday, November 6, 2020 3:34:04 PM

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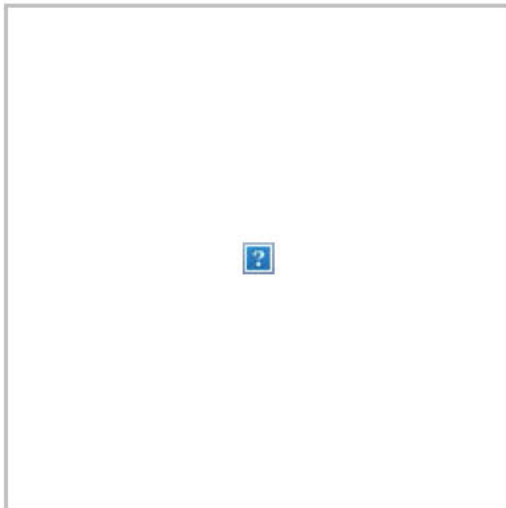
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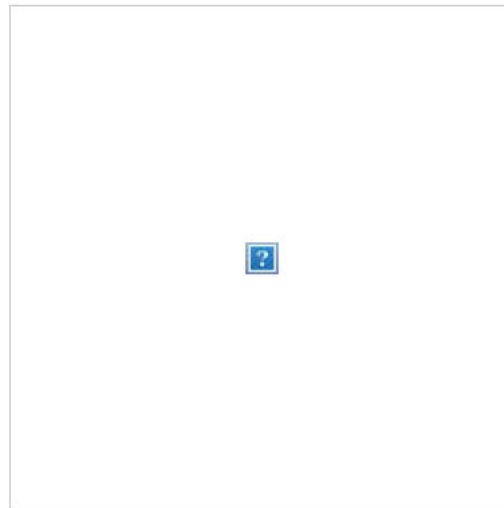


Quinn Emanuel Splits With Former Trump Adviser Steve Bannon

By Jane Wester

His lawyers did not give a reason for their departure, but Bannon made headlines Thursday after posting on social media... [Read More](#)

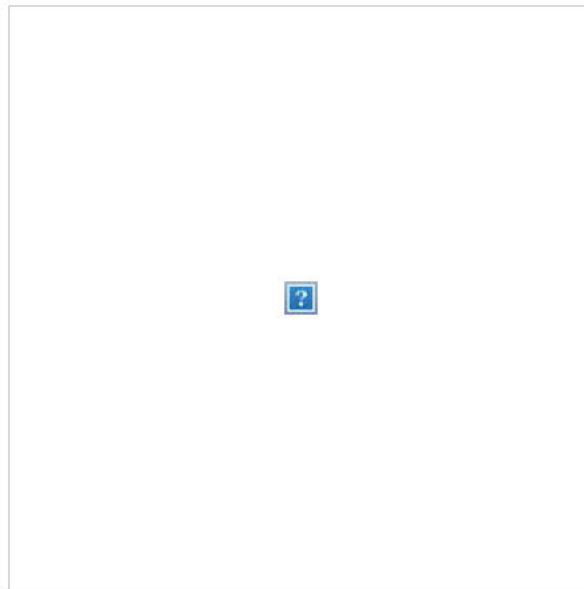
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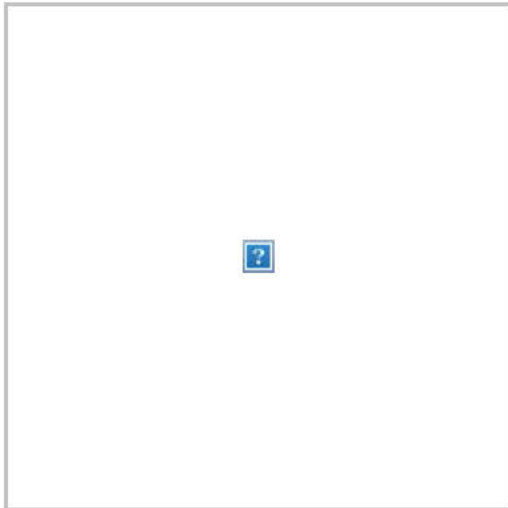
Legal Industry Adds Nearly 5,000 Jobs in Sixth Straight Month of Gains

By Dan Packel

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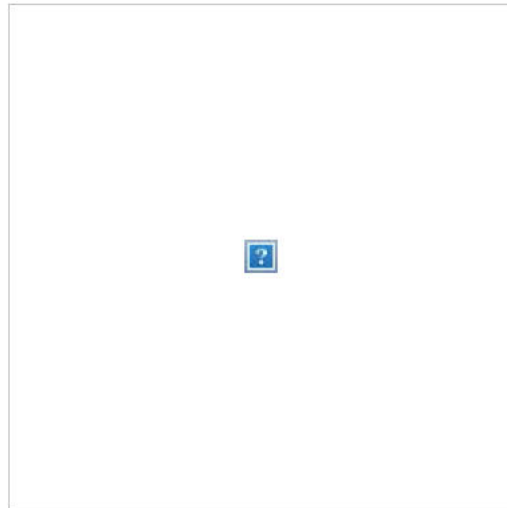
Did Public Shaming Finally Get to Cravath? Yes, Say Some Black Lawyers.

By Vivia Chen

"Shaming is a really powerful tool—it's straight up what millennials and Generation Z prefer." [Read More](#)

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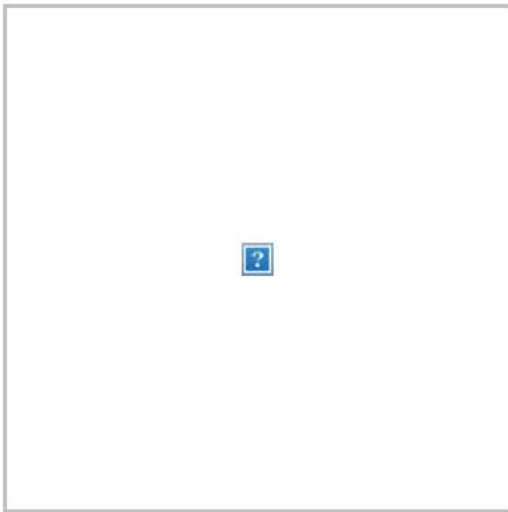


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By C. Ryan Barber

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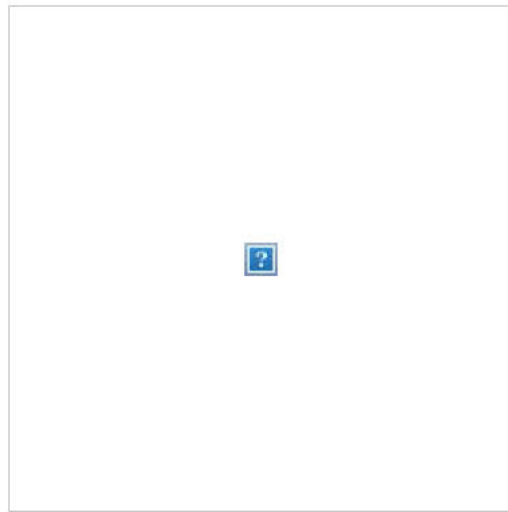
ELECTION AND POLITICAL LAW | NEWS



The 2020 Appellate Hot List

By ALM Staff

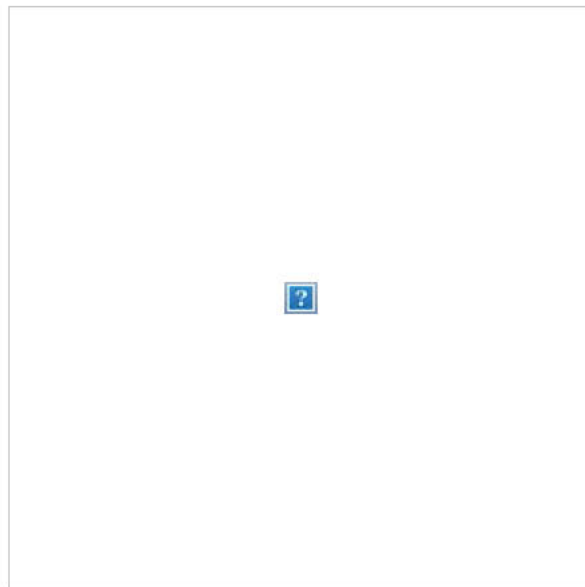
We salute these law firms and lawyers for their success before the U.S. Supreme Court and federal appeals courts. [Read More](#)

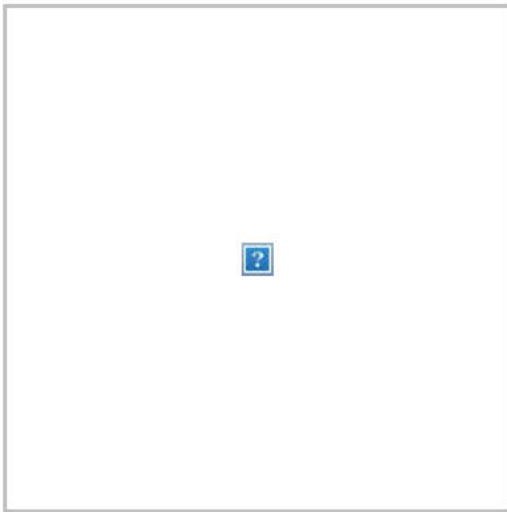


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By Jacqueline Thomsen

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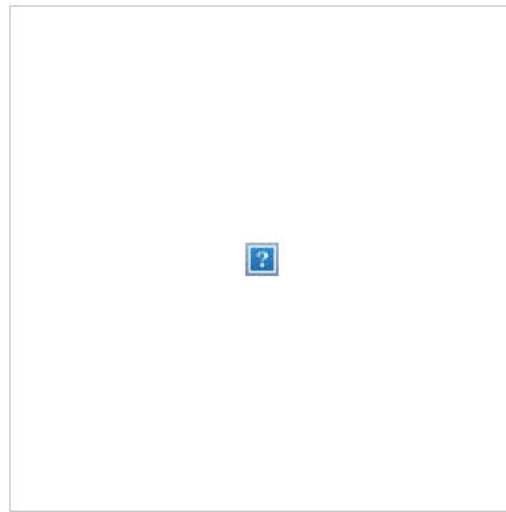




With Election Slipping Away, Trump's Litigation Strategy May Finally Fail Him

By Jacqueline Thomsen

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By C. Ryan Barber

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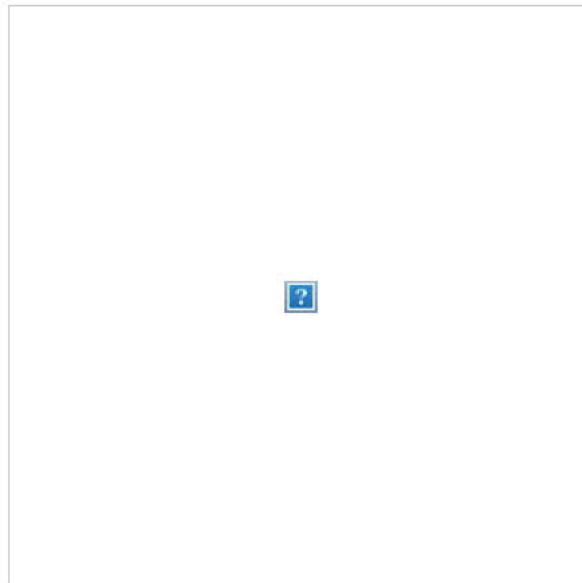
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The former bankruptcy associate discusses what appears to be an awakening—and dissatisfaction with his work. [Read More](#)

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From: [Pottebaum, Nic D. EOP/WHO](#)
Cc: [Hoelscher, Douglas L. EOP/WHO](#); [Swint, Zachariah D. EOP/WHO](#); [Friedman, Haley Z. EOP/WHO](#); [Lopez, Diego Christopher EOP/WHO](#)
Subject: RE: FLAG DIRECTIVE: Half-Staff in Honor of Supreme Court Associate Justice Ruth Bader Ginsburg
Date: Monday, September 28, 2020 4:29:03 PM
Attachments: [image001.png](#)

State Leaders & Flag Contacts,

The White House Clerk's Office has informed me the burial for Justice Ruth Bader Ginsburg will take place tomorrow (Tuesday, September 29), so therefore, the flags will return to full-staff tomorrow at sunset.

Thanks,
Nic

From: Pottebaum, Nic D. EOP/WHO
Sent: Saturday, September 19, 2020 9:13 AM
Subject: RE: FLAG DIRECTIVE: Half-Staff in Honor of Supreme Court Associate Justice Ruth Bader Ginsburg

Good Morning,
The President has [signed](#) a Proclamation on the Death of Ruth Bader Ginsburg. Please find the proclamation below.
Thanks,
Nic



Office of the Press Secretary

FOR IMMEDIATE RELEASE
September 19, 2020

DEATH OF RUTH BADER GINSBURG

- - - - -

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Today, our Nation mourns the loss of a trailblazer, not only in the field of law, but in the history of our country. Ruth Bader Ginsburg served more than 27 years as an Associate Justice of the Supreme Court of the United States. She was a loving wife to her late husband Martin, and a caring mother to her two children Jane and James.

Ruth Bader Ginsburg was an inspiration to all Americans. Having lost her older sister and mother before graduating high school, she entered law school as both a wife and a mother, and one of the

few women in her class. After graduating from law school in 1959, she worked tirelessly for more than 34 years as a litigator and jurist and, in 1993, she became just the second woman to sit on the Supreme Court of the United States. Renowned for her powerful dissents at the Supreme Court, Justice Ginsburg epitomized powerful yet respectful argument; that you can disagree with someone without being disagreeable to them. Justice Ginsburg's work helped bring about greater equality for women, secure rights for the disabled, and will continue to influence our Nation for generations to come. In addition to her quick mind, she brought flair to the bench with her stylish jabots and her warm friendships among colleagues, even those with whom she often disagreed, most notably with the late Justice Antonin Scalia.

A fighter to the end, Justice Ginsburg defeated cancer and the odds numerous times -- all while continuing to serve on the Court. Her commitment to the law and her fearlessness in the face of death inspired countless "RBG" fans, and she continues to serve as a role model to countless women lawyers. Her legacy and contribution to American history will never be forgotten.

As a mark of respect for Ruth Bader Ginsburg, Associate Justice of the United States, I hereby order, by the authority vested in me by the Constitution and laws of the United States of America, including section 7 of title 4, United States Code, that the flag of the United States shall be flown at half-staff at the White House and on all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset, on the day of interment. I also direct that the flag shall be flown at half-staff for the same period at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of September, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fifth.

DONALD J. TRUMP

From: Pottebaum, Nic D. EOP/WHO
Sent: Friday, September 18, 2020 11:21 PM
Subject: RE: FLAG DIRECTIVE: Half-Staff in Honor of Supreme Court Associate Justice Ruth Bader Ginsburg



State Leaders & State Flag Contacts,
This evening, President Donald J. Trump issued the following [statement](#) on the passing of Supreme Court Associate Justice Ruth Bader Ginsburg:
Today, our Nation mourns the loss of a titan of the law. Justice Ruth Bader Ginsburg served more than 27 years as an Associate Justice of the Supreme Court of the United States—notably just the second woman to be appointed to the Court. She was a loving wife to her late husband, Martin, and a dedicated mother to her two children.

Renowned for her brilliant mind and her powerful dissents at the Supreme Court, Justice Ginsburg demonstrated that one can disagree without being disagreeable toward one's colleagues or different points of view. Her opinions, including well-known decisions regarding the legal equality of women and the disabled, have inspired all Americans, and generations of great legal minds.

A fighter to the end, Justice Ginsburg battled cancer, and other very long odds, throughout her remarkable life. Our thoughts and prayers are with the Ginsburg family and their loved ones during this difficult time. May her memory be a great and magnificent blessing to the world.

###

Thanks,
Nic

From: Pottebaum, Nic D. EOP/WHO
Sent: Friday, September 18, 2020 10:08 PM
Subject: FLAG DIRECTIVE: Half-Staff in Honor of Supreme Court Associate Justice Ruth Bader Ginsburg



State Leaders & State Flag Contacts,
Please be advised that the flags should be lowered to half-staff immediately tonight, Friday September 18, 2020, for the death of Supreme Court Associate Justice Ruth Bader Ginsburg. The flags will be at half-staff until the day of interment. Once that date has been established, we will send out another notification to advise when the flags will be returned to full-staff.

Directive

Flags shall be flown at half-staff from the day of death until interment of an Associate Justice of the Supreme Court.

U.S. Flag Code

§7. Position and manner of display (m)

"The flag, when flown at half-staff, should be first hoisted to the peak for an instant and

then lowered to the half-staff position. The flag should be again raised to the peak before it is lowered for the day. [...] The flag shall be flown at half-staff 30 days from the death of the President or a former President; 10 days from the day of death of the Vice President, the Chief Justice or a retired Chief Justice of the United States, or the Speaker of the House of Representatives; from the day of death until interment of an Associate Justice of the Supreme Court, a Secretary of an executive or military department, a former Vice President, or the Governor of a State, territory, or possession; and on the day of death and the following day for a Member of Congress.” [U.S. Flag Code Source](#)

Please let me know if you have any questions.

Thanks,

Nic

--

Nicholas D. Pottebaum

Special Assistant to the President and Deputy Director

White House Office of Intergovernmental Affairs

O: 202-456-2132 | C: 202-881-7803 | E: Nicholas.D.Pottebaum@who.eop.gov

From: [Salon.com](https://www.salon.com)
To: [Gregory Cooke](#)
Subject: Salon Newsletter 06/02/2020
Date: Tuesday, June 2, 2020 10:03:13 AM

Salon Daily Brief

Donald Trump's chaos and cruelty set the tone for the nation — and here we are

With a deranged, racist reactionary in the White House, it's almost surprising this explosion took so long

“Bill Barr is a liar”: Trump AG floats new mail-vote conspiracy experts say “couldn’t happen”

After casting doubt on Russian interference, Barr is “worried” that foreign actors might print counterfeit ballots

As journalists become the victims of police violence, a long-overdue shift in perspective

Working journalists have come under sustained attack from police during the last week — and it woke them up

Trump declares himself “ally to all peaceful protesters,” threatens to crush them with troops

Trump told the country he will mobilize military if governors don't “dominate” protesters. It's not clear he can

Amazon is not an ally: The corporation says it stands in solidarity. Its actions say otherwise

Amazon — which used racist dogwhistles to discredit organizers — tries to take the moral high ground, and fails

White allies: Here's a basic list of do's and don'ts to help you with your helplessness

Feeling helpless? Speechless? Since we can't Google that for you, here's a very basic primer to help you out

“[Police] killed an innocent man”: Louisville protesters mourn David McAtee & want Mayor Fischer out

Salon spoke to community members who remembered a Louisville fixture, the man who served BBQ at Dino's Food Mart

Coronavirus is a blood vessel disease, study says — and its mysteries finally make sense

"Covid Toe," pediatric multisystem inflammatory syndrome, and other odd manifestations are finally tied together

Trump has reshaped law enforcement: Endless cover-up for him, brutal clampdown on dissent

Trump puts himself above the law, but encourages police to assault anyone who objects to his criminal regime

Police fire tear gas, ending "mostly peaceful" Louisville protest after David McAtee's killing

The fifth night of protests calling for justice for Breonna Taylor stayed calm until "chaotic" scene after curfew

Spike Lee's "3 Brothers" short film brings together George Floyd and Radio Raheem — watch

"How can people not understand why people are acting the way they are?" Lee asked while debuting his new short film

Republican lawmakers advocate for military escalation in response to George Floyd protests

Calling for the military to act under a "no quarter" order is a war crime, conservative pundit David French notes

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


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Subject: Saying She's Receiving "Continuous Harassment," Trump Lawyer Calls for Sanctions Over Phone Call From Kirkland Associate
Date: Monday, November 16, 2020 3:32:52 PM

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Saying She's Receiving 'Continuous Harassment,' Trump Lawyer Calls for Sanctions Over Phone Call From Kirkland Associate

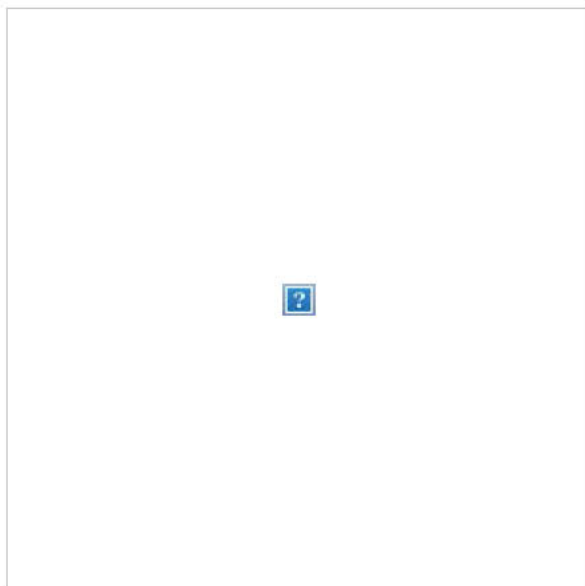
By Max Mitchell

The motion asked U.S. District Judge Matthew Brann of the Middle District of Pennsylvania, who is overseeing the case,... [Read More](#)

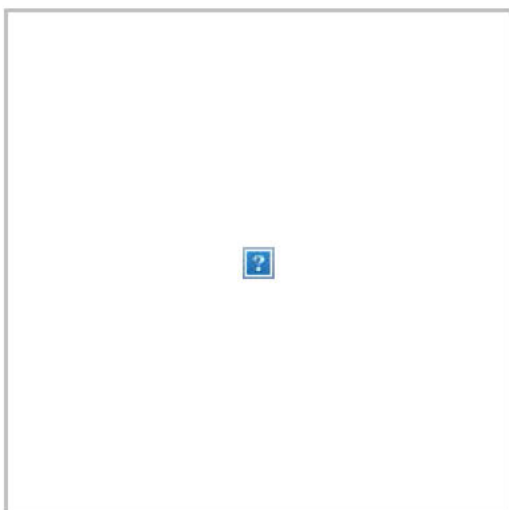
Little Attorneys Accused of Misappropriating Former Employer's IP

By Dan Packel

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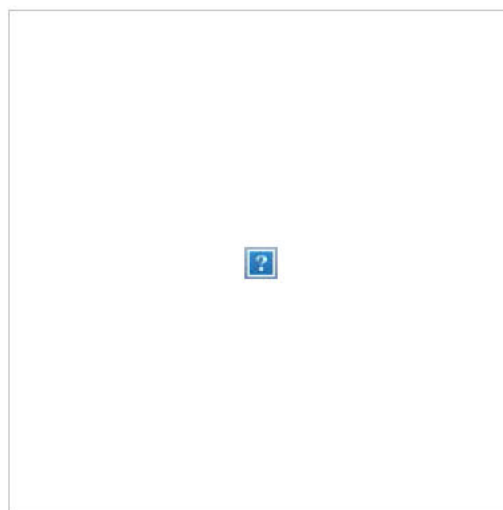
In Caustic Speech at Federalist Society, Alito Takes Gloves Off

By Marcia Coyle

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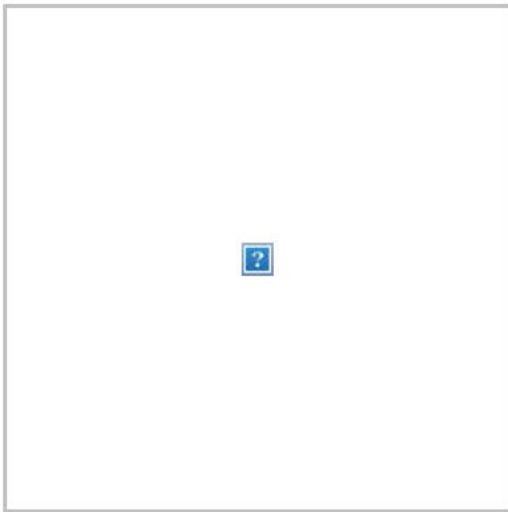


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By Law.com Staff

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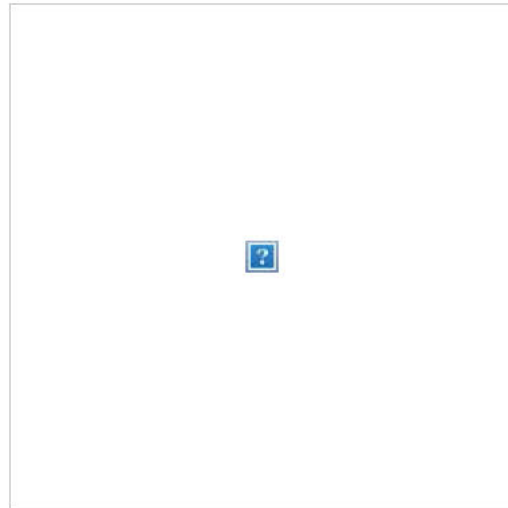
ELECTION AND POLITICAL LAW | COMMENTARY



Ted Olson, Who Argued Bush v. Gore, Says the 2020 Election 'Is Over'

By Jacqueline Thomsen

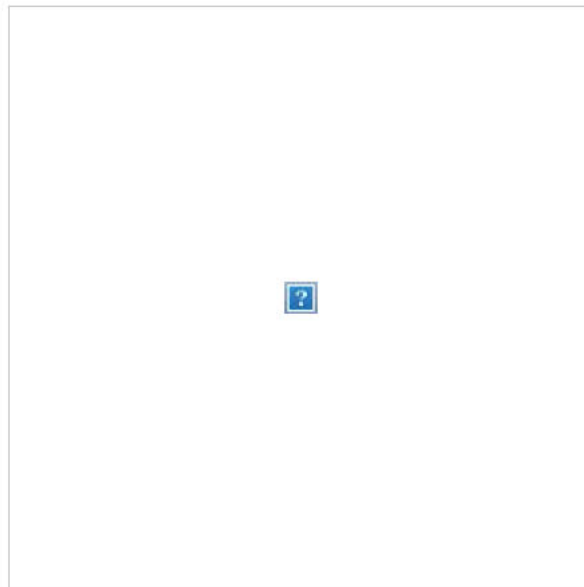
"I do believe the election is over, we do have a new president," Olson said during a panel hosted by the Federalist... [Read More](#)

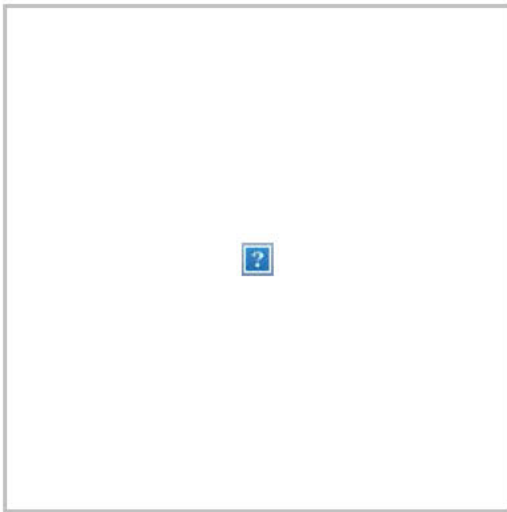


Now Is the Time for Bar Associations to Come to the Aid of Their Country

By Lauren Stiller Rikleen

Our country is at particular peril if its lawyers fail to recognize their unique role in protecting democracy. [Read More](#)

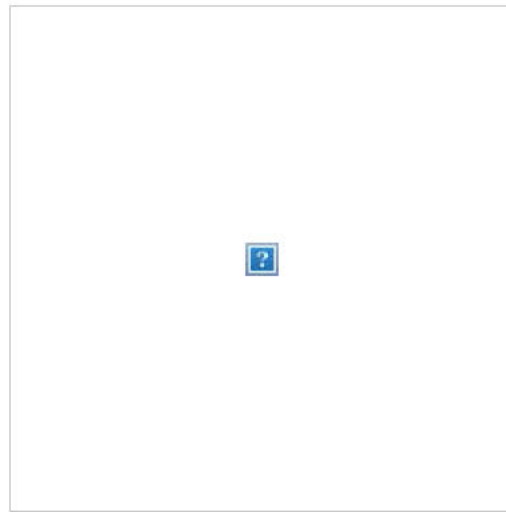




Photos: Demonstrators Target Jones Day, King & Spalding Over Election Litigation

By ALM staff

The firms have faced a public backlash over their involvement in litigation involving mail-in ballots. [Read More](#)



Judge Temporarily Pauses PPP Disclosure Order While DOJ Weighs Appeal

By Mike Scarcella

U.S. District Judge James Boasberg last week ordered the government to provide exact dollar amounts for all PPP loans... [Read More](#)

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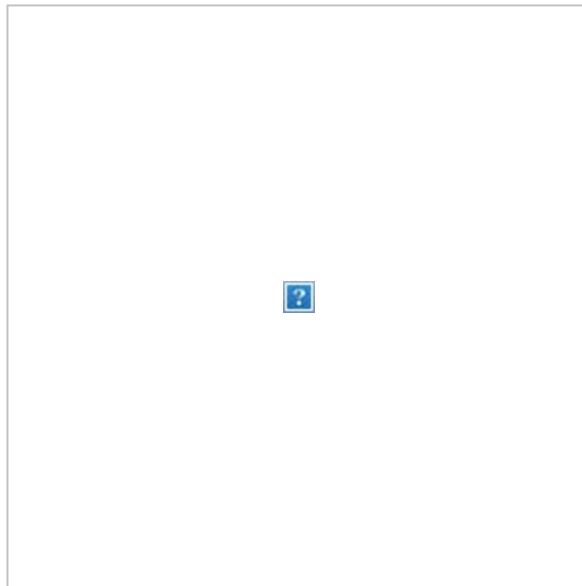
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
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From: [The National Law Journal Breaking News](#)
To: [Gregory Cooke](#)
Subject: Supreme Court OKs Trump's Shortened Census Count
Date: Tuesday, October 13, 2020 6:16:58 PM

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The National Law Journal Breaking News

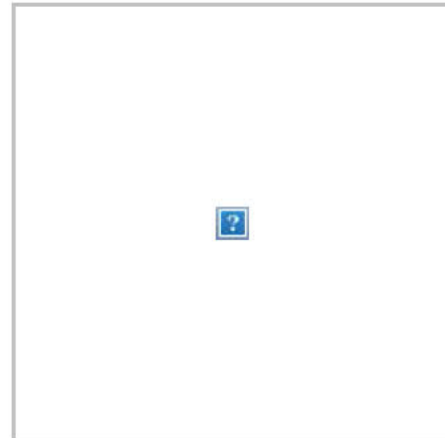
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Supreme Court OKs Trump's Shortened Census Count

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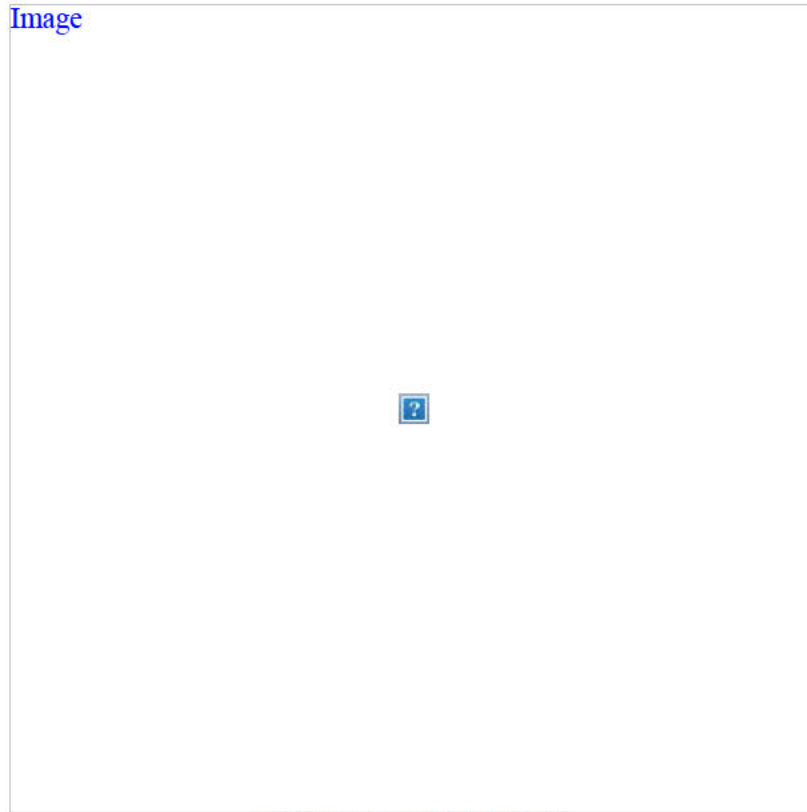
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Subject: The Trump Foreign Policy
Date: Thursday, October 22, 2020 6:34:50 AM

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THE U.S. ELECTION

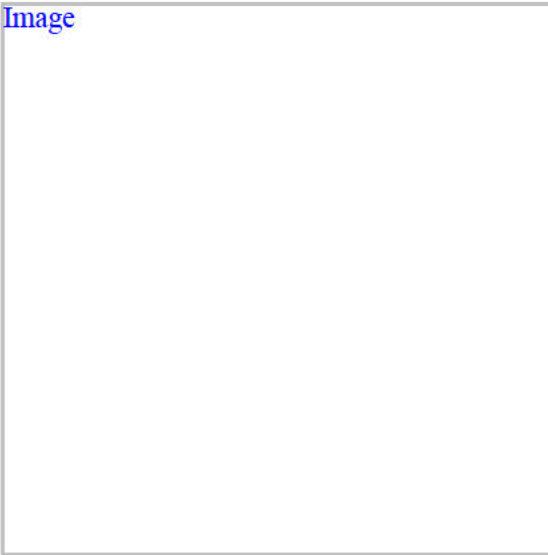
From ramping up competition with China to stepping back from international institutions, President Donald Trump has sharply altered the course of U.S. foreign policy. In essays written in *Foreign Affairs* over the course of his first term, Trump administration officials shed light on their approach to international affairs—and what a second term could bring.

How China Threatens American Democracy

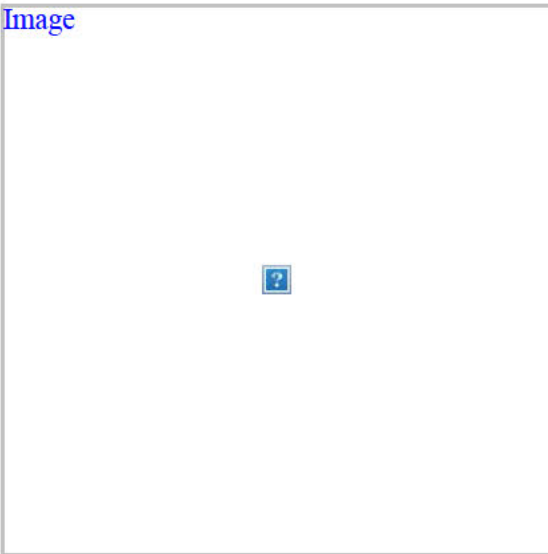
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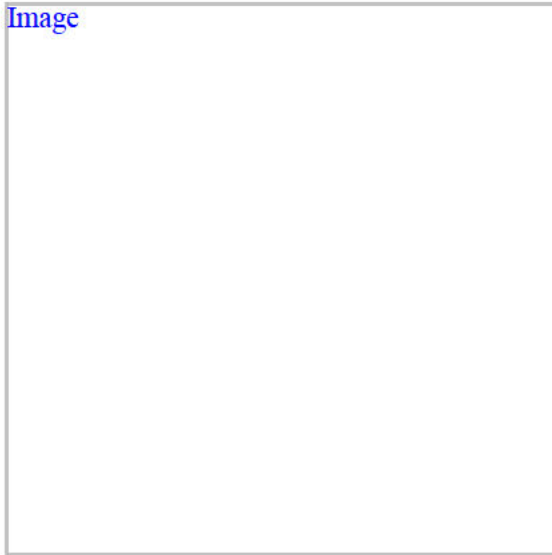
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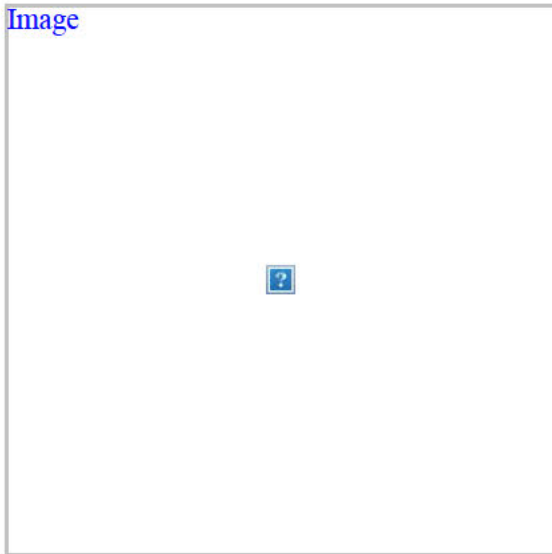
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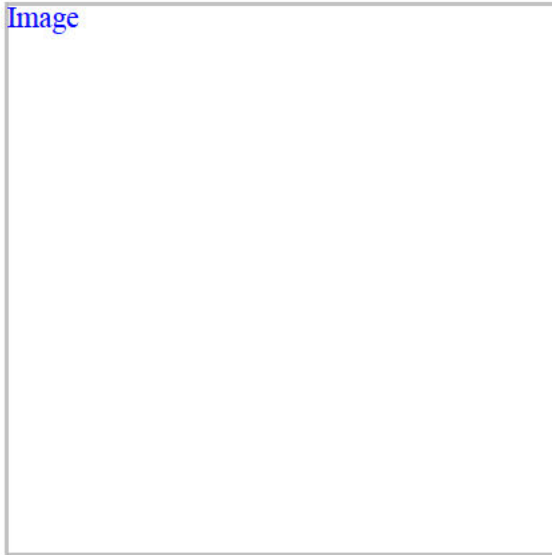
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The End of American Illusion

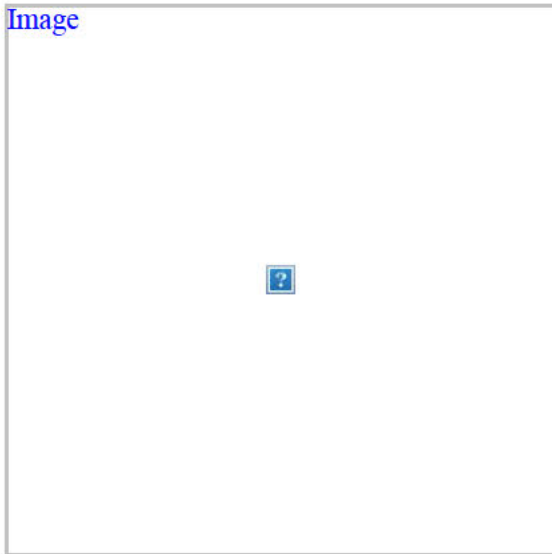
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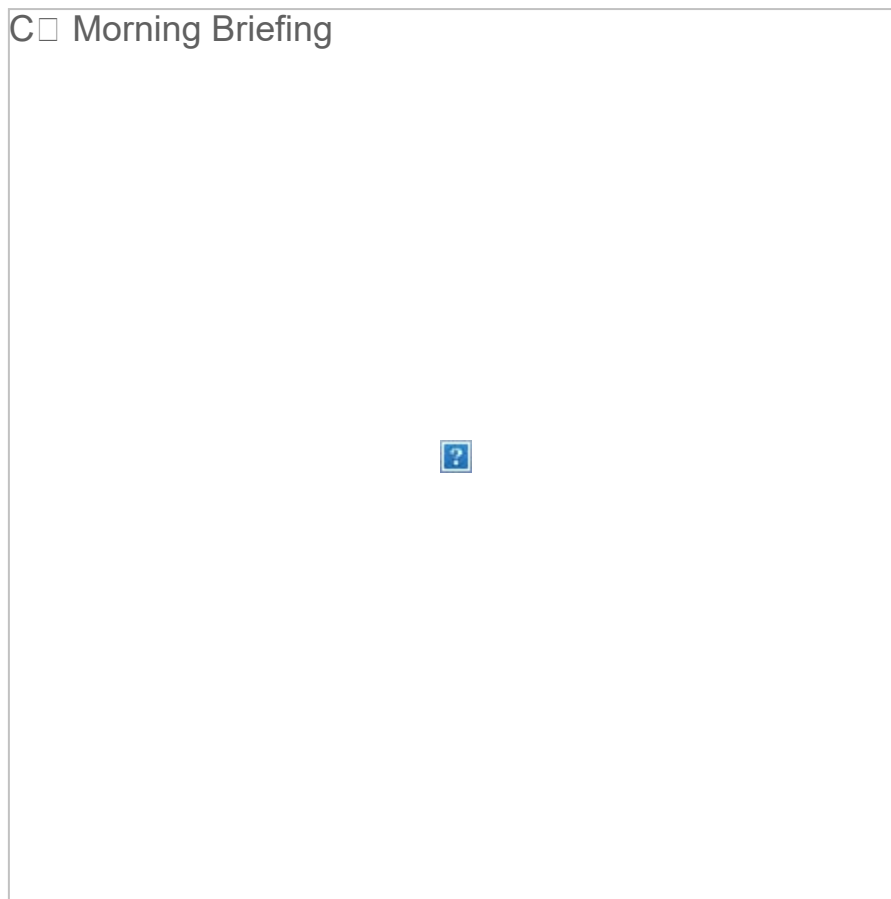
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From: [CQ Morning Briefing](#)
To: [Gregory Cooke](#)
Subject: This week: Congress grapples with Trump's illness
Date: Monday, October 5, 2020 5:07:23 AM
Attachments: [CQ Morning Briefing-62084.txt](#)

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By [Erin Bacon](#), CQ

Good morning. Here's your CQ Morning Briefing for Monday, Oct. 5.

TOPLINES

- 1. Judicial complications.** Trump's illness and positive tests by two

members of the Senate Judiciary Committee reveal the threat of coronavirus to the Supreme Court nomination process.

2. **One bill, two bills.** The House could consider a standalone airline relief bill if a bipartisan aid deal is out of reach.
3. **Opening day.** The Supreme Court starts a new term that looks tame but could grow more contentious.

A Message from the U.S. Air Force Rapid Sustainment Office (RSO)

Manufacturing Innovators Are Going to the Olympics

This Oct., U.S. Air Force is hosting the inaugural virtual Advanced Manufacturing Olympics. Join thought leaders leveraging AM technology like Brad Keselowski, NASCAR champion & founder of Keselowski Advanced Manufacturing, & watch innovators identify & apply emerging solutions for our defense industry. [Register for free.](#)

SCHEDULES

House: Not in session.

Senate: With three GOP senators announcing they had tested positive for COVID-19, Senate Majority Leader [Mitch McConnell said](#) over the weekend that he'd seek consent for the Senate to remain out for two weeks, reversing [his earlier plan](#) to continue with business as usual.

"On Monday, I intend to obtain a consent agreement for the Senate to meet in pro forma sessions for the next two weeks. Previously-scheduled floor activity will be rescheduled until after October 19th," he said in a statement Saturday.

Under the original schedule, the Senate would convene at 4:30 p.m. to

resume consideration of Michael Jay Newman's district judge nomination, with a 5:30 p.m. vote on a motion to invoke cloture on Aileen Mercedes Cannon's district judge nomination.

Committees: The House Administration Committee is holding a hearing Tuesday on combating misinformation in the 2020 election (*1 p.m., remote*).

And on Wednesday, the Senate Commerce, Science and Transportation Committee is holding a hearing on the current status of passenger and freight rail (*10 a.m., 253 Russell*). Check [CQ Schedules](#) for up-to-date info on committee meetings.

FULL BRIEFING

1. Coronavirus looms over Supreme Court nomination

Among the many implications of President Donald Trump's positive COVID-19 diagnosis is the threat it poses to Amy Coney Barrett's nomination to the Supreme Court.

Senate Republicans have only a slim margin for confirmation, Todd Ruger [writes](#), with a 53-47 majority and two GOP senators saying they oppose a vote so close to the election.



Barrett (Caroline Brehman/CQ Roll Call)

Trump's proximity to Republican lawmakers has already become an issue. Sen. [Mike Lee](#) of Utah announced Friday that he had tested positive on Thursday, the same day he attended a Senate Judiciary markup and took his mask off for parts of the meeting. A second

Judiciary member, Sen. [Thom Tillis](#) of North Carolina, said Friday evening that he had tested positive for the virus.

And on Saturday, Sen. [Ron Johnson](#), R-Wis., announced that he, too, had tested positive and would be isolating.

Lee and Tillis attended the Sept. 26 White House announcement of Barrett's nomination, sitting near other Republican members of the Judiciary Committee: [Michael D. Crapo](#) of Idaho, [Ben Sasse](#) of Nebraska, [Josh Hawley](#) of Missouri and [Marsha Blackburn](#) of Tennessee.

Barrett's confirmation hearings, set to begin Oct. 12, will go forward as planned, according to a spokeswoman for Judiciary Chairman [Lindsey Graham](#), R-S.C., even as Senate floor work that week might not take place. Majority Leader [Mitch McConnell](#) said the hearings could be done remotely.

"This sort of underscores, I think, the need to do that, and every precaution needs to be taken because we don't anticipate any Democratic support at all, either in committee or in the full Senate, and therefore everybody needs to be in an 'all hands on deck' mindset," he said.

2. Pelosi signals possibility of airline relief bill

While House leaders are still emphasizing optimism about coronavirus aid talks, House Speaker [Nancy Pelosi](#) is suggesting the option of a standalone airline relief bill.



Pelosi (Caroline Brehman/CQ Roll Call)

It's a change of pace from Pelosi, who has stuck by a comprehensive aid package as the only option. But an influential flight attendants union has been hammering Congress for an extension of the payroll support program that expired last week, Lindsey McPherson and Jessica Wehrman [report](#), and lawmakers are frequent flyers themselves.

American Airlines [furloughed](#) 19,000 employees, according to CEO Doug Parker, and United furloughed roughly 13,000 employees last week.

The House could vote on a bill ([HR 8504](#)) to extend the program through March from Transportation and Infrastructure Chairman [Peter A. DeFazio](#), D-Ore., who tried to get unanimous consent to pass the measure on Friday.

Rep. [Kendra Horn](#), D-Okla., who was presiding, rejected the request on standard procedural grounds because it had not been cleared in advance by party leaders on both sides.

"In plain English, what you just said is that the Republican majority killed this legislation," DeFazio said. A House GOP aide said Republicans are still waiting on a Congressional Budget Office score and further details of the legislation.

House Majority Leader [Steny H. Hoyer](#), D-Md., said that members will have 24-hours notice before a vote on an aid package. Otherwise the House is expected to hold pro forma sessions through the election.

3. Supreme Court opens term with health care, potential election cases

Distanced from the ongoing Senate confirmation, the eight-member Supreme Court is forging ahead with a new term that looks quiet but could get tumultuous.



(Caroline Brehman/CQ Roll Call)

The court is starting with two weeks of oral arguments on cases that were postponed from March and April due to the pandemic, beginning today with cases on the partisan makeup of Delaware's courts and a dispute between Texas and New Mexico about the Pecos River.

The justices will use the remote format they tested earlier this year, conducting arguments over the phone and allowing them to be broadcast live.

Their term looks relatively tame so far, but there's the possibility of blockbuster cases to come. With the atypical emphasis on mail-in ballots this year, the court could be faced with deciding major elections questions, including the presidential race.

"I'm sure that all of the justices are saying the official election officials' Election Day prayer, which is, 'Dear Lord, let this election not be close,'" said David Cole, national legal director for the American Civil Liberties Union. "If it's close, they may get involved."

There's also the Nov. 10 oral argument for a case in which the Trump administration wants the court to strike down the entire 2010 health care law ([PL 111-148](#), [PL 111-152](#)).

Read the story from Todd Ruger [here](#).

ON THE RADAR: CONCERNS FOR NATIONAL SECURITY, LAWMAKERS AMID TRUMP'S ILLNESS

Security concern: President Donald Trump's COVID-19 diagnosis is more likely to spur a stepped-up Russian disinformation campaign than any military event, John M. Donnelly reports. Adversaries are more likely to attack on the internet, seeking to create confusion and lies about Trump's health, experts say.

And while there is an established line of succession, things can get murky if the president becomes incapacitated but hasn't had a chance to sign over authority. Read more [here](#).

Testing protocols: Trump's proximity to lawmakers and other government officials before his diagnosis is again raising questions about Congress' testing procedures. Since the start of the pandemic, there has been no testing protocol for lawmakers, Chris Cioffi [reports](#).

"This episode demonstrates that the Senate needs a testing and contact tracing program for Senators, staff, and all who work in the Capitol complex," Senate Minority Leader [Charles E. Schumer](#) said in a statement Friday. House Minority Leader [Kevin McCarthy](#) has been calling for more robust testing procedures for months.

Vaccine plans: The National Academies of Sciences released its final recommendations for COVID-19 vaccine distribution on Friday, advising that first responders and health care workers receive doses first, followed by nursing home residents and people with two or more serious health conditions.

That first phase will require 100 million doses, enough to vaccinate 15 percent of the U.S. population with a two-dose vaccine, the guidelines

indicate. Read more on the guidelines from Emily Kopp [here](#).

Reported exit: Sen. [Patrick J. Toomey](#), R-Pa., is expected to make an announcement about his future political plans today after The Philadelphia Inquirer [reported](#) Sunday that he will not run for reelection or for governor in 2022. The retirement will likely spark a crowded GOP primary to replace him, Bridget Bowman [writes](#).

CQ MAGAZINE: TIKTOK AND PRIVACY



(Photos by Tom Williams and Bill Clark, composition by Chris Hale/CQ Roll Call)

In this week's edition: Gopal Ratnam looks at Trump's record on data privacy as he moves against TikTok.

Plus, a profile of House Agriculture Committee aide Carlton Bridgeforth, who's trying to help farmers hurt by the pandemic, and more. Check out all this week's stories [here](#).

CQ FUTURE PODCAST: CITIES

People can work anywhere now, so why stay in cramped apartments? But the more people flee urban areas due to the coronavirus pandemic, the harder it will be to revive local economies since much-needed income is leaving as well.

To talk about the future of cities we reached out to two experts -- Rep. [Brenda Lawrence](#) of Michigan, who was Southfield's first African American mayor, and Annise Parker, former mayor of Houston. Listen and subscribe [here](#).

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
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Subject: Timing Questions Hang Over House Fight for Trump Tax Docs at DC Circuit
Date: Tuesday, October 20, 2020 2:13:24 PM

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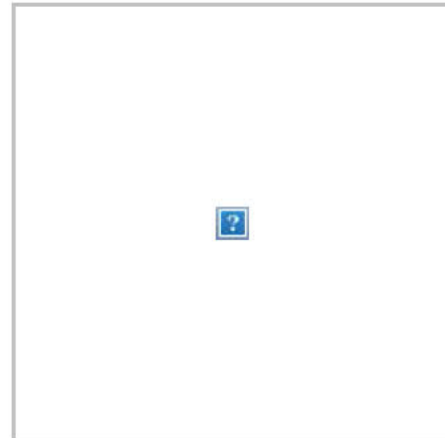
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Timing Questions Hang Over House Fight for Trump Tax Docs at DC Circuit

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From: [CQ Morning Briefing](#)
To: [Gregory Cooke](#)
Subject: Today: Twitter, Facebook leaders testify
Date: Tuesday, November 17, 2020 5:07:03 AM
Attachments: [CQ Morning Briefing-62599.txt](#)

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C Morning Briefing



By [Erin Bacon](#), CQ

Good morning. Here's your CQ Morning Briefing for Tuesday, Nov. 17.

TOPLINES

1. **Social media.** The leaders of Facebook and Twitter will testify on how their platforms handled the elections.
2. **Final testimony.** SEC Chairman Jay Clayton, who is taking part in an oversight hearing today, plans to step down this year.
3. **Top priority.** Though their legislation's future is uncertain, House Democrats plan to highlight their campaign finance and election plans again early in the year.
4. **On the radar.** McConnell blasts a troop withdrawal plan, and advocates wonder about the future of Homeland Security policies under Chad Wolf.

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SCHEDULES

House: Convenes at noon to consider 25 measures under suspension of the rules, and to consider a motion to go to conference and a Republican motion to instruct conferees on the fiscal 2021 defense authorization bill ([HR 6395](#)).

Senate: Convenes at 10 a.m. to resume consideration of Kristi Haskins Johnson's district judge nomination. At 11 a.m. the Senate is expected to vote on confirmation of the Johnson nomination and a motion to invoke cloture on Benjamin Joel Beaton's district judge nomination. The Senate will then recess until 2:15 p.m. for weekly caucus lunches. If

cloture is invoked on the Beaton nomination, at 2:15 p.m. the Senate will vote on confirmation.

Committees: Securities and Exchange Commission Chairman Jay Clayton will testify in a Senate Banking Committee oversight hearing (10 a.m., remote), and Facebook CEO Mark Zuckerberg and Twitter CEO Jack Dorsey will testify in a Senate Judiciary Committee hearing (10 a.m., G-50 Dirksen). Check [CQ Schedules](#) for up-to-date info on committee meetings.

FULL BRIEFING

1. Zuckerberg, Dorsey under fire for election decisions

Facebook and Twitter's top executives are heading into a Senate Judiciary Committee hearing breaking down how their companies handled the 2020 elections, with neither side satisfied.



Zuckerberg cutouts from a 2018 protest (Tom Williams/CQ Roll Call file photo)

Mark Zuckerberg and Jack Dorsey's preelection appearance before the Senate Commerce, Science and Transportation Committee grew bombastic, and this hearing could go the same way (10 a.m., G-50 Dirksen).

Senate Republicans are expected to criticize the social media platforms for how they handled posts, including President Donald Trump's, that contained misinformation. But many Democrats have argued that the approach didn't do enough.

The debate is woven into the issue of whether to change or get rid of

Section 230, language in a 1996 law that shields the social media companies from being sued over how they moderate third-party content.

Lawmakers in both parties have proposed changes to the law to wield more control over the companies, and both President Donald Trump and President-elect Joe Biden have called for a full repeal. They come to that position from different perspectives, however.

Trump has made accusations of widespread anti-conservative bias in the technology industry, while Biden has said the companies aren't doing enough to stop misinformation, hate speech and extremism online.

Dean DeChiaro has more details [here](#).

2. Clayton to exit SEC, leaving open spot for Biden to fill

Securities and Exchange Commission Chairman Jay Clayton is testifying before the Senate Banking Committee the day after he announced he would step down from the position.



Clayton (Bill Clark/CQ Roll Call file photo)

Clayton said Monday he will leave at the end of the year, after spending three and a half years as chairman.

His departure will allow President-elect Joe Biden to nominate his own SEC chairman and bring the agency under Democratic control, Caitlin Reilly [reports](#).

Democrats [had called for](#) Clayton to resign in June, when Attorney General William Barr announced that Clayton would replace Geoffrey Berman as U.S. attorney for the Southern District of New York.

There was confusion over whether Berman was leaving and who had fired him, followed by Berman stepping aside and his deputy, Audrey Strauss, taking over as acting U.S. attorney. In the end Clayton was never nominated for the position.

During Clayton's tenure, the commission pushed through 65 final rules, including Regulation Best Interest in 2019, which required broker-dealers to disclose conflicts of interest and act in the "best interest" of clients when doling out advice.

3. Democrats plan to prioritize election, campaign finance legislation

Speaker [Nancy Pelosi](#) plans to forge ahead with Democrats' campaign finance and elections legislation in the next Congress, though it could once again hit a roadblock in the Senate.

The House passed Democrats' bill ([HR 1](#)) in March 2019, but Senate Majority Leader [Mitch McConnell](#) blocked it in the Senate. That could happen again next session, with Democrats' only chance at a slim Senate majority in two special elections in Georgia.

"We don't know when and how the opportunity to move this will present itself, but the key is to be ready," said Rep. [John Sarbanes](#), D-Md., the lead sponsor of the bill, in a Monday call with reporters.

"The strategy is to keep pointing out that McConnell is the one blocking the bill," he said. McConnell reiterated his opposition in a Monday

statement.

The legislation House Democrats plan to move next year would be similar to the 2019 bill. It would institute same-day voter registration and early voting nationwide, impose new ethics requirements on government officials and set up a campaign contribution matching program with government funding, among other provisions.

Kate Ackley has the story [here](#).

ON THE RADAR: TROOP WITHDRAWALS AND DHS LEGAL CHALLENGES

Security pushback: In a Monday floor speech, Senate Majority Leader [Mitch McConnell](#) rebuked the idea of speeding up troop withdrawals from Afghanistan and Iraq, as President Donald Trump is reportedly planning.



McConnell (Tom Williams/CQ Roll Call)

Trump is considering cutting by Jan. 15 the roughly 4,500 U.S. troops in Afghanistan to 2,500 and reducing their numbers in Iraq from 3,000 down to 2,500, [John M. Donnelly reports](#).

McConnell was one of the few members in either party to speak out publicly Monday. The U.S. retreat "would be broadcast around the world as a symbol of U.S. defeat and humiliation and of victory for Islamic extremism," he said.

DHS dominoes: Advocates are wondering whether other Homeland Security policies enacted under acting Secretary Chad Wolf could be undone in court after a federal judge ruled Saturday that Wolf didn't

have the authority to block the processing of new applications to the Deferred Action for Childhood Arrivals program.

The same logic could apply to legal challenges to government fee increases in citizenship applications as well as a first-ever charge on asylum applicants, Camila DeChalus [reports](#). And listen up: She's got a Policy Brief on the matter [here](#).

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Subject: Trump defends diversity training decision | Judge rules USPS must implement overtime policy
Date: Thursday, October 1, 2020 1:55:36 PM

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[Trump defends decision to end diversity training](#)

At the first presidential debate, Donald Trump said that he had ordered trainings on race and gender sensitivity training canceled because the curriculum is "racist". His opponent countered saying, "he's the racist."

[Federal judge rules USPS must implement overtime policy](#)

This week, a federal judge reconfirmed that the U.S. Postal Service must authorize overtime in order to meet mail service demands for the upcoming election.



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[OPM reminds feds of voting flexibilities](#)

As the 2020 presidential election nears, federal employees and managers have been reminded of longstanding policies that ensure they get time off from work to cast their vote if needed.

[Fed hiring to emphasize education, experience](#)

President Trump signed an executive order directing agencies to broaden the criteria considered in the hiring of federal employees—to still consider the weight of relevant education and experience, but to add skills assessments as an equal measure in the process.



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Job of the Day

[Teacher](#)

You can have a meaningful career with an agency that truly values a diverse workforce. You will find a diverse workforce employed from entry level jobs to senior management positions. We protect public safety by ensuring federal offenders serve their sentences of imprisonment in facilities that are safe, humane, and provide reentry programming. Employees at correctional facilities perform correctional work regardless of their specific occupation.

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From: [FederalDAILY e-newsletter](#)
To: [Gregory Cooke](#)
Subject: Trump EO guts fed employee protections, unions say | A post-COVID IT roadmap
Date: Monday, October 26, 2020 3:06:56 PM

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10/26/2020



[Trump EO guts fed employee protections, unions say](#)

President Trump in recent days has taken a giant leap—backwards. That is to say, you have to go way back in history to find a White House trying so hard to taint the civil service with politics.

[A post-COVID IT roadmap](#)

It's time to start talking about the next steps we need to take to ensure that our IT infrastructure and tools can continue to support the remote workers, while providing state-of-the-art, timely customer service



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FEND Highlights

Federal Employees News Digest (FEND) has supplied analysis and news to thousands of federal employees every week since 1951 – get access to these stories and more by [subscribing now!](#)

[Trump fast tracks hiring, firing EO](#)

The Oct. 21 executive order looks to reshape the competitive service by allowing agencies to reclassify policy jobs under a new schedule and give senior managers greater flexibility in hiring candidates and firing employees.

[Fed execs criticize weak agency recruiting, retention](#)

Federal agencies often are their own worst enemy in hiring and retaining staff for a range of government jobs, according to a recent survey of federal executives.

More from Federal Soup

[Trump fast tracks hiring, firing EO](#)

The Oct. 21 executive order looks to reshape the competitive service by allowing agencies to reclassify policy jobs under a new schedule and give senior managers greater flexibility in hiring candidates and firing employees.

[Salary council: Feds earnings not comparable to private sector](#)

Federal employees earn about 20 percent less than those in the private sector performing similar jobs, the Federal Salary Council reported at its annual meeting this week.



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Job of the Day

Mail Clerk (Mail Classifier)

WHAT DOES A CLERK DO? There are many types of clerks located throughout the organization. Most of these clerks are involved in the processing, distributing, and managing of incoming and outgoing correspondence. The Mail and File Clerk, for example, performs a critical role in processing both incoming and outgoing mail. In fact, the Mail and File clerks process more than a million pieces of correspondence, including tax returns, each year. On the other hand, the General Clerk, whom experiences similar volumes, is responsible for processing, distributing and managing the correspondences, incoming and outgoing documents and files, once it is ready to be worked within the Business Division. All clerks perform critical roles in the Services ability to serve million of taxpayers each year.

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From: [CWA Communications](#)
To: [Gregory Cooke](#)
Subject: Trump Labor Secretary Wants Employers to Report Workers During COVID-19
Date: Thursday, May 14, 2020 4:05:49 PM



NEWSLETTER

May 14, 2020

Send tips to news@cwa-union.org or [@CWANews](https://twitter.com/CWANews).

- [Universal Access to Broadband is Needed to Support Critical Services During the Pandemic and Create Jobs](#)
- [Organizing Update](#)
- [Bargaining Update](#)
- [Trump's Labor Secretary Encourages Employers to Report Workers Who Fear Contracting COVID-19](#)
- [Health Care Worker COVID-19 Survey](#)
- [CWA Members Make Sure Unemployed Workers Receive Benefits](#)
- [In Memoriam – May 14, 2020](#)

Universal Access to Broadband is Needed to Support Critical Services During the Pandemic and Create Jobs

Share This Article:



The COVID-19 pandemic has made something clear that CWA members have known for a long time: millions of families in the United States do not have access to affordable, reliable broadband internet connections.

[In a letter sent this week](#), CWA President Chris Shelton, AFT President Randi Weingarten, and SEIU President Mary Kay Henry urged Congress

to include affordable, universal access to broadband in legislation that addresses the coronavirus pandemic.

Frontline workers are keeping people connected, teaching our children, and providing healthcare and essential public services during this crisis. But technicians can't install high-speed internet service if fiber optic cable hasn't reached the neighborhood. Teachers can't keep children who cannot access online materials engaged and learning. Nurses can't provide telemedicine services to patients who lack broadband and who can't get a reliable cell phone connection.

Two of the leaders' recommendations are part of the *HEROES Act*, which was introduced in the U.S. House of Representatives this week: more funding for the FCC's E-rate program, which helps schools and libraries obtain affordable broadband, and assistance covering the cost of broadband for low-income households. In many parts of the United States, however, high-speed broadband connections are not available at any price. By funding broadband expansion, Congress will create family-supporting jobs and provide millions of Americans with a gateway to jobs, education, healthcare, public safety, civic participation, and communications among friends and family.

Read the full letter here: <https://cwa-union.org/sites/default/files/20200511-union-letter-on-broadband-covid.pdf>.

Organizing Update

Share This Article:



Orlando Sentinel

[Orlando Sentinel workers voted overwhelmingly](#) to join the NewsGuild-CWA this week. The 53-person bargaining unit will join CWA Local 3108.

The group, which organized around cuts to their newsroom, faced unexpected delays when their March 25th election was canceled by the NLRB, causing a delay of nearly seven weeks for their vote count.

###

Inside Higher Ed

Less than a week after publicly announcing their union campaign, 12 editorial and tech employees at DC-based *Inside Higher Ed* won voluntary recognition. The group will join the Washington-Baltimore NewsGuild.

Issues for the workers included shifting schedules, tight deadlines, and the desire to gain stability by having a seat at the table. The group had previously delivered a petition to management and won better severance pay, showing the power of collective action!

###

Pop-Up Magazine Productions

Staffers at [Pop-Up Magazine Productions announced this week](#) that they are forming a union as part of the Media Guild of the West. An overwhelming majority of more than 30 non-management employees at *Pop-Up Magazine* and *The California Sunday Magazine* signed union authorization cards.

The editors, producers, designers, and other staffers said they are seeking to partner with management to build a sustainable work environment for all, including by addressing issues such as job security, transparency, career growth, and compensation.

Bargaining Update

Share This Article:



CenturyLink

After eight weeks of bargaining, CWA members at CenturyLink in the central Florida area reached a tentative agreement with the company covering 256 workers. The agreement includes improvements on job protections and working conditions, maintains current benefits, and provides a 4.5% increase on wages during the life of the contract.

CWA Local 3176 President Greg Douglas said, "The membership sent a clear message to the company that as union members we have a collective voice and we are willing to use it."

CenturyLink Mobile Billboard



The COVID-19 pandemic raised challenges during bargaining, requiring the bargaining committee to conduct all meetings remotely using audio/video technology instead of face-to-face. Despite those challenges, the local mobilized effectively during bargaining, using tactics like an electronic mobile billboard (above).

Trump's Labor Secretary Encourages Employers to Report Workers Who Fear Contracting COVID-19

Share This Article:



During a global pandemic, instead of focusing the Labor Department's resources on protecting workers, President Trump's Labor Secretary Eugene Scalia is [encouraging employers to report workers](#) who refuse to return to their jobs out of fear of contracting COVID-19.

[Scalia issued a new guidance this week](#) on COVID-19-related unemployment insurance urging states to have employers report workers for refusing to return to their jobs, saying, "States are strongly encouraged to request employers to provide information when workers refuse to return to their jobs for reasons that do not support their continued eligibility for benefits. We also strongly encourage states to remind employers and the public about the claimant and employer fraud resources within each state."

"When you put a union buster in charge of the Labor Department, workers are the ones who suffer," said Micki Siegel de Hernández, CWA Deputy Director of Occupational Health and Safety. "During a time when the Labor Department should be putting its full efforts into making sure Americans are safe on the job, Scalia is continuing to focus on instilling fear in the workplace, allowing hazardous conditions while shielding employers from liability, and creating more red tape for states trying to get unemployment benefits to people who desperately need them."

Trump's administration's actions have been disgraceful and show blatant disregard for workers' lives."

Health Care Worker COVID-19 Survey

Share This Article:



The George Washington University Milken Institute of Public Health, under the direction of Dr. David Michaels, has launched [a critically important survey](#) of health care workers. The survey collects information about COVID-19 exposures, infections, and workplace health and safety conditions such as the provision of N95 respirators and other personal protective equipment (PPE). It will document the often dangerous conditions that health care workers have been facing since the pandemic began, and the results will be used to prevent illnesses and advocate for protections.

CWA urges all CWA members who are health care workers from all different kinds of facilities to take this important survey to add your voices and experiences to this effort. We also urge you to share the survey link with other health care workers you know. The survey is anonymous – you will not have to provide your name or your employer's name.

Click on this link to participate: <https://publichealth.gwu.edu/covidsurvey>.

CWA Members Make Sure Unemployed Workers Receive Benefits

Share This Article:



The COVID-19 crisis has resulted in record numbers of workers losing their jobs. CWA members in New Jersey have been handling a flood of unemployment claims. In just seven weeks, they processed twice as many claims as had been processed in all of last year.

[In an interview with NJTVOnline](#), Lydia Diaz, a CWA Local 1037 member, expressed her dedication to helping unemployed workers. "I wish that I could work 24 hours to get everything done for them so that they could get that pressure lifted off their shoulder, that they're going to be okay," Diaz said.

The *CARES Act*, passed last month by Congress, expanded unemployment benefits for many workers, and the Democratic leadership of the U.S. House of Representatives has proposed extending that coverage.

More information on the *CARES Act* and other state and federal benefits is available on [CWA's COVID-19 resource page](#). The page also includes materials on recommended health and safety protocols for workers.

Your local leadership will have the most up-to-date information on policies in place at your work location to address the COVID-19 pandemic and what action you should take if you believe you are being asked to work under unsafe conditions.

Remember, if you have been exposed to COVID-19 or are experiencing symptoms consistent with infection, contact your healthcare provider immediately and follow reporting procedures established by your employer. Also notify your CWA Local or District as soon as possible.

In Memoriam – May 14, 2020

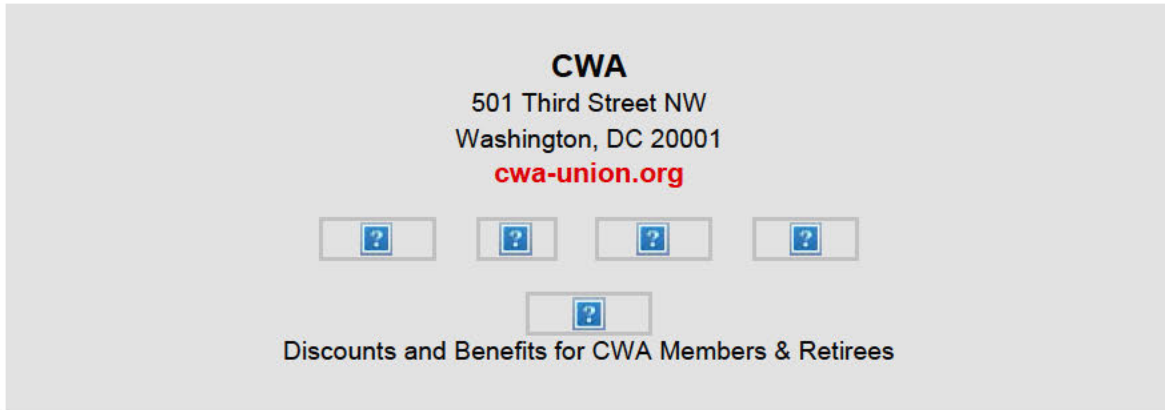
Share This Article:



CWA has established [a memorial page](#) for members who have lost their lives to COVID-19.

This week we honor the memory of **Rebecca Pina**, a member of CWA Local 1040 who worked at Greystone Park Psychiatric Hospital; **Yves**

Sajous, a member of CWA Local 1182 who worked for the New York City Police Department Traffic Enforcement District; **Freddy Salvatore**, a member of CWA Local 13000 who worked for Verizon; **Ramon Caraballo**, a member of IUE-CWA Local 81485 who worked for Slant/Fin; **Jean Emile**, a member of IUE-CWA Local 81485 who worked for the Federal Pump Corporation; and **Joseph Rogers**, a member of IUE-CWA Local 81485 who worked for Slant/Fin.



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Communications Workers of America, AFL-CIO, CLC.

Sent via ActionNetwork.org. To update your email address, change your name or address, or to stop receiving emails from CWA, please [click here](#).

From: [FCW Insider](#)
To: [Gregory Cooke](#)
Subject: Trump order reshapes civil service | Civilian side CMMC | NewPay launch
Date: Thursday, October 22, 2020 7:07:22 AM



FCW Insider: Oct. 22

[Trump order creates Schedule F, to speed hiring and firing in key positions](#)

The Oct. 21 executive order looks to reshape the competitive service by allowing agencies to reclassify policy jobs under a new schedule and give senior managers greater flexibility in hiring candidates and firing employees.

[Civilian-side CMMC](#)

The General Services Administration will add more supply chain and cybersecurity protection language, including DOD's CMMC requirements for vendors, to its new contracts as risks grow, according to one of the agency's top acquisition managers.

[GSA unveils first NewPay service](#)

The General Services Administration is talking with federal agency users to further develop its NewPay shared service offering, which rolled out in September.

[House bill looks to boost COLA for Social Security recipients, federal retirees](#)

The bill uses a different cost-of-living adjustment index to bring the bump to 3%

[Watchdog: DHS needs to keep a closer eye on acquisition qualifications](#)

The Department of Homeland Security needs to be consistent in

nominating and designating acquisition oversight officials.

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Nov. 19th – Live Virtual Event!

Watch as 9+ government security leaders discuss the deployment of a threat intelligence framework for governmentwide use, more extensive and sophisticated use of data in dashboards to inform decision-making, and coming CDM program plans to extend to smaller government agencies. Get your questions asked and answered during this live, interactive event.

Register to Watch Today!

[Click here](#)



Quick Hits

*** Two lawmakers are looking to help state governors better tap National Guard cybersecurity capabilities to strengthen their infrastructure protections. The [bill](#), introduced by Sens. **Maggie Hassan** (D-N.H.) and **John Cornyn** (R-Texas), would add language to the Critical Infrastructures Protection Act of 2001 specifying cybersecurity resources governors can request from the National Guard, including cybersecurity training, operations and mission capabilities.

*** Is telework ever going to end, and what happens when everyone goes back to the office? Washington Technology [takes a look](#) at a new report from the **IBM Center for the Business Of Government** on how the workplace of the future has arrived.

SPONSORED BY: Emerging Tech Workshop

Oct. 27th – Live Virtual Event!

Watch as IT leaders from FBI, DOD, HHS, Air Force, and more discuss the latest emerging technologies being used. Hear examples of how agencies have applied emerging tech to improve financial controls, discover fraud, and achieve the best prices on contracts. Don't miss the chance to submit questions during this interactive event.

[Register to Watch Today!](#)

[Click here](#)



More from FCW

Key questions remain for contractors about diversity training regulations

Although a Department of Labor official says diversity training is still possible for federal contractors under the new policies, confusion over the guidelines has already resulted in cancelled training as agencies and contractors hit pause rather than risk violating a Trump administration executive order.

NITAAC CIO-SP4 on track

Despite the pandemic, the next iteration of one of National Institute of Health's Information Technology Acquisition and Assessment Center's governmentwide contracts is steadily progressing.

NSA warns contractors on China hacks

The National Security Agency released details on 25 existing vulnerabilities that Chinese state-sponsored threat groups are using to try to penetrate defense industrial base networks.

An extraordinary public servant, now a little the worse for wear

Steve Kelman checks in with longtime VA leader Ed Meagher, who was recently honored for a lifetime of citizen service.



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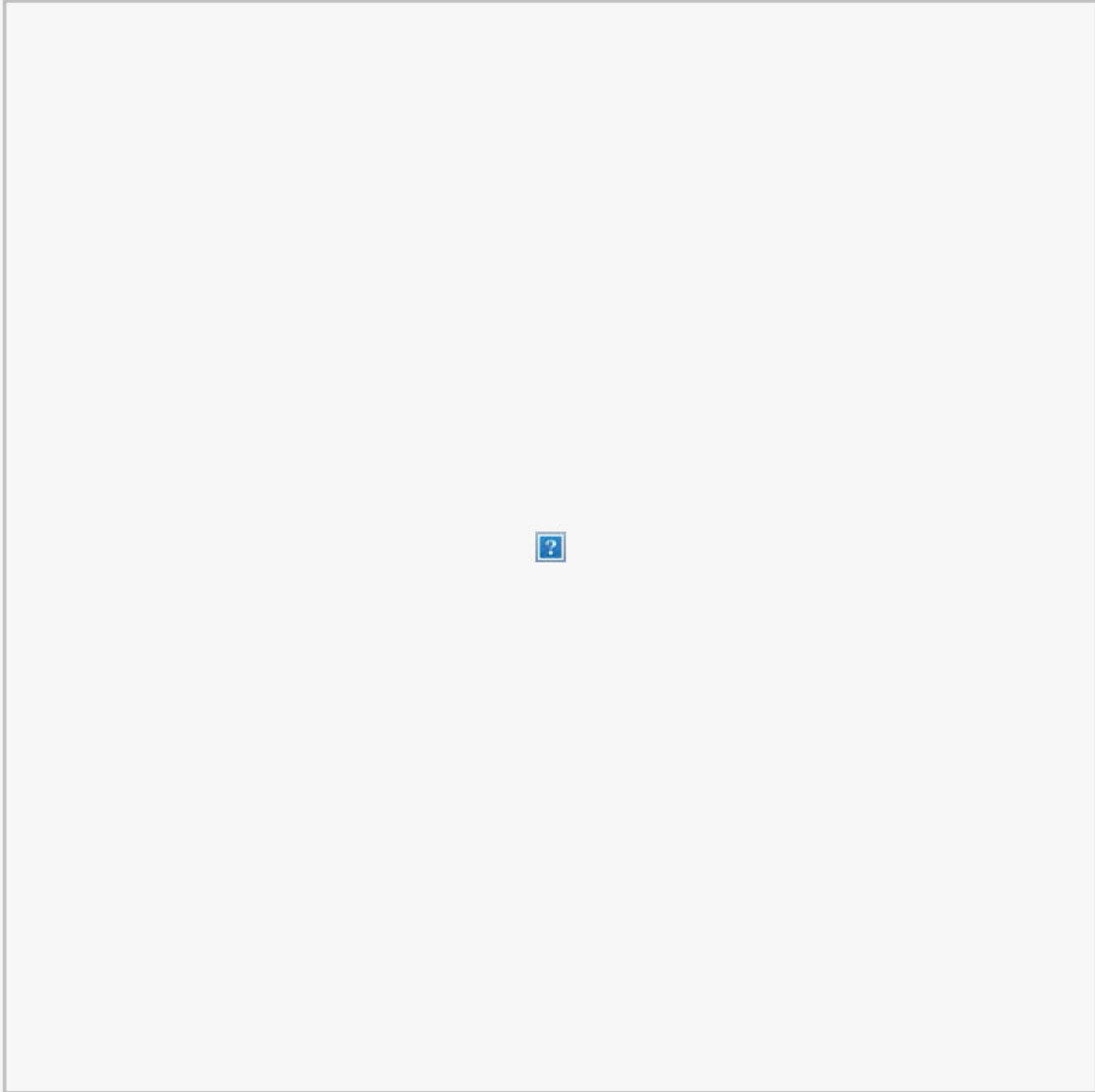
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From: [TechFreedom](#)
To: [Gregory Cooke](#)
Subject: Trump Order Would Violate the First Amendment in the Name of Free Speech
Date: Thursday, May 28, 2020 6:05:53 PM



For immediate release
May 28, 2020

media@techfreedom.org
(475) 655-4777

Trump Order Would Violate the First Amendment in the Name of Free Speech

WASHINGTON D.C. — Today, the White House [released](#) a long-rumored Executive Order entitled “Preventing Online Censorship.” The Order blasts social media services for alleged political bias against conservatives—calls on the Federal Communications Commission to issue rules gutting Section 230 immunity, which has been essential to nearly all websites—asks the Federal Trade Commission and state Attorneys General to sue websites for being political biased—bars all federal agencies from buying ads on social media services deemed to be “biased”—and calls for the new federal and legislation.

“This is pure political theatre — and an affront to the Constitution,” said Ashkhen Kazaryan, Director of Civil Liberties at TechFreedom. “The Order is a hodgepodge of outdated and inapplicable precedents combined with flagrant misinterpretations of both the First Amendment and Section 230. The Order claims that Twitter and Facebook are the “the functional equivalent of a traditional public forum,” but the Supreme Court has clearly rejected such arguments — led by none other than Trump appointee Brett Kavanaugh.”

“The Order would gut Section 230, the law that has made today’s Internet possible,” continued Kazaryan. “Trump demands a complete rewriting of Section 230 — not by Congress but by the FCC — based on two preposterous legal arguments: First, the Order collapses the statute’s three separate immunities, which work differently, into a single immunity that require defendants to prove that they acted in “good faith.” That would transform the statute, opening the floodgates to frivolous lawsuits intended to harass website operators — not only from private plaintiffs like Prager U but all federal agencies, which the Order commands to take action. Second, the Order asks the FCC to write rules defining “good faith” in such expansive terms that websites could be sued not only for failing to deliver on general statements they make about their neutrality but also for every aspect of their content moderation process. In effect, the FCC would micromanage how websites work.”

“This would create a new Fairness Doctrine for the Internet — something the Republican party platform warned against as late as 2016,” noted Kazaryan. “The goal here is obvious: to allow Trump’s supporters to “work the

refs—pressuring social media not to moderate content in ways that might hurt them, or even to actively favor them. But even if none of this becomes law, the Order has already succeeded in politicizing content moderation — and feeding the growing persecution complex among conservatives that social media are out to get them. Conservatives should remember why they fought FCC regulation of broadcasting for decades: it will eventually come back to bite them, and it’s grossly unconstitutional. FCC Chairman Pai has been clear that he’s [a champion of the First Amendment](#). We hope he’ll reject any attempts by the White House to force the FCC into taking actions that would violate the First Amendment.

“Even if the FCC issued the rules Trump wants, enforcing them would be unconstitutional,” concluded Kazaryan. “In 2004, left-wing activists asked the FTC to sue Fox News for failing to deliver on its promises to be ‘Fair and Balanced.’ The Republican FTC Chairman responded: ‘There is no way to evaluate this petition without evaluating the content of the news at issue. That is a task the First Amendment leaves to the American people, not a government agency.’ The same is true for policing the fairness of social media: it’s just not a job for the government. Any attempt to enforce Trump’s executive order will fail in court on First Amendment grounds.”

□□□

Find this release on our [website](#). We can be reached for comment at media@techfreedom.org. See more of our work on free speech and [Section 230](#) on our website, including:

- Our Twitter [thread](#) breaking down the White House EO
- Our Twitter [thread](#) addressing FCC Commissioner Carr’s Interview on the matter
- Our [letter](#) to the Senate Judiciary analyzing the EARN IT Act. [PR](#) on the letter
- A coalition [letter](#) by 27 civil society organizations and 50 academics a set of [seven principles](#) to guide conversation about amending Section 230 of the Communications Decency Act of 1996
- Our [statement](#) on Sen. Hawley’s proposed legislation on regulating the Internet
- Our [op-ed](#) “Some conservatives need a First Amendment refresher”

- Our [letter](#) to AG Sessions “DOJ Inquiry re Tech Companies Bias is Misguided”
- Our [blogpost](#) “Reality Check for Trump and Republicans Crying ‘Bias’”!
- President Berin Szóka’s [testimony](#) before the House Judiciary Committee on the filtering practices of social media platforms
- Our [statement](#) on the passage of SESTA
- Our [statement](#) on the takedown of Backpage and its implications for Section 230 and recent sex trafficking legislation
- [Tech Policy Podcast #251](#): SESTA/FOSTA Hurts Victims It Aims to Protect

About TechFreedom:

[TechFreedom](#) is a non-profit, non-partisan technology policy think tank. We work to chart a path forward for policymakers towards a bright future where technology enhances freedom, and freedom enhances technology.

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
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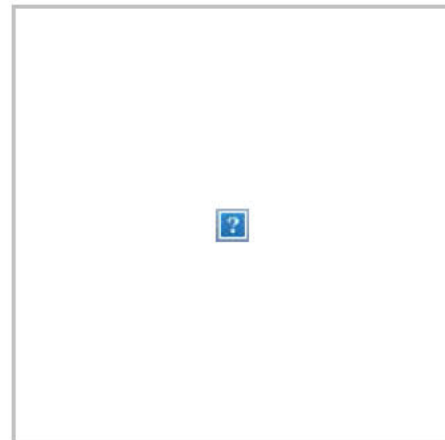
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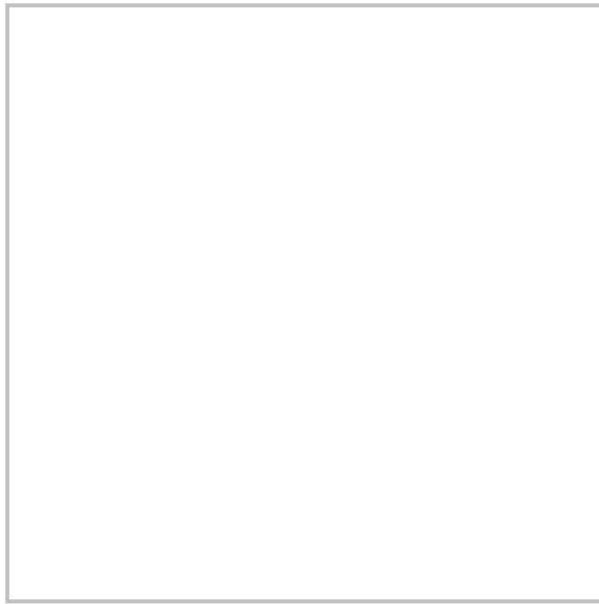
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Trump's Lawyers Are 'Wasting Time' Going to Court, Biden Legal Adviser Asserts

"They're just basically wasting time and giving Donald Trump an opportunity to express yet another set of grievances,..." [Read More](#)





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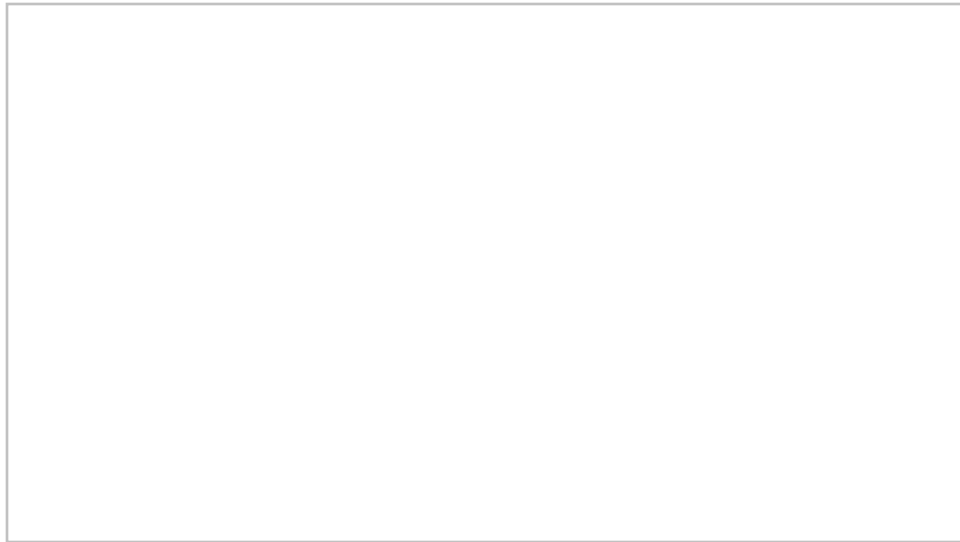
From: [Pottebaum, Nic D. EOP/WHO](#)
To: [Pottebaum, Nic D. EOP/WHO](#)
Cc: [Hoelscher, Douglas L. EOP/WHO](#); [Swint, Zachariah D. EOP/WHO](#); [Campana, Ariella M. EOP/WHO](#)
Subject: What You Need To Know: USMCA Enters Into Force (TODAY, Wednesday, July 1)
Date: Wednesday, July 1, 2020 8:35:28 AM
Attachments: [image001.png](#)
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[image003.jpg](#)
[image004.jpg](#)



State Leaders and Staff,

TODAY, Wednesday, July 1, the United States-Mexico-Canada Agreement (USMCA) enters into force. The USMCA delivers on President Trump’s promise to replace the outdated North American Free Trade Agreement (NAFTA) with a 21st century trade deal that **marks the beginning** of a historic new chapter for North American trade by supporting more balanced, reciprocal trade, leading to freer markets, fairer trade, and robust economic growth in North America. The Agreement contains significant improvements and modernized approaches to rules of origin, agricultural market access, intellectual property, digital trade, financial services, labor, and numerous other sectors. These enhancements will deliver more jobs, provide stronger labor protections, and expand market access, creating new opportunities for American workers, farmers, and ranchers. On June 29, 2020, President Trump signed a Proclamation to take certain actions under USMCA Implementation Act. You can find the full proclamation [here](#). You can also find additional details on the U.S. Customs & Border Protection work to implement USMCA [here](#).

ICYMI: On June 17, 2020, U.S. Trade Representative Ambassador Robert Lighthizer [said](#) before the House Ways & Means Committee, “Together Republicans and Democrats, House and Senate, worked closely with the Administration to write and pass the biggest – and I would say best – trade agreement in American history, USMCA. We should not forget how important that was for our country and for our workers and businesses and ranchers and farmers. I’d like to again thank all of you for working with me on that. Together we had an historic accomplishment.”



Key Takeaways

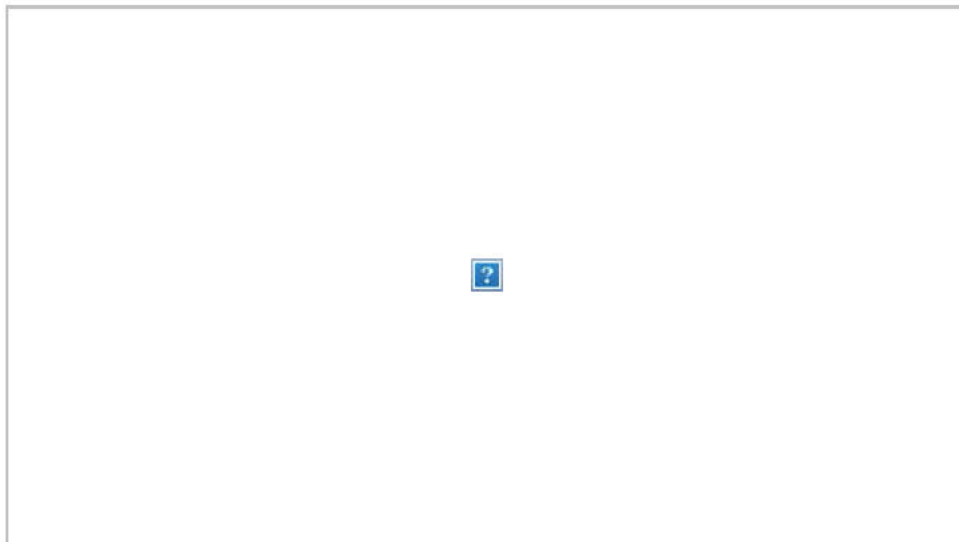
The USMCA is a complete overhaul of the North American Free Trade Agreement (NAFTA), with modern, strengthened, and rebalanced rules of trade and investment for North America. This 21st Century trade agreement sets high standards in areas that are crucial to America's continued growth, including manufacturing, digital trade, financial services, agriculture, and small business. And it's innovative provisions will help grow the economy and support additional jobs here in the United States, particularly in the manufacturing sector.

With today's entry into force, the USMCA will help address longstanding trade imbalances. Key provisions include:

- ✓ **More North American Auto Content:** Under USMCA's rules vehicles must be built with at least 75 percent of parts made in North America in order to qualify for zero tariffs, up from 62.5 percent under NAFTA. Also, 40 to 45 percent of an auto will have to be made by workers earning at least \$16 an hour. Recent USTR analysis estimates that these rules will incentivize billions in new U.S. automotive investment and in new purchases of U.S.-made auto parts, and support tens of thousands of additional jobs in the U.S. automotive sector. Read the analysis [here](#).
- ✓ **Increased Agricultural Market Access:** The USMCA provides the U.S. with greater access to Canada's dairy, poultry, and egg markets. Combined with other agricultural provisions in the agreement, the independent International Trade Commission estimates that, as a result of USMCA, U.S. agricultural exports to Canada and the rest of the world would increase by \$2.2 billion.
- ✓ **Small and Medium Sized Businesses:** The USMCA contains the *first* chapter of any trade agreement dedicated to Small and Medium Enterprises. The chapter will enforce new intellectual property provisions, bolster innovation, and support small businesses engaging in digital trade. Additionally, USMCA removes burdensome regulations, reduces duplicative red tape, and lowers costs that will help the 30 million U.S. small businesses that employ half the private-sector workforce and create two-thirds of all new jobs, to better compete globally.
- ✓ **Enhanced Labor and Environmental Rights:** The USMCA makes a number of significant upgrades to NAFTA's environmental and labor provisions, incorporates

them into the core of the agreement, and makes them fully enforceable, which will help level the playing field for U.S. workers and businesses.

- ✓ **Addresses Non-Market Practice and Unfair Subsidies:** The agreement includes countless rules that directly address the pernicious and growing challenge of unfair subsidies and non-market practices that have the potential to disadvantage U.S. workers and businesses. These include new and enforceable provisions covering state-owned enterprises, currency manipulation, anticorruption, and combatting duty evasion.
- ✓ **Increased Intellectual Property Protections:** USMCA dramatically enhances intellectual property protections. It contains a modernized, high-standard IP chapter that provides strong and effective protection and enforcement of IP rights critical to driving innovation, creating economic growth, and supporting American jobs.
- ✓ **Strongest Provisions on Digital Trade:** The USMCA includes a first-of-its-kind chapter on digital trade that – among other things – ensures data can be transferred across borders and cracks down on data localization measures used to restrict where data can be stored and processed.



More on USMCA: Canada and Mexico are our first and third largest exports markets for United States food and agricultural products, making up 28 percent of total food and agricultural exports in 2017. These exports support more than 325,000 American jobs. In November 2018, President Trump signed the United States-Mexico-Canada Agreement (USMCA) delivering on his promise to renegotiate the North American Free Trade Agreement (NAFTA) and protect American farmers, ranchers, businesses, and workers. The USMCA is a 21st century, high-standard agreement that modernizes the 25-year-old NAFTA and supports mutually beneficial trade leading to freer markets, fairer trade, and robust economic growth in North America. can find the **Agreement's Text** [here](#), pertinent **Fact Sheets** [here](#), and **Support from State and Local Elected Officials** [here](#) and [here](#).

Key Milestones

- **November 30, 2018** – Initially Signing by the United States, Mexico & Canada

- **December 10, 2019** – Final Agreement Signed by the United States, Mexico & Canada
- **December 19, 2019** – U.S. House of Representatives Passes USMCA 385 to 41
- **January 16, 2020** – U.S. Senate Passes USMCA 89 to 10
- **January 29, 2020** – United States Ratifies USMCA
- **March 13, 2020** – Canada Ratifies USMCA
- **April 3, 2020** – Mexico Ratifies USMCA
- **July 1, 2020** – USMCA Entry Into Force

Please let me know if you have any questions.

Thanks,

Nic

--

Nicholas D. Pottebaum


Special Assistant to the President and Deputy Director

White House Office of Intergovernmental Affairs

O: 202-456-2132 | C: 202-881-7803 | E: Nicholas.D.Pottebaum@who.eop.gov



From: [The National Law Journal Newsroom Update](#)
To: [Gregory Cooke](#)
Subject: Who Are Trump's Election Litigation Lawyers?
Date: Friday, November 6, 2020 4:50:49 PM

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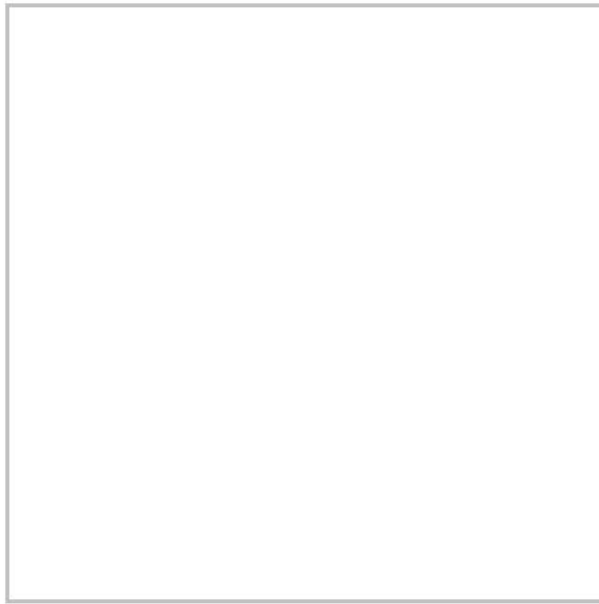
ELECTION AND POLITICAL LAW

Who Are Trump's Election Litigation Lawyers?

By Dan Roe

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
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From: [The National Law Journal Newsroom Update](#)
To: [Gregory Cooke](#)
Subject: With Election Slipping Away, Trump's Litigation Strategy May Finally Fail Him
Date: Friday, November 6, 2020 11:38:27 AM

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The National Law Journal Newsroom Update

Nov 06, 2020

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ELECTION AND POLITICAL LAW | NEWS


With Election Slipping Away, Trump's Litigation Strategy May Finally Fail Him

By Jacqueline Thomsen

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From: [POLITICO Pro](#)
To: [Gregory Cooke](#)
Subject: You're Invited | POLITICO Pro Briefing: How are the Biden and Trump transition teams preparing post election plans?
Date: Monday, November 9, 2020 11:03:26 AM



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Dear Gregory,

After record-breaking voter turnout, days of counting ballots, and razor-thin margins in key battleground states, Democratic candidate Joseph Biden crossed the 270-electoral vote threshold to become President-elect of the United States of America. President Trump's campaign has not conceded and seeks to contest results in the courts.

Their campaigns get the most attention, but major-party candidates must also prepare transition teams to plan for the transfer of executive power. Presidential transition teams cover the personnel decisions, policy planning, and logistical coordination to transfer power smoothly and keep the gears of government turning.

How will the contested nature of the 2020 Election impact the transition process? What do we know about where transition teams currently stand? Join POLITICO Pro reporters as they discuss the presidential transition process and the decisions that will play out in the coming months.

[Register](#)

Note: We have updated our registration process. You must be log in to POLITICO Pro in order to complete the registration form.

Conference Call Details:

- Thursday, November 12th, 2020
- 11:00 a.m. EST - 12:00 p.m. EST
- Exclusive to POLITICO Pro subscribers
- Q&A session will be held at the end of the call



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From: [Holland & Knight Publications](#)
To: [Gregory Cooke](#)
Subject: Alert: U.S. Government to Take Actions Against U.S.-Listed Chinese Companies
Date: Tuesday, July 28, 2020 2:02:28 PM



July 28, 2020

U.S. Government to Take Actions Against U.S.-Listed Chinese Companies

President Donald Trump issued a memorandum requesting the President's Working Group on Financial Markets (PWG) to study ways to protect U.S. investors from significant risks from Chinese companies listed on the U.S. stock exchange and the Chinese government's practice of denying access to audit work.

The President's Memorandum was triggered by financial statement fraud committed and self-disclosed by Luckin Coffee Inc., a Chinese coffee chain company listed on Nasdaq, in early April 2020.

[Read the full article »](#)

Please note: Holland & Knight has established a [COVID-19 Response Team](#) to help address business, regulatory and legal issues companies may face related to COVID-19. Holland & Knight has also created [state-by-state summaries](#) of the major executive orders, mandates and proclamations, as well as links to the official documents. This information is updated daily.

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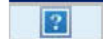
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From: [Todd Shields \(BLOOMBERG/ WASHINGTON\)](#)
To: [Brian Hart](#)
Subject: *if* Simongton joins FCC ...
Date: Tuesday, November 10, 2020 9:27:24 AM

(hi Brian) ... will chairman move to quickly implement Section 230 review?
thanks/ts

Todd Shields / reporter / Bloomberg News / (202) 807-2075 or cell (443) 223-6008

Todd Shields
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@TShields□

<< @TShields3 -- Covering voting, USPS, tech, FCC -- (202) 807-2075 >>

From: [Nicholas Degani](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Brian Hart](#); [Paul Jackson](#)
Cc: [Thomas Johnson](#); [Evan Swarztrauber](#)
Subject: 230 Statement
Date: Thursday, October 15, 2020 12:41:52 PM

Target for release: 2:30 pm

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

From: [David Kaut](#)
To: [Anne Veigle](#)
Cc: [Brian Hart](#); [Will Wiquist](#)
Subject: 230 story
Date: Monday, October 19, 2020 3:48:50 PM
Attachments: [Section 230 -- Pai Seen Likely to Seek NPRM o19.pdf](#)

Attached.

David Kaut
Senior Correspondent, The Capitol Forum
571-276-2933, cell
dkaut@thecapitolforum.com

Section 230: FCC's Pai Seen Likely to Seek Notice of Proposed Rulemaking, Needs Third Vote, Faces Strong Political Opposition, Litigation Risk, Election Uncertainty

Federal Communications Commission leadership is looking to pare back internet platform legal immunity under Communications Act Section 230, but it needs a third vote and faces heavy political opposition and likely legal challenges to final action, with the November election further complicating the path forward.

FCC Chairman Ajit Pai on Thursday said he plans “a rulemaking to clarify” the meaning of [Section 230](#) online liability protections, which he and fellow Republican Commissioner Brendan Carr said have been interpreted too broadly by some courts, giving social media companies near blanket immunity from lawsuits.

Pai is likely eying a notice of proposed rulemaking (NPRM) that would seek public comment and require further FCC consideration next year before regulations would be imposed, outside parties told *The Capitol Forum*, but there still is some uncertainty.

“My understanding is they are leaning toward an NPRM,” though there are some at the FCC who would be comfortable with a declaratory ruling interpreting Section 230, said Jamie Susskind, vice president of policy and regulatory affairs at the Consumer Technology Association, which opposes the potential regulation. “We would have serious concerns if they went directly to a declaratory ruling.”

An FCC spokesperson declined to comment, and an aide to Carr didn't respond to a query. Carr voiced support for a rulemaking or a declaratory ruling on a C-Span [program](#) that was apparently recorded before Pai's rulemaking announcement.

FCC split 2-2 with O'Rielly stance unclear. It's not clear Pai has three votes for an NPRM, much less a declaratory ruling. Democratic Commissioners Jessica Rosenworcel and Geoffrey Starks immediately signaled their opposition to what they see as a politically motivated initiative pushed by President Donald Trump.

Citing the “immense” power of Twitter (TWTR), Facebook (FB) and Google's YouTube (GOOG), Trump issued an [executive order](#) May 28 on “preventing online censorship.” That led to a July 27 [petition](#) for rulemaking from the Department of Commerce's National Telecommunications and Information Administration (NTIA) asking the FCC to narrow Section 230 immunity and “protect free speech online.”

GOP Commissioner Michael O’Rielly is currently the pivotal FCC vote. He has yet to take a stance, but in a July 29 [speech](#), he expressed skepticism about internet regulation under the First Amendment. Even though O’Rielly made clear he wasn’t criticizing the president, who was “fully within his rights to call for the review,” Trump then withdrew O’Rielly’s nomination to another FCC term, which will force him to depart by early January. An O’Rielly aide didn’t respond to queries.

Some outsiders said O’Rielly might still support an NPRM, but that would have been even more likely if his nomination had not been withdrawn. “The irony I is, I think O’Rielly would have voted for an [NPRM] and held his nose,” said Gigi Sohn, a fellow at the Georgetown Law Institute for Technology Law and Policy. “He’s a good soldier.”

The Senate Commerce Committee set a November 10 nominations hearing, including on Trump’s choice to replace O’Rielly, Nathan Simington, an NTIA senior advisor. The panel also scheduled an Oct. 28 hearing on Section 230 with the CEOs of Twitter, Google and Facebook as witnesses.

Election looms large. Partisan control of the White House—and thus the FCC—and the Senate hangs in the balance in the November 3 election. If Trump wins, the FCC appears likely to press ahead with its rulemaking, but a Joe Biden victory would threaten the proceeding and Simington’s confirmation, sources said.

“If I were anybody, I wouldn’t be scared at this point, given the polling information” and various other hurdles to the FCC completing action, said Harold Feld, senior vice president at Public Knowledge, which argues the commission lacks Section 230 authority and NTIA’s rulemaking recommendations would be bad policy. “But now that you’ve brought it up, why don’t you make the FCC the internet policeman,” he quipped, noting Pai’s opposition to broadband provider network neutrality.

“The Democrats are going to stop this cold” if they take FCC control, said Sohn, who is seen as among the possible nominees for FCC commissioner and even potential eventual chairperson under Biden.

If Biden wins, he’s expected to name Rosenworcel or Starks as acting chairperson on January 20, but it could take longer for Democrats to gain an FCC majority, depending on whether Simington gets confirmed and Pai departs, as chairmen have done in the past when there’s a partisan presidential change in power.

Simington doesn’t have a lot of background in communications policy and Senate meetings “aren’t going great, even with his own party,” said one industry observer. “If Trump loses the election,

what’s the motivation to put [Simington] on the commission?” the observer asked. “If Trump wins, then I think Simington gets in there.”

Some suggested Simington’s confirmation could create an appearance of a conflict of interest on an FCC rulemaking sought by NTIA. He has been at NTIA since June, according to his LinkedIn [page](#). NTIA did not respond to queries on Simington’s agency tenure and possible role on the petition, and seeking comment from the nominee.

Political pressures. “I never thought it would get this far,” said Feld, referring to the administration’s push for an FCC Section 230 rulemaking. “This has become a big deal for Trump and a real loyalty test for his inner cadre.”

“If you think this is anything other than the White House putting maximum pressure on Pai to move forward, then I’ve got a piece of land to sell you,” Sohn said. “They’re working the referee ... This is all about making sure Facebook and Twitter fall into line before the election.”

The pressure “is working,” Sohn added, noting a recent Twitter change in policy over its handling of *New York Post* reporting on Hunter Biden, and his alleged correspondence with the Ukrainian company Burisma that raised questions about Joe Biden’s actions as vice president.

Based on feedback, Twitter changed its “Hacked Materials Policy” and enforcement, [tweeted](#) a Twitter official. Twitter said separately it’s no longer blocking the sharing of links to early versions of the *New York Post*’s stories, given updated analysis and the fact that private information is now widely available in the press and on digital platforms.

Facebook declined to comment and Google didn’t respond to a query.

Battling over speech, but bipartisan support for Hill reforms. Key House Republicans applauded Pai’s move, and criticized Twitter and Facebook for “censoring” the *New York Post* story, which they said included emails that, if authentic, contradict previous statements by Joe Biden.

“Time and time again we’ve seen big tech companies refuse to be transparent about their practices and too often unfairly censor right of center voices,” [said](#) Reps. Greg Walden of Oregon, Bob Latta of Ohio and Cathy McMorris Rodgers of Washington, the ranking members of the Energy and Commerce Committee, the communications subcommittee and the consumer protection subcommittee, respectively. “This must stop.”

“Section 230 reform that creates a structure for healthier online ecosystems is needed and we are committed to seeing it done,” [said](#) Reps. Frank Pallone, D-New Jersey, and Mike Doyle, D-

Pennsylvania, chairmen of the Energy and Commerce Committee and its communications subcommittee, respectively. “[B]ut the FCC’s rush to push President Trump’s agenda weeks before Election Day should be seen for the reckless and politically-motivated stunt that it is.”

“The constitution guarantees freedom of speech, not freedom of reach,” said Internet Association Deputy General Counsel Elizabeth Banker. “The FCC also lacks the authority to make the changes proposed in the NTIA’s petition because they conflict with the plain language of Section 230.”

But others welcomed Pai’s announcement as focusing on serious needs regarding illegal activity online.

“The FCC putting this under a microscope is an important step,” said Rick Lane, an online safety and security advocate who had filed comments on behalf of various parties in support of a rulemaking. “Ultimately, it’s going to be up to Congress to ensure the protection of people online. But the first thing we have to admit is there’s a problem, and there’s a growing consensus on both sides of the aisle that Section 230 needs to be fixed.”

Commissioners clash over Section 230. Pai said Thursday there were “serious concerns about the prevailing interpretation” of Section’s 230’s immunity provisions. He noted Supreme Court Justice Clarence Thomas last week [cited](#) lower courts as relying on “policy and purpose arguments to grant sweeping protections to Internet platforms” that seem to go way beyond the statutory text.

“Many advance an overly broad interpretation that in some cases shields social media companies from consumer protection laws in a way that has no basis in the text of Section 230,” Pai [said](#). The FCC’s general counsel has determined the agency has legal authority to interpret Section 230, Pai said, vowing “to move forward with a rulemaking to clarify its meaning.”

“Throughout my tenure at the [FCC], I have favored regulatory parity, transparency, and free expression,” Pai said. “Social media companies have a First Amendment right to free speech. But they do not have a First Amendment right to a special immunity denied to other media outlets, such as newspapers and broadcasters.”

Carr [lauded](#) Pai’s move to “bring much-needed clarity to Section 230 and close the loopholes that Big Tech has exploited.”

“The timing of this effort is absurd,” countered Rosenworcel in an emailed statement. “The FCC has no business being the President’s speech police.”

“We’re in the midst of an election,” [tweeted](#) Starks. “The President’s Executive Order on [#Section230](#) was politically motivated and legally unsound. The FCC shouldn’t do the President’s bidding here.”

Blog on legal authority coming. FCC General Counsel Tom Johnson [tweeted](#) Friday that he expected to release a blog soon on the agency’s authority to interpret Section 230.

Johnson’s blog will lay out the “parameters” of the FCC’s direction and potential action, said Lane, who was “heartened” by Pai’s focus on consumer protection. “You don’t have to do a Fairness Doctrine for the internet,” Lane said.

Pai can schedule votes for commissioner meetings if he circulates draft items at least three weeks ahead of time. There are meetings scheduled for October 27, November 18, December 10, and January 13. Absent commissioners’ consent, it’s too late for Pai to force a vote on a Section 230 draft for the October meeting. And while the FCC can act on circulation, between meetings, that gives the Democrats greater ability to delay final action.

From: [Evan Swarztrauber](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Thomas Johnson](#); [Brian Hart](#); [Anne Veigle](#)
Cc: [Preston Wise](#)
Subject: A different kind of press prep
Date: Wednesday, November 18, 2020 12:02:08 PM

(b) (5) [Redacted]
[Redacted]
[Redacted]
[Redacted]

[Redacted]

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Policy Advisor
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(202) 870-8405 (m)
Twitter: @EvanS_FCC

(b) (6)

From: Ajit Pai
Sent: Monday, October 12, 2020 10:14 AM
To: Katie Gorscak; Matthew Berry; Thomas Sullivan; Sean Spivey; Brian Hart; Will Wiquist; Lamar Robertson; Nicholas Degani; Evan Swarztrauber; Montana L. Hyde
Subject: Re: Americas Spectrum Management Conference

By the way, the first question of the box was about ... Ginger the Bulldog!

Ajit V. Pai
Chairman, Federal Communications Commission
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Washington, DC 20554
(202)418-1000
Twitter: @AjitPaiFCC

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Monday, October 12, 2020 10:11 AM
To: Katie Gorscak <Katie.Gorscak@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

I'm all done! Thanks so much to everybody.

Ajit V. Pai
Chairman, Federal Communications Commission
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From: Katie Gorscak <Katie.Gorscak@fcc.gov>
Sent: Monday, October 12, 2020 10:06 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

(b) (5)

Thanks!

From: "Ajit Pai" <Ajit.Pai@fcc.gov>
Date: Monday, October 12, 2020 at 9:39:47 AM
To: "Matthew Berry" <Matthew.Berry@fcc.gov>, "Thomas Sullivan" <Thomas.Sullivan@fcc.gov>, "Sean Spivey" <Sean.Spivey@fcc.gov>, "Brian Hart" <Brian.Hart@fcc.gov>, "Will Wiquist" <Will.Wiquist@fcc.gov>, "Lamar Robertson" <Lamar.Robertson@fcc.gov>, "Nicholas Degani" <Nicholas.Degani@fcc.gov>, "Evan Swarztrauber" <Evan.Swarztrauber@fcc.gov>, "Katie Gorscak" <Katie.Gorscak@fcc.gov>, "Montana L. Hyde" <Montana.Hyde@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Monday, October 12, 2020 8:54 AM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

Yep. Should be good to go.

Ajit V. Pai
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(202)418-1000
Twitter: @AjitPaiFCC

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Monday, October 12, 2020 8:53 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

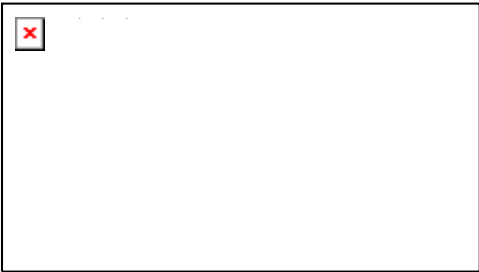
Did they send you the link for today?

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Sunday, October 11, 2020 11:41 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

They sent me a different link for tomorrow than they did for the prep session although both used streamyard.com.

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Sunday, October 11, 2020 11:39 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

Sounds good. This is the link they gave me for the prep session, <https://streamyard.com/pwf2w7ff2g>, but I wasn't sure if there was a unique one for the event itself.



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From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Sunday, October 11, 2020 11:37 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

I am on the panel after you speak, and they sent me a link to use for tomorrow morning. I did a practice prep session last week, and it was easy to use.

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Sunday, October 11, 2020 11:22 PM
To: Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

Many thanks!

From: Thomas Sullivan <Thomas.Sullivan@fcc.gov>
Sent: Sunday, October 11, 2020 11:22 PM
To: Sean Spivey <Sean.Spivey@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: RE: Americas Spectrum Management Conference

It will be a live feed. I've asked the organizers to send a link to you, me, Sean and Montana ASAP. It should be there for you tomorrow.

From: Sean Spivey <Sean.Spivey@fcc.gov>

Sent: Sunday, October 11, 2020 10:20 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>

Subject: Re: Americas Spectrum Management Conference

(b) (5)

C. Sean Spivey
(202) 418-0162

----- Original Message -----

From: Ajit Pai <Ajit.Pai@fcc.gov>

Date: Sun, Oct 11, 2020, 10:04 PM

To: Brian Hart <Brian.Hart@fcc.gov>, Will Wiquist <Will.Wiquist@fcc.gov>, Matthew Berry <Matthew.Berry@fcc.gov>, Sean Spivey <Sean.Spivey@fcc.gov>, Lamar Robertson <Lamar.Robertson@fcc.gov>, Nicholas Degani <Nicholas.Degani@fcc.gov>, Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>, Thomas Sullivan <Thomas.Sullivan@fcc.gov>, Katie Gorscak <Katie.Gorscak@fcc.gov>, "Montana L. Hyde" <Montana.Hyde@fcc.gov>

Subject: Re: Americas Spectrum Management Conference

+MH

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>

Sent: Sunday, October 11, 2020 9:46 PM

To: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>

Subject: Re: Americas Spectrum Management Conference

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>

Sent: Sunday, October 11, 2020 8:51 PM

To: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>

Subject: Re: Americas Spectrum Management Conference

(b) (5)

Ajit V. Pai
Chairman, Federal Communications Commission

445 12th Street, S.W.
Washington, DC 20554
(202)418-1000
Twitter: @AjitPaiFCC

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Sunday, October 11, 2020 8:46 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Sunday, October 11, 2020 8:05 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Sunday, October 11, 2020 8:04 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

+Katie.

From: "Brian Hart" <Brian.Hart@fcc.gov>
Date: Friday, October 9, 2020 at 5:27:22 PM
To: "Matthew Berry" <Matthew.Berry@fcc.gov>, "Sean Spivey" <Sean.Spivey@fcc.gov>, "Lamar Robertson" <Lamar.Robertson@fcc.gov>, "Ajit Pai" <Ajit.Pai@fcc.gov>, "Nicholas Degani" <Nicholas.Degani@fcc.gov>, "Evan Swarztrauber" <Evan.Swarztrauber@fcc.gov>, "Thomas Sullivan" <Thomas.Sullivan@fcc.gov>
Cc: "Will Wiquist" <Will.Wiquist@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Friday, October 9, 2020 5:04 PM
To: Sean Spivey <Sean.Spivey@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>;

Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>

Subject: Re: Americas Spectrum Management Conference

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Friday, October 9, 2020 3:17 PM

To: Sean Spivey <Sean.Spivey@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>

Subject: Re: Americas Spectrum Management Conference

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Friday, October 9, 2020 2:24 PM

To: Sean Spivey <Sean.Spivey@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>

Subject: Re: Americas Spectrum Management Conference

Jumping in . . .

From: Sean Spivey <Sean.Spivey@fcc.gov>

Sent: Friday, October 9, 2020 1:13 PM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>

Subject: RE: Americas Spectrum Management Conference

Sorry for the delay (VDI is not holding up well against my parent's internet connection). Attached please find some suggested edits from me.

Sean

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Friday, October 9, 2020 9:52 AM

To: Lamar Robertson <Lamar.Robertson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>

Subject: Re: Americas Spectrum Management Conference

Sean, can you go in and edit?

From: "Lamar Robertson" <Lamar.Robertson@fcc.gov>

Date: Thursday, October 8, 2020 at 7:20:27 PM

To: "Ajit Pai" <Ajit.Pai@fcc.gov>, "Matthew Berry" <Matthew.Berry@fcc.gov>, "Nicholas Degani"

<Nicholas.Degani@fcc.gov>, "Sean Spivey" <Sean.Spivey@fcc.gov>, "Evan Swarztrauber" <Evan.Swarztrauber@fcc.gov>, "Thomas Sullivan" <Thomas.Sullivan@fcc.gov>

Subject: Americas Spectrum Management Conference

(b) (5)



From: [Shepardson, David \(Reuters\)](#)
To: [Will Wiquist](#)
Cc: [Brian Hart](#)
Subject: Another question
Date: Monday, October 5, 2020 2:06:08 PM

So in essence what I was told is the chairman is addressing the three issues raised by the DC Circuit but not proposing any policy changes to the RIFO order? Is that correct?

David Shepardson

Correspondent

Reuters

Phone: ☐1 202 898 8☐24

Mobile: ☐1 202 579-609☐

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<https://www.thomsonreuters.com/en/resources/disclosures.html>

From: [Nick Gillespie](#)
To: [Brian Hart](#)
Subject: Arranging a Reason TV interview with Chairman Pai
Date: Monday, October 19, 2020 3:21:57 PM

Hi Brian,

I'm writing to arrange an interview with Chairman Pai in anticipation of his receiving Reason Foundation's Savas Award on November 19.

Ideally, we'd conduct the interview via Zoom for about 30 to 40 minutes sometime during the week of November 9 through November 13 (we're hoping to release the video and audio versions of the interview just before the awards ceremony).

Is that doable? Is there more information I can supply that will help you make a decision? Please let me know.

Thanks--

Nick

Nick Gillespie
[Editor at Large, Reason](#)
513.255.5151 (c)
gillespie@reason.com

From: [Margaret McGill](#)
To: [Brian Hart](#); [Anne Veigle](#)
Subject: Axios ask on Chairman Pai future
Date: Thursday, November 12, 2020 2:05:58 PM

Hi all,

Hope you're both doing well! I'm getting back into the swing of things this week, and am working on a story about what the FCC could look like in January.

I'm planning to report that Chairman Pai is expected to leave the agency before inauguration, based on conversations I've had with sources. Can you confirm or offer any guidance or comment?

The premise of my story is that Nathan Simington faces a near impossible path to FCC confirmation, despite pressure from President Trump and the appeal to Republicans of starting a Biden administration with a 2-2 FCC.

That of course assumes that Chairman Pai is leaving (and Commissioner O'Rielly as well). Let me know what you can, especially if I should assume otherwise!

— Margaret

--



Margaret Harding McGill

Technology reporter

margaret.mcgill@axios.com ☎(571)982-0559

From: [Thomas Johnson](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Evan Swarztrauber](#); [Michael J. Carlson](#); [Brian Hart](#); [Anne Veigle](#); [Will Wiquist](#)
Subject: Blog post
Date: Wednesday, October 21, 2020 10:11:04 AM
Attachments: [FCC General Counsel Blog Post on Section 230 -- FINAL TO POST.docx](#)

Creating new thread to avoid confusion -- this should be good to post.

The FCC's Authority to Interpret Section 230 of the Communications Act

Last week, FCC Chairman Ajit Pai announced his intent to move forward with a rulemaking to interpret Section 230 of the Communications Act of 1934. Under certain circumstances, Section 230 provides websites, including social media companies, that host or moderate content generated by others with immunity from liability. In announcing his decision, Chairman Pai noted that “[m]embers of all three branches of government have expressed serious concern about the prevailing interpretation” of Section 230, and observed that an overly broad interpretation could “shield[] social media companies from consumer protection laws in a way that has no basis in the text” of the statute.

The Chairman’s decision was consistent with my advice that the FCC has the legal authority to interpret Section 230. Due to the unique interest generated by this proceeding, Chairman Pai has now asked me to make my analysis public, in furtherance of his longstanding commitment to transparency in the rulemaking process.

The policy issues raised by the debate over Section 230 may be complex, but the FCC’s legal authority is straightforward. Simply put, the FCC has the authority to interpret all provisions of the Communications Act, including amendments such as Section 230. As I explain below, this authority flows from the plain meaning of Section 201(b) of the Communications Act of 1934, which confers on the FCC the power to issue rules necessary to carry out the provisions of the Act. By expressly directing that Section 230 be placed into the Communications Act, Congress made clear that the FCC’s rulemaking authority extended to the provisions of that section. Two seminal U.S. Supreme Court cases authored by the late Justice Antonin Scalia – *AT&T Corp. v. Iowa Utilities Bd.*, 525 U.S. 366 (1999) and *City of Arlington v. FCC*, 569 U.S. 290 (2013) – confirm this conclusion. Based on this authority, the Commission can feel confident proceeding with a rulemaking to clarify the scope of the Section 230 immunity shield.

Statutory Background

To understand why the Commission has authority to interpret Section 230, it helps to understand how that section became part of the Communications Act. In 1934, Congress adopted the Communications Act in its original form, establishing the FCC as an independent federal agency charged with regulating interstate and international communications. Four years later, Congress added Section 201(b), which delegated to the Commission the power to “prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this Act.”

Since then, the most consequential set of amendments to the Communications Act arrived in the Telecommunications Act of 1996, which updated the Act for the then-nascent Internet age. Section 1(b) of that Act made clear that, except where otherwise expressly provided, each of the 1996 Act's provisions were to be inserted into the Communications Act of 1934.

Title V of the 1996 Act was named the "Communications Decency Act of 1996." Among other provisions, this Title included Section 509, named "Online family empowerment." Consistent with Section 1(b), Congress instructed in Section 509 that "Title II of the Communications Act of 1934 . . . is amended by adding at the end the following new section: Section 230." Thus, Section 230 was born and became part of the Communications Act of 1934.

Section 230 provides, among other things, that "[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider." It further provides that "[n]o provider or user of an interactive computer service shall be held liable on account of . . . any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected." The term "interactive computer service" is defined "as any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions." That broad definition is commonly understood to include websites that host or moderate content generated by others, such as social media companies.

The FCC's Interpretive Authority

The Supreme Court has twice considered whether the FCC's general rulemaking authority under Section 201(b), adopted in 1938, extends to the 1996 amendments to the Act. Both times, the Court held that it does. Writing for the Court in *Iowa Utilities Board*, and employing his trademark textualist method, Justice Scalia wrote that this provision "means what it says: The FCC has rulemaking authority to carry out the 'provisions of [the 1934] Act.'" The Court explained that "the clear fact that the 1996 Act was adopted, not as a freestanding enactment, but as an amendment to, and hence part of, [the 1934] Act" shows that Congress intended the Commission to have rulemaking authority over all its provisions. Likewise, in the later *City of Arlington* case, the Court confirmed that the Commission's rulemaking authority "[o]f course . . . extends to the subsequently added portions of the Act." From these authorities, a simple conclusion follows:

Because Section 230 is among the “subsequently added portions of the Act,” it is subject to the FCC’s Section 201(b) rulemaking authority.

This rulemaking authority plainly encompasses the power to interpret ambiguous language throughout the Communications Act. And courts have repeatedly upheld the Commission’s authority to do so. *City of Arlington*, for example, upheld the Commission’s use of its authority under Section 201(b) to interpret a provision that preserved state and local authority over the placement of things like cell towers unless those localities failed to act within a “reasonable period of time.” The Supreme Court rejected an argument that the agency should receive no deference for its interpretation because the provision was “jurisdictional” and thus contemplated no regulatory action by the Commission. The Commission deserved deference, the Court explained, because “Congress has unambiguously vested the FCC with general authority to administer the Communications Act through rulemaking and adjudication, and the agency interpretation at issue was promulgated in the exercise of that authority.”

Likewise, in *City of Portland v. FCC*, 969 F.3d 1020 (9th Cir. 2020), the U.S. Court of Appeals for the Ninth Circuit earlier this year largely affirmed two FCC orders clarifying the scope of a preemption provision in the Communications Act that provides that states and localities may not take actions that “have the effect of prohibiting” telecommunications service. Citing *City of Arlington*, the court said that “[w]here terms of the Telecommunications Act are ambiguous, we defer to the FCC’s reasonable interpretations.”

Concerning the Commission’s interpretive authority, there is no meaningful distinction between the jurisdictional provision in *City of Arlington*, the preemption provision in *City of Portland*, and the immunity shield in Section 230 of the Act. All three provisions appear in the Communications Act, as amended. And like the jurisdictional and preemption provisions, Section 230 contains ambiguous terms: What constitutes an action “voluntarily taken in good faith” to restrict access to material? What constitutes material that can be excluded as “otherwise objectionable”? As in *City of Arlington* and *City of Portland*, the Commission has the authority to clarify these ambiguities in Section 230. As the Supreme Court observed in *Iowa Utilities Board*, this conclusion is nothing more than application of the general principle, derived from the Supreme Court’s landmark decision in *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), that “Congress is well aware that the ambiguities it chooses to produce in a statute will be resolved by the implementing agency.”

Response to Common Objections

In response to the U.S. Department of Commerce’s petition asking the Commission to pursue a rulemaking on Section 230, some commenters supported the

FCC's authority to clarify the statute. Others, reading Section 201(b) – as well as *Iowa Utilities Board* and *City of Arlington* – narrowly, claimed that the FCC lacked such authority. I found the arguments of this latter group of commenters unpersuasive.

Some commenters claim that Congress did not intend for the Commission to administer Section 230, and therefore, the Commission has no authority to interpret it. Sometimes called “*Chevron Step Zero*,” this inquiry focuses on whether agencies deserve deference at all where there is no clear evidence that Congress intended the agency, rather than courts, to interpret an ambiguous statute. But the Supreme Court's conclusion that Congress adopted the entire 1996 Act against the backdrop of the FCC's Section 201 rulemaking power while leaving that power in place appears to foreclose this argument. As the Supreme Court put it in *City of Arlington*, “the whole [Act] includes all of its parts,” and therefore, the Court does not engage in a freewheeling judicial inquiry whereby “every agency rule must be subjected to a *de novo* judicial determination of whether the *particular issue* was committed to agency discretion.”

There is no reason why Section 230 of the Act alone should escape Section 201(b)'s general grant of rulemaking authority. Congress specifically instructed – in Section 509 of the Communications Decency Act, which in turn was in Title V of the Telecommunications Act of 1996 – that a new Section 230 be added to the Communications Act. While Section 230 itself deals primarily with an immunity shield, that fact alone does not exempt it from Commission rulemaking. *City of Arlington* and *City of Portland* make clear that the FCC can clarify even those ambiguous statutory provisions within the Act that are arguably directed toward courts – such as preemption or jurisdictional provisions. Similarly, *Iowa Utilities Board* upheld the Commission's authority under Section 201(b) to interpret ambiguous provisions in the Act that provided standards for state utility commissions to resolve pricing and interconnection disputes. Nothing in the Act, the Court explained, “logically preclude[s] the Commission's issuance of rules to guide the state-commission judgments.” The same logic applies here: Section 201(b) allows the Commission to interpret Section 230 to guide the judgments of courts.

Others attempt to read limitations into the text of Section 201(b) that could exclude Section 230. They note that most of Section 201(b) deals with rules that apply to common carriers and argue that Congress did not intend to treat social media companies and other covered websites as common carriers. But the general grant of rulemaking authority at the end of Section 201(b) contains no reference to common carriers; it simply empowers the Commission to make rules that are “necessary in the public interest to carry out the provisions of this Act,” without qualification. For this reason, the U.S. Court of Appeals for the Sixth Circuit in *Alliance for Community Media v. FCC*, 529 F.3d 763 (6th Cir. 2008), held that Section 201(b) gave the Commission

authority to interpret ambiguous provisions in the Cable Television Consumer Protection and Competition Act of 1992. Notably, that Act by its terms applies to cable operators, not common carriers. The Court reasoned, relying on *Iowa Utilities Board*, that it was sufficient that the 1992 law amended the Communications Act and incorporated the relevant provisions therein. The same reasoning applies to Section 230.

Other commenters reach beyond statutory text to argue that Section 230's legislative history and purposes demonstrate that the Commission lacks authority to interpret it. As an initial matter, neither legislative history nor abstract purposes can trump the plain text of a statute, and as the Supreme Court has twice held, Section 201(b) "means what it says" – the FCC has the authority to interpret each and every provision of the Communications Act, as amended.

In any event, critics of an FCC rulemaking overread the legislative history and statements of purpose on which they rely and fundamentally misunderstand the narrow authority involved in clarifying the scope of the Section 230 immunity shield. For example, commenters note that language in Section 230(b) expresses Congress's intent to "preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation." They further point out that Section 230 co-framer and then-Congressman Chris Cox remarked in floor debates prior to passage that "we do not wish to have a Federal Computer Commission with an army of bureaucrats regulating the Internet." And they observe that the FCC cited these authorities in the *Restoring Internet Freedom Order* as support for its decision to repeal the prior Administration's onerous "net neutrality" rules in favor of light-touch regulation of Internet service providers.

But none of these observations bear on the central question here: whether the Commission has authority to interpret ambiguous terms in Section 230(c), which contains the immunity shield. Engaging in such interpretation would not involve creating "net neutrality" rules for social media companies, much less (as some critics have claimed) a "Fairness Doctrine" for the Internet. Rather, it would involve clarifying a legal standard that already exists: the statutory immunity shield in Section 230. Even if the FCC were to interpret that shield more narrowly than some courts previously have, that would not result in additional FCC regulation. It would simply allow private parties to bring lawsuits, as appropriate, under *other* sources of federal and state law – the same generally-applicable causes of action that apply to newspapers, broadcasters, and other publishers and speakers not covered by Section 230.

Nor does it matter that the U.S. Court of Appeals for the D.C. Circuit in *Comcast v. FCC*, 600 F.3d 642 (D.C. Cir. 2010), and the FCC itself in the *Restoring Internet Freedom Order*, agreed that Section 230(b) was merely a statement of policy and not an affirmative source of authority. The Commission need not rely on Section 230(b) as the

source of its authority in this contemplated rulemaking. Instead, the Commission can comfortably use Section 201(b) to resolve ambiguities in the text of Section 230(c) – which *City of Arlington* and *Iowa Utilities Board* plainly permit.

At the end of the day, the scope of the Section 230 immunity shield must be interpreted by someone. And as the Supreme Court observed in both *Iowa Utilities Board* and *City of Arlington*, the only question is whether the FCC or a federal court will do the interpreting. Under current law, the answer is clear: The FCC receives deference for reasonable interpretations of all ambiguous terms in the Communications Act.

The fact that courts have been interpreting Section 230 for years does not prevent the Commission from construing its ambiguous terms. As the Supreme Court held in *National Cable & Telecomms. Ass'n v. Brand X Internet Servs.*, 545 U.S. 967 (2005), the FCC may act as the “authoritative interpreter” of ambiguous provisions in statutes like the Communications Act that it administers, and nothing “preclude[s] agencies from revising unwise judicial constructions of ambiguous statutes.” Section 230 allows the FCC to determine whether courts have appropriately interpreted its proper scope. Supreme Court Justice Clarence Thomas, for example, recently expressed the view that courts have “relied on policy and purpose arguments to grant sweeping protection to Internet platforms” under Section 230 that “departed from the most natural reading of the text.” Leaving such constructions unchallenged could, in Justice Thomas’s words, “have serious consequences,” like exempting Internet companies from a broad array of civil claims, even if that is not “what the law demands.” Under *Brand X*, the FCC may review these judicial interpretations to determine whether they reflect the best reading of the statute. Indeed, an agency’s role as “authoritative interpreter” may be particularly useful where, as here, courts have reached divergent interpretations of key provisions of an important statute, thus creating substantial uncertainty and disharmony in the law.

* * *

Ultimately, the five Commissioners of the FCC must decide whether this legal framework should be adopted in any future rulemaking. But in my own judgment, the FCC’s legal authority to interpret Section 230 is straightforward: Congress gave the Commission power to interpret all provisions of the Communications Act of 1934 – including amendments – and Section 230 is an amendment to the Communications Act. The Commission therefore may proceed with a rulemaking to clarify the scope of the Section 230(c) immunity shield.

From: [FCC Office of Media Relations](#)
Subject: BLOG: Chairman Pai Outlines Agenda for December Open Meeting
Date: Wednesday, November 18, 2020 3:03:29 PM

Below, please find FCC Chairman Ajit Pai's new blog post outlining the agenda for next month's Open Commission Meeting.

[To Safe and Secure Holidays . . . and Networks](#)

By FCC Chairman Ajit Pai

Every month, I use this platform to tout the items on the FCC's upcoming monthly meeting agenda and explain how they will help to address key challenges facing our country. For our December 2020 meeting, it's not just me saying that the Commission is dealing with some heady issues. Last week, National Security Advisor Robert O'Brien gave [an interview](#) in which he said the "number one concern" for democracy at home and abroad is the integrity of our communications networks. In particular, he warned that installing equipment from Chinese firms in the backbone of our 5G networks could give the Communist Chinese government "backdoors to pull up every bit of data in the world."

I agree wholeheartedly. Or, as I'm fond of quipping on Twitter, "[you don't say.](#)" The FCC recognizes this threat and has taken a series of actions to secure the integrity of the communications supply chain. Specifically, the FCC voted to prohibit the use of money from our Universal Service Fund to purchase or obtain any equipment or services produced or provided by companies posing a national security threat, including the world's largest global 5G supplier — Huawei. We also started a process to identify and catalog insecure equipment used in USF-funded communications networks, with an eye to implementing a program to remove and replace it. More recently, we hosted a forum on Open Radio Access Networks, or Open RANs, which could transform 5G network architecture, costs, and security.

This December, the Commission will have the opportunity to build on this progress and take critical next steps toward securing our communications networks. We will be voting on an Order implementing the Secure and Trusted Communications Networks Act of 2019. These new rules would establish the procedures and criteria for publishing a list of the communications equipment and services that pose an unacceptable risk to the national security of the United States. They would then require eligible telecommunications carriers to remove and replace such equipment from their networks, and would establish the Secure and Trusted Communications Networks Reimbursement Program to subsidize smaller carriers to remove and replace such equipment. Moreover, to ensure we are informed about the ongoing presence of insecure equipment in communications networks, the rules would also mandate strict reporting requirements.

Our December agenda will feature two additional national security matters, which I am unable to discuss in detail at this time.

Just as the Commission wants to stop the deployment of technologies that could undermine the security of our communications networks, we want to accelerate the development of new technologies that could help grow our economy and improve our quality of life. Every day, pretty

much every American uses multiple devices or gadgets that were approved through the FCC's equipment authorization program, whether it's your cellphone, your laptop, or your Wi-Fi router. This authorization process offers consumers assurance that their devices will work as intended and operate free from harmful interference.

As the pace of innovation has increased in the Internet age and product development cycles have accelerated, our equipment authorization rules in some ways have failed to keep pace. In particular, our rules limit the ability of device manufacturers to market and import radiofrequency devices in the most efficient and cost-effective ways possible. That's why I'm proposing targeted enhancements to our equipment authorization rules to make sure the newest technologies and must-have devices reach consumers as quickly as possible while still meeting our substantive standards.

Next up on our December agenda is a proposal to encourage the deployment of services using ATSC 3.0 — the "[next generation](#)" broadcast television standard. The rollout of ATSC 3.0 is well under way, with stations in a dozen markets licensed to transmit in this new standard, and twenty ATSC 3.0 compatible televisions set to be available for sale this year. The new standard promises to finally realize the potential for broadcast spectrum capacity to support so-called "Broadcast Internet" services — digital services beyond traditional over-the-air video, integrated into the broadband ecosystem. This December, the Commission will vote on a Report and Order that clarifies and updates the regulatory landscape in order to foster the efficient and robust use of broadcast spectrum capacity for the provision of such services. Specifically, it clarifies the basis on which to calculate ancillary and supplementary service fees, which are an assessment on the revenues earned by television stations from such services that we are required by statute to collect. It also retains the existing standard of derogation of broadcast service, while amending the rule to eliminate an outdated reference to analog television. And although the Report and Order generally declines at this time to adjust the 5% fee imposed on ancillary and supplementary services, it does lower the fee to 2.5% for noncommercial educational stations, which are uniquely positioned to take full advantage of the possibilities of Broadcast Internet, for nonprofit, noncommercial, educational services.

With Thanksgiving around the corner, it's only fitting that I conclude by thanking all the staff who have worked on these items. More broadly, I will be forever grateful to all the members of the FCC family who have gone above and beyond to serve the American people in unprecedented conditions during an unforgettable year. Here's wishing my colleagues and all of you a [Happy Thanksgiving](#).

From: [FCC Office of Media Relations](#)
Subject: BLOG: FCC Authority to Interpret Section 230
Date: Wednesday, October 21, 2020 10:32:00 AM

The FCC's Authority to Interpret Section 230 of the Communications Act

By FCC General Counsel Thomas M. Johnson, Jr.

Last week, FCC Chairman Ajit Pai announced his intent to move forward with a rulemaking to interpret Section 230 of the Communications Act of 1934. Under certain circumstances, Section 230 provides websites, including social media companies, that host or moderate content generated by others with immunity from liability. In announcing his decision, Chairman Pai noted that “[m]embers of all three branches of government have expressed serious concern about the prevailing interpretation” of Section 230, and observed that an overly broad interpretation could “shield[] social media companies from consumer protection laws in a way that has no basis in the text” of the statute.

The Chairman’s decision was consistent with my advice that the FCC has the legal authority to interpret Section 230. Due to the unique interest generated by this proceeding, Chairman Pai has now asked me to make my analysis public, in furtherance of his longstanding commitment to transparency in the rulemaking process.

The policy issues raised by the debate over Section 230 may be complex, but the FCC’s legal authority is straightforward. Simply put, the FCC has the authority to interpret all provisions of the Communications Act, including amendments such as Section 230. As I explain below, this authority flows from the plain meaning of Section 201(b) of the Communications Act of 1934, which confers on the FCC the power to issue rules necessary to carry out the provisions of the Act. By expressly directing that Section 230 be placed into the Communications Act, Congress made clear that the FCC’s rulemaking authority extended to the provisions of that section. Two seminal U.S. Supreme Court cases authored by the late Justice Antonin Scalia – *AT&T Corp. v. Iowa Utilities Bd.*, 525 U.S. 366 (1999) and *City of Arlington v. FCC*, 569 U.S. 290 (2013) – confirm this conclusion. Based on this authority, the Commission can feel confident proceeding with a rulemaking to clarify the scope of the Section 230 immunity shield.

Statutory Background

To understand why the Commission has authority to interpret Section 230, it helps to understand how that section became part of the Communications Act. In 1934, Congress adopted the Communications Act in its original form, establishing the FCC as an independent federal agency charged with regulating interstate and international communications. Four years later, Congress added Section 201(b), which delegated to the Commission the power to “prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this Act.”

Since then, the most consequential set of amendments to the Communications Act arrived in the Telecommunications Act of 1996, which updated the Act for the then-nascent Internet age. Section 1(b) of that Act made clear that, except where otherwise expressly provided, each of the 1996 Act’s provisions were to be inserted into the Communications Act of 1934.

Title V of the 1996 Act was named the “Communications Decency Act of 1996.” Among other provisions, this Title included Section 509, named “Online family empowerment.” Consistent with Section 1(b), Congress instructed in Section 509 that “Title II of the Communications Act of 1934 . . . is amended by adding at the end the

following new section: Section 230.” Thus, Section 230 was born and became part of the Communications Act of 1934.

Section 230 provides, among other things, that “[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” It further provides that “[n]o provider or user of an interactive computer service shall be held liable on account of . . . any action voluntarily taken in good faith to restrict access to or availability of . . . material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected.” The term “interactive computer service” is defined “as any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.” That broad definition is commonly understood to include websites that host or moderate content generated by others, such as social media companies.

The FCC’s Interpretive Authority

The Supreme Court has twice considered whether the FCC’s general rulemaking authority under Section 201(b), adopted in 1938, extends to the 1996 amendments to the Act. Both times, the Court held that it does. Writing for the Court in *Iowa Utilities Board*, and employing his trademark textualist method, Justice Scalia wrote that this provision “means what it says: The FCC has rulemaking authority to carry out the ‘provisions of [the 1934] Act.’” The Court explained that “the clear fact that the 1996 Act was adopted, not as a freestanding enactment, but as an amendment to, and hence part of, [the 1934] Act” shows that Congress intended the Commission to have rulemaking authority over all its provisions. Likewise, in the later *City of Arlington* case, the Court confirmed that the Commission’s rulemaking authority “[o]f course . . . extends to the subsequently added portions of the Act.” From these authorities, a simple conclusion follows: Because Section 230 is among the “subsequently added portions of the Act,” it is subject to the FCC’s Section 201(b) rulemaking authority.

This rulemaking authority plainly encompasses the power to interpret ambiguous language throughout the Communications Act. And courts have repeatedly upheld the Commission’s authority to do so. *City of Arlington*, for example, upheld the Commission’s use of its authority under Section 201(b) to interpret a provision that preserved state and local authority over the placement of things like cell towers unless those localities failed to act within a “reasonable period of time.” The Supreme Court rejected an argument that the agency should receive no deference for its interpretation because the provision was “jurisdictional” and thus contemplated no regulatory action by the Commission. The Commission deserved deference, the Court explained, because “Congress has unambiguously vested the FCC with general authority to administer the Communications Act through rulemaking and adjudication, and the agency interpretation at issue was promulgated in the exercise of that authority.”

Likewise, in *City of Portland v. FCC*, 969 F.3d 1020 (9th Cir. 2020), the U.S. Court of Appeals for the Ninth Circuit earlier this year largely affirmed two FCC orders clarifying the scope of a preemption provision in the Communications Act that provides that states and localities may not take actions that “have the effect of prohibiting” telecommunications service. Citing *City of Arlington*, the court said that “[w]here terms of the Telecommunications Act are ambiguous, we defer to the FCC’s reasonable interpretations.”

Concerning the Commission’s interpretive authority, there is no meaningful
City of Arlington

distinction between the jurisdictional provision in _____, the preemption provision in *City of Portland*, and the immunity shield in Section 230 of the Act. All three provisions appear in the Communications Act, as amended. And like the jurisdictional and preemption provisions, Section 230 contains ambiguous terms: What constitutes an action “voluntarily taken in good faith” to restrict access to material? What constitutes material that can be excluded as “otherwise objectionable”? As in *City of Arlington* and *City of Portland*, the Commission has the authority to clarify these ambiguities in Section 230. As the Supreme Court observed in *Iowa Utilities Board*, this conclusion is nothing more than application of the general principle, derived from the Supreme Court’s landmark decision in *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), that “Congress is well aware that the ambiguities it chooses to produce in a statute will be resolved by the implementing agency.”

Response to Common Objections

In response to the U.S. Department of Commerce’s petition asking the Commission to pursue a rulemaking on Section 230, some commenters supported the FCC’s authority to clarify the statute. Others, reading Section 201(b) – as well as *Iowa Utilities Board* and *City of Arlington* – narrowly, claimed that the FCC lacked such authority. I found the arguments of this latter group of commenters unpersuasive.

Some commenters claim that Congress did not intend for the Commission to administer Section 230, and therefore, the Commission has no authority to interpret it. Sometimes called “*Chevron Step Zero*,” this inquiry focuses on whether agencies deserve deference at all where there is no clear evidence that Congress intended the agency, rather than courts, to interpret an ambiguous statute. But the Supreme Court’s conclusion that Congress adopted the entire 1996 Act against the backdrop of the FCC’s Section 201 rulemaking power while leaving that power in place appears to foreclose this argument. As the Supreme Court put it in *City of Arlington*, “the whole [Act] includes all of its parts,” and therefore, the Court does not engage in a freewheeling judicial inquiry whereby “every agency rule must be subjected to a *de novo* judicial determination of whether the *particular issue* was committed to agency discretion.”

There is no reason why Section 230 of the Act alone should escape Section 201(b)’s general grant of rulemaking authority. Congress specifically instructed – in Section 509 of the Communications Decency Act, which in turn was in Title V of the Telecommunications Act of 1996 – that a new Section 230 be added to the Communications Act. While Section 230 itself deals primarily with an immunity shield, that fact alone does not exempt it from Commission rulemaking. *City of Arlington* and *City of Portland* make clear that the FCC can clarify even those ambiguous statutory provisions within the Act that are arguably directed toward courts – such as preemption or jurisdictional provisions. Similarly, *Iowa Utilities Board* upheld the Commission’s authority under Section 201(b) to interpret ambiguous provisions in the Act that provided standards for state utility commissions to resolve pricing and interconnection disputes. Nothing in the Act, the Court explained, “logically preclude[s] the Commission’s issuance of rules to guide the state-commission judgments.” The same logic applies here: Section 201(b) allows the Commission to interpret Section 230 to guide the judgments of courts.

Others attempt to read limitations into the text of Section 201(b) that could exclude Section 230. They note that most of Section 201(b) deals with rules that apply to common carriers and argue that Congress did not intend to treat social media companies and other covered websites as common carriers. But the general grant of rulemaking authority at the end of Section 201(b) contains no reference to common carriers; it simply empowers the Commission to make rules that are “necessary in the public interest to carry out the provisions of this Act,” without qualification. For this

reason, the U.S. Court of Appeals for the Sixth Circuit in *Alliance for Community Media v. FCC*, 529 F.3d 763 (6th Cir. 2008), held that Section 201(b) gave the Commission authority to interpret ambiguous provisions in the Cable Television Consumer Protection and Competition Act of 1992. Notably, that Act by its terms applies to cable operators, not common carriers. The Court reasoned, relying on *Iowa Utilities Board*, that it was sufficient that the 1992 law amended the Communications Act and incorporated the relevant provisions therein. The same reasoning applies to Section 230.

Other commenters reach beyond statutory text to argue that Section 230's legislative history and purposes demonstrate that the Commission lacks authority to interpret it. As an initial matter, neither legislative history nor abstract purposes can trump the plain text of a statute, and as the Supreme Court has twice held, Section 201(b) "means what it says" – the FCC has the authority to interpret each and every provision of the Communications Act, as amended.

In any event, critics of an FCC rulemaking overread the legislative history and statements of purpose on which they rely and fundamentally misunderstand the narrow authority involved in clarifying the scope of the Section 230 immunity shield. For example, commenters note that language in Section 230(b) expresses Congress's intent to "preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation." They further point out that Section 230 co-framer and then-Congressman Chris Cox remarked in floor debates prior to passage that "we do not wish to have a Federal Computer Commission with an army of bureaucrats regulating the Internet." And they observe that the FCC cited these authorities in the *Restoring Internet Freedom Order* as support for its decision to repeal the prior Administration's onerous "net neutrality" rules in favor of light-touch regulation of Internet service providers.

But none of these observations bear on the central question here: whether the Commission has authority to interpret ambiguous terms in Section 230(c), which contains the immunity shield. Engaging in such interpretation would not involve creating "net neutrality" rules for social media companies, much less (as some critics have claimed) a "Fairness Doctrine" for the Internet. Rather, it would involve clarifying a legal standard that already exists: the statutory immunity shield in Section 230. Even if the FCC were to interpret that shield more narrowly than some courts previously have, that would not result in additional FCC regulation. It would simply allow private parties to bring lawsuits, as appropriate, under *other* sources of federal and state law – the same generally-applicable causes of action that apply to newspapers, broadcasters, and other publishers and speakers not covered by Section 230.

Nor does it matter that the U.S. Court of Appeals for the D.C. Circuit in *Comcast v. FCC*, 600 F.3d 642 (D.C. Cir. 2010), and the FCC itself in the *Restoring Internet Freedom Order*, agreed that Section 230(b) was merely a statement of policy and not an affirmative source of authority. The Commission need not rely on Section 230(b) as the source of its authority in this contemplated rulemaking. Instead, the Commission can comfortably use Section 201(b) to resolve ambiguities in the text of Section 230(c) – which *City of Arlington* and *Iowa Utilities Board* plainly permit.

At the end of the day, the scope of the Section 230 immunity shield must be interpreted by someone. And as the Supreme Court observed in both *Iowa Utilities Board* and *City of Arlington*, the only question is whether the FCC or a federal court will do the interpreting. Under current law, the answer is clear: The FCC receives deference for reasonable interpretations of all ambiguous terms in the Communications Act.

The fact that courts have been interpreting Section 230 for years does not

prevent the Commission from construing its ambiguous terms. As the Supreme Court held in *National Cable & Telecomms. Ass'n v. Brand X Internet Servs.*, 545 U.S. 967 (2005), the FCC may act as the “authoritative interpreter” of ambiguous provisions in statutes like the Communications Act that it administers, and nothing “preclude[s] agencies from revising unwise judicial constructions of ambiguous statutes.” Section 230 allows the FCC to determine whether courts have appropriately interpreted its proper scope. Supreme Court Justice Clarence Thomas, for example, recently expressed the view that courts have “relied on policy and purpose arguments to grant sweeping protection to Internet platforms” under Section 230 that “departed from the most natural reading of the text.” Leaving such constructions unchallenged could, in Justice Thomas’s words, “have serious consequences,” like exempting Internet companies from a broad array of civil claims, even if that is not “what the law demands.” Under *Brand X*, the FCC may review these judicial interpretations to determine whether they reflect the best reading of the statute. Indeed, an agency’s role as “authoritative interpreter” may be particularly useful where, as here, courts have reached divergent interpretations of key provisions of an important statute, thus creating substantial uncertainty and disharmony in the law.

* * *

Ultimately, the five Commissioners of the FCC must decide whether this legal framework should be adopted in any future rulemaking. But in my own judgment, the FCC’s legal authority to interpret Section 230 is straightforward: Congress gave the Commission power to interpret all provisions of the Communications Act of 1934 – including amendments – and Section 230 is an amendment to the Communications Act. The Commission therefore may proceed with a rulemaking to clarify the scope of the Section 230(c) immunity shield.

From: [Sharon Hurd](#)
To: [Brian Hart](#); [Anne Veigle](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: Bloomberg re: Section 230
Date: Thursday, October 15, 2020 5:07:32 PM

From: Eric Newcomer (BLOOMBERG/ NEWSROOM:) <enewcomer@bloomberg.net>
Sent: Thursday, October 15, 2020 4:53 PM
To: MediaRelations <MediaRelations@fcc.gov>
Subject: Bloomberg

Hi,

I'm requesting comment for a story about Republican push back on Section 230. Do you have any comment as to what the chairman's proposed reforms would do to crack down on Facebook and Twitter? I'm writing that many believe that a pullback of Section 230 would only make tech platforms more cautious about what content they host on their site.

Best, Eric

From: [Perera, David \(LNG-MLEX\)](#)
To: [Brian Hart](#); [Will Wiquist](#)
Subject: carrier NALS
Date: Monday, October 26, 2020 1:33:23 PM
Attachments: [image001.png](#)

Hi Brian, Hi Will,

Commissioner Starks is on an FCBA webinar now, discussing the February NALs against major carriers for geolocation data.

“Obviously it’s been hanging out there for quite some time, so it’s incumbent on Chairman Pai to continue to move the process forward,” he said.

Do you have an update on the status of the NALs, or a statement on what appears to be a long period of time between the NALs release (February) and any apparent action on them?

On deadline.

Cheers, Dave

David Perera ☐ MLex data security and privacy reporter
perera@mlex.com ☐ b: 202 909 2141 m: 202 2☐☐ 9949

1776 I (Eye☐ Street NW Suite 260 ☐ Washington, D.C. 20006 ☐ United States ☐ www.mlexmarketinsight.com ☐ www.ftcwatch.com



From: [Melia, Jonathan](#)
To: [Anna Yu, et al](#); [Brian Hart](#); [Katie Szorack](#); [Will Wineslet](#)
Cc: [Hochstetler, Kent](#); [Taylor, Monte](#)
Subject: CDA Section 230 FCC NPRM
Date: Thursday, October 15, 2020 3:13:42 PM
Attachments: [image001.png](#)

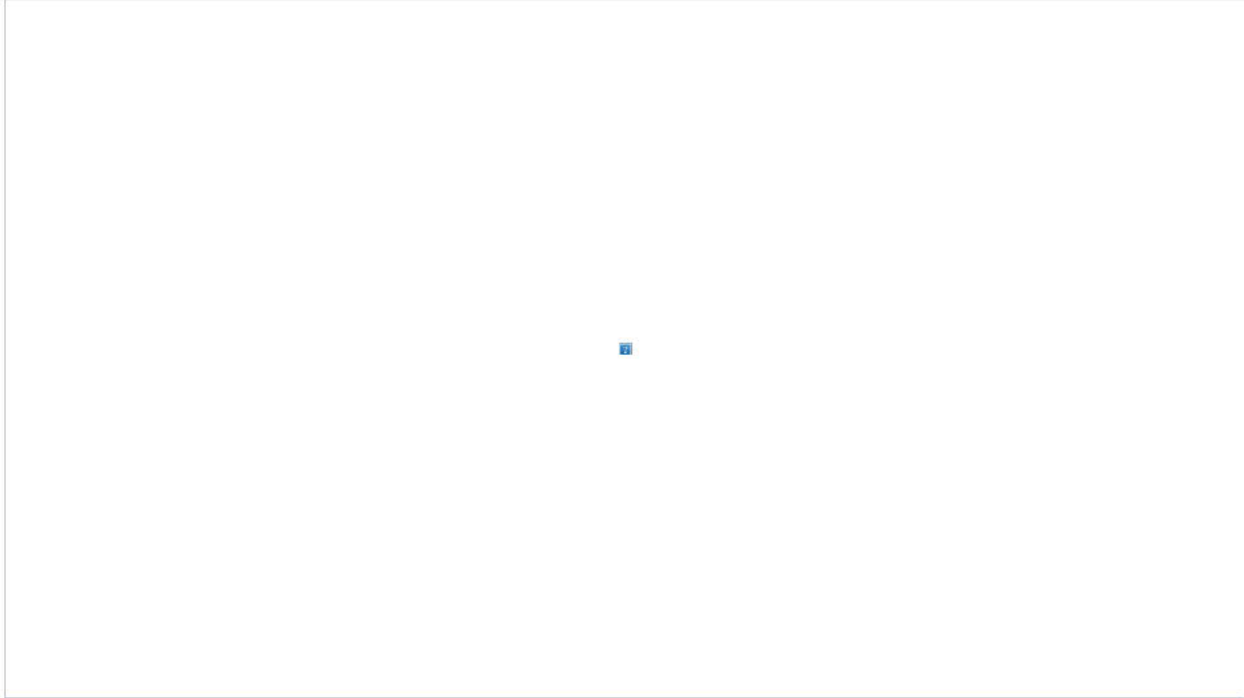
Greetings: FCC PR –

Wanted to let you all know about a problem with the website. Not sure if it is just our office or if it is a more general thing. See the screenshot below.

Please let us know if there is any comment on that by 5 PM today. If you can also please copy my colleagues Karl & Monty. I'd appreciate it.

Also if you could please do likewise should there be any comment regarding my query on the CDA Section 230 FCC NPRM.

Thank you.



From: CommunicationsDaily@warren-news.com [mailto:CommunicationsDaily@warren-news.com]
Sent: Thursday, October 15, 2020 3:07 PM
To: Newsroom
Subject: Bulletin for Communications Daily: Pai: FCC Intends to Move Forward With CDA S. 230 Rulemaking

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October 15, 2020

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Pai: FCC Intends to Move Forward With CDA S. 230 Rulemaking

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Pai noted Thomas' comment that "courts have relied upon policy and purpose arguments to grant sweeping protections to Internet platforms" that appear to go far beyond the actual text of the provision. "Social media companies have 'a First Amendment right to free speech,'" Pai wrote. "But they do not have a First Amendment right to a special immunity denied to other media outlets, such as newspapers and broadcasters."

In the minutes after the announcement, the FCC didn't provide further details. Social media and other technology companies and stakeholders didn't immediately comment.

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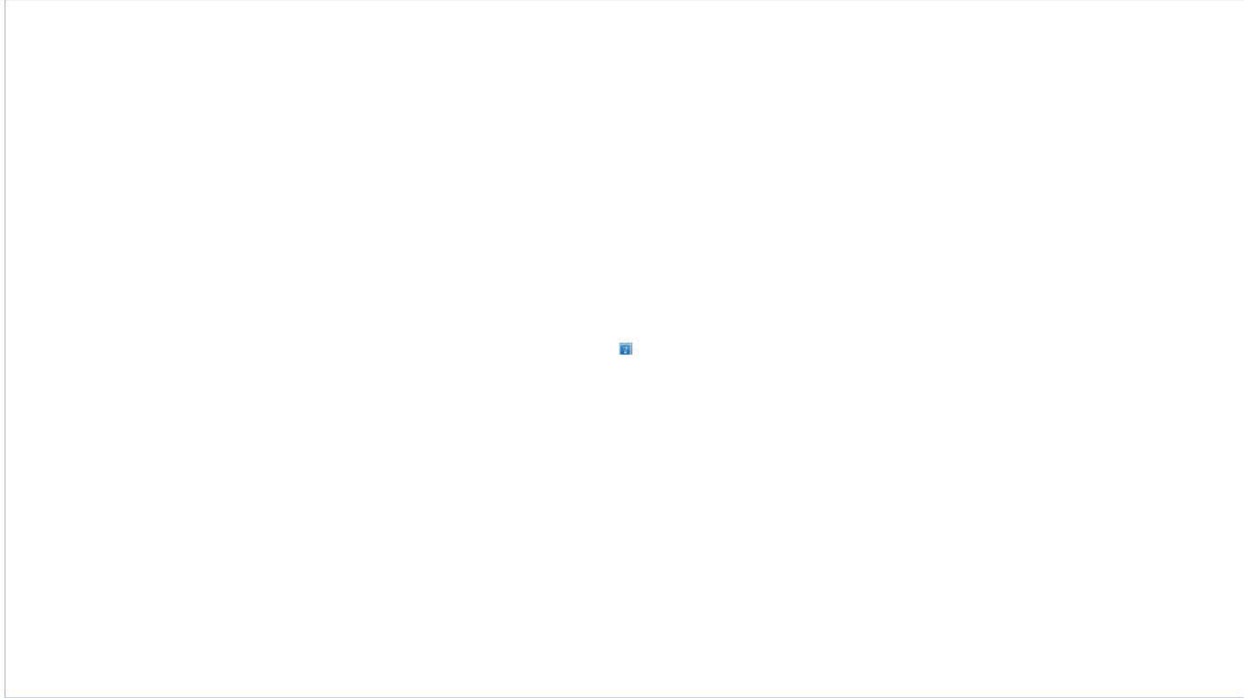
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From: [Center for Democracy & Technology](#)
To: [Brian Hart](#)
Subject: CDT's Spotlight on Content Moderation
Date: Thursday, October 29, 2020 4:01:09 PM

[Area of Focus Spotlight: Content Moderation](#)



Since its inception, the Center for Democracy & Technology (CDT) has been a leader in both domestic and global conversations around online free expression. Of late, much of this discussion has focused specifically on content moderation. We believe that thoughtful, transparent, and practical approaches to content moderation are critical to enabling all of the benefits of free speech online while addressing abuses. We also know that there is no one-size-fits-all model to content moderation.

In our work to strengthen individual rights and freedoms in the digital age, we collaborate with a variety of partners, including academics and advocates, and engage directly with tech companies and policymakers on the challenges of moderating online content. We give input on policies, analyze their effects, and successfully push for greater transparency around platform practices that impact user rights. We also conduct research on the mechanics of content moderation on different platforms and develop educational materials that bring the realities of content moderation to policymakers and other audiences.

The last six months have seen significant scrutiny around content moderation, and repeated threats to the legal framework that enables online services to tackle disinformation and engage in fact-checking. CDT has continued to be at the forefront of those conversations, working at the intersection of content moderation and transparency, accountability, and human rights.

In June 2020, CDT [filed a lawsuit](#) against President Trump's "Executive Order on Preventing Online Censorship" because it violates the First Amendment, limiting platforms' rights to respond to misinformation and voter suppression on their services. "The government cannot and should not force online intermediaries into moderating speech according to the President's whims," said CDT's President & CEO Alexandra Givens. Recently, the government sought to dismiss the case on procedural grounds, and we replied, stating that we are exactly the [right kind of plaintiff](#) to bring this case, as an organization with a 25-year history of protecting free speech online and advocating for users in the digital world. We are awaiting a decision from the court.



[READ](#)

CDT's Lawsuit Against the Trump Administration

In late July, the National Telecommunications and Information Administration (NTIA) followed the President's Executive Order and [petitioned the FCC](#) to radically reinterpret Section 230, the law that has safeguarded free expression online for over 20 years. In mid-October, the FCC affirmed that it will move forward with rulemaking on this issue. As CDT told the FCC in our [comments opposing the NTIA's petition](#), the Executive Order is unconstitutional, the FCC lacks authority to do what the petition asks, and the petition itself is riddled with errors about the realities of moderating speech online. The petition, the Order, and the forthcoming rules are designed to limit the ability of online services to respond to misinformation and voter suppression in an election year, and would deprive users of access to information and of access to services that operate free from government coercion.

Similar threats are also arising in Congress: This month, CDT [led a coalition](#) in opposition to Sen. Graham's "Online Content Policy Modernization Act". This bill is designed to deter platforms from fact-checking misleading information about voting and to discourage them from combating the spread of mis- and disinformation on their sites. Online voter suppression is a serious threat to our democracy, one that disproportionately targets voters of color. In the weeks before the election, we need online services to be doing more to fight election misinformation, not less.

To further the fight against voter suppression, CDT is training election officials to detect and counter voter suppression misinformation. We created a [guide for election officials](#) to help them spot online voter suppression and counter it with accurate, authoritative information. We also released PSAs offering [fact-based information](#) on mail-in voting and [how to spot disinformation](#) around the election. In partnership with the Center for Tech and Civic Life, CDT [produced an online training](#) to give election officials the knowledge and training to combat inaccurate information about election procedures. Our goal is to arm election officials with tools to help educate the public, and to reach the public ourselves through targeted placement of the PSAs.

CDT is focused on content moderation and intermediary liability laws not only in the United States, but in the European Union as well. The Digital Services Act (DSA) will set the future legal framework for online content governance and define new responsibilities for companies hosting third-party content. CDT is working to ensure that this new framework supports online free expression and innovation and, as we emphasized in our [comments to the European Commission](#), is rooted firmly in a respect for human rights. The new head of our Europe Office,

Tech Talk



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Tech Talk: CDT Files Suit Against President Trump's Executive Order - Talking Tech w/ Alexandra Givens



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PSA: Misinformation & Disinformation - Building a More Informed Public

[WATCH](#) - Mail-In Voting



[WATCH](#)

PSA: Mail-In Voting - Every Vote Should Count



[READ](#)

Positive Intent Protections: Incorporating a Good Samaritan principle in the EU Digital Services Act

[Iverna McGowan](#), is leading this effort drawing on her background at Amnesty International and advising the Office of the UN High Commissioner for Human Rights.



[SAVE THE DATE](#)

Join CDT the week of December 7, 2020 for our first-ever virtual Future of Speech Online. We hope to see you there!

CDT is committed to helping move the needle on content moderation issues. Partners like you have been indispensable in this work. If you are not yet engaged and want to learn more, please reply to this email to join the conversation. Thank you for putting democracy and individual rights at the center of the digital revolution.

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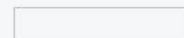
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From: [Taylor Fleming](#)
To: [Brian Hart](#)
Subject: Chairman Pai -- Cheddar TV interview request
Date: Friday, October 16, 2020 3:18:28 PM

Hi Brian,

I'm a Booking Producer with Cheddar, the post cable millennial news network. I'm reaching out to invite Chairman Pai to join us for a live skype, Zoom or remote interview to discuss these comments:
<https://www.cnbc.com/2020/10/15/fcc-chairman-says-he-will-to-clarify-tech-legal-shield-section-230.html>.

Given our millennial audience and focus on tech, I thought this would be a great opportunity to have him on Cheddar. Thanks so much, and please let me know if we can arrange. -Taylor

--

Taylor Fleming
Booking Producer



631-662-4841

taylor.fleming@cheddar.com

From: [David McCabe](#)
To: [Brian Hart](#)
Subject: checking in
Date: Tuesday, October 27, 2020 1:18:14 PM

Hey Brian —

We're working on a story about Republican efforts to put pressure on the Section 230 issue. I wanted to see if the FCC had comment on a couple of things.

We note the Simington nomination battle, and how it is seen as a proxy fight for 230. We also mention the chairman's recent announcement on considering the Commerce petition. We have been told that he was moved to act by Twitter's decision on Hunter Biden and the recent Justice Thomas opinion. But that he has still looked to push any decision beyond Election Day.

I wanted to know if you had anything to add. We're wrapping this up today.

Thanks, David, (b) (6)

--

David McCabe
Reporter
The New York Times

Congress of the United States
Washington, DC 20515

837

October 19, 2020

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

Dear Chairman Pai,

We write to ask that you consider adjusting Federal Communications Commission (FCC) rules related to presale of radiofrequency devices to consumers. Innovation is moving at a record pace. In the current environment brought upon by the COVID-19 pandemic, Americans have been forced to adapt to the rapid adoption of remote work, distance education, and digital health. This shift has relied on ready access to new devices - and our nation's innovators and startups are striving to keep up with consumer demand. According to the Consumer Technology Association's U.S. Consumer Technology One-Year Industry Forecast, "consumer use continues to rise in the current pandemic and demand is likely to continue past the current health crisis." By modernizing its equipment authorization and importation rules, the FCC can allow for greater innovation and access to these essential devices.

The current FCC rules prohibit conditional sales of radiofrequency devices to consumers. While well-intentioned when these were put into place in the 1970s, today these outdated rules do not reflect the current development cycles seeking to meet consumer interest and demand. Indeed, given the rise of new trends like crowdfunding, pre-ordering products occurs with increasingly regularity. However, American technology entrepreneurs cannot take advantage of these developments which plays an essential part in understanding consumer interest and demand. We believe that modifying, while not removing, these rules will allow device manufacturers to better gauge the market. For startups in particular, an adjustment in the rules would be valuable in demonstrating demand to potential funders. We therefore suggest common sense modifications to the rules that will allow consumers to make pre-orders, as long as would-be buyers are informed that the equipment is under FCC review and that any sale is conditioned upon FCC approval.

FCC rules also severely limit the importation of devices even for the express purpose of display in retail stores until after FCC approval. These strict importation rules inhibit adequate preparation and limit speed to market as companies prepare for global launches of devices. By permitting the importation of a limited number of devices for "pre-market activity," the FCC will provide device manufacturers with greater flexibility in structuring supply chains and enable devices to be on display for consumers upon authorization. Such importation should be limited to devices for which the manufacturer have a reasonable belief that FCC authorization is likely. In addition, any imported devices must be subject to strict controls, including restrictions on display

Congress of the United States
Washington, DC 20515

and advertising, as well as requiring the manufacturer to have the ability to retrieve the equipment from retailers if FCC authorization is denied.

Modernization and consumer protection are not mutually exclusive. The modernization of these FCC rules can facilitate greater innovation, while still safeguarding against risks to consumers.

These suggested changes to the FCC's rules are especially important in light of the current pandemic and the ongoing U.S. deployment of next-generation 5G networks. We urge you to move swiftly to update these rules to ensure that American technology can continue to be at the forefront of satisfying consumer needs and demands.

Signed,

Handwritten signature of Yvette D. Clarke in black ink. The signature is written in a cursive style and includes the initials "M.C." at the end.

Yvette D. Clarke
Member of Congress

Handwritten signature of Susan W. Brooks in black ink. The signature is written in a cursive style.

Susan W. Brooks
Member of Congress



Congress of the United States
House of Representatives
Washington, DC 20515-3605

October 20, 2020

The Honorable Ajit Pai
Chairman
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Dear Chairman Pai,

We are writing today to commend you for your statement that the Federal Communications Commission (FCC) would move forward with a rulemaking process to clarify Section 230 of the Communications Decency Act. The latest incident where Facebook and Twitter censored or otherwise manipulated algorithms affecting the distribution of a *New York Post* story is the most recent, but not the only, evidence that this issue should be revisited.

Facebook admitted that it was “reducing its distribution on our platform” in reference to the *New York Post* story alleging that Hunter Biden had arranged to introduce a Ukrainian businessman to then-Vice President Joe Biden. Essentially, the platform was taking links to the story out of its algorithm, and it did so prior to undertaking any independent fact-checking of the story. Similarly, Twitter admitted it was blocking the links and required the *New York Post* to delete its tweet about the story.

This *New York Post* story was banned prematurely and arbitrarily. The same rules were not applied by Facebook and Twitter to stories about President Trump and Russia, many of which ultimately proved to have no basis in fact and helped promote a three-year partisan witch hunt. The evidence now suggests that the entire line of inquiry was based on a fake dossier, planted by the Hillary Clinton campaign, and pushed forward by the Obama-Biden Administration.

Exercising editorial control of the news is ultimately not the role of an online platform which should remain neutral if it wishes to enjoy Section 230 protections. In fact, Section 230 provides legal protections to platforms from being liable for allowing hundreds, if not thousands, of fake “Trump Russian collusion” allegations from major media outlets to appear in their feeds. By now admitting they are acting as arbitrary editors and selecting which news content users can and cannot see, these online platforms are clearly acting outside of the original intent of the Section 230 protections.

Not only does this type of censorship put these online platforms' Section 230 protections at risk, it is a threat to the First Amendment protections of a free press. It raises questions as to interference in the 2020 election by social media and other online platforms used by hundreds of millions of Americans. And, it should shine a spotlight on past actions taken by platforms like Google, Facebook and Twitter to put in place policies and procedures in a manner that had a direct impact on the outcome of past elections.

As the FCC weighs whether new Section 230 regulations are in order, we ask that you consider the following questions:

1. Does the censorship of the *New York Post* content violate existing FCC regulations?
2. Do you believe the censorship of the *New York Post* content could remove an online platform's protections under Section 230 as it relates to the specific incident?
3. If so, could online platforms with a policy for exercising editorial control over news content cause it to be treated as a publisher generally and lose its Section 230 protections altogether?
4. Do you believe incidents like this one call on Congress to pass clarifying legislation to draw a clearer statutory line between publisher and platform under Section 230 or can this be done through rulemaking?
5. Are there any existing FCC regulations regarding election interference that online platforms should take into account when considering their exposure to liability?

Please provide a response not later than 5:00pm on October 27, 2020.

Sincerely,



Michael Cloud
Member of Congress



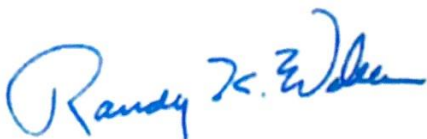
W. Gregory Steube
Member of Congress



Andy Biggs
Member of Congress



Vicky Hartzler
Member of Congress




Randy K. Weber
Member of Congress



Scott DesJarlais
Member of Congress



Ted Budd
Member of Congress



Bob Gibbs
Member of Congress



Glen Grothman
Member of Congress



Mo Brooks
Member of Congress



James Comer
Member of Congress



Jody Hice
Member of Congress



Robert B. Aderholt
Member of Congress



Fred Keller
Member of Congress



Steve King
Member of Congress



Louie Gohmert
Member of Congress



Roger Williams
Member of Congress



John Rose
Member of Congress



Dan Bishop
Member of Congress



Ralph Norman
Member of Congress

From: [John Hendel](#)
To: [Will Wiquist](#); [Brian Hart](#); [Anne Veigle](#); [Katie Gorscak](#)
Subject: Comment on new House letter on CDA 230 rulemaking?
Date: Wednesday, October 28, 2020 3:48:12 PM

Hi all,

Busy, busy Wednesday, and hopefully less crazy over there. We saw House E&C Democrats just fired off the letter below on the CDA 230 rulemaking and asked about White House involvement. Would you all want to comment?

I know Chairman Pai addressed in a sense yesterday, noting, "I have not felt any pressure on this issue." But did he or his staff have any White House meetings or give any briefings to President Trump and White House officials over the last month or so?

No immediate hard deadline on this one. Thanks as always for any time.

All the best,

John Hendel
Politico

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>
Sent: Wednesday, October 28, 2020 3:34 PM
To: John Hendel <jhendel@politico.com>
Subject: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

EXTERNAL SENDER: Use caution with links and attachments.



FOR IMMEDIATE RELEASE
October 28, 2020

CONTACT
[Elysa Montfort](#) – (202) 225-5735

Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

“It wasn’t until online platforms began fact-checking the President’s content that he and his Administration began an aggressive campaign to persuade the FCC to dictate how online platforms moderate content”

Washington, D.C. – Energy and Commerce Committee Chairman Frank Pallone, Jr. (D-NJ) and Communications and Technology Subcommittee Chairman Mike Doyle (D-PA) [wrote to](#) Federal Communications Commission (FCC) Chairman Ajit Pai today demanding answers for the FCC’s recent and sudden announcement that it is moving forward with a Section 230 rulemaking.

“The fact that this announcement came just weeks before the election, and that President Trump has pushed for this CDA 230 rulemaking, raise serious questions about the independence of the agency. The American people deserve to know what conversations, if any, have transpired between you, your office and the White House to ensure the integrity of the FCC,” Pallone and

Doyle wrote. **“Since Congress’ enactment of CDA 230, the FCC has played no role in implementing or interpreting this provision. It wasn’t until online platforms began fact-checking the President’s content that he and his Administration began an aggressive campaign to persuade the FCC to dictate how online platforms moderate content.”**

Section 230 of the Communications Decency Act stipulates that online platforms, such as Twitter and Facebook, are generally not held liable for content posted by third-party users – with a few relevant exceptions. In addition to writing that President Trump’s efforts to change this policy are driven by retaliation, Pallone and Doyle also detail the lengths to which the President has gone to retaliate against those who stand in his way, causing concern that Chairman Pai’s actions may be driven by a White House pressure campaign.

“Not only has the Trump Administration directly pressured the FCC to do its bidding on CDA 230, it appears the Administration is willing to retaliate against those who do not get in line with its agenda,” wrote the two Committee leaders.

Pallone and Doyle pointed to several examples:

- President Trump abruptly pulled his nomination of Commissioner Michael O’Rielly for another FCC term shortly after Commissioner O’Rielly publicly raised concerns over the FCC’s role in interpreting CDA 230.
- Last month, Trump nominated Nathan Simington, who reportedly worked on the National Telecommunications and Information Administration (NTIA) CDA 230 petition, to replace Commissioner O’Rielly.
- This month, Trump tweeted at Senator Roger Wicker (R-MS) urging Republicans to confirm Mr. Simington, and shortly thereafter, a nomination hearing was scheduled for November 10th.

“Now it appears the FCC is working in concert with the Trump Administration to attempt to influence the actions of online platforms by advancing a CDA 230 rulemaking,” the two Committee leaders continued in their letter to Chairman Pai.

Pallone and Doyle wrote that since the FCC is an independent regulatory agency responsible directly to Congress, it should be avoiding even the appearance of acting on behalf of the President. They requested answers to a series of questions, including:

- Has anyone from the White House, Executive Office of the President, the NTIA or Department of Justice contacted FCC regarding this Section 230 rulemaking? If so, what was discussed?
- Has anyone from the Trump campaign contacted FCC regarding Section 230?
- Has Chairman Pai or his staff contacted either the White House or the Trump campaign regarding Section 230, and if so, what was discussed?

The full letter is available [HERE](#).

###

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Energy & Commerce Democrats | 2125 Rayburn HOB, Washington, DC 20515 | 2125 Rayburn HOB, Washington, DC 20003

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To: [Matthew Berry](#); [Nicholas Degani](#); [Thomas Johnson](#); [Evan Swarztrauber](#); [Sean Spivey](#); [Michael Carowitz](#); [Alexander Sanjenis](#)
Cc: [Brian Hart](#); [Anne Veigle](#); [Katie Gorscak](#); [Paul Jackson](#); [Jim Balaguer](#)
Subject: Draft White Copy Notice & Materials
Date: Wednesday, October 28, 2020 1:05:59 PM
Attachments: [2020-10-28 Nov White Copy - Draft 1.docx](#)

(b) (5) [Redacted]

[Redacted]

[Redacted]

From: [Will Wiquist](#)
To: [Sean Spivey](#); [Michael Carowitz](#); [Alexander Sanjenis](#)
Cc: [Anne Veigle](#); [Katie Gorscak](#); [Brian Hart](#)
Subject: Draft White Copy Notice & Materials
Date: Wednesday, October 28, 2020 12:13:55 PM
Attachments: [2020-10-28 Nov White Copy - Draft 1.docx](#)

(b) (5) [Redacted]

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From: [Will Wiquist](#)
To: [Matthew Berry](#); [Preston Wise](#); [Sean Spivey](#); [Allison Baker](#); [Alexander Sanjenis](#); [Nicholas Degani](#); [Thomas Johnson](#)
Cc: [Brian Hart](#); [Anne Veigle](#); [Katie Gorscak](#); [Paul Jackson](#); [Jim Balaquer](#); [Evan Swartztrauber](#)
Subject: Draft White Copy Notice and Web Headlines
Date: Tuesday, October 6, 2020 11:42:48 AM
Attachments: [2020-10-06 Oct White Copy - Draft.docx](#)

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

From: [Ajit Pai](#)
To: [Brian Hart](#); [Matthew Berry](#); [Nicholas Deqani](#); [Paul Jackson](#); [Evan Swarztrauber](#)
Subject: Draft
Date: Friday, November 27, 2020 2:13:20 PM
Attachments: [Adios!.docx](#)
Importance: High

(b) (5)
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From: [Energy & Commerce Republicans](#)
To: [Brian Hart](#)
Subject: E&C Republicans Demand Hearing with Big Tech on Censorship Policies, Section 230
Date: Tuesday, October 20, 2020 10:15:17 AM



FOR IMMEDIATE RELEASE
October 20, 2020

CONTACT: Press Office
(202) 226-4972

E&C Republicans Demand Hearing with Big Tech on Censorship Policies, Section 230

Washington, DC – Energy and Commerce Committee Republicans sent a [letter](#) to Chairman Frank Pallone, Jr. (D-NJ) demanding a hearing on social media censorship with the CEOs of Twitter, Facebook, and Google. This letter comes as these tech giants continue to selectively and inconsistently censor content during a major election cycle, resembling publishers rather than neutral public forums.

“This recent censorship controversy is just one more in a litany of instances in which these companies

have shown utter disregard for being democratic public squares and seek to suppress speech that does not advance their particular agenda. Notably, these powerful platforms provide no transparency into what methodology their employees use to apply content moderation policies, how their employees identify what needs to be tempered in distribution, or what sources their employees rely on to decide that something may be false—all information necessary for the American people to understand when these actions are appropriate, or when they may be intended to interfere with the upcoming Presidential election in favor of their preferred-candidate,” **the members wrote.**

“These actions taken by Twitter, Facebook, and Google suggest that these companies do not enforce their policies consistently. Under section 230 of the Communications Decency Act, the courts have broadly interpreted the liability protection afforded to interactive computers services to apply to all content moderation actions taken by social media platforms. Section 230 was enacted nearly 25 years ago, before the Internet was the economic driver it has become today, and more importantly, before these social media companies existed, let alone before they became integral in disseminating information to the public in a selective manner without oversight or accountability. These companies must be accountable for their actions and that begins with oversight by Congress, on behalf of the American people,” **the members continued.**

Background:

The [letter](#) was signed by Energy and Commerce Committee Republican Leader Greg Walden (R-OR), Communications and Technology Subcommittee Republican Leader Bob Latta (R-OH), Consumer Protection and Commerce Subcommittee Republican Leader Cathy McMorris Rodgers (R-WA), Environment and Climate Change Subcommittee Republican Leader John Shimkus (R-IL), Health Subcommittee Republican Leader Michael Burgess, M.D. (R-TX), Oversight and Investigations Subcommittee Republican Leader Brett Guthrie (R-KY), House Minority Whip Steve Scalise (R-LA), Reps. Pete Olson (R-TX), David McKinley (R-WV), Adam Kinzinger (R-IL), Morgan Griffith (R-VA), Gus Bilirakis (R-FL), Bill Johnson (R-OH), Billy Long (R-MO), Larry Bucshon (R-IN), Bill Flores (R-TX), Susan Brooks (R-IN), Markwayne Mullin (R-OK), Tim Walberg (R-MI), Buddy Carter (R-GA), Jeff Duncan (R-SC), and Greg Gianforte (R-MT).

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Last week, the Federal Communications Commission (FCC) announced they would, at the request of the Department of Commerce’s National Telecommunications and Information Administration (NTIA), propose rules to clarify the intent of Section 230 of the Communications Decency Act.

At a Communications and Technology Subcommittee and Consumer Protection and Commerce Subcommittee joint subcommittee [hearing](#) earlier this year titled “*A Country in Crisis: How Disinformation Online Is Dividing the Nation*,” Walden [called](#) out Google for moderating content based off inaccurate MSNBC reporting and Twitter for selectively blocking the president’s tweets. He said, “these recent actions make clear that the CEOs of these companies need to come before this committee to answer our questions, and if they will not come voluntarily, Mr. Chairman, perhaps it’s time we compel their attendance.”

###

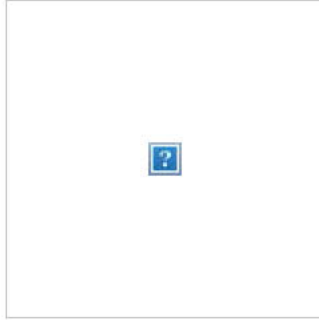
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From: [Energy & Commerce Republicans](#)
To: [Brian Hart](#)
Subject: E&C Republicans Push to Hold Big Tech Accountable
Date: Tuesday, October 27, 2020 11:12:39 AM



FOR IMMEDIATE RELEASE
October 27, 2020

CONTACT: Press Office
(202) 226-4972

E&C Republicans Push to Hold Big Tech Accountable

E&C Republicans continue to work to protect our democracy and hold big tech companies accountable for their repeated efforts to selectively censor information on their platforms and undermine one of the core principles on which America was founded: free speech.

Last week, Energy and Commerce Republican Leader Greg Walden (R-OR), Communications and Technology Subcommittee Republican Leader Bob Latta (R-OH), and Consumer Protection and Commerce Subcommittee Republican Leader Cathy McMorris Rodgers (R-WA) led E&C Republicans in a letter to Energy and Commerce Committee Chairman Frank Pallone (D-NJ) [demanding a hearing](#) on

big tech censorship and liability protections afforded to them under Section 230 of the Communications Decency Act. The Republican leaders [renewed their calls](#) for E&C to hold a hearing after the Senate Judiciary Committee voted to subpoena CEOs from Facebook and Twitter.

The CEOs have agreed to voluntarily testify before the Senate Judiciary Committee in November and will also testify before the Senate Commerce Committee tomorrow. Unfortunately, E&C Republicans have yet to hear back from the majority about scheduling a hearing, which suggests the majority is uninterested in holding these tech companies accountable because their current actions skew in favor of Liberals. Worse, since the initial letter, we've seen these tech companies continue to unjustifiably censor conservative voices while Congress sits on the sidelines. It is time for Congress to demand answers from these companies and their leadership.

Here are a few additional examples of reasons why E&C must hold a hearing which have occurred since E&C Republicans sent their request letter to Chairman Pallone.

Twitter – the biggest offender – recently announced a new [feature](#) “suggesting people read an article before retweeting it,” but provided little explanation of how this feature would be rolled out and what the company would do to address any unintended consequences. Unsurprisingly, the feature has proved to benefit Liberals. For example, links to Republican fundraising platform WinRed were flagged, while links to Democrat fundraising platform ActBlue were not. Additionally, *the Detroit News*' endorsement of Michigan Senate candidate John James was flagged with the tag “headlines don't tell the full story” even though the headline was simply, “Editorial: Our Pick for U.S. Senate.” How does that headline not tell the full story? And, if these prompts were simply part of the new feature, why was some content flagged when other content was not? This could be an honest mistake or a glitch from a poorly executed new feature, but we won't know until we receive answers. If these actions were not nefarious, it shouldn't be difficult for CEOs to come before Congress and explain who makes these sorts of decisions and why technical glitches seem to only affect conservative voices.

In addition to the examples above, Facebook recently removed a satirical news story from the [Babylon Bee](#) for “inciting violence” and [blocked](#) users from uploading photos from protests in Nigeria, classifying the photos as false information. But as E&C Republican Leader Walden [pointed out](#) in a June 2020 hearing titled, “Mainstreaming Extremism: Social Media's Role in Radicalizing America,” posts with the hashtag #DCBlackout were left to spread unchecked during the protests following George Floyd's death on social media platforms, including Facebook. The accompanying posts, some of which have now been linked to spam accounts, claimed internet service in D.C. had been intentionally blocked to keep people from sharing what was happening. This, of course, was not true. Why were posts that were demonstrably false and inciting further unrest left on the site for so long while other posts from a satirical publication taken down so swiftly? Whether the algorithms or these companies' employees are to blame, there is a clear bias—implicit or explicit—on these platforms and this bias is limiting speech and ensuring these companies are not, in fact, actually a “forum for a true diversity of political discourse,” one of Congress's reasons for implementing Section 230.

The American people deserve to know why and how these decisions are made. Such powerful tech companies should not be seeking to influence the election in support of their preferred candidates by inconsistently applying their content policies. We are seven days away from a major election, and many Americans turn to these platforms for updates and news. They deserve to know these companies are acting in a fair and equitable way.

It's clear that, when pressured, these companies will come to the table to explain themselves and their practices. As the committee of jurisdiction, we have a responsibility to the American people to take our oversight responsibilities seriously – and concerns about these companies have been [bipartisan](#) – which begs the questions why House Democrats have yet to join Republicans' calls to hold these companies accountable. The time is now and our democracy depends on it.

###

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Here are a few additional examples of reasons why E&C must hold a hearing which have occurred since E&C Republicans sent their request letter to Chairman Pallone.

Twitter – the biggest offender – recently announced a new [feature](#) “suggesting people read an article before retweeting it,” but provided little explanation of how this feature would be rolled out and what the company would do to address any unintended consequences. Unsurprisingly, the feature has proved to benefit Liberals. For example, links to Republican fundraising platform WinRed were flagged, while links to Democrat fundraising platform ActBlue were not. Additionally, *the Detroit News*' endorsement of Michigan Senate candidate John James was flagged with the tag “headlines don't tell the full story” even though the headline was simply, “Editorial: Our Pick for U.S. Senate.” How does that headline not tell the full story? And, if these prompts were simply part of the new feature, why was some content flagged when other content was not? This could be an honest mistake or a glitch from a poorly executed new feature, but we won't know until we receive answers. If these actions were not nefarious, it shouldn't be difficult for CEOs to come before Congress and explain who makes these sorts of decisions and why technical glitches seem to only affect conservative voices.

In addition to the examples above, Facebook recently removed a satirical news story from the [Babylon Bee](#) for “inciting violence” and [blocked](#) users from uploading photos from protests in Nigeria, classifying the photos as false information. But as E&C Republican Leader Walden [pointed out](#) in a June 2020 hearing titled, “Mainstreaming Extremism: Social Media's Role in Radicalizing America,” posts with the hashtag #DCBlackout were left to spread unchecked during the protests following George Floyd's death on social media platforms, including Facebook. The accompanying posts, some of which have now been linked to spam accounts, claimed internet service in D.C. had been intentionally blocked to keep people from sharing what was happening. This, of course, was not true. Why were posts that were demonstrably false and inciting further unrest left on the site for so long while other posts from a satirical publication taken down so swiftly? Whether the algorithms or these companies' employees are to blame, there is a clear bias—implicit or explicit—on these platforms and this bias is limiting speech and ensuring these companies are not, in fact, actually a “forum for a true diversity of political discourse,” one of Congress's reasons for implementing Section 230.

The American people deserve to know why and how these decisions are made. Such powerful tech companies should not be seeking to influence the election in support of their preferred candidates by inconsistently applying their content policies. We are seven days away from a major election, and many Americans turn to these platforms for updates and news. They deserve to know these companies are acting in a fair and equitable way.

It's clear that, when pressured, these companies will come to the table to explain themselves and their practices. As the committee of jurisdiction, we have a responsibility to the American people to take our oversight responsibilities seriously – and concerns about these companies have been [bipartisan](#) – which begs the questions why House Democrats have yet to join Republicans' calls to hold these companies accountable. The time is now and our democracy depends on it.

###

[PERMALINK](#)



House Energy & Commerce Committee Republicans | 2322 Rayburn HOB, Washington, DC 20003

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From: [Taylor, Emily \(Commerce\)](#)
To: [Taylor, Emily \(Commerce\)](#); [DeJarnette, Alexis \(Commerce\)](#)
Subject: FACT SHEET: Understanding Section 230 Reform Ahead of 10/28 Big Tech Hearing
Date: Tuesday, October 20, 2020 3:37:49 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
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FOR IMMEDIATE RELEASE
October 20, 2020

CONTACT:
[Emily Taylor](#)
[Alexis DeJarnette](#)
bit.ly/37qUWz4

Understanding Section 230 Reform Ahead of 10/28 Big Tech Hearing

The Online Freedom and Viewpoint Diversity Act, which was [recently introduced](#) by Commerce Committee Chairman Roger Wicker, R-Miss., Judiciary Committee Chairman Lindsey Graham, R-S.C., and Senator Marsha Blackburn, R-Tenn., would modify Section 230 of the Communications Decency Act to clarify the original intent of the law and examine Big Tech’s content moderation practices through an updated, more transparent standard.

Section 230, which was drafted in 1996, needs an update to remain consistent with the intent of the statute: to protect startups from frivolous content moderation lawsuits that could either bankrupt their firms, or severely restrict their access to venture capital. Since then, business practices and judicial interpretations have created gaps that Congress needs to address. Big Tech companies have stretched their liability shield past its limits, and civil discourse and First Amendment protections now suffer because of it.

The Commerce Committee will [hold a hearing](#) on October 28 to examine whether Section 230 of the Communications Decency Act has outlived its usefulness in today’s digital age. It will also examine legislative proposals to modernize the decades-old law, increase transparency and accountability among big technology companies for their content moderation practices, and explore the impact of large ad-tech platforms on local journalism and consumer privacy.

Chairman Wicker said:

“For too long, social media platforms have hidden behind Section 230 protections to censor content that deviates from their beliefs. These practices should not receive special protections in our society where freedom of speech is at the core of our nation’s values. Our legislation would restore power to consumers by promoting full and fair discourse online.”

Chairman Graham said:

“I’m very pleased to be working with Senators Wicker and Blackburn to bring about much-needed reform of Section 230. Social media companies are routinely censoring content that to many, should be considered valid political speech. This reform proposal addresses the concerns of those who feel like their political views are being unfairly suppressed.”

Senator Blackburn said:

“The polished megaplatforms we associate with online research and debate exert unprecedented influence over how Americans discover new information, and what information is available for discovery. Moreover, the contentious nature of current conversations provides perverse incentive for these companies to manipulate the online experience in favor of the loudest voices in the room. There exists no meaningful alternative to these powerful platforms, which means there will be no accountability for the devastating effects of this ingrained ideological bias until Congress steps in and brings liability protections into the modern era.”

The Online Freedom and Viewpoint Diversity Act would:

- Clarify when Section 230’s liability protections apply to instances where online platforms choose to restrict access to certain types of content;
- Condition the content moderation liability shield on an objective reasonableness standard. In order to be protected from liability, a tech company may only restrict access to content on its platform where it has “an objectively reasonable belief” that the content falls within a certain, specified category;

- Remove “otherwise objectionable” and replace it with concrete terms, including “promoting terrorism,” content that is determined to be “unlawful,” and content that promotes “self-harm.”
- Clarify that the definition of “information content provider” includes instances in which a person or entity editorializes or affirmatively and substantively modifies the content created or developed by another person or entity but does not include mere changes to format, layout, or basic appearance of such content.

FREQUENTLY ASKED QUESTIONS

Will this make it harder for platforms to remove objectionable content?

- No. We’re asking companies to be more transparent about their content moderation practices and more specific about what kind of content is impermissible.

What does the law say about content moderation now, and how will this bill change it?

- The law currently enables a platform to remove content that the provider “considers to be.... ‘obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable.’”
- The problem is that “otherwise objectionable” is too vague. This has allowed Big Tech platforms to remove content with which they personally disagree. We’re striking that phrase and instead specifying that content that is promoting self-harm or terrorism, or that is unlawful, may be removed.

Does the bill raise First Amendment concerns?

- No. This bill was created with free speech in mind. By narrowing the scope of removable content, we ensure that Big Tech has no room to arbitrarily remove content just because they disagree with it while enjoying the privilege of Section 230’s liability shield.

Will this bill protect against election interference campaigns?

- Foreign interference in elections is unlawful. This bill won’t prevent Big Tech companies from removing content posted by these bad actors.

Why not repeal and start over?

- The tech industry relies on Section 230’s liability shield to protect against frivolous litigation. If we repeal the law, we risk increasing censorship online, and encouraging the creation of a government body ill-equipped to act as judge and jury over speech and moderation. Repealing Section 230 in its entirety could also be detrimental to small businesses and competition.

Why not create a new cause of action?

- Creating a new tort will only help enrich trial lawyers.

Why didn’t you cover medical misinformation?

- We believe that platforms will be able to remove this content under the “self-harm” language in the bill.

Why can’t we use the courts to course-correct?

- If we left this to the courts, they’d be litigating content moderation disputes all day, every day. This bill creates a clear framework; it’s important for companies to own their moderation practices, and follow them.
- More broadly, history doesn’t support a court-led strategy. The courts have so broadly interpreted the scope of 230 that tech companies are now incentivized to over-curate their platforms.

What is your position on fact checking?

- We will always find better solutions from the free market concerning fact checking.
- This bill provides a starting point for discussion on objectivity by updating the statutory language to include a new “objectively reasonable” standard.

Will this require companies to create more warning labels?

- Putting a warning label on a tweet could constitute “editorializing,” which would in turn open platforms up to potential legal liability. The idea is to make companies think twice before engaging in view correction.

Will this allow hate speech/racism/misogyny to “flourish” online, as some congressional Democrats claim?

- No, but we invite opponents of the bill to discuss their views in the Senate Commerce and Judiciary Committees all the same.

Is this legislative push motivated by the President’s social media presence or the 2020 election?

- No. The Commerce Committee has spent the past several years working on Section 230 reform. Repeated instances of censorship targeting conservative voices have only made it more apparent that change is needed.

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###



From: [Romie Faienza](#)
To: [Jeffrey Riordan](#); [Steven Balderson](#); [Gregory Huff](#); [Will Wiquist](#); [Brian Hart](#)
Subject: FCC Open Meeting 10/27/2020, 10:30-11:30 EDT
Date: Tuesday, October 27, 2020 11:54:46 AM
Attachments: [FCC-OpenMeeting_102720_1030-1130.txt](#)

Please find attached my caption transcript for the first hour of today's FCC Open Meeting.

Regards,

Romie Faienza

National Captioning Institute

CHAIRMAN PAI: Good morning, and welcome to the October 2020 meeting of the communications commission.

Please introduce our agenda for the morning.

MARLENE: Good morning to you, and good morning, Commissioners.

For today's hearing, you will hear eight items for your consideration.

First, you will consider an order on remand that would respond to the reman from the U.S. Court of Appeals for the D.C. circuit, to ensure the freedom order facilitates broadband infrastructure deployment and allows the commission to continue to provide lifeline support for broadband Internet access.

Next, you will consider a report and order that would establish a \$9 billion 5G fund for rural America to ensure all Americans can access the next generation of wireless connectivity.

Third, you will consider a report and order that would increase opportunity for unlicensed whitespace devices to operate on broadcast television channels two to 35, and expand broadband connectivity in rural and underserved areas.

Fourth, a report and order that would further accelerate the Department of 5G providing that modifications to existing towers involving limited ground excavation or deployment would be subject to streamlined and local review pursuant to section 6409(a) of the spectrum act of 2012.

Fifth, you will consider a report and order that would authorize A.M. stations to transition to all digital signal on a voluntary basis, and would adopt technical specifications for such stations.

Sixth, you will consider a report and order that would expand audio description requirements to 40 additional television markets over the next four years, in order to increase the amount of video programming that is accessible to blind and visually impaired Americans.

Seventh, you will consider a report and order that would modernize the commission's unbundling and resale regulations, eliminating requirements where they stifle broadband deployment and the transition to next generation networks, preserving them where they are still necessary to promote robust intermodal competition.

Eighth, you will consider an enforcement action.

This is your agenda for today.

The first item is titled restoring Internet freedom, bridging the digital divide for low income consumers, lifeline and linkup reform and modernization.

It will be presented by the Wireline competition Bureau.

Kris Monteith, chief of the Bureau, will give the introduction.

CHAIRMAN PAI: Thank you, Madam Secretary.

Chief Monteith, the floor is yours.

Kris: good morning, Chairman and Commissioners.

The Wireline competition Bureau is pleased to present for your consideration on order on remand that if adopted would require that the restoring Internet freedom order promotes public safety, facilitates infrastructure deployment for Internet service providers, and allows the commission to continue to provide universal service, lifeline support for broadband Internet access service.

I would like to thank the entire Bureau team for their hard work on this item, as well as our colleagues in the consumer and mental affairs, enforcement, international, media, health and safety, and Homeland security and wireless telecommunications bureaus.

And the offices of economics and analytics, and general counsel, for their review and helpful input.

The attorney advisor in the Wireline competition Bureau competition policy division will now present the item.

Annick: good morning, Mr. Chairman and Commissioners.

In the 2017 restoring Internet freedom order, the commission ended the short lived utility style regulation of the Internet, and returned broadband Internet access service to its long-standing classification as an information service under title I of the Communications Act.

In 2019, the D.C. circuit upheld the vast majority of the restoring Internet freedom order, remanding three discrete issues for further consideration.

Namely, the effect of that order on public safety, the regulation of attachments, and universal service support for low income consumers through the lifeline program.

This order on remand, if adopted, would conclude that after reviewing each of these three issues, there is no basis to alter the commission's conclusions in the restoring Internet freedom order.

It would further conclude that the overwhelming benefits of title I classification of broadband Internet access service and restoration of light touch regulation outweigh any potential adverse effects.

Specifically, the order on remand would find first that the light touch approach adopted by the commission and the regulatory certainty provided by the restoring Internet freedom order benefit public safety, and further the commission's charge of promoting safety of life and property and the national defense, through the use of wire and radio communications.

Second, that the benefits of returning to the light touch information service classification adopted in the restoring Internet freedom order far outweigh the limited potential negative effects resulting from the loss of section 224 pole attachment rights for broadband only units service providers.

Third, that the commission has legal authority under section 254 E of the communications act to provide lifeline support to eligible telecommunications carriers that provide broadband service over broadband capable networks that support voice service.

The order would clarify the commission's legal authority to ensure that broadband Internet access services can continue to be funded under the lifeline program, consistent with the D.C. circuit ruling in section 254 of the Communications Act. And make necessary adjustments to the commission's rule to implement this approach. Finally, the order on remand is consistent with the procedural requirements of the administrative procedure act and the First Amendment.

The bureau recommends adoption of this order on remand, and requests editorial privileges extending only to technical and conforming edits.

Thank you.

CHAIRMAN PAI: Thank you for your presentation.

We will now turn the comments from the bench, beginning with Commissioner O'Rielly.

COMMISSIONER O'RIELLY: I will submit a longer statement for the record but make a couple comments.

In the restoring Internet freedom order, the commission be classified broadband as an information service, and restored it to the light touch regulatory treatment

that helped allow the Internet to flourish.

As a matter of law, economics, and public policy, this decision was undoubtedly correct.

Similarly, today's order addressing various remands from the U.S. court of appeals of the D.C. circuit is a sufficient job reinforcing the commission's sound approach, showing why our previous actions should stand.

Though this order would ideally provide certainty and finality to this matter, the truth is some will always seek to return to the broken title II regime, including its misguided approach to paid prioritization, to have discussed elsewhere at length.

We must therefore be careful not to take actions that would undermine the order or make it vulnerable.

Rather, we need to apply its legal and economic underpinnings consistently across our proceedings.

I thank the chair.

CHAIRMAN PAI: Thank you, Commissioner.

Commissioner Carr?

COMMISSIONER CARR: COVID-19 has altered the lives of so many Americans.

Daily routines like driving to work, sending the kids to school, or even catching up with friends were upended as social distancing recommendation spread across the country.

Americans re-created those routines online in an instant.

In turn, Internet providers saw a sudden 30% spike in traffic levels.

That may not sound like a lot in the abstract, but that is the equivalent of fast forwarding about two years worth of traffic growth, and putting it onto the network overnight.

In this sense, COVID-19 represented the ultimate stress test of America's communications networks, and those networks performed when it mattered most.

Our fixed networks show strength and resiliency, our fixed networks showed strength and resiliency, consumers experienced essentially zero degradation in service, and speeds on mobile wireless networks actually increased during the pandemic.

More than just testing our physical networks, the sudden spike in Internet traffic served as the ultimate test of America's approach to Internet regulation.

While our networks deliver high quality service despite elevated traffic levels, countries that take a heavier or utility-style approach to regulating the Internet were not so fortunate.

There networks strained to maintain quality and speed.

Across the Atlantic, E.U. officials asked Netflix and other streaming platforms to reduce their video quality to prevent the continent's networks from breaking.

Even with those measures, fixed download speeds in Europe were far slower than in the U.S.

And in China, Internet speeds dropped 40%.

America's communications networks performed because of the record breaking of infrastructure investment we have seen over the last few years.

While the U.S. has only 4% of the world's population, it enjoys 25% of the broadband investment.

And that is not an accident.

Since the FCC's funny 17 "restoring Internet freedom" order, providers have been

deploying high-speed networks at a record clip.

We are seeing more miles of fiber and a greater number of high-speed cell sites getting built than at any point in time before.

Internet speeds in the U.S. have nearly doubled since our 2017 decision, and the digital divide narrowed by about 37% over the last few years.

Competition has increased as well, with the percentage of Americans with more than two options for high-speed Internet service increasing by 52%, all while prices have been decreasing.

The bottom line -- America's communications networks were in far better shape to handle the surge in COVID-19 traffic than they were under the commission's title II regime.

More communities were connected to robust and resilient services.

More Americans had a choice for the broadband needs.

This should put the debate over utility-style regulation of the Internet in the rearview mirror once and for all.

It should focus all of us on what really matters -- continuing to close the digital divide and making sure every American has a fair shot at next-generation conductivity.

In the fight over net neutrality at the FCC has never really been about net neutrality.

That is the sheep's clothing.

It has always been about rate regulation, a surefire way to kill innovation and scare off investment.

In closing, I want to express my deep thanks to the staff of the Wireline competition Bureau for all their work on this item.

It has my support.

Thanks.

CHAIRMAN PAI: Thank you, Commissioner.

Commissioner Rosenworcel?

COMMISSIONER ROSENWORCEL: I support net neutrality.

I believe the Federal Communications Commission got it wrong when three years ago it gave the green light to our nations broadband providers block websites, throttle services, and censor online content.

I believe this decision put the agency on the wrong side of the public and the wrong side of history, and the wrong side of the law.

When we went down this road three years ago, over my dissent, 86% of the American public disagreed with the FCC decision.

86%.

They found it crazy that a handful of unelected officials in Washington could limit where we go and what we do online.

They found it bananas that the FCC, the agency charged with overseeing communications in this country, would somehow insist that it should not have oversight responsibility for broadband.

They found it absurd that the agency would abandon the net neutrality principles that made our Internet the envy of the world.

But the public understood and the FCC did not that this openness is revolutionary. It means you can go where you want and do what you want online, without your broadband provider getting in the way or making choices for you.

It means every one of us can create without provision, build community beyond geography, organize without physical constraints, consume content we want, when we want it and where we want it, and share ideas not just around the corner, but across the globe.

I believe it is essential that we honor this history and sustain this openness in the future, and that is why I support net neutrality.

Today, we had the opportunity for a do over.

A court sent the mess this agency made with net neutrality back to the FCC.

It told us our decision was wrong for public safety, wrong for broadband infrastructure, and wrong for low income households.

It told us try again.

But this order on remand makes apparent this agency is not interested in getting it right.

Instead, it doubles down, rather than recognizing the realities of the world around us.

We are in a pandemic.

It has filled hospitals, crashed our economy, and emptied our schools.

So much of daily life has been appended.

One thing proven with certainty is how necessary it is to be online.

This is true for work, for education, for health care, and more.

This pandemic has demonstrated that access to broadband is no longer nice to have.

It is "need to have" for everyone, everywhere.

We need a 100% policy.

We need a hundred percent of us connected to broadband, just like with electricity, slick with water.

No individual, no household, and no community will have a fair shot at digital age success without it.

We are not there yet.

Far from it.

The rollback of net neutrality did not get us any closer to broadband for all, despite the lofty promises made by the FCC.

You see it in the reports of the digitally disconnected all around the country.

We have adults sitting in cars in parking lots just to catch Wi-Fi to get online for work.

We have kids lingering outside of fast food restaurants with laptops just to get a wireless signal so they can go to online class.

They have cities and towns fearful of those who fear they will not survive this crisis if they do not extend broadband to residents and businesses.

Watch like the effects of the virus itself, those who are struggling are disproportionately from groups that for too long have suffered systemic discrimination.

We need 100% of us connected to broadband, and we need that access to be open.

Today, this agency will tell you that openness to net neutrality is not necessary. But know this.

But then providers have the technical ability and business incentive to discriminate and manipulate your traffic.

This agency has blessed their ability to do so.

When they do, you will be stuck, because FCC data show that our broadband markets

are not competitive.

Most tussles in this country have no choice of broadband provider.

If your broadband provider is blocking websites, you have no alternatives.

The FCC will say "head to the Federal Trade Commission." but the FTC is not the agency for communications.

The FCC will say had to state protection authorities.

But remember this administration is suing states that try to fill in the net neutrality and broadband void created when the FCC stepped out.

The decision before us today was an opportunity to step back in.

It wasn't opportunity to rethink this agency's role back of net neutrality from top to bottom and front back.

It is a set of three cobbled together arguments designed to tell the court to go away, the public that we are not interested in their opinion, and history that we lack the humility to admit our mistake.

First, the court told the FCC that it failed to address the harm done to public safety by the rollback of net neutrality.

The very first sentence of the communications act tasks the FCC with promoting the safety of life and property.

In other words, public safety is fundamental to our mission.

But the agency disregards it here.

It sidesteps the court by insisting that removing net neutrality increases network investment, which will accrue to the benefit of public safety.

The evidence has been less than clear.

It does not adequately explain why this is ever the case and lives are on the line. Nor.

Among those opposing the FCC rollback of net neutrality are firefighters found their service throttled when they were responding to a raging blaze.

Here, their fears are given short shrift.

The agency simply concludes that the illumination of net neutrality is worth the risk, even when lives are at stake.

This is a responsible.

Second, the court told the FCC it failed to address the harm done to broadband Internet structure by the rollback of net neutrality.

Section 224 of the communications act gives cable and phone companies rights to attach to utility poles when they deploy service.

But when the FCC took away net neutrality, it meant new broadband providers were no longer subject to this section of the law.

In other words, the agency eliminated an essential way to ensure broadband providers have rights when it comes to one of the most costly aspects of deployment -- pole attachments.

This is a big deal.

Broadband is the infrastructure of the future.

If we want to reach 100% of us, and we should, removing tools is a bad idea.

But this agency concludes it is a price worth paying for the rollback the agency wants.

Third, the court told the FCC it failed to address the harm done to low income households by the rollback of net neutrality.

The communications act details universal service programs including lifeline.

Lifeline is the only FCC program designed to help low income Americans afford the cost of communications.

When the FCC's net neutrality decision undermined the basis for supporting broadband through the lifeline program, it was natural for the court to call foul. In response, the agency just dodges.

It ignores that in section 254, universal service is defined as evolving medication service, and it offers a hodgepodge of citations to claim its decision did not destabilize the lifeline program.

But it did.

The program is on less firm legal footing that it was before.

The future of communications is broadband, and this program should reflect that.

Modernizing it is how we reach 100% of us.

This decision puts that at risk.

That brings us to section 230 of the communications act.

This has been in the news as we all grapple with the frustrations of social media.

Three years ago, the FCC insisted that section 230's references to a competitive free market for Internet compelled this agency to rollback net neutrality.

It was bunk at the time, but now the agency's approach to section 230 is confounded.

The FCC has reversed course.

This provision of the law compels the agency to regulate certain speech online.

It is not just the hypocrisy or the intellectual contortions required to make sense of this -- it is the dishonesty.

The FCC points to section 230 to disavow authority over broadband, but uses the same law to insist it can turn around and serve as the president's speech.

What a mess.

This is not good for consumers, for businesses, anyone who consumes and creates online.

I dissent because it doesn't have to be this way.

The FCC is responsive to consumers, and accept nothing less than connecting 100% of us to broadband, so everyone, everywhere has a fair shot in the digital age.

We can have an FCC that restores net neutrality rather than doubles down on reasons to take it away.

I still believe these things are possible.

I still have faith that as a nation we can make them happen.

We can revisit these matters and new.

Let's not stop here and now.

Let's fight.

Let's make it happen.

I believe we can and I believe we should, because the future depends on it.

CHAIRMAN PAI: Thank you, Commissioner.

Commissioner Starks?

COMMISSIONER STARKS: The Internet has never been more important to the world around us and our everyday lives.

COVID-19 forced many businesses to shut down.

Organizations and governments quickly moved to get operations online and keep our economy afloat.

Social distancing measures have forced Americans to rely on broadband to work from

home, engage in distance learning, access telehealth treatment, and participate in our democracy.

Meanwhile, look safety communication resources have been critical to our responses to this year's natural disasters, and hurricanes in the southeast to super storms in the Midwest to massive firestorms in the Pacific Northwest.

These show the case for ensuring that all Americans have high-quality, affordable, and reliable broadband service has never been clearer.

The open Internet order took a commonsense approach toward ISP regulation that encouraged deployment but affirmed the FCC's authority to protect come petition, public safety, privacy, and consumer rights.

A year later, the D.C. circuit upheld those rules in their entirety.

The restoring Internet freedom order undid that progress based on a route -- a belief that broadband providers would provide and prioritize their own monetary interest.

Three years later, what do we have to show for this dramatic policy shift?

According to analysis of U.S. Census data, more than 77 million people in the United States lack a home broadband connection, meaning they have no home Internet service at all or rely solely on mobile wireless services.

This is particularly the case for our most vulnerable Americans.

More than half of low income households lack a fixed broadband connection, including 30% of black and Latinx people, and 40% of Native Americans.

From this baseline, trends are moving in the wrong direction.

Wired broadband adoption rates are slowing, with an increasing number accessing the Internet via their mobile devices.

This is particularly concerning for vulnerable communities.

Low income households are nearly four times more likely to be mobile-only than the wealthiest households.

More Americans than ever are struggling, and it should be our mission to ensure that the lack of connectivity is not adding to their burdens.

According to one recent study of nearly 300 broadband plans in 28 cities across the world, the United States has the highest average monthly prices for home broadband, and those costs add up for real families.

As the economic consequences of COVID-19 hit home, a lot of Americans are worried about how they're going to pay their bills.

According to an April 2020 pew survey, nearly one third of consumers reported concern about how they were going to pay home broadband and wireless bills, with over half of low income households reporting these worries.

According to another recent survey, 30% of Black, Latinx, and other nonwhite households earning less than \$30,000 a year have missed at least one Internet bill since the pandemic dam.

Almost half of low income people of color are worried about paying for broadband moving forward.

These are troubling signs.

The majority has dismissed these arguments about net neutrality with attacks on twitter and streaming cat videos.

As evidence of the benefits of deregulation, they pointed out how well our networks have performed under historic lows due to COVID-19 social distancing measures, particularly in comparison to Europe.

Let me be clear.

I value and deeply appreciate the work American communications providers have done to respond to COVID-19.

I'm proud of how our networks appear to have performed under historically high loads of traffic.

But successes are not necessarily do to the order.

They just are not.

The increases in download speeds or capital investment instead reflect long-term trends that predate the order and if anything were higher under the open Internet order's regulatory regime.

While capital investment decisions may not take place in a regulatory vacuum, they are based on multiyear business plans, anticipated market conditions, technological cycles.

They don't turn on a dime with FCC actions.

But more importantly, I'm not focused on these arguments.

We are in the middle of a worldwide health crisis in which the Internet has proven essential to keeping our economy running and our citizens connected.

I'm focused on the fact that the order has, I believe, abandon regulatory oversight of ISP's, and left consumers to corporations with a fiduciary duty to maximize their products.

While I'm glad many ISP's pledged not to disconnect customers, the order has removed the FCC ability to enforce this voluntary commitment.

The pledge ended five months ago, even as our country faces historic levels of unemployment and economic distress.

The FCC has no authority to prevent providers from disconnecting customers cannot pay their bills.

There are many battles we are facing -- as I mentioned, epic fires in the western United States, hurricanes, unprecedented storms throughout the country.

First responders and public safety personnel are relying on communications technology to protect us.

To the limitation of title II authority, the order has left the commission without the ability to compel ISP's to share network performance data, let alone impose reliability standards to ensure operations under disaster conditions.

The FCC ought to have leadership in responding to these crises.

Regulatory action may not be necessary in all instances, but cheerleading voluntary industry efforts is not my type of leadership.

Through the order, we have lost any authority to protect vulnerable consumers and public safety organizations whose broadband connections may be at risk.

The D.C. circuit remanded the order because it found insufficient in the claim that the regulation will benefit or at least not harm public safety, pole attachment access, and the lifeline order.

The order in reality still falls well short.

Let's begin with public safety.

The FCC has abandon the requirement to share performance data.

While I'm glad ISP's report their networks have gone well, we should not have to take their word for it.

Some reports suggest network performance has not been perfect for all Americans.

The FCC should be able to confirm ISP claims through independent analysis of

performance data, so we can identify issues and take regulatory action if necessary.

In fact, that sounds pretty core to a well-functioning regulatory agency. When an ISP harms public safety communications, we are not talking about streaming cat videos.

Someone could get a busy signal when she calls 911, or firefighters may be unable to communicate amid a forest fire.

As the D.C. circuit observed, when public safety is concerned, lives are at stake. Unlike discriminatory practices, the harms from blocking public safety could be irreparable.

People may die.

This prevents ISPs to engage in blocking and harming public safety communications because of purported severe consequences on ISP would suffer from misconduct. For example, the remand order claims ISP's could experience severe reputational harm, the subject consumer protection enforcement by the FTC or state agencies for deceptive practices -- even be sued by the Justice Department for antitrust violations.

But none of those situations address the D.C. circuit's concerns about the effectiveness of such an after-the-fact remedy in the public safety context. The remand order claims the potential loss of life or other harms to public safety are outweighed the benefits from the deregulatory approach.

But the remand order fails to provide any specific evidence supporting these claims.

In my mind, this is strike one.

There are similar issues with the remand order's approach to pole attachments. At first glance, this issue might seem like one only a telecom provider could love. But ISP's have struggled to build out there networks without attaching two utility poles.

Cable and telecom remain protected, but the decision to leave broadband-only services without FCC recourse places them at a disadvantage.

There is a competitive bottleneck.

Cable operators, wireless Internet service providers, and others have filled the record with stories about the difficulties in obtaining reasonable access to poles. Classification does not significantly limit new entrants -- this uses circular reasoning that most ISP's will remain entitled because broadband service will come bundled with title II or cable services.

For those ISPs who prefer to adhere to their own business plan and do not want to provide telecom or video services, the remand order directs them to state regulatory authorities, and notes that several states have preempted the section 224 pole attachments authority, or have regulations charged to ISPs.

If the ISPs cannot get state law change, it would be counter productive to append a regulatory framework?

Again, I fail to see how such a response can satisfy the D.C. circuit.

The final issue remanded to the court is the effect of the order on the lifeline program.

Nearly 8 million vulnerable Americans rely on this vital program to stay in touch with their families, employers, health care providers.

When the commission added broadband to the lifeline program in 2016, we clearly

based that decision on broadband status as a telecom service under title II. As the D.C. circuit found, the order nor the impact of reclassification on the lifeline program, effectively illuminating the agency's authority to offer lifeline support for broadband.

The majority engages in strained legal reading to find a provider may continue to find I find support for broadband service, as long as the provider remains an eligible EDC offering telecom service to some customers.

This would be tricky on its own terms, but voice service in the lifeline program will be phased out next year.

What will happen to lifeline providers that may not have remaining voice customers after the phaseout?

This is perilous to the millions of vulnerable Americans who depend on the program. The remand order ultimately concludes that even if it's legal reasoning falls short, the benefits of reclassification outweigh the removal of broadband Internet access from the lifeline program.

Given that the remand order acknowledges those benefits that remain in dispute, I think this statement is chilling.

The majority would rather disconnect nearly 8 million Americans from a critically needed service during a pandemic than subject ISP's to any form of FCC oversight. The millions of lifeline subscribers who depend on this essential program deserve better.

Strike three.

In closing, the fight for net neutrality on the issues raised in this remand is not over.

We are a week away from a historic election.

Its result may dictate whether we affirm the deregulatory path adopted by the majority or take a different course.

The house has already passed the "save the Internet" act which would restore open Internet protections.

The stakes are too high to wait.

We should take stock of the lessons we have learned since the adoption of the open Internet order, adopt new rules that are forward-looking, reaffirm the basic principle of consumer choice afflicted in the 2005 Internet policy statement, building on the consensus that blocking and throttling should be prohibited, protecting competition by banning paid prioritization, and providing more specific guidance regarding our transparency rules, so consumers don't have to sort through pages of lawyer speak to make their own informed choices.

As we vote on this item, I am also struck by the majority's inconsistency in affirming the order even as the Chairman has announced his plan to circulate a rulemaking on section 230 after all.

It was in the order that the majority pointed to section 230 as evidence of Congress's intent that broadband should receive a free market approach as an information service.

It is absurdly ironic that net neutrality's strongest opponents now argue that the commission should interpret section 230 to control the speech of private companies. Those pieces don't fit together.

You cannot pretend to have a light touch regulatory framework when you are proposing to regulate online content with a heavy hand.

This ideological about-face shows the imminent section 230 rulemaking, I think, is about pleasing the president rather than making good policy.

I dissent.

CHAIRMAN PAI: Thank you, Commissioner.

Almost three years ago, the Federal Communications Commission adopted the restoring Internet freedom order.

At that meeting on December 14, 2017, we were forced to take an unanticipated recess because of a bomb threat, and that was not the only threat of violence we had to deal with.

Those of us who supported that order received death threats.

For good measure, so did my children.

Our personal information was leaked all over the Internet.

We were harassed at our homes.

Our relatives were harangued at 3:00 in the morning with expletives and profane voicemails.

In my case, plenty of nasty, racist invective came my way.

My personal email account was hacked.

To say the least, it was not an easy time.

All this happened because opponents of the restoring Internet freedom order waged one of the most dishonest scare campaigns ever seen.

Bernie Sanders warned this is the end of the Internet as we know it.

CNN dutifully echoed the comrade's message with a headline "end of the Internet as we know it," on the front page of its website.

The Senate Democratic caucus promised we will get the Internet.

The ACLU ominously predicted that before we know what the flood will have washed away the free and open Internet we all rely on.

Planned Parenthood asserted that our decision would temper if not terminate the ability of Planned Parenthood patients to access care, including filling out birth control prescriptions and making appointments online.

A Silicon Valley congressman posted the easily debunked proposition that our Internet economy would look like Portugal's, which inconveniently for him had already adopted utility style Internet regulations.

In Minnesota congressman, now the Attorney General of that state, said our decision imperiled racial justice.

One self-described award-winning business columnist claimed your Internet bill is about to soar.

In good faith experts on the nuances of telecom regulation from places like Hollywood, the tech press, Washington lobbyist groups, and Twitter told the American people they would have to pay extra to access certain websites, that they would have to pay a fee each time they posted on social media, that they would be blocked from accessing their favorite websites, and more -- much more.

Fortunately, the fibs, the fables, and the farrago of fabrications did not carry the day.

Instead, Commissioner O'Rielly, Commissioner Carr, and I focused on facts and the law, and we did the right thing.

Our decision has been increasingly vindicated over time.

The Internet economy in the United States is stronger than ever.

For example, since we adopted the restoring Internet freedom order, averaged fixed

broadband download speeds in the United States have more than doubled.

So much for getting the Internet one word at a time.

In 2018, we set an annual record for fiber deployment in the United States, and then we broke that record in 2019.

In 2018 and 2019, we added over 72,000 new wireless cell sites in the United States, 10 times more than the deployments from 2013, 2014, 2015, and 2016 combined.

From 2015 to 2020, real prices for broadband access decreased by about a third.

Our infrastructure has been strong enough to withstand the big increase in the time and geographically shifted usage patterns caused by the pandemic.

As we have heard, broadband speeds of gone up, not down, during the pandemic.

And we have not had to go hat in hand to Netflix, YouTube, and other Internet content companies and begged them to slow down or throttle the traffic, which is exactly what Europe, which embraced utility-style regulation of the Internet, has had to do.

European customers have made clear how they feel about paying for HD video and instead getting SD.

It is not pretty.

Most of all, the Internet has remained free and open.

The American people can still access their favorite websites.

They don't have to pay extra to avoid the slowdown.

And they don't have to pay a fee each time they tweet.

To be sure, a newspaper founded by Alexander Hamilton over 200 years ago, "the New York Post," has been blocked from tweeting, that is because of a tech company that ironically supported net neutrality.

No regulator will criticize it.

I'm confused.

What happened to the importance of people being able to go where they want and do what they want on the Internet?

So much for a principled stand for an open Internet.

Today, it is patently obvious to all but the most devoted members of the net neutrality cult that the case against the restoring Internet freedom order was a sham, and that is why things have been so different as we approached this bill than they were back in 2017.

Just do a Twitter search on the subject, if they allow you to access your account and don't charge you a fee for searching.

People are questioning why they were sold a bill of goods.

Opponents of the restoring Internet freedom order could promise you even today that the sky is about to fall.

They have lost their credibility.

The market for shameless demagoguery has dried up.

The ruckus is over.

None of this, of course, should be a surprise.

After all, the free and open Internet developed and flourished under a light touch regulatory framework that started in the Clinton administration and served us well for almost two decades, including the first six years of the Obama administration. When we returned to that framework in 2016 and abandoned the regulation adopted for the Ma Bell telephone company in the 1990's, there is no reason for any person

acting in good faith to promise the parade of herbals promised by opponents would come to pass.

Nor should there have been much doubt about the legal soundness of our decision. Last year, the U.S. Court of Appeals for the District of Columbia Circuit upheld the key decisions we made in the order.

It upheld the decision to reclassify broadband Internet access as an information service regulated under title I, rather than title to.

It affirmed our decision to eliminate the conduct rules adopted by the prayer commission in 2015.

And it affirmed our transparency rule, which ensures that Internet service providers disclose to consumers and innovators alike.

The D.C. circuit did ask us to consider three narrow issues on remand.

Namely, any effects the order might have on public safety, pole attachments regulation, and the lifeline program.

In today's decision, counsel believes these do not alter the decisions we made 148 days ago.

This is consistent with our mission to promote public safety.

The FCC has always taken this seriously, estimates treated by our recent actions to improve the accuracy of wireless patient information transmitted in 911 calls, and enhancing the geo-targeting of wireless emergency calls.

There is no evidence the restoring Internet freedom order has harmed public safety.

By employing a light touch, market-driven approach to regulation, broadband providers are better able to build stronger and more resilient networks that enhance public safety, including through services like next-generation 911.

This year, for example, one might say the COVID-19 pandemic put our networks to the ultimate stress test.

Our networks passed that test with flying colors.

Krugman speeds actually increased, and we did not have to slow down or throttle traffic, unlike our European counterparts.

In addition, public safety organizations are not harmed by the restoring Internet freedom order with the same reason consumers are not harmed.

The transparency rules we adopted require disclosure of any blocking, any throttling, or any affiliate organization.

The federal trade commission was encouraged to make sure service providers behave consistently with their disclosure.

To date, we have not seen any of these practices in the marketplace with respect to network operators.

Tech giants, a separate story.

That is not surprising.

Broadband providers have strong business incentives to ensure that public safety communications are not negatively impacted, just as they have strong incentives not to negatively impact consumers.

Second, the restoring Internet freedom order has a negligible effect on our authority to regulate pole attachments under section 224 of the communications act. That is because the overwhelming majority of providers commingle telecommunications or cable services with broadband services.

That mitigates any impact resulting from any loss for section 224 attachment rights.

Market is served by bundlers of communications and telecom with broadband service. FCC jurisdiction does not extend 22 states and the District of Columbia, which have preempted us.

That is, they have displaced us with their own assertion of regulatory power. In addition, electric cooperatives, railroads, and state governments further lessen the impact.

Therefore, we conclude the positive impact in the light touch regulatory approach taken in the restoring Internet freedom order far outweighs any minimal negative impact on deployment that could result from the minimal change to our authority to regulate pole attachments under section 224.

Most broadband-only providers themselves agree with that view.

Third, the restoring Internet freedom order does not undermine our statutory authority to include broadband in the lifeline program.

We have ample authority to provide lifeline support for broadband services furnished by eligible telecommunications carriers.

Indeed, it is worth noting that broadband Internet access service was classified as a title I information service, not a title to telecommunications service, when the FCC first used the lifeline program in 2012 to fund broadband service, when we launched the lifeline broadband program.

Under the communications act, it is the common carrier status of the provider, not the service, that governs whether the provider is eligible to receive lifeline support for services provided over its network.

If a common carrier offers voice service and qualifies as an EDC, the lifeline program can support affordable rod been Internet access and service.

For all of these reasons, we stand by and reaffirm the decision we made in December of 2017 -- decision which the passage of time has proven correct.

Because of the restoring Internet freedom order, more Americans have access to broadband.

Rod been networks are stronger and faster than ever.

And the Internet is free and open.

And so, to paraphrase Margaret Thatcher, no stranger to making tough decisions, now is not the time for a turnaround.

I extend my gratitude to the staff who worked on this, including Justin Faulb, Jane Griffin, Melissa Cargill, Kris Monteith, and others in the Wireline competition Bureau.

Kim, Emily, Justin, Christina, Michael Conley, Deb Jordan, Erica Olson, and others in the public safety and homeland security Bureau.

Erica, Emily, Shane, and the office of analytics.

And Ashley, Mike, Marcus, Rick, Linda, and Bill Richardson and the office of General Counsel.

Appreciate all the hard work.

We proceed to a vote on the item.

Commissioner O'Rielly?

Commissioner?

COMMISSIONER O'RIELLY: aye.

COMMISSIONER CARR: Approve.

COMMISSIONER ROSENWORCEL: Dissent.

COMMISSIONER STARKS: Dissent.

CHAIRMAN PAI: The chair votes to approve.

The item is adopted.

Granted as requested.

Thank you again to our WCB presenters today.

Madam Secretary, can you take us to item number two on the agenda?

MARLENE: Mr. Chairman and commissioners, the next item will be presented by the Wireline competition Bureau and the office of economics and analytics, and it is entitled "establishing a 5G fund for rural America."

Kris Monteith is chief of the Wireline come petition bureau and will give the introduction.

CHAIRMAN PAI: It is not a commission meeting unless Miss Monteith presents twice. Back to you.

Kris: thank you, Mr. Chairman.

The Wireline competition Bureau, and the broadband auctions task force, present for your consideration a report and order that, if adopted, would support the build out a 5G mobile broadband networks in areas that likely would otherwise go unserved, so than Americans in rural communities gain access to communications services on par with those offered in urban areas.

I will now turn it over to Giulia McHenry, chief of the office of economics and analytics.

Giulia?

Giulia: I would like to thank the staff of the office of economics and analytics for their tremendous work on this item.

My thanks also to the Wireline competition, wireless telecommunications, consumer and governmental affairs, and enforcement bureaus, as well as the office of communications business opportunities, engineering, and technology, and the General Counsel counsel, for their helpful input.

Valerie, an attorney advisor in the office of economics and analytics, will now present the item.

Valerie: This report and order, if adopted, would establish the 5G fund for rural America as a replacement for mobility fund phase two, directing universal service funds to support the deployment of 5G service in rural areas, to make certain that the commission's limited universal service fund dollars are used to support deployment of state-of-the-art wireless networks that are more responsive, more secure, and faster than today's 4G LTE networks, and would further secure our nation's leadership in 5G.

The report and order would adopt the option be approach proposed in the 5G fund notice of proposed rulemaking, and award 5G fund phase one support based on new, more precise, verified mobile coverage data, collected through the commission's digital opportunity data collection, and would award support based on where new mobile coverage data submitted in the digital opportunity data collection show a lack of unsubsidized 4G LTE and 5G broadband service.

The report and order would largely adopt the basic framework for the 5G fund as proposed in the 5G fund notice of proposed rulemaking.

First, it would adopt a total budget of \$9 billion for the 5G fund, which would be awarded in two phases using multi-round descending clock auctions with a 10 year term of support for each phase of the 5G fund, with up to \$8 billion in phase one, with \$680 million reserved for service to tribal lands.

It would award at least \$1 billion plus any un-awarded funds from phase one in phase two, to specifically target deployment of technologically innovative 5G networks that facilitate precision agriculture.

Second, it would adopt the use of an adjustment for bidding in the 5G auction, disaggregating support that would assign a weight to each geographic area reflects the general cost of serving areas with different terrain characteristics, as well as the potential business case for each area.

Third, I would avoid overbuilding to areas as part of enforceable deployment amendments made to the commission as part of the T-Mobile/Sprint transaction.

Finally, it would adopt broadband specific public interest obligations and performance requirements for legacy high-cost support recipients that would require them to use an increasing percentage of legacy support to deploy 5G services, starting next year, and meet specific service deployment milestones subsequently adopted by the office of economics and analytics and the Wireline competition Bureau.

The office of economics and analytics and rural task force recommended adoption of this report and order, and request editorial privileges extending only to technical and conforming edits.

CHAIRMAN PAI: Thank you very much.

I will now turn to comments from the bench, beginning with Commissioner O'Rielly.

COMMISSIONER O'RIELLY: I don't have an official statement but will make a couple of points and move on.

I appreciate this item agrees to follow the improved maps before extending funding. That is the law.

I suspect this item likely will change over the next few years.

It probably can be improved in a number of areas and I hope that occurs.

I thank the chair for the time.

CHAIRMAN PAI: Thank you, Commissioner.

Commissioner Carr?

COMMISSIONER CARR: Thanks.

Over the last few years in this job, I have had the privilege of meeting a whole bunch of Americans where they live, from the packed streets of Philly's shards would neighborhood to the dusty dirt roads outside of Arcadia, Indiana.

There have been interesting conversations around kitchen tables, in firehouses, and even on top of water towers.

In all of those diverse conversations, do you know what I have never been asked?

"When will my family get multi strand fiber to my neighborhood node?"

This is particularly wounding to me.

How is my small cell 5G coming along?

People don't even talk about broadband.

They talk about "fast Internet."

I have not heard any of those questions.

Instead what I have heard a lot about is this.

When will we get fast Internet?

My family, my business, we need fast Internet.

Please help.

We have helped, and it is one of the great honors of being at the FCC.

From: [FCC Office of Media Relations](#)
Subject: FCC STATEMENT: Chairman Pai Announces His Intent To Depart FCC
Date: Monday, November 30, 2020 10:39:27 AM
Attachments: [image001.jpg](#)



Media Contact:

Brian Hart, (202) 418-0505
brian.hart@fcc.gov

For Immediate Release

CHAIRMAN PAI ANNOUNCES HIS INTENT TO DEPART FCC

WASHINGTON, November 30, 2020—Today, Federal Communications Commission Chairman Ajit Pai announced that he intends to leave the Federal Communications Commission on January 20, 2021. Chairman Pai issued the following statement:

“It has been the honor of a lifetime to serve at the Federal Communications Commission, including as Chairman of the FCC over the past four years. I am grateful to President Trump for giving me the opportunity to lead the agency in 2017, to President Obama for appointing me as a Commissioner in 2012, and to Senate Majority Leader McConnell and the Senate for twice confirming me. To be the first Asian-American to chair the FCC has been a particular privilege. As I often say: only in America.

“I also deeply appreciate the chance to have worked alongside the FCC’s talented staff. They are the agency’s best assets, and they have performed heroically, especially during the pandemic. It’s also been an honor to work with my fellow Commissioners to execute a strong and broad agenda. Together, we’ve delivered for the American people over the past four years: closing the digital divide; promoting innovation and competition, from 5G on the ground to broadband from space; protecting consumers; and advancing public safety. And this FCC has not shied away from making tough choices. As a result, our nation’s communications networks are now faster, stronger, and more widely deployed than ever before.

“I am proud of how productive this Commission has been, from commencing five spectrum auctions and two rural broadband reverse auctions in four years, to opening 1,245 megahertz of mid-band spectrum for unlicensed use, to adopting more than 25 orders through our Modernization of Media Regulation Initiative, to aggressively protecting our communications networks from national security threats at home and abroad, to designating 988 as the three-digit number for the National Suicide Prevention Lifeline, and much, much more. I’m also proud of the reforms we have instituted to make the agency more accountable to the American people. In particular, for the first time ever, we’ve made public drafts of the proposals and orders slated for a vote three weeks before the agency’s monthly meetings, making this the most transparent FCC in history.

“Last but not least, I want to thank my family for all they have done to enable me to serve at the agency. The public service of one generally results from the private sacrifice of many, and I’m

grateful for their love and support.”

###

Office of Chairman Pai: (202) 418-1000 / Twitter: @AjitPaiFCC / www.fcc.gov/leadership/ajit-pai

*This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.
See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).*

From: [Katie Gorscak](#)
To: [Brian Hart](#)
Subject: For your review
Date: Friday, September 25, 2020 11:09:52 AM
Attachments: [2020-09 Open Meeting - September Press Prep draft - 0923.docx](#)

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [Holowka, Kristen](#)
To: [Brian Hart](#)
Subject: Fox News Channel- Chairman Pai media request
Date: Thursday, October 15, 2020 2:49:36 PM

Hi Brian,

Reaching out to see if Chairman Pai is available to join our show during the 4pm ET hour tomorrow, 10/16 to discuss clarification over Section 230 of the Communications Act.

Please let me know if we can make something work.

Kind regards,

Kristen Holowka

Fox News Channel

Booker, "Your World with Neil Cavuto"

Office: [\(212\) 301-5946](tel:2123015946)

Cell: [\(917\) 274-9006](tel:9172749006)

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From: [Sharon Hurd](#)
To: [Brian Hart](#); [Anne Veigle](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: Fox News DEADLINE NOW for 11:00 pm re: Chairman Pai Section 230 Interview
Date: Thursday, October 15, 2020 5:06:36 PM

-----Original Message-----

From: Turner, Gillian <Gillian.Turner@FOXNEWS.COM>
Sent: Thursday, October 15, 2020 5:03 PM
To: MediaRelations <MediaRelations@fcc.gov>
Cc: Richardson, Grace <Grace.Richardson@FOXNEWS.COM>
Subject: Fox News Request

Hi there, Gillian Turner here with Fox News Channel— I'd like to interview Chairman Pai for our prime time show in the 11pm hour this evening— Is he available between now and then for a five minute on camera interview from wherever he is?

I'm covering his statement this evening about Section 230 and would like to ask him about the statute, what it covers, and why there are calls for revision

Please let us know and thanks for your consideration

Best,
Gillian Turner
917.434.6330

Sent from my iPhone

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From: [Brian Hart](#)
To: [Brendan Carr](#)
Cc: [Benjamin Arden](#)
Subject: Fw: [EXT] Re: MARK LEVIN RADIO?
Date: Saturday, October 17, 2020 12:02:46 AM

From: Richard Sementa <Richard.Sementa@cumulus.com>
Sent: Friday, October 16, 2020 11:15 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: [EXT] Re: MARK LEVIN RADIO?

Here's the interview
<https://playlist.megaphone.fm/?e=WWO8441804766&start=2965>

Sent from my Galaxy S10

----- Original message -----

From: Brian Hart <Brian.Hart@fcc.gov>
Date: 10/16/20 5:28 PM (GMT-05:00)
To: Richard Sementa <Richard.Sementa@cumulus.com>
Subject: Re: [EXT] Re: MARK LEVIN RADIO?

His cell phone is (b) (6)

Thank you sir.

From: Richard Sementa <Richard.Sementa@cumulus.com>
Sent: Friday, October 16, 2020, 5:01 PM
To: Brian Hart
Subject: RE: [EXT] Re: MARK LEVIN RADIO?

Call into 212-268-5666 at 7:17 pm eastern. Whats the best backup number I can use?

Topics: Big tech censorship and what FCC is doing with section 230. It will be 1 segment – about 8 minutes.

Richard Sementa
Executive Producer, The Mark Levin Show | Westwood One

O: 212-613-3840

2 Penn Plaza, 17th Floor □NY, NY 10121

westwoodone.com □ marklevinshow.com

From: Brian Hart [mailto:Brian.Hart@fcc.gov]
Sent: Friday, October 16, 2020 4:59 PM
To: Richard Sementa <Richard.Sementa@cumulus.com>
Subject: Re: [EXT] Re: MARK LEVIN RADIO?

Richard:

Commissioner Carr would love to do it and that time works for him.

Can you please send me the call in details and anything else he needs and I can send that on to him?

Let me know any specific questions that might come up if you want him to think on it beforehand. And please let me know how long the segment/s will be.

Thank you sir.

Brian

From: Richard Sementa <Richard.Sementa@cumulus.com>
Sent: Friday, October 16, 2020, 4:14 PM
To: Brian Hart
Subject: RE: [EXT] Re: MARK LEVIN RADIO?

I can do 7:20 pm est with Carr. Let me know!

Richard Sementa
Executive Producer, The Mark Levin Show | Westwood One
O: 212-613-3840
2 Penn Plaza, 17th Floor □NY, NY 10121
westwoodone.com □marklevinshow.com

From: Brian Hart [mailto:Brian.Hart@fcc.gov]
Sent: Friday, October 16, 2020 3:57 PM
To: Richard Sementa <Richard.Sementa@cumulus.com>
Subject: [EXT] Re: MARK LEVIN RADIO?

Hey there Richard. Unfortunately, Chairman Pai can't make those times work. Would you be interested in talking with FCC Commissioner Carr? I'm happy to connect you with him.

From: Richard Sementa <Richard.Sementa@cumulus.com>
Sent: Friday, October 16, 2020 3:38 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Lori Alexiou <Lori.Alexiou@fcc.gov>

Cc: Ajit Pai <Ajit.Pai@fcc.gov>

Subject: MARK LEVIN RADIO?

Good afternoon

Is Ajit Pai available tonight at either 6:30 or 7:30 pm eastern to discuss Section 230, facebook and twitter? It would be by phone for about 10 minutes.

Thanks!

Richard Sementa

Executive Producer, The Mark Levin Show | Westwood One

O: 212-613-3840

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westwoodone.com □marklevinshow.com

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From: [Brian Hart](#)
To: [Will Wiquist](#)
Subject: Fw: 230 Statement
Date: Thursday, October 15, 2020 1:42:09 PM
Attachments: [2020-10-15 Statement - Sec 230 Rulemaking-MB.docx](#)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Thursday, October 15, 2020 1:26 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: 230 Statement

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Thursday, October 15, 2020 1:23 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: 230 Statement

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Thursday, October 15, 2020 1:22 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: 230 Statement

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Thursday, October 15, 2020 1:21 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: 230 Statement

Draft attached.

From: [Montana L. Hyde](#)
To: [Ajit Pai](#)
Cc: [Nicholas Degani](#); [Matthew Berry](#); [Brian Hart](#)
Subject: FW: Advisory ASP TO AIR EXCLUSIVE CONVERSATIONS WITH SENIOR LAWMAKERS ON THE FUTURE OF INFORMATION, MEDIA AND TECHNOLOGY
Date: Monday, October 26, 2020 11:22:53 AM

(b) (5)

From: Jessica Gail <jessicagail85@gmail.com>
Sent: Monday, October 26, 2020 10:45 AM
To: Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Advisory ASP TO AIR EXCLUSIVE CONVERSATIONS WITH SENIOR LAWMAKERS ON THE FUTURE OF INFORMATION, MEDIA AND TECHNOLOGY

FOR IMMEDIATE RELEASE
October 25, 2020
Contact: press@astartingpoint.com

ADVISORY: ASP TO AIR EXCLUSIVE CONVERSATIONS WITH SENIOR LAWMAKERS ON THE FUTURE OF INFORMATION, MEDIA AND TECHNOLOGY

WASHINGTON, DC □ This week on [A Starting Point](#) (ASP) top lawmakers and government stakeholders will join ASP for a comprehensive examination of one of the greatest issues of our time: the changing face of media, information and technology. In a special, one-week series, ASP will host exclusive conversations, debates and viewpoints from lawmakers about how we receive news and information in an increasingly digital world.

As the CEO's of Facebook, Google and Twitter prepare to testify before the Senate Commerce Committee on potential reforms to Section 230 of the Communications Decency Act, **ASP's Co-Founders Chris Evans and Mark Kassen will speak with U.S. Senator Ron Wyden**, the original author of the 1996 Section 230 law, **and U.S. Senator Maria Cantwell**, author of a new report on online disinformation and the decline of local news.

More conversations to be announced in the coming days will explore content moderation and speech protection, the age of social media and its impact on local journalism, advertising and privacy protections, national security and the elections, and potential reforms to the Section 230 statute.

Please be advised of the current schedule on ASP this week:

Monday 10/26 at 6:00pm ET / 3:00pm PT
ASP Chat with Senator Maria Cantwell (D-WA) □ Chris Evans and Mark Kassen
The Decline of Local News
www.astartingpoint.com

Tuesday 10/27 at 3:00pm ET / 12:00pm PT

ASP Chat with Senator Ron Wyden (D-OR), Chris Evans and Mark Kassen
Reforming Section 200 in the Digital Era

www.astartingpoint.com



Sent from my iPhone

From: [Brian Hart](#)
To: [Montana L. Hyde](#)
Subject: Fw: Arranging a Reason TV interview with Chairman Pai
Date: Wednesday, November 18, 2020 8:02:13 AM

Can you please put this on Ajit's calendar?

From: Nick Gillespie <gillespie@reason.com>
Sent: Tuesday, November 17, 2020 11:48 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

Hi guys,

Looking forward to talking with the chairman tomorrow at 3pm ET/12 noon PT. Here's the Zoom link:

<https://reason.zoom.us/j/4845143735> (Passcode: (b) (6))

Thanks much!

Nick Gillespie
[Editor at Large, Reason](#)
513.255.5151 (c)
gillespie@reason.com

On Fri, Nov 13, 2020 at 8:59 AM Brian Hart <Brian.Hart@fcc.gov> wrote:

Thank you. The chairman is his own tech support from his house. He's got a good spot/backdrop with decent ambient lighting. He's on zoom often and is pretty well versed. But Montana and I are happy to help if there is anything we can do ahead of time.

From: Nick Gillespie <gillespie@reason.com>
Sent: Friday, November 13, 2020 11:46:53 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

yes, that works--Wednesday November 18, 3pm ET/12 noon pt, via Zoom. If we can squeeze a few more minutes out of Chairman Pai, all the better!

This will be via Zoom. I'll send a link the day before and will send out topics either later today or Monday.

Do you have tech people I can connect my video producers with? We want to make sure everything looks and sounds as good as possible.

Thanks,

Nick Gillespie
[Editor at Large, Reason](#)
513.255.5151 (c)
gillespie@reason.com

On Fri, Nov 13, 2020 at 5:42 AM Brian Hart <Brian.Hart@fcc.gov> wrote:
Yes sir. Copying Montana to confirm that time still works.

Wednesday Nov 18
3p-3:30p EST
Zoom video interview

That all correct/work?

Can Can you please send over a general sense of the topics and questions you want to go over?

From: Nick Gillespie <gillespie@reason.com>
Sent: Thursday, November 12, 2020 11:30 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

That's great! 3pm ET, right?

nick gillespie
editor at large, reason
gillespie@reason.com
513.255.5151
5 bleecker street, 4f
ny, ny 10012

On Thu, Nov 12, 2020, 6:12 PM Brian Hart <Brian.Hart@fcc.gov> wrote:
3p Wednesday Nov 18?

From: Nick Gillespie <gillespie@reason.com>
Sent: Wednesday, November 11, 2020 11:20:03 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

Thanks very much!

Nick

Nick Gillespie
[Editor at Large, Reason](#)
513.255.5151 (c)
gillespie@reason.com

On Wed, Nov 11, 2020 at 8:07 AM Brian Hart <Brian.Hart@fcc.gov> wrote:
The chairman is off for the rest of the week, and the rest of the commission is off today for veterans day. I'll try to check on this tomorrow with his scheduler. But won't be able to confirm with him until early next week.

From: Nick Gillespie <gillespie@reason.com>
Sent: Wednesday, November 11, 2020 11:05:29 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

Brian,

Sorry for the non-responsiveness. What if anything is possible tomorrow or Friday or any day next week? I realize doing it before the award program may not be possible, and that's ok.

Thanks,

Nick

Nick Gillespie
[Editor at Large, Reason](#)
513.255.5151 (c)
gillespie@reason.com

On Mon, Nov 2, 2020 at 11:01 AM Brian Hart <Brian.Hart@fcc.gov> wrote:
Any of these blocks of time work for 30-40 minutes?

- 11/9: 10:00am—2:00pm
- 11/10: 10:00am—2:00pm or after 3:30pm

From: Nick Gillespie <gillespie@reason.com>
Sent: Thursday, October 29, 2020 7:19 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

Great.

Ideally, we'll do the interview via Zoom, yes.

Please keep me posted!

Thanks,

Nick Gillespie

[Editor at Large, Reason](#)

513.255.5151 (c)

gillespie@reason.com

On Thu, Oct 29, 2020 at 4:08 PM Brian Hart <Brian.Hart@fcc.gov> wrote:

Hey Nick. This should work. I'll get with the chairman scheduler to see what days and times work. You OK doing the interview over video chat? We are not back in our offices yet.

From: Nick Gillespie <gillespie@reason.com>

Sent: Thursday, October 29, 2020 6:49 PM

To: Brian Hart <Brian.Hart@fcc.gov>

Subject: Re: Arranging a Reason TV interview with Chairman Pai

Hi Brian, following up on this! Please let me know your thoughts.

Thanks,

Nick

Nick Gillespie

[Editor at Large, Reason](#)

513.255.5151 (c)

gillespie@reason.com

On Mon, Oct 19, 2020 at 12:21 PM Nick Gillespie <gillespie@reason.com> wrote:

Hi Brian,

I'm writing to arrange an interview with Chairman Pai in anticipation of his receiving Reason Foundation's Savas Award on November 19.

Ideally, we'd conduct the interview via Zoom for about 30 to 40 minutes sometime during the week of November 9 through November 13 (we're hoping to release the video and audio versions of the interview just before the awards ceremony).

Is that doable? Is there more information I can supply that will help you make a decision? Please let me know.

Thanks--

Nick

Nick Gillespie

[Editor at Large, Reason](#)

513.255.5151 (c)

gillespie@reason.com

From: [Brian Hart](#)
To: [Montana L. Hyde](#)
Subject: Fw: Arranging a Reason TV interview with Chairman Pai
Date: Friday, October 30, 2020 4:46:04 PM

(b) (5)



From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Friday, October 30, 2020 4:08 PM
To: Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Fw: Arranging a Reason TV interview with Chairman Pai

Can you please let me know if Ajit has 1 hour between November 9 through November 13 to shoot a video interview?

From: Nick Gillespie <gillespie@reason.com>
Sent: Thursday, October 29, 2020 7:19 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

Great.

Ideally, we'll do the interview via Zoom, yes.

Please keep me posted!

Thanks,

Nick Gillespie
[Editor at Large, Reason](#)
513.255.5151 (c)
gillespie@reason.com

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Hey Nick. This should work. I'll get with the chairman scheduler to see what days and times work. You OK doing the interview over video chat? We are not back in our offices yet.

From: Nick Gillespie <gillespie@reason.com>
Sent: Thursday, October 29, 2020 6:49 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

Hi Brian, following up on this! Please let me know your thoughts.

Thanks,

Nick

Nick Gillespie

[Editor at Large, Reason](#)

513.255.5151 (c)

gillespie@reason.com

On Mon, Oct 19, 2020 at 12:21 PM Nick Gillespie <gillespie@reason.com> wrote:

Hi Brian,

I'm writing to arrange an interview with Chairman Pai in anticipation of his receiving Reason Foundation's Savas Award on November 19.

Ideally, we'd conduct the interview via Zoom for about 30 to 40 minutes sometime during the week of November 9 through November 13 (we're hoping to release the video and audio versions of the interview just before the awards ceremony).

Is that doable? Is there more information I can supply that will help you make a decision? Please let me know.

Thanks--

Nick

Nick Gillespie

[Editor at Large, Reason](#)

513.255.5151 (c)

gillespie@reason.com

From: [Brian Hart](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Evan Swarztrauber](#)
Subject: Fw: Arranging a Reason TV interview with Chairman Pai
Date: Monday, October 19, 2020 4:13:31 PM

(b) (5)



From: Nick Gillespie <gillespie@reason.com>
Sent: Monday, October 19, 2020 3:21 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Arranging a Reason TV interview with Chairman Pai

Hi Brian,

I'm writing to arrange an interview with Chairman Pai in anticipation of his receiving Reason Foundation's Savas Award on November 19.

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Is that doable? Is there more information I can supply that will help you make a decision? Please let me know.

Thanks--

Nick

Nick Gillespie
[Editor at Large, Reason](#)
513.255.5151 (c)
gillespie@reason.com

From: [Brian Hart](#)
To: [Ajit Pai](#)
Cc: [Matthew Berry](#); [Nicholas Degani](#); [Evan Swarztrauber](#); [Montana L. Hyde](#)
Subject: Fw: Arranging a Reason TV interview with Chairman Pai
Date: Wednesday, November 18, 2020 12:43:15 PM

See below for the general questions that Nick Gillespie will ask on your Reason interview this afternoon.

From: Nick Gillespie <gillespie@reason.com>
Sent: Wednesday, November 18, 2020 12:30 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

Yes:

1. Explain how his term as chairman plays out (short description of what happens between now and the Biden administration appointing a new chairman).
2. I'll ask him to reflect on his legacy as chairman. What is he most proud of, and what work on his agenda still needs to be done?
3. We'll probably already discuss this as part of 2, but if not: What does the battle over Net Neutrality say about the strength of the internet to deliver information and content apart from specific governmental policies?
4. What are his thoughts on Section 230 reform, which he talks about in his October 15 statement?
5. What are the main threats to freedom of expression on the internet and in other areas governed by the FCC? What are the main bright spots?

Nick Gillespie
[Editor at Large, Reason](#)
513.255.5151 (c)
gillespie@reason.com

From: [Brian Hart](#)
To: [Ajit Pai](#)
Subject: Fw: Arranging a Reason TV interview with Chairman Pai
Date: Wednesday, November 18, 2020 9:19:21 AM

Reminder: Reason Magazine Zoom interview today at 3p. I've asked Montana to put in your calendar.

From: Nick Gillespie <gillespie@reason.com>
Sent: Tuesday, November 17, 2020 11:48 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

Hi guys,

Looking forward to talking with the chairman tomorrow at 3pm ET/12 noon PT. Here's the Zoom link:

<https://reason.zoom.us/j/4845143735> (Passcode: (b) (6))

Thanks much!

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Thank you. The chairman is his own tech support from his house. He's got a good spot/backdrop with decent ambient lighting. He's on zoom often and is pretty well versed. But Montana and I are happy to help if there is anything we can do ahead of time.

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Sent: Friday, November 13, 2020 11:46:53 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

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Subject: Re: Arranging a Reason TV interview with Chairman Pai

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nick gillespie

editor at large, reason

gillespie@reason.com

513.255.5151

5 bleecker street, 4f

ny, ny 10012

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[Editor at Large, Reason](#)

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Nick

Nick Gillespie
[Editor at Large, Reason](#)
513.255.5151 (c)
gillespie@reason.com

From: [Will Wiquist](#)
To: [Brittany Stevenson](#)
Cc: [Brian Hart](#)
Subject: FW: Blog post
Date: Wednesday, October 21, 2020 11:56:16 AM

All set Britt.

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Wednesday, October 21, 2020 11:45 AM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brittany Stevenson <Brittany.Stevenson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Re: Blog post

OK here. Thanks.

From: Will Wiquist <[Will.Wiquist@fcc.gov](#)>
Sent: Wednesday, October 21, 2020 11:36 AM
To: Nicholas Degani <[Nicholas.Degani@fcc.gov](#)>; Thomas Johnson <[Thomas.Johnson@fcc.gov](#)>; Brittany Stevenson <[Brittany.Stevenson@fcc.gov](#)>; Matthew Berry <[Matthew.Berry@fcc.gov](#)>; Ajit Pai <[Ajit.Pai@fcc.gov](#)>; Evan Swarztrauber <[Evan.Swarztrauber@fcc.gov](#)>; Michael J. Carlson <[Michael.Carlson@fcc.gov](#)>; Brian Hart <[Brian.Hart@fcc.gov](#)>; Anne Veigle <[Anne.Veigle@fcc.gov](#)>
Subject: RE: Blog post

(b) (5)

From: Nicholas Degani <[Nicholas.Degani@fcc.gov](#)>
Sent: Wednesday, October 21, 2020 10:58 AM
To: Will Wiquist <[Will.Wiquist@fcc.gov](#)>; Thomas Johnson <[Thomas.Johnson@fcc.gov](#)>; Brittany Stevenson <[Brittany.Stevenson@fcc.gov](#)>; Matthew Berry <[Matthew.Berry@fcc.gov](#)>; Ajit Pai <[Ajit.Pai@fcc.gov](#)>; Evan Swarztrauber <[Evan.Swarztrauber@fcc.gov](#)>; Michael J. Carlson <[Michael.Carlson@fcc.gov](#)>; Brian Hart <[Brian.Hart@fcc.gov](#)>; Anne Veigle <[Anne.Veigle@fcc.gov](#)>
Subject: Re: Blog post

(b) (5)

[REDACTED]

[REDACTED]

From: "Will Wiquist" <[Will.Wiquist@fcc.gov](#)>
Date: Wednesday, October 21, 2020 at 10:54:49 AM
To: "Thomas Johnson" <[Thomas.Johnson@fcc.gov](#)>, "Brittany Stevenson" <[Brittany.Stevenson@fcc.gov](#)>, "Matthew Berry" <[Matthew.Berry@fcc.gov](#)>, "Ajit Pai" <[Ajit.Pai@fcc.gov](#)>, "Nicholas Degani" <[Nicholas.Degani@fcc.gov](#)>, "Evan Swarztrauber"

<Evan.Swarztrauber@fcc.gov>, "Michael J. Carlson" <Michael.Carlson@fcc.gov>, "Brian Hart" <Brian.Hart@fcc.gov>, "Anne Veigle" <Anne.Veigle@fcc.gov>

Subject: RE: Blog post

(b) (5)

From: Thomas Johnson <Thomas.Johnson@fcc.gov>

Sent: Wednesday, October 21, 2020 10:44 AM

To: Brittany Stevenson <Brittany.Stevenson@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>

Subject: Re: Blog post

Thanks all! My tweet's out:

<https://twitter.com/TomMJohnsonJr/status/1318925812675104768?s=20>



[Tom Johnson on Twitter](#)

"Today, as the @FCC's General Counsel, I explain why the Commission has authority to interpret #Section230 and clarify the scope of the immunity protections accorded to social media companies and other websites. Read my full analysis: <https://t.co/vwjcnSzl5q>"

twitter.com

From: Brittany Stevenson <Brittany.Stevenson@fcc.gov>

Sent: Wednesday, October 21, 2020 10:40 AM

To: Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>

Subject: Re: Blog post

The blog post is live: <https://www.fcc.gov/news-events/blog/2020/10/21/fccs-authority-interpret-section-230-communications-act>

Here's the short link for promotion on social media: <https://go.usa.gov/x7C9h>

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Wednesday, October 21, 2020 10:27 AM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Cc: Brittany Stevenson <Brittany.Stevenson@fcc.gov>
Subject: RE: Blog post

+Britt who is loading it now into the blog and can send the link once it's live.

The email version is teed up and should be able to go our right at 10:30.

We'll also do a few social media posts.

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Wednesday, October 21, 2020 10:21 AM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Re: Blog post

OK, unless anyone objects by 10:30, let's go ahead.

From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Wednesday, October 21, 2020 10:11 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Blog post

Creating new thread to avoid confusion -- this should be good to post.

From: [Thomas Johnson](#)
To: [Brian Hart](#); [Anne Veigle](#); [Will Wiquist](#)
Subject: Fw: Blog post
Date: Tuesday, October 20, 2020 9:03:19 PM
Attachments: [FCC General Counsel Blog Post on Section 230 \(1\).docx](#)

(b) (5)

From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Tuesday, October 20, 2020 7:36 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: Re: Blog post

OK, here is a clean and near-final version of the blog post. (I have asked The Max to give it a final proof and cite check if he has time.) Ajit--I resolved some of the comments you raised in the manner that Nick, Matthew, and I agreed upon but let me know if you have any concerns or would like to discuss.

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Tuesday, October 20, 2020 5:19 PM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: Re: Blog post

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Tuesday, October 20, 2020 1:26 PM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: Re: Blog post

Attached please find minor feedback.

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Tuesday, October 20, 2020 1:07 PM

To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: Re: Blog post

Jumping in . . .

From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Tuesday, October 20, 2020 1:05 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: Re: Blog post

Thanks, Nick!

(b) (5)
[Redacted]

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Tuesday, October 20, 2020 12:57 PM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: RE: Blog post

(b) (5)
[Redacted]

From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Tuesday, October 20, 2020 12:21 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: Re: Blog post

(b) (5)
[Redacted]

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Monday, October 19, 2020 10:44 PM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: Re: Blog post

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Monday, October 19, 2020 10:16 PM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: Re: Blog post

Thanks. If folks have time, let's discuss after the staff meeting tomorrow.

From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Monday, October 19, 2020 9:57 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: Re: Blog post

Thanks, Nick and Matthew (b) (5)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Monday, October 19, 2020 5:10 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: RE: Blog post

Agreed. (b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Monday, October 19, 2020 5:08 PM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: Re: Blog post

(b) (5)

(b) (5)

From: Thomas Johnson <Thomas.Johnson@fcc.gov>

Sent: Monday, October 19, 2020 4:39 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>

Subject: Blog post

Please see a proposed blog post attached. Happy to discuss.

(b) (5)

From: [Anne Veigle](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#)
Cc: [Brian Hart](#); [Montana L. Hyde](#); [Lamar Robertson](#)
Subject: FW: Bloomberg TV
Date: Monday, October 5, 2020 4:44:58 PM

Hi,

Bloomberg TV anchor Emily Chang is requesting an interview with Chairman Pai following his speaking appearance next week at the Milken Institute Global Conference, Oct. 14, 1-2:15pm, which will be discussing digital infrastructure and 5G. Chang is hosting the panel discussion.

From: Allison Weiss (BLOOMBERG/ NEWSROOM:) <abrowne10@bloomberg.net>
Sent: Monday, October 5, 2020 4:23 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Cc: echang68@bloomberg.net; ccheng86@bloomberg.net; Katie Gorscak <Katie.Gorscak@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: Bloomberg TV

ello:

Chairman Pai will be on a panel our anchor, Emily Chang, is moderating at Milken on October 14.

We wanted to see if we can conduct an interview with him right after the panel. We would appreciate his time and insight.

Kind Regards,
Allison Weiss
Sr. Producer, Bloomberg Technology

From: Anne.Veigle@fcc.gov At: 08/03/20 11:10:36
To: [Allison Weiss \(BLOOMBERG/ NEWSROOM: \)](mailto:Allison.Weiss@bloomberg.net)
Cc: Brian.Hart@fcc.gov, Will.Wiquist@fcc.gov,
Katie.Gorscak@fcc.gov
Subject: RE: Bloomberg TV

i Allison,
Chairman Pai is not available to do this interview. Please see today's statement on the opening of a public comment in this matter:
<https://www.fcc.gov/document/chairman-pai-seeking-public-comment-ntias-sec-2-0-petition>

Thanks,

Anne Veigle
Deputy Director, Office of Media Relations
Federal Communications Commission

From: Allison Weiss (BLOOMBERG NEWSROOM: abrowne10@bloomberg.net)
Sent: Monday, August 3, 2020 10:26 AM
To: Ajit Pai (Ajit.Pai@fcc.gov)
Subject: Bloomberg TV

Hello:

I wanted to see if you are available this week to discuss the latest input stage regarding the Section 230 petition. We'd like an update to the process, and our audiences would love your perspective.

Kind Regards,
Allison Weiss
Sr. Producer, Bloomberg Technology

Bloomberg TV is the world's most-watched business news network, available in more than 160 million homes worldwide. Watch us live on our website, smartphones, iPad app and the Bloomberg Professional Service. <http://Bloomberg.com/tv>

From: [Will Wiquist](#)
To: [Sean Spivey](#)
Cc: [Brian Hart](#)
Subject: FW: carrier NALs
Date: Monday, October 26, 2020 1:49:53 PM
Attachments: [image001.png](#)

(b) (5)

From: Perera, David (LNG-MLEX) <perera@mlex.com>
Sent: Monday, October 26, 2020 1:33 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: carrier NALs

Hi Brian, Hi Will,

Commissioner Starks is on an FCBA webinar now, discussing the February NALs against major carriers for geolocation data.

“Obviously it’s been hanging out there for quite some time, so it’s incumbent on Chairman Pai to continue to move the process forward,” he said.

Do you have an update on the status of the NALs, or a statement on what appears to be a long period of time between the NALs release (February) and any apparent action on them?

On deadline.

Cheers, Dave

David Perera ☐ MLex data security and privacy reporter
perera@mlex.com ☐ o: 202 909 2141 m: 202 2☐0 9949

1776 I (Eye☐Street NW Suite 260 ☐ Washington, D.C. 20006 ☐ United States ☐ www.mlexmarketinsight.com ☐ www.ftcwatch.com



From: [Will Wiquist](#)
To: [Brian Hart](#)
Subject: FW: checking for comment ...
Date: Wednesday, November 4, 2020 3:45:29 PM

(b) (5)

From: Buskirk, Howard <hbuskirk@warren-news.com>
Sent: Wednesday, November 4, 2020 3:38 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: checking for comment ...

The still undecided presidential election is likely to create a murky environment for the FCC and Chairman Ajit Pai, at least until all the votes are counted and court cases and recounts resolved, experts said. The situation is reminiscent of 2000, when George W. Bush's election wasn't clear until more than a month after the election. At our deadline Joe Biden was ahead in swing states but President Donald Trump still has a potential path to victory.

In 2000, then Chairman William Kennard did an admirable job of keeping things moving, despite uncertainty, but the FCC was less politically charged at the time and he faced an easier task, FCC veterans said. Chairman Ajit Pai has long been expected to exit early next year regardless of what happens, but hasn't confirmed that.

If Trump wins, "it will be business as usual" and the Senate will vote on Nathan Simington's nomination to replace Mike O'Rielly as commissioner, said Phoenix Center President Lawrence Spiwak, who was an FCC staffer 20 years ago. Spiwak noted that the FCC then was less political then with fewer high-profile public interest groups active in proceeding. Spiwak said regardless of the size of the victory a Biden FCC will likely immediately reengage on net neutrality.

Howard Buskirk

Executive Senior Editor

Communications Daily

703-598-1800

From: [Brian Hart](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Evan Swarztrauber](#)
Subject: Fw: checking in
Date: Tuesday, October 27, 2020 1:24:07 PM

(b) (5)

From: David McCabe <david.mccabe@nytimes.com>
Sent: Tuesday, October 27, 2020 1:17 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: checking in

Hey Brian —

We're working on a story about Republican efforts to put pressure on the Section 230 issue. I wanted to see if the FCC had comment on a couple of things.

We note the Simington nomination battle, and how it is seen as a proxy fight for 230. We also mention the chairman's recent announcement on considering the Commerce petition. We have been told that he was moved to act by Twitter's decision on Hunter Biden and the recent Justice Thomas opinion. But that he has still looked to push any decision beyond Election Day.

I wanted to know if you had anything to add. We're wrapping this up today.

Thanks, David, (b) (6)

--

David McCabe
Reporter
The New York Times

From: [Wellons, Mary Catherine \(NBCUniversal\)](#)
To: [Brian Hart](#)
Subject: FW: CNBC inquiry re: Pai/230
Date: Thursday, October 15, 2020 3:06:14 PM

Hi Brian – Do you have a minute to speak by phone? I have some questions about Chmn. Pai’s announcement.

From: Wellons, Mary Catherine (NBCUniversal)
Sent: Thursday, October 15, 2020 2:54 PM
To: Will Wiquist <will.wiquist@fcc.gov>
Subject: CNBC inquiry re: Pai/230

Hi Will –

I have some questions about Chmn. Pai’s announcement re: 230. Do you have a minute to discuss?

I’m at 201-587-5594.

MC

Mary Catherine Wellons
CNBC Washington
Deputy Bureau Chief
+1 201-587-5594
mc.wellons@nbcuni.com
@mcwellons

From: [FCC Office of Media Relations](#)
To: [Brian Hart](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: FW: Comment in response to House E and C Democrats
Date: Monday, October 19, 2020 12:51:10 PM

(b) (5)

From: Rebecca Klar <rklar@thehill.com>
Sent: Monday, October 19, 2020 11:09 AM
To: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>
Subject: Comment in response to House E and C Democrats

Hello,

I'm reaching out to see if the FCC or specifically Chairman Ajit Pai has a comment in response to a critical statement released today by Democratic members of the House Energy and Commerce Committee criticizing Pai's announcement from last week that the panel will move forward with the Trump administration's petition to clarify Section 230 of the Communications Decency Act. A copy of their statement can be seen [screenshoted here](#).

Thank you,
Rebecca Klar

From: [Anne Veigle](#)
To: [Brian Hart](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: FW: Comment? Online Speech Crackdown Will Choke America's Innovation Economy, CTA Says
Date: Monday, October 19, 2020 2:40:08 PM

(b) (5)



From: Herchenroeder, Karl <karlh@warren-news.com>
Sent: Monday, October 19, 2020 2:13 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Comment? Online Speech Crackdown Will Choke America's Innovation Economy, CTA Says

Hi, Anne:

CTA Vice President-Government and Regulatory Affairs Michael Petricone said Monday that the FCC doesn't have the authority to "rewrite" Communications Decency Act Section 230.

Does the agency have any comment?

Best Regards,
Karl Herchenroeder
Assistant Editor/tech reporter
Communications Daily
C: 202-704-4738

To view this email as a web page, go [here](#).

FOR IMMEDIATE RELEASE



Online Speech Crackdown Will Choke America's

Innovation Economy, CTA Says

Arlington, VA, October 19, 2020 – The following statement is attributed to Michael Petricone, senior vice president, government and regulatory affairs, Consumer Technology Association (CTA)®, regarding efforts to regulate online providers that host third-party content under Section 230 of the Communications Decency Act.

“We are deeply disappointed in the announcement by Federal Communications Commission (FCC) Chairman Ajit Pai that the agency will begin a rulemaking on Section 230. As CTA emphasized in its comments to the FCC, neither the National Telecommunications and Information Administration nor the FCC has the authority to rewrite the law – in our system, that is the job of Congress. Nor does the FCC have the authority to impose new, heavy-handed disclosure requirements on online platforms – a fact the FCC itself recognized in 2017.

“A better way forward is to embrace policies that encourage – not those that seek to impede – American innovation. Thanks to Section 230, American companies are the world’s top choice for entertainment, communications and commerce—but that all could change. Cracking down on Section 230 and internet speech would deal a severe blow to U.S. competitiveness and innovation. It would hamper our free exchange of ideas and entrepreneurs’ incentives to take risks.

“Importantly, government regulating online free speech is an unconstitutional affront to the First Amendment. It is resonant of systems like China’s, where the ability to speak online depends on government approval and whim. It would lead to the government picking ‘winners’ and ‘losers’—dictating what speech algorithm is too conservative or too liberal. This is not the American way.

“A ‘hands off’ approach to the internet exemplified by Section 230 is precisely what distinguishes the U.S. from other countries and enables our success. We should embrace our approach, not seek to emulate other countries who have much more regulation and fewer successful approaches to innovation.”

Consumer Technology Association:

As North America’s largest technology trade association, CTA® is the tech sector. Our members are

the world's leading innovators – from startups to global brands – helping support more than 18 million American jobs. CTA owns and produces CES® – the most influential tech event in the world. Find us at CTA.tech. Follow us [@CTAtech](https://twitter.com/CTAtech).



Contacts:

Jennifer Drogus
CTA
70□907.7694
jdrogus@CTA.tech

Laura Ambrosio
CTA
70□907.7426
lambrosio@CTA.tech

This email was sent by: Consumer Technology Association
1919 S. Eads St., Arlington, VA, 22202 US

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From: [Anne Veigle](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Paul Jackson](#)
Cc: [Brian Hart](#); [Will Wiquist](#); [Katie Gorskak](#)
Subject: FW: Comment? Online Speech Crackdown Will Choke America's Innovation Economy, CTA Says
Date: Monday, October 19, 2020 2:48:41 PM

(b) (5)

From: Herchenroeder, Karl <karlh@warren-news.com>
Sent: Monday, October 19, 2020 2:13 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Comment? Online Speech Crackdown Will Choke America's Innovation Economy, CTA Says

Hi, Anne:

CTA Vice President-Government and Regulatory Affairs Michael Petricone said Monday that the FCC doesn't have the authority to "rewrite" Communications Decency Act Section 230.

Does the agency have any comment?

Best Regards,
Karl Herchenroeder
Assistant Editor/tech reporter
Communications Daily
C: 202-704-4738

To view this email as a web page, go [here](#).

FOR IMMEDIATE RELEASE



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“A better way forward is to embrace policies that encourage – not those that seek to impede – American innovation. Thanks to Section 230, American companies are the world’s top choice for entertainment, communications and commerce—but that all could change. Cracking down on Section 230 and internet speech would deal a severe blow to U.S. competitiveness and innovation. It would hamper our free exchange of ideas and entrepreneurs’ incentives to take risks.

“Importantly, government regulating online free speech is an unconstitutional affront to the First Amendment. It is resonant of systems like China’s, where the ability to speak online depends on government approval and whim. It would lead to the government picking ‘winners’ and ‘losers’—dictating what speech algorithm is too conservative or too liberal. This is not the American way.

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the world's leading innovators – from startups to global brands – helping support more than 18 million American jobs. CTA owns and produces CES® – the most influential tech event in the world. Find us at CTA.tech. Follow us [@CTAtech](https://twitter.com/CTAtech).



Contacts:

Jennifer Drogus
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jdrogus@CTA.tech

Laura Ambrosio
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70□907.7426
lambrosio@CTA.tech

This email was sent by: Consumer Technology Association
1919 S. Eads St., Arlington, VA, 22202 US

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From: [Brian Hart](#)
To: [Matthew Berry](#)
Cc: [Ajit Pai](#); [Nicholas Degani](#)
Subject: Fw: COS Matthew Berry - Fox News Booking Inquiry
Date: Monday, October 19, 2020 11:37:52 AM

(b) (5)



From: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Sent: Monday, October 19, 2020 11:18 AM
To: MediaRelations <MediaRelations@fcc.gov>
Subject: COS Matthew Berry - Fox News Booking Inquiry

Good morning,

I left a message earlier and wanted to follow up on email. Is Chief of Staff for the FCC Matthew Berry available to join us on the Fox News Channel this week, specifically tomorrow, during the 3pm hour for *Bill Hemmer Reports*? We would like to discuss his recent tweet regarding Twitter's limits on different accounts.

Please let me know if we can make this happen.

Thank you,
Bryn

Bryn K. Jeffers
Guest Greeter, Booking Unit
Fox News Channel | Washington, D.C. Bureau
(929)271-5166
Bryn.Jeffers@foxnews.com

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From: [Will Wiquist](#)
To: [Brian Hart](#)
Cc: [Katie Gorscak](#); [Anne Veigle](#)
Subject: FW: COS Matthew Berry - Fox News Booking Inquiry
Date: Monday, October 19, 2020 11:32:01 AM

(b) (5)

From: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Sent: Monday, October 19, 2020 11:18 AM
To: MediaRelations <MediaRelations@fcc.gov>
Subject: COS Matthew Berry - Fox News Booking Inquiry

Good morning,

I left a message earlier and wanted to follow up on email. Is Chief of Staff for the FCC Matthew Berry available to join us on the Fox News Channel this week, specifically tomorrow, during the 3pm hour for *Bill Hemmer Reports*? We would like to discuss his recent tweet regarding Twitter's limits on different accounts.

Please let me know if we can make this happen.

Thank you,
Bryn

Bryn K. Jeffers
Guest Greeter, Booking Unit
Fox News Channel | Washington, D.C. Bureau
(929)271-5166
Bryn.Jeffers@foxnews.com

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From: [Brian Hart](#)
To: [Matthew Berry](#)
Subject: Fw: COS Matthew Berry - Fox News Booking Inquiry
Date: Monday, October 19, 2020 1:08:12 PM

FYI - (b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Monday, October 19, 2020 1:07 PM
To: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Subject: Re: COS Matthew Berry - Fox News Booking Inquiry

That time works, that app works, and he's in.

Please let me know when it's locked in, if there's anything else he needs to know/any questions that he needs to be ready for, and please send me the Skype details that he should call or let us know if you want to call him...and if you prefer a test video session.

Thank you Bryn.

From: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Sent: Monday, October 19, 2020 12:49 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: COS Matthew Berry - Fox News Booking Inquiry

Yes, Skype would be the best option for us. FaceTime also works.

Does Wednesday the 21st in the 3pm hour work?

Thanks!
Bryn

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Monday, October 19, 2020 12:37 PM
To: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Subject: [EXTERNAL] Fwd: COS Matthew Berry - Fox News Booking Inquiry

Bryn: Matthew is available and interested. Can he do remote from home via video app?

From: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Sent: Monday, October 19, 2020 11:18 AM
To: MediaRelations <MediaRelations@fcc.gov>
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From: [Brian Hart](#)
To: [Katie Gorscak](#)
Subject: Fw: Draft
Date: Monday, November 30, 2020 9:34:48 AM

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Monday, November 30, 2020 9:33 AM
To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Subject: RE: Draft

(b) (5) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]

From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Sent: Monday, November 30, 2020 6:31 AM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Subject: Re: Draft

(b) (5) [Redacted]
[Redacted]
[Redacted]

Evan Swarztrauber
Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: Matthew Berry <[Matthew.Berry@fcc.gov](#)>
Sent: Monday, November 30, 2020 9:28 AM

To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Re: Draft

(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Nicholas Degani <Nicholas.Degani@fcc.gov>

Sent: Monday, November 30, 2020 9:22 AM

To: Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: RE: Draft

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>

Sent: Monday, November 30, 2020 6:02 AM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Re: Draft

OK to put this on template now? Any thoughts on time of release? 10:30a?

From: Ajit Pai <Ajit.Pai@fcc.gov>

Sent: Monday, November 30, 2020 8:20 AM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Re: Draft

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Saturday, November 28, 2020 2:24 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Re: Draft

(b) (5)

From: "Ajit Pai" <Ajit.Pai@fcc.gov>

Date: Saturday, November 28, 2020 at 2:03:52 PM

To: "Matthew Berry" <Matthew.Berry@fcc.gov>, "Brian Hart" <Brian.Hart@fcc.gov>, "Nicholas Degani" <Nicholas.Degani@fcc.gov>, "Paul Jackson" <Paul.Jackson@fcc.gov>, "Evan Swarztrauber" <Evan.Swarztrauber@fcc.gov>

Subject: Re: Draft

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Saturday, November 28, 2020 12:58 PM

To: Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Re: Draft

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>

Sent: Friday, November 27, 2020 2:35 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Re: Draft

(b) (5)

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

From: Ajit Pai <Ajit.Pai@fcc.gov>

Sent: Friday, November 27, 2020 2:13:18 PM

To: Brian Hart <Brian.Hart@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Draft

(b) (5) [Redacted]

(b) (5) [Redacted]

[Redacted]

[Redacted]

From: [Paul Jackson](#)
To: [Brian Hart](#)
Subject: Fw: Draft
Date: Thursday, November 5, 2020 9:52:20 PM

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Tuesday, August 4, 2020 10:11 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Subject: Draft

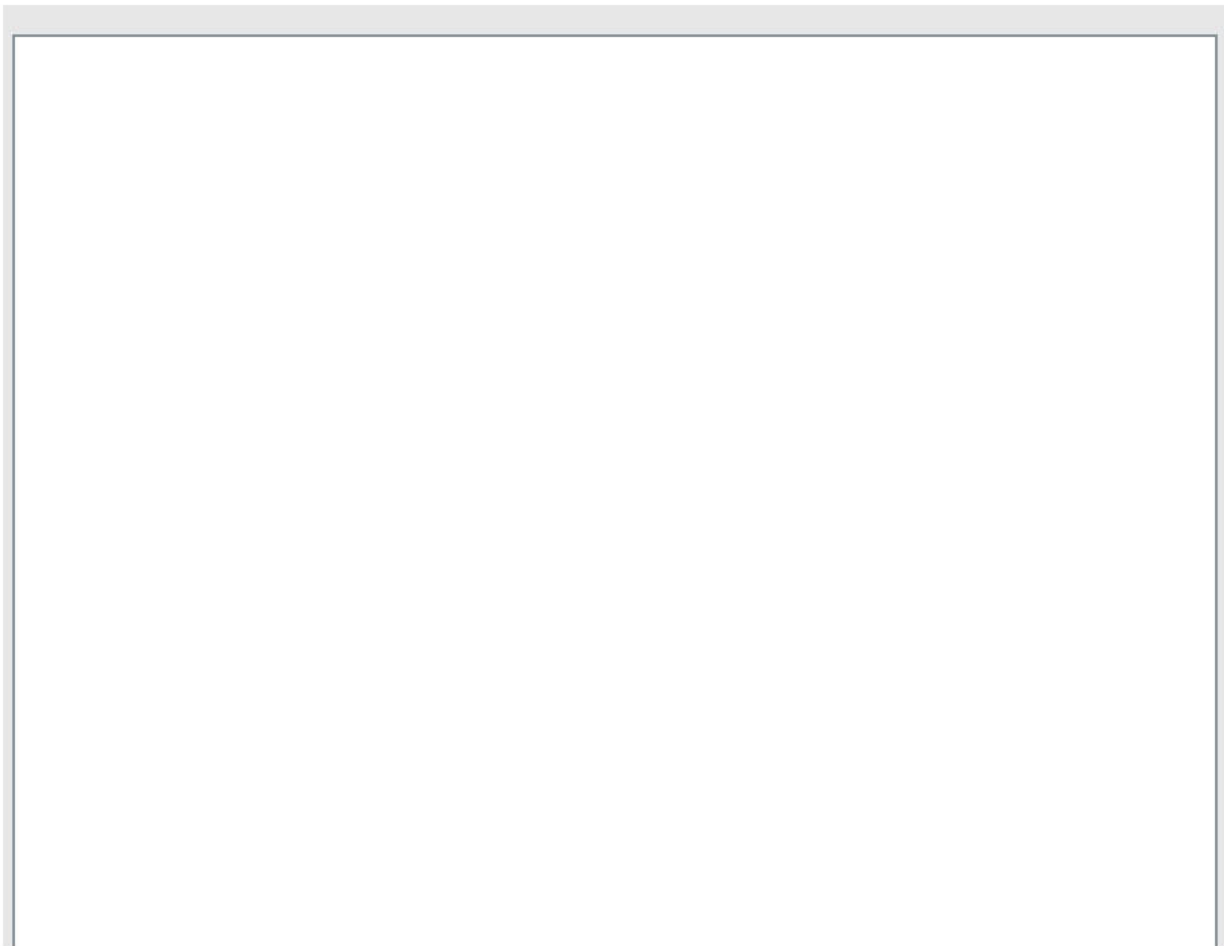
(b) (5)

From: [Brian Hart](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Paul Jackson](#)
Subject: Fw: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results
Date: Tuesday, November 10, 2020 3:29:37 PM

(b) (5)

From: Paul Jackson <Paul.Jackson@fcc.gov>
Sent: Tuesday, November 10, 2020 3:21 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: Fw: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>
Sent: Tuesday, November 10, 2020 3:17 PM
To: Paul Jackson <Paul.Jackson@fcc.gov>
Subject: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results



FOR IMMEDIATE RELEASE
November 10, 2020

CONTACT
[Elysa Montfort](#) (202) 225-5735

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From: [Kirby, Paul](#)
To: [Will Wiquist](#); [Anne Veigle](#); [Brian Hart](#)
Subject: FW: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results
Date: Tuesday, November 10, 2020 3:28:46 PM

Would you like to comment on this? Thanks.

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>
Sent: Tuesday, November 10, 2020 3:18 PM
To: Kirby, Paul <paul.kirby@wolterskluwer.com>
Subject: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

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From: [Katie Gorscak](#)
To: [Brian Hart](#); [Will Wiquist](#); [Anne Veigle](#)
Subject: FW: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results
Date: Tuesday, November 10, 2020 3:25:55 PM

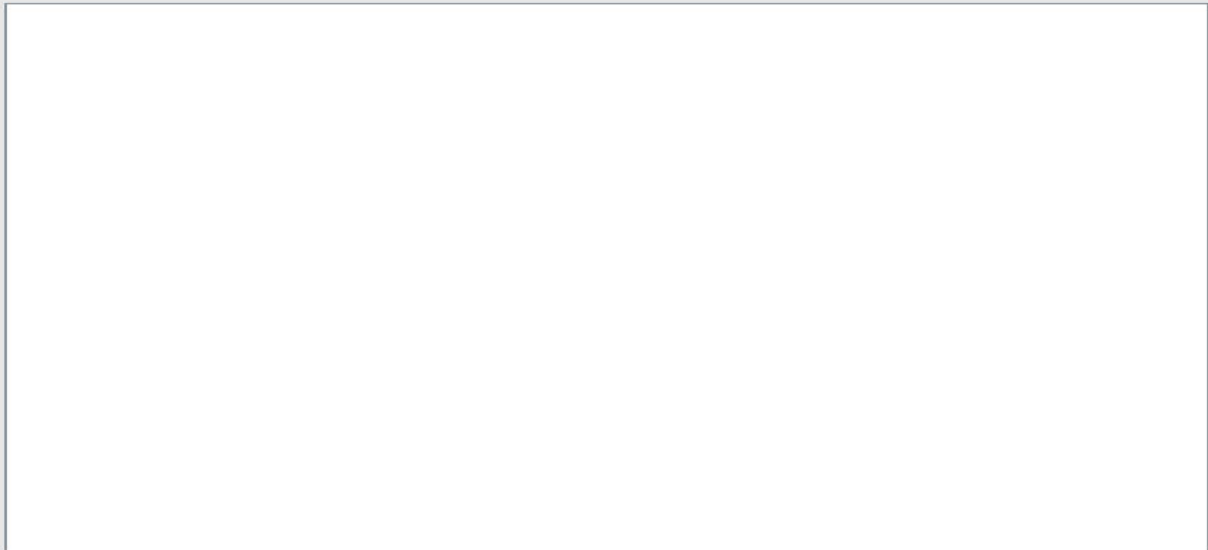
From: Reid, Jonathan <jreid@bloombergindustry.com>
Sent: Tuesday, November 10, 2020 3:23 PM
To: MediaRelations <MediaRelations@fcc.gov>
Subject: FW: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

Does FCC Chairman Pai have a response to the calls from E&C Dems to remove all partisan items from consideration during transition?

.....

Jon Reid
Reporter – Tech & Telecom
Bloomberg Law
Mobile: 480-600-9242
Work: 703-341-5843
jreid@bloomberglaw.com
[@JonTReid](#)

From: Energy & Commerce News [<mailto:ecdemnews@ecdem.housecommunications.gov>]
Sent: Tuesday, November 10, 2020 3:18 PM
To: Reid, Jonathan <jreid@bloombergindustry.com>
Subject: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results





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From: [David Kaut](#)
To: [Anne Veigle](#)
Cc: [Brian Hart](#); [Will Wiquist](#)
Subject: FW: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results
Date: Tuesday, November 10, 2020 3:23:43 PM

Let me know if you all have response to this.

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>
Sent: Tuesday, November 10, 2020 3:18 PM
To: David Kaut <dkaut@thecapitolforum.com>
Subject: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results



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From: [Shepardson, David \(Reuters\)](#)
To: [Brian Hart](#)
Subject: FW: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results
Date: Tuesday, November 10, 2020 3:22:49 PM
Attachments: [~WRD1540.jpg](#)
[image001.jpg](#)
[image002.jpg](#)

Do you want to comment?

David Shepardson

Correspondent

Reuters

Phone: +1 202 898 8324

Mobile: +1 202 579-6093

david.shepardson@thomsonreuters.com

www.reuters.com

twitter.com/davidshepardson

1333 H Street NW

Suite 700 Washington, DC 20005

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>

Sent: Tuesday, November 10, 2020 3:18 PM

To: Shepardson, David (Reuters) <David.Shepardson@thomsonreuters.com>

Subject: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

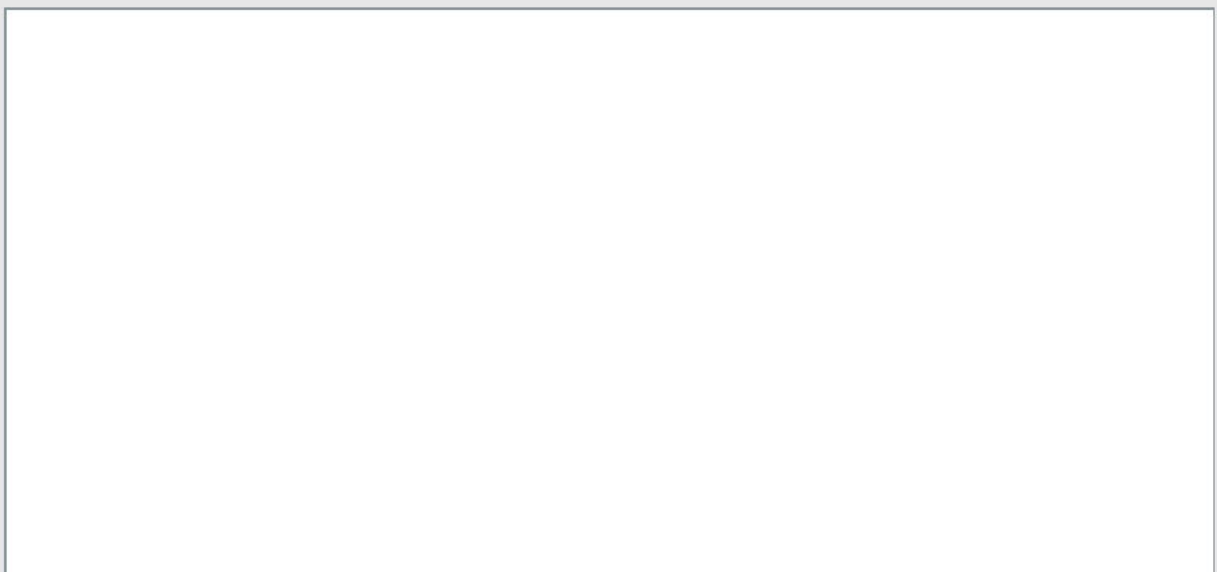


Image removed by sender.



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November 10, 2020

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From: [Paul Jackson](#)
To: [Brian Hart](#); [Anne Veigle](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: Fw: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results
Date: Tuesday, November 10, 2020 3:21:35 PM

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>
Sent: Tuesday, November 10, 2020 3:17 PM
To: Paul Jackson <Paul.Jackson@fcc.gov>
Subject: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results



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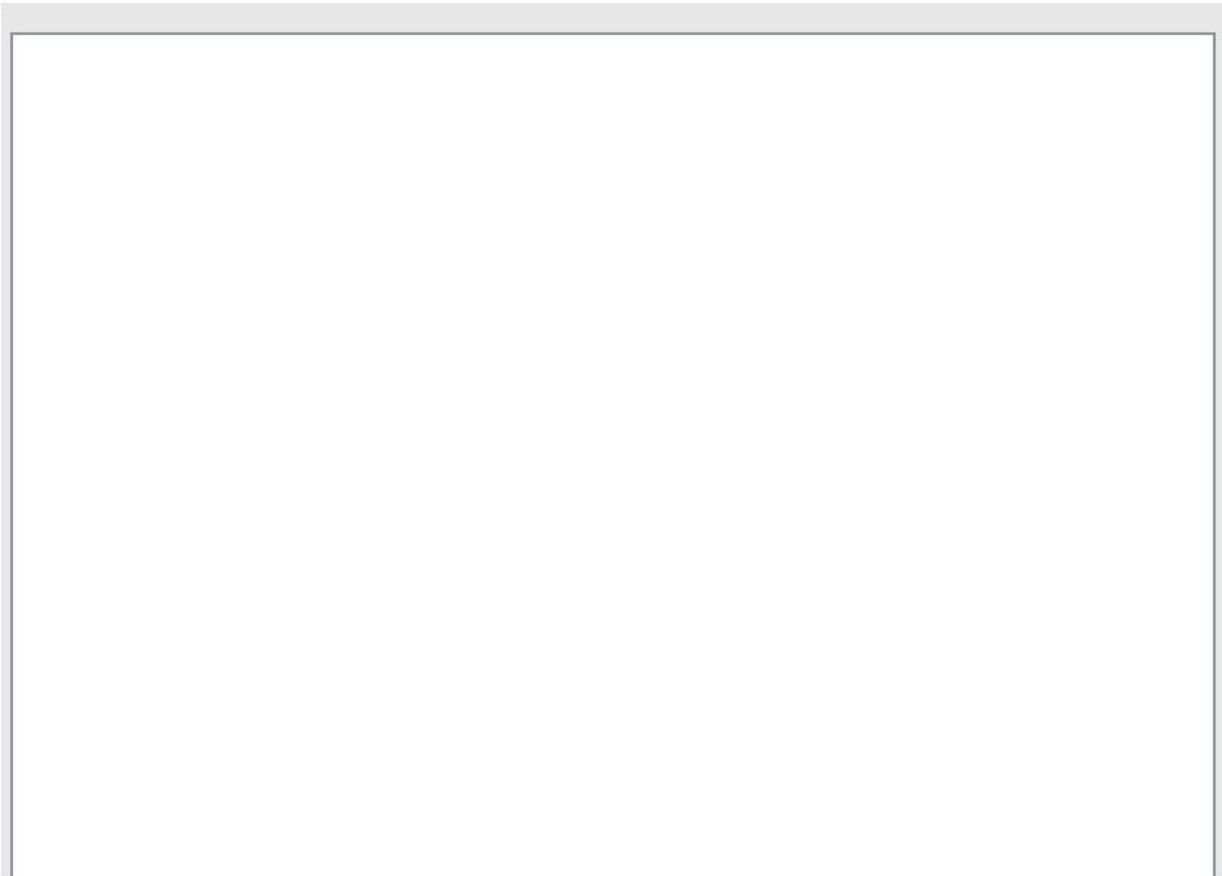
From: [Anne Veigle](#)
To: [Brian Hart](#)
Subject: Fw: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results
Date: Wednesday, November 11, 2020 10:22:08 AM

From: Jon Brodtkin <jon.brodtkin@arstechnica.com>
Sent: Wednesday, November 11, 2020 10:05 AM
To: MediaRelations <MediaRelations@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Subject: RE: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

Hi, I'm writing a story about this today. Will Chairman Pai agree to the request to stop work on controversial items until Biden is sworn in? And do you expect Pai's announcement on his decision to be made today? Thanks.

Begin forwarded message:

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>
Subject: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results
Date: November 10, 2020 at 3:17:34 PM EST
To: jon.brodtkin@arstechnica.com
Reply-To: ecdemnews@mail.house.gov



FOR IMMEDIATE RELEASE
November 10, 2020

CONTACT
[Elysa Montfort](#) (202) 225-5735

E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

Washington, D.C. – Energy and Commerce Committee leaders today wrote to Federal Communications Commission (FCC) Chairman Ajit Pai and Federal Trade Commission (FTC) Chairman Joseph Simons demanding that the two commissions stop work on all partisan or controversial items currently under consideration in light of the results of last week’s presidential election.

“With the results of the 2020 presidential election now apparent, leadership of the FTC will undoubtedly be changing,” Energy and Commerce Committee Chairman Frank Pallone, Jr. (D-NJ) and Consumer Protection and Commerce Subcommittee Chair Jan Schakowsky (D-IL) wrote in a letter to the FTC. **“As a traditional part of the transfer of power — and as part of our oversight responsibilities — we strongly urge the agency to only pursue consensus and administrative matters that are non-partisan for the remainder of your tenure.”**

Pallone and Communications and Technology Subcommittee Chairman Mike Doyle (D-PA) expressed

the same sentiment in their letter to the FCC, adding: “We note that you have previously welcomed calls from congressional leaders for the FCC to ‘halt further action on controversial items during the transition period.’ We hope you will respect this time-honored tradition now.”

In both letters, the Committee leaders acknowledge there are likely a number of consensus matters for the two commissions to carry out and the lawmakers encourage them to do so quickly.

The letter to FTC is available [HERE](#) and the letter to FCC is available [HERE](#).

###

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Energy & Commerce Democrats | 2125 Rayburn HOB, Washington, DC 20515 | 2125 Rayburn HOB, Washington, DC 20003

[Unsubscribe jon.brodkin@arstechnica.com](#)

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From: [Paul Jackson](#)
To: [Brian Hart](#)
Subject: Fw: FCC Chairman Pai Response Regarding NTIA Petition
Date: Friday, November 13, 2020 2:26:05 PM
Attachments: [Pallone 11.13.20.pdf](#)

From: Joy Medley <Joy.Medley@fcc.gov>
Sent: Friday, November 13, 2020 2:25 PM
To: 'alex.hoehn-saric@mail.house.gov' <alex.hoehn-saric@mail.house.gov>;
'gerald.leverich@mail.house.gov' <gerald.leverich@mail.house.gov>; 'parul.desai@mail.house.gov'
<parul.desai@mail.house.gov>; joseph.orlando@mail.house.gov <joseph.orlando@mail.house.gov>
Cc: Paul Jackson <Paul.Jackson@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>
Subject: FCC Chairman Pai Response Regarding NTIA Petition

Please see the attached response from FCC Chairman Ajit Pai regarding the NTIA petition for rulemaking regarding section 230 of the Communications Act of 1934.



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

November 13, 2020

The Honorable Frank Pallone
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Pallone:

Thank you for your letter inquiring about the National Telecommunications and Information Administration (NTIA) petition for rulemaking regarding Section 230 of the Communications Act of 1934.

The FCC is an independent agency, and accordingly, we do not make policy decisions based on direction from the White House. For example, my decision to announce that I intended to move forward with a rulemaking to clarify the meaning of Section 230 was reached independently. Any suggestion that it was the product of any contact between the White House and the FCC is completely false. Indeed, between the time that NTIA filed its petition and the time of my announcement regarding Section 230, neither I nor my staff had any discussion with anyone at the White House or in the Executive Branch, including the President, about the petition. Neither did we have any discussions about the petition with anyone in any political campaign.

Rather, the FCC has followed the standard process for handling the NTIA petition for rulemaking. The petition was put out for public comment with the default timeframes set forth in the Commission's rules. A substantial record was compiled including comments from a broad array of stakeholders and members of the public. And the General Counsel provided me with advice based on that record.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink that reads "Ajit V. Pai". The signature is written in a cursive style with a large initial "A".

Ajit V. Pai

From: [Anne Veigle](#)
To: [Brian Hart](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: FW: FCC STATEMENT: Chairman Pai Announces His Intent To Depart FCC
Date: Monday, November 30, 2020 11:13:44 AM
Attachments: [image002.jpg](#)

(b) (5) His term is a public record. <https://www.fcc.gov/general/commissioners-1934-present>

From: ben@agri-pulse.com <ben@agri-pulse.com>
Sent: Monday, November 30, 2020 11:09 AM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Subject: FW: FCC STATEMENT: Chairman Pai Announces His Intent To Depart FCC

Hi Anne,

Hope you are well and had a great Thanksgiving. I just have a few clarification questions here... My deadline is ASAP.

1. Could Chairman Pai could have stayed on the commission if he wanted?
2. Are there term limits to serving as a commissioner? Would he have had to depart eventually?

Thanks,
Ben

From: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>
Sent: Monday, November 30, 2020 10:39 AM
Subject: FCC STATEMENT: Chairman Pai Announces His Intent To Depart FCC



Media Contact:
Brian Hart, (202) 418-0505
brian.hart@fcc.gov

For Immediate Release

CHAIRMAN PAI ANNOUNCES HIS INTENT TO DEPART FCC

WASHINGTON, November 30, 2020—Today, Federal Communications Commission Chairman Ajit Pai announced that he intends to leave the Federal Communications Commission on January 20, 2021. Chairman Pai issued the following statement:

“It has been the honor of a lifetime to serve at the Federal Communications Commission,

including as Chairman of the FCC over the past four years. I am grateful to President Trump for giving me the opportunity to lead the agency in 2017, to President Obama for appointing me as a Commissioner in 2012, and to Senate Majority Leader McConnell and the Senate for twice confirming me. To be the first Asian-American to chair the FCC has been a particular privilege. As I often say: only in America.

“I also deeply appreciate the chance to have worked alongside the FCC’s talented staff. They are the agency’s best assets, and they have performed heroically, especially during the pandemic. It’s also been an honor to work with my fellow Commissioners to execute a strong and broad agenda. Together, we’ve delivered for the American people over the past four years: closing the digital divide; promoting innovation and competition, from 5G on the ground to broadband from space; protecting consumers; and advancing public safety. And this FCC has not shied away from making tough choices. As a result, our nation’s communications networks are now faster, stronger, and more widely deployed than ever before.

“I am proud of how productive this Commission has been, from commencing five spectrum auctions and two rural broadband reverse auctions in four years, to opening 1,245 megahertz of mid-band spectrum for unlicensed use, to adopting more than 25 orders through our Modernization of Media Regulation Initiative, to aggressively protecting our communications networks from national security threats at home and abroad, to designating 988 as the three-digit number for the National Suicide Prevention Lifeline, and much, much more. I’m also proud of the reforms we have instituted to make the agency more accountable to the American people. In particular, for the first time ever, we’ve made public drafts of the proposals and orders slated for a vote three weeks before the agency’s monthly meetings, making this the most transparent FCC in history.

“Last but not least, I want to thank my family for all they have done to enable me to serve at the agency. The public service of one generally results from the private sacrifice of many, and I’m grateful for their love and support.”

###

Office of Chairman Pai: (202) 418-1000 / Twitter: @AjitPaiFCC / www.fcc.gov/leadership/ajit-pai

*This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.
See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).*

From: [Anne Veigle](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#)
Cc: [Brian Hart](#); [Will Wiquist](#); [Katie Gorskak](#)
Subject: FW: FCC STATEMENT: Chairman Pai Announces His Intent To Depart FCC
Date: Monday, November 30, 2020 12:00:43 PM
Attachments: [image002.jpg](#)

(b) (5)

[REDACTED]

From: ben@agri-pulse.com <ben@agri-pulse.com>
Sent: Monday, November 30, 2020 11:09 AM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Subject: FW: FCC STATEMENT: Chairman Pai Announces His Intent To Depart FCC

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Subject: FCC STATEMENT: Chairman Pai Announces His Intent To Depart FCC



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brian.hart@fcc.gov

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“Last but not least, I want to thank my family for all they have done to enable me to serve at the agency. The public service of one generally results from the private sacrifice of many, and I’m grateful for their love and support.”

###

Office of Chairman Pai: (202) 418-1000 / Twitter: @AjitPaiFCC / www.fcc.gov/leadership/ajit-pai

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See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).*

From: [David Kaut](#)
To: [Brian Hart](#)
Subject: FW: FCC STATEMENT: Chairman Pai Announces His Intent To Depart FCC
Date: Monday, November 30, 2020 11:15:36 AM
Attachments: [image003.jpg](#)

Congrats to the chairman and his staff for a job almost done. While I can only imagine, I'm sure running an agency in charge of U.S. communications policy is an extremely difficult and grueling job. I'm sure they're looking forward to some deserved some time off.

From: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>
Sent: Monday, November 30, 2020 10:37 AM
Subject: FCC STATEMENT: Chairman Pai Announces His Intent To Depart FCC



Media Contact:
Brian Hart, (202) 418-0505
brian.hart@fcc.gov

For Immediate Release

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Modernization of Media Regulation Initiative, to aggressively protecting our communications networks from national security threats at home and abroad, to designating 988 as the three-digit number for the National Suicide Prevention Lifeline, and much, much more. I'm also proud of the reforms we have instituted to make the agency more accountable to the American people. In particular, for the first time ever, we've made public drafts of the proposals and orders slated for a vote three weeks before the agency's monthly meetings, making this the most transparent FCC in history.

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###

Office of Chairman Pai: (202) 418-1000 / Twitter: @AjitPaiFCC / www.fcc.gov/leadership/ajit-pai

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See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).*

From: [Ajit Pai](#)
To: [Brian Hart](#); [Matthew Berry](#); [Nicholas Degani](#)
Subject: Fw: Fox Business digital inquiry
Date: Tuesday, November 10, 2020 1:24:38 PM

From: Conklin, Audrey <Audrey.Conklin@FOXNEWS.COM>
Sent: Tuesday, November 10, 2020 9:32 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Fox Business digital inquiry

Hi, Chairman Pai,

I'm a digital reporter for Fox Business wondering if you might be available for a phone interview regarding President-Elect Biden's prospective plans to regulate Big Tech. His campaign hasn't gotten back to me, so I haven't heard directly from them regarding his plans to regulate Big Tech but have read reports like [this one](#) from the NY Times and wanted to ask your thoughts on the following:

- Is there a chance Biden could pursue antitrust investigations into Facebook, Amazon and Apple?
- Could Biden potentially revoke Section 230? How would his approach be different than Trump's?
- Do you think he could reimplement "net neutrality"?

Please let me know! Thank you for your time.

Audrey Conklin
Digital Reporter
Fox Business
203-721-4193

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From: [Brian Hart](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Evan Swarztrauber](#)
Subject: Fw: Fox News Channel- Chairman Pai media request
Date: Thursday, October 15, 2020 2:51:37 PM

(b) (5)

From: Holowka, Kristen <kristen.holowka@FOXNEWS.COM>
Sent: Thursday, October 15, 2020 2:49 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Fox News Channel- Chairman Pai media request

Hi Brian,

Reaching out to see if Chairman Pai is available to join our show during the 4pm ET hour tomorrow, 10/16 to discuss clarification over Section 230 of the Communications Act.

Please let me know if we can make something work.

Kind regards,

Kristen Holowka
Fox News Channel
Booker, "Your World with Neil Cavuto"
Office: [\(212\) 301-5946](#)
Cell: [\(917\) 274-9006](#)

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From: [Evan Swarztrauber](#)
To: [Brian Hart](#); [Anne Veigle](#)
Subject: Fw: Getting Chairman Pad back on
Date: Monday, November 16, 2020 10:22:33 AM

(b) (5)

Evan Swarztrauber

Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: Daniel Susskind <daniel.a.susskind@gmail.com>
Sent: Thursday, November 12, 2020 2:47 PM
To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: Getting Chairman Pad back on

Understand.... if there is something the Chairman wants to talk about before teh year is out let us know.

On Thu, Nov 12, 2020 at 2:05 PM Evan Swarztrauber <Evan.Swarztrauber@fcc.gov> wrote:

Hey Dan,

We're going to decline this one but thanks for reaching out.

Evan Swarztrauber

Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: Daniel Susskind <daniel.a.susskind@gmail.com>
Sent: Wednesday, November 11, 2020 2:33 PM
To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Getting Chairman Pad back on

Hey Evan, how are you?

Would Chairman Pai be able to come back on with Carrie early next week to discuss:

<https://arstechnica.com/tech-policy/2020/11/ajit-pai-urged-to-accept-trump-loss-and-stop-controversial-rulemakings/>

The show is 9-10 am and we can be quite flexible on what day.

Dan Susskind

From: [Ajit Pai](#)
To: [Brian Hart](#); [Matthew Berry](#); [Nicholas Degani](#); [Evan Swarztrauber](#)
Subject: Fw: Hi Ajit - John Roberts at Fox here
Date: Thursday, October 15, 2020 3:54:00 PM

From: Roberts, John <John.roberts@FOXNEWS.COM>
Sent: Thursday, October 15, 2020 3:37 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Hi Ajit - John Roberts at Fox here

I see you are making moves regarding Section 230. Do you have specifics? Thanks - hope you are well..

John Roberts
Chief White House Correspondent
Fox News Channel
+1 202-365-2550
@johnrobertsfox

This message and its attachments may contain legally privileged or confidential information. It is intended solely for the named addressee. If you are not the addressee indicated in this message (or responsible for delivery of the message to the addressee), you may not copy or deliver this message or its attachments to anyone. Rather, you should permanently delete this message and its attachments and kindly notify the sender by reply e-mail. Any content of this message and its attachments that does not relate to the official business of Fox News or Fox Business must not be taken to have been sent or endorsed by either of them. No representation is made that this email or its attachments are without defect.

From: [Brian Hart](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Evan Swarztrauber](#)
Subject: Fw: In case this lands on your plate
Date: Tuesday, November 10, 2020 9:37:44 AM

FYI

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Tuesday, November 10, 2020 9:17 AM
To: Eduard Bartholme <Eduard.Bartholme@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Cc: Michael Snyder <Michael.Snyder@fcc.gov>
Subject: RE: In case this lands on your plate

+Brian
Thanks for the alert.

From: Eduard Bartholme <Eduard.Bartholme@fcc.gov>
Sent: Tuesday, November 10, 2020 9:01 AM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Cc: Michael Snyder <Michael.Snyder@fcc.gov>
Subject: In case this lands on your plate

We received 500 complaints overnight and about 50 more in the last 20 minutes. Almost every call this morning has been to file a complaint on this topic.

<https://www.newsweek.com/trump-supporters-encouraged-send-complaints-fcc-networks-calling-biden-president-elect-1546204>

Let me know if you have any approved language, or if something gets developed.

Ed

From: [Brian Hart](#)
To: AliciaH@newsmax.com
Subject: Fw: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020
Date: Monday, October 19, 2020 7:17:49 PM

Hello Alicia. Unfortunately, the chairman can't make that work tomorrow night. would you be interested in having Commissioner Brendan Carr on to discuss this? He's been really active on this topic.

From: Alicia Hesse <AliciaH@newsmax.com>
Sent: Monday, October 19, 2020 6:43 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020

Dear Commissioner Pai,

My name is Alicia and I'm the booking producer for Greg Kelly Reports on Newsmax. **We would like to invite you to interview with Greg on Newsmax tomorrow night at approx. 7:15p ET** to discuss where you are with the evaluation of Section 230 and the standards for how tech companies choose to censor or allow content. This would be 6-7 minutes, live on TV via Skype, Zoom, or satellite. WE can also accommodate a pre-taped interview at approx. 6:15p ET, or possibly earlier in the day if you let me know a time that best suits your schedule. Feel free to text/call me if you would like to discuss further. My cell is (201) 572-1273

Greg Kelly Reports is the highest rated show on Newsmax and our loyal viewership continues to rapidly grow each week – in fact, our viewership has more than doubled in the past two months alone. Greg, being a lieutenant colonel in the U.S. Marine Corps Reserves and the son of former NYC Police Commissioner Raymond Kelly, finds police and military issues near and dear to his heart. He is a conservative-leaning opinion host, unafraid to call out the mainstream media, and unabashedly pro-Trump. To get a taste of what the show is all about, below are a few clips – *and you'll notice that unlike most cable news shows, Greg actually gives guests a chance to delve into the issues.*

- President Trump (Aired last Wednesday):
<https://twitter.com/newsmax/status/1316522040489324544?s=20>
- Sec. Pompeo <https://www.youtube.com/watch?v=FWowUnxBsps>
- Greg's prayer for President Trump
<https://twitter.com/newsmax/status/1312189958166282242?s=20>

Newsmax TV is drawing in a powerful and unique audience as more Americans grow tired of listening to the same stuffy media giants. We are carried in almost **70 million** U.S. cable/satellite homes, and in over **150 million** OTT devices and platforms (not served by Fox). In fact, Nielsen reports **6 million** viewers watched Newsmax TV that did not watch Fox News Channel in August 2020. Here is a list of stations you can find us on based on cable providers that includes every state in the country: <https://newsmaxtv.com/findus> You can always catch us live streaming on NewsmaxTV.com as well.

Warmly,

Alicia Hesse

Booking Producer, Newsmax

Cell: (201) 572-1273

From: [Ajit Pai](#)
To: [Brian Hart](#); [Matthew Berry](#); [Nicholas Degani](#)
Subject: Fw: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020
Date: Monday, October 19, 2020 6:52:03 PM

(b) (5)

From: Alicia Hesse <AliciaH@newsmax.com>
Sent: Monday, October 19, 2020 6:43 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020

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Warmly,

Alicia Hesse
Booking Producer, Newsmax
Cell: (201) 572-1273

From: [Brian Hart](#)
To: [Brendan Carr](#)
Subject: Fw: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020
Date: Monday, October 19, 2020 7:26:17 PM

(b) (5)

[REDACTED]

From: Alicia Hesse <AliciaH@newsmax.com>
Sent: Monday, October 19, 2020 6:43 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020

Dear Commissioner Pai,

My name is Alicia and I'm the booking producer for Greg Kelly Reports on Newsmax. **We would like to invite you to interview with Greg on Newsmax tomorrow night at approx. 7:15p ET** to discuss where you are with the evaluation of Section 230 and the standards for how tech companies choose to censor or allow content. This would be 6-7 minutes, live on TV via Skype, Zoom, or satellite. WE can also accommodate a pre-taped interview at approx. 6:15p ET, or possibly earlier in the day if you let me know a time that best suits your schedule. Feel free to text/call me if you would like to discuss further. My cell is (201) 572-1273

Greg Kelly Reports is the highest rated show on Newsmax and our loyal viewership continues to rapidly grow each week – in fact, our viewership has more than doubled in the past two months alone. Greg, being a lieutenant colonel in the U.S. Marine Corps Reserves and the son of former NYC Police Commissioner Raymond Kelly, finds police and military issues near and dear to his heart. He is a conservative-leaning opinion host, unafraid to call out the mainstream media, and unabashedly pro-Trump. To get a taste of what the show is all about, below are a few clips – *and you'll notice that unlike most cable news shows, Greg actually gives guests a chance to delve into the issues.*

- President Trump (Aired last Wednesday):
<https://twitter.com/newsmax/status/1316522040489324544?s=20>
- Sec. Pompeo <https://www.youtube.com/watch?v=FWowUnxBsps>
- Greg's prayer for President Trump
<https://twitter.com/newsmax/status/1312189958166282242?s=20>

Newsmax TV is drawing in a powerful and unique audience as more Americans grow tired of listening to the same stuffy media giants. We are carried in almost **70 million** U.S. cable/satellite homes, and in over **150 million** OTT devices and platforms (not served by Fox). In fact, Nielsen reports **6 million** viewers watched Newsmax TV that did not watch Fox News Channel in August 2020. Here is a list of stations you can find us on based on cable providers that includes every state in the country: <https://newsmaxtv.com/findus> You can always catch us live streaming on NewsmaxTV.com as well.

Warmly,

Alicia Hesse

Booking Producer, Newsmax

Cell: (201) 572-1273

From: [Brian Hart](#)
To: [Katie Gorscak](#)
Subject: Fw: Joe Flint of WSJ here
Date: Monday, November 2, 2020 1:59:23 PM

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Monday, November 2, 2020 1:57 PM
To: Michael J. Carlson <Michael.Carlson@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: Joe Flint of WSJ here

(b) (5)

From: Michael J. Carlson <Michael.Carlson@fcc.gov>
Sent: Monday, November 2, 2020 1:56 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: RE: Joe Flint of WSJ here

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Monday, November 2, 2020 12:55 PM
To: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: Joe Flint of WSJ here

(b) (5)

From: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>
Sent: Monday, November 2, 2020 10:06 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>

Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: Joe Flint of WSJ here

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Friday, October 30, 2020 2:56 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: Re: Joe Flint of WSJ here

(b) (5)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Friday, October 30, 2020 2:52 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: RE: Joe Flint of WSJ here

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Friday, October 30, 2020 2:39 PM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: Re: Joe Flint of WSJ here

(b) (5)

[Redacted]

[Redacted]

(b) (5) [Redacted]

From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Friday, October 30, 2020 12:37 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: Re: Joe Flint of WSJ here

(b) (5) [Redacted]

[Redacted]

[Redacted]

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Friday, October 30, 2020 12:08 PM
To: Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>
Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>
Subject: Re: Joe Flint of WSJ here

(b) (5) [Redacted]

[Redacted]

From: Michelle Carey <Michelle.Carey@fcc.gov>
Sent: Friday, October 30, 2020 12:04 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>
Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>
Subject: Fwd: Joe Flint of WSJ here

(b) (5) [Redacted]

Sent from my iPhone

Begin forwarded message:

From: Gary Schonman <Gary.Schonman@fcc.gov>
Date: October 30, 2020 at 10:45:41 AM EDT
To: Michelle Carey <Michelle.Carey@fcc.gov>
Cc: Maria Mullarkey <Maria.Mullarkey@fcc.gov>, Hillary DeNigro <Hillary.DeNigro@fcc.gov>, Robert Baker <Robert.Baker@fcc.gov>, Sima Nilsson <Sima.Nilsson@fcc.gov>, Janice Wise <Janice.Wise@fcc.gov>
Subject: FW: Joe Flint of WSJ here

(b) (5)

[Redacted]

[Redacted]

Gary Schonman
Special Counsel
Political Programming Staff
Policy Division, Media Bureau
Federal Communications Commission
Washington, DC 20554
(Office) 202-418-1795
(Mobile) 202-239-9702

-----Original Message-----

From: Janice Wise <Janice.Wise@fcc.gov>
Sent: Friday, October 30, 2020 10:07 AM
To: Robert Baker <Robert.Baker@fcc.gov>; Gary Schonman <Gary.Schonman@fcc.gov>; Sima Nilsson <Sima.Nilsson@fcc.gov>
Subject: FW: Joe Flint of WSJ here

(b) (5)

[Redacted]

[Redacted]

-----Original Message-----

From: Flint, Joseph <joe.flint@wsj.com>
Sent: Friday, October 30, 2020 10:00 AM
To: Janice Wise <Janice.Wise@fcc.gov>

Subject: Re: Joe Flint of WSJ here

Admittedly this is a bit of a hypothetical. If one or both candidates contest the results and they and or third party groups want to run ads challenging the election, do those count as political spots. If a Trump or Biden campaign buys a spot saying, keep counting in PA or something like that, is it considered a candidate's ad that can't be censored and must be given air time (at lowest unit rate)? Or since the election is over, it will be up to the broadcaster to decide whether to carry such a spot.

Third party ads as I understand it can be fact checked and rejected.

I know some broadcasters are already asking about this and while we're in uncharted territory, I assume the FCC has an answer or guideline on this scenario.

Thanks much.

On Fri, Oct 30, 2020 at 6:53 AM Janice Wise <Janice.Wise@fcc.gov> wrote:

It has been a long time, Joe. Send me a list of your questions and I will get back to you.

Stay well.

-----Original Message-----

From: Flint, Joseph <joe.flint@wsj.com>

Sent: Friday, October 30, 2020 9:50 AM

To: Janice Wise <Janice.Wise@fcc.gov>

Subject: Joe Flint of WSJ here

Hi Janice,

Long time no chat. Hope you're well.

Have some political advertising questions that I thought you might be able to help on or hook me up with Bobby Baker.

My phone is 646-232-7260.

--

Joe Flint

STAFF REPORTER

M: 646-232-7260 O: 323-591-6507

E: Joe.Flint@WSJ.com

T: @JBFlint

A: 5900 Wilshire Blvd., Los Angeles, CA 90036

--

Joe Flint

STAFF REPORTER

M: 646-232-7260 O: 323-591-6507

E: Joe.Flint@WSJ.com

T: @JBFlint

A: 5900 Wilshire Blvd., Los Angeles, CA 90036

From: [Thomas Johnson](#)
To: [Brian Hart](#)
Subject: Fw: media inquiry: Section 230
Date: Saturday, October 17, 2020 9:52:30 AM

(b) (5)

From: Sara Morrison <sara.morrison@recode.net>
Sent: Thursday, October 15, 2020 8:05 PM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>
Subject: media inquiry: Section 230

Hi Thomas,

I saw that Chairman Pai said the FCC's general counsel said the FCC has the legal authority to interpret Section 230. I believe you are the General Counsel here, so I was wondering how you came up with this? The co-authors of the law have said -- then and now -- that the law was intentionally written not to give the FCC this authority, and I don't think the agency has ever attempted to claim it in the 25 years Section 230 has been on the books.

Thanks,
Sara

--

Sara Morrison • Reporter, Open Sourced
Work: (212) 508-0748



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From: [Katie Gorscak](#)
To: [Brian Hart](#); [Anne Veigle](#); [Will Wiquist](#)
Subject: FW: Newsweek Seeking Comment on Trump Supporters Filing Complaints Over Networks "Falsely" Projecting Joe Biden President-Elect
Date: Tuesday, November 10, 2020 9:29:48 AM

(b) (5)




From: Aila Slisco <a.slisco@newsweek.com>
Sent: Monday, November 09, 2020 10:52 PM
To: MediaRelations <MediaRelations@fcc.gov>
Subject: Newsweek Seeking Comment on Trump Supporters Filing Complaints Over Networks 'Falsely' Projecting Joe Biden President-Elect

Hello,

I'm Aila Slisco and I'm working on a story for Newsweek tonight about social media campaigns among supporters of President Trump which appear to be aimed at filing mass complaints with the FCC over networks "falsely" calling Joe Biden "president-elect." I'm writing to see if you have any comments about this. Has this been an issue in past elections, where similar language has been used based on projections?

Regards,

Aila Slisco

From: [Anne Veigle](#)
To: [Brian Hart](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: FW: NPR News Request: FCC Chairman Pai
Date: Thursday, October 22, 2020 3:55:07 PM
Attachments: [image002.jpg](#)
[image003.gif](#)
Importance: High

(b) (5)

From: Shannon Rhoades <SRhoades@npr.org>
Sent: Thursday, October 22, 2020 3:45 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Cc: Carol Klinger <CAKlinger@npr.org>
Subject: NPR News Request: FCC Chairman Pai
Importance: High

Hi Anne,

I know it's another busy week on your end.

I did want to follow up for my colleague Carol and make sure that you had all of my information as well.

Should Chairman Pai reconsider interviews in days ahead – we'd really like to make the case for NPR. The American public will be eager to hear more regarding FCC and section 230 in the wake of next week's Senate hearing.

I'll just flag that NPR is known for thoughtful, civil discourse. Our reach is broad as well – 1000+ stations nationwide and an audience of 60 million weekly via audio and digital platforms.

Thanks so much,
Shannon

Shannon Rhoades Senior Editor for Interviews srhoades@npr.org 202-51-072 310-710-4022 (cell)
1111 North Capitol St., NE Washington, DC 20002

From: Carol Klinger
Sent: Friday, October 16, 2020 2:44 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Cc: Shannon Rhoades <SRhoades@npr.org>
Subject: RE: NPR interview request for FCC Chair Ajit Pai

Sorry to hear that, Anne. Please let me and my colleague Shannon know if anything changes.

Carol Klinger Associate Editor, All Things Considered caklinger@npr.org
 P 202.513.2107
[NPR One](#). and-picked stories based on what you like.

From: Anne Veigle <Anne.Veigle@fcc.gov>

Sent: Friday, October 16, 2020 2:42 PM

To: Carol Klinger <CAKlinger@npr.org>

Subject: RE: NPR interview request for FCC Chair Ajit Pai

Hi Carol,

Thanks for the outreach but we aren't doing interviews at this time.

Anne Veigle
Deputy Director, Office of Media Relations
Federal Communications Commission

From: [Will Wiquist](#)
To: [Brian Hart](#)
Cc: [Anne Veigle](#); [Katie Gorscak](#)
Subject: FW: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking
Date: Thursday, November 5, 2020 5:11:20 PM

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Thursday, October 29, 2020 1:02 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

(b)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Thursday, October 29, 2020 12:02 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

(b) (5)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Thursday, October 29, 2020 12:02 PM
To: Paul Jackson <Paul.Jackson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: RE: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

Let's chat about that next week.

From: Paul Jackson <Paul.Jackson@fcc.gov>
Sent: Thursday, October 29, 2020 11:54 AM
To: Brian Hart <Brian.Hart@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson

<Thomas.Johnson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>

Cc: Will Wiquist <Will.Wiquist@fcc.gov>

Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>

Sent: Wednesday, October 28, 2020 4:15 PM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>

Cc: Will Wiquist <Will.Wiquist@fcc.gov>

Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Wednesday, October 28, 2020 4:09 PM

To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>

Cc: Will Wiquist <Will.Wiquist@fcc.gov>

Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

(b) (5)

From: Thomas Johnson <Thomas.Johnson@fcc.gov>

Sent: Wednesday, October 28, 2020 3:58 PM

To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>

Cc: Will Wiquist <Will.Wiquist@fcc.gov>

Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

(b) (5)

(b) (5)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Wednesday, October 28, 2020 3:56 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: RE: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Wednesday, October 28, 2020 3:54 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Wednesday, October 28, 2020 3:44 PM
To: Paul Jackson <Paul.Jackson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>

Cc: Will Wiquist <Will.Wiquist@fcc.gov>

Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

Jimmy Phillips with Comm Daily and David Shepardson with Reuters are asking for comment.

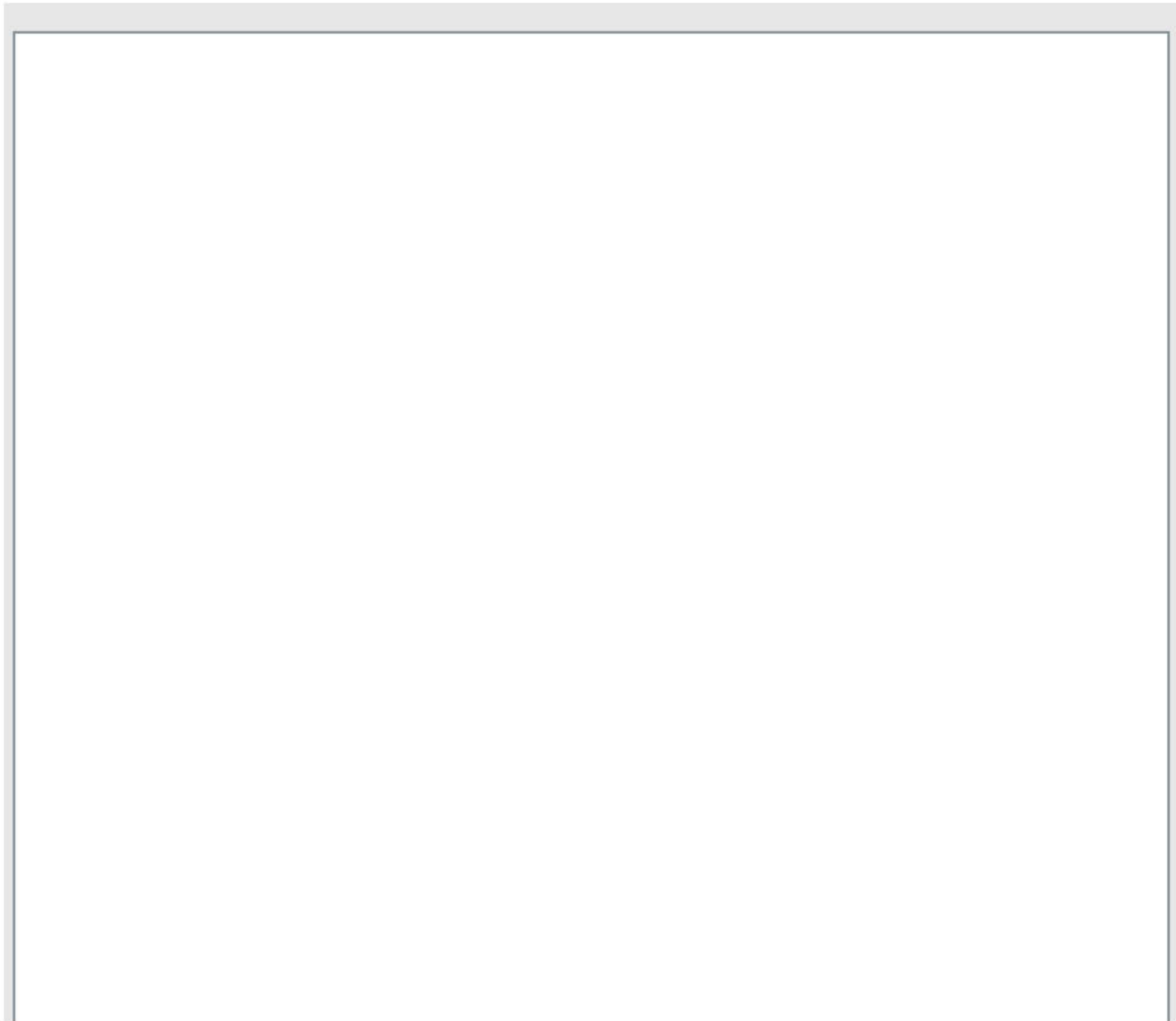
From: Paul Jackson <Paul.Jackson@fcc.gov>

Sent: Wednesday, October 28, 2020 3:39 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>

Subject: Fw: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

Letter attached.



FOR IMMEDIATE RELEASE

October 28, 2020

CONTACT

[Elysa Montfort](#) – (202) 225-5735

Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

“It wasn’t until online platforms began fact-checking the President’s content that he and his Administration began an aggressive campaign to persuade the FCC to dictate how online platforms moderate content”

Washington, D.C. – Energy and Commerce Committee Chairman Frank Pallone, Jr. (D-NJ) and Communications and Technology Subcommittee Chairman Mike Doyle (D-PA) [wrote to](#) Federal Communications Commission (FCC) Chairman Ajit Pai today demanding answers for the FCC’s recent and sudden announcement that it is moving forward with a Section 230 rulemaking.

“The fact that this announcement came just weeks before the election, and that President Trump has pushed for this CDA 230 rulemaking, raise serious questions about the independence of the agency. The American people deserve to know what conversations, if any, have transpired between you, your office and the White House to ensure the integrity of the FCC,” Pallone and Doyle wrote. **“Since Congress’ enactment of CDA 230, the FCC has played no role in implementing or interpreting this provision. It wasn’t until online platforms began fact-checking the President’s content that he and his Administration began an aggressive campaign to persuade the FCC to dictate how online platforms moderate content.”**

Section 230 of the Communications Decency Act stipulates that online platforms, such as Twitter and Facebook, are generally not held liable for content posted by third-party users – with a few relevant exceptions. In addition to writing that President Trump’s efforts to change this policy are driven by retaliation, Pallone and Doyle also detail the lengths to which the President has gone to retaliate against those who stand in his way, causing concern that Chairman Pai’s actions may be driven by a White House pressure campaign.

“Not only has the Trump Administration directly pressured the FCC to do its bidding on CDA 230, it appears the Administration is willing to retaliate against those who do not get in line with its agenda,” wrote the two Committee leaders.

Pallone and Doyle pointed to several examples:

- President Trump abruptly pulled his nomination of Commissioner Michael O’Rielly for another FCC term shortly after Commissioner O’Rielly publicly raised concerns over the FCC’s role in interpreting CDA 230.
- Last month, Trump nominated Nathan Simington, who reportedly worked on the National Telecommunications and Information Administration (NTIA) CDA 230 petition, to replace Commissioner O’Rielly.
- This month, Trump tweeted at Senator Roger Wicker (R-MS) urging Republicans to confirm Mr. Simington, and shortly thereafter, a nomination hearing was scheduled for November 10th.

“Now it appears the FCC is working in concert with the Trump Administration to attempt to influence the actions of online platforms by advancing a CDA 230 rulemaking,” the two Committee leaders continued in their letter to Chairman Pai.

Pallone and Doyle wrote that since the FCC is an independent regulatory agency responsible directly to Congress, it should be avoiding even the appearance of acting on behalf of the President. They requested answers to a series of questions, including:

- Has anyone from the White House, Executive Office of the President, the NTIA or Department of Justice contacted FCC regarding this Section 230 rulemaking? If so, what was discussed?
- Has anyone from the Trump campaign contacted FCC regarding Section 230?
- Has Chairman Pai or his staff contacted either the White House or the Trump campaign regarding Section 230, and if so, what was discussed?

The full letter is available [HERE](#).

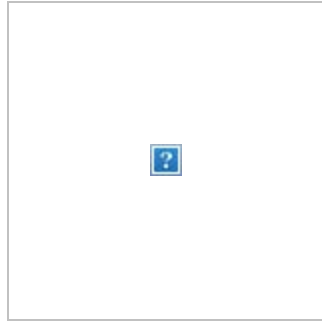
###

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From: [Ajit Pai](#)
To: [Brian Hart](#); [Matthew Berry](#); [Nicholas Deqani](#); [Thomas Johnson](#)
Subject: Fw: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking
Date: Wednesday, October 28, 2020 3:48:38 PM
Attachments: [~WRD0002.jpg](#)
[image001.jpg](#)
[image002.jpg](#)

From: Shepardson, David (Reuters) <David.Shepardson@thomsonreuters.com>
Sent: Wednesday, October 28, 2020 3:46 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: FW: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

Do you want to comment on this?

David Shepardson

Correspondent

Reuters

Phone: +1 202 898 8324

Mobile: +1 202 579-6093

david.shepardson@thomsonreuters.com

www.reuters.com

twitter.com/davidshepardson

1333 H Street NW

Suite 700 Washington, DC 20005

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>
Sent: Wednesday, October 28, 2020 3:34 PM
To: Shepardson, David (Reuters) <David.Shepardson@thomsonreuters.com>
Subject: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking



Image removed by sender.



FOR IMMEDIATE RELEASE
October 28, 2020

CONTACT
[Elvsa Montfort](mailto:Elvsa.Montfort@senate.gov) – (202) 225-5735

Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

“It wasn’t until online platforms began fact-checking the President’s content that he and his Administration began an aggressive campaign to persuade the FCC to dictate how online platforms moderate content”

Washington, D.C. – Energy and Commerce Committee Chairman Frank Pallone, Jr. (D-NJ) and Communications and Technology Subcommittee Chairman Mike Doyle (D-PA) [wrote to](#) Federal Communications Commission (FCC) Chairman Ajit Pai today demanding answers for the FCC’s recent and sudden announcement that it is moving forward with a Section 230 rulemaking.

“The fact that this announcement came just weeks before the election, and that President Trump has pushed for this CDA 230 rulemaking, raise serious questions about the independence of the agency. The American people deserve to know what conversations, if any, have transpired between you, your office and the White House to ensure the integrity of the FCC,” Pallone and Doyle wrote. **“Since Congress’ enactment of CDA 230, the FCC has played no role in implementing or interpreting this provision. It wasn’t until online platforms began fact-checking the President’s content that he and his Administration began an aggressive campaign to persuade the FCC to dictate how online platforms moderate content.”**

Section 230 of the Communications Decency Act stipulates that online platforms, such as Twitter and Facebook, are generally not held liable for content posted by third-party users – with a few relevant exceptions. In addition to writing that President Trump’s efforts to change this policy are driven by retaliation, Pallone and Doyle also detail the lengths to which the President has gone to retaliate against those who stand in his way, causing concern that Chairman Pai’s actions may be driven by a White House pressure campaign.

“Not only has the Trump Administration directly pressured the FCC to do its bidding on CDA 230, it appears the Administration is willing to retaliate against those who do not get in line with its agenda,” wrote the two Committee leaders.

Pallone and Doyle pointed to several examples:

- President Trump abruptly pulled his nomination of Commissioner Michael O’Rielly for another FCC term shortly after Commissioner O’Rielly publicly raised concerns over the FCC’s role in interpreting CDA 230.
- Last month, Trump nominated Nathan Simington, who reportedly worked on the National Telecommunications and Information Administration (NTIA) CDA 230 petition, to replace Commissioner O’Rielly.
- This month, Trump tweeted at Senator Roger Wicker (R-MS) urging Republicans to confirm Mr. Simington, and shortly thereafter, a nomination hearing was scheduled for November 10th.

“Now it appears the FCC is working in concert with the Trump Administration to attempt to influence the actions of online platforms by advancing a CDA 230 rulemaking,” the two Committee leaders continued in their letter to Chairman Pai.

Pallone and Doyle wrote that since the FCC is an independent regulatory agency responsible directly to Congress, it should be avoiding even the appearance of acting on behalf of the President. They requested answers to a series of questions, including:

- Has anyone from the White House, Executive Office of the President, the NTIA or Department of Justice contacted FCC regarding this Section 230 rulemaking? If so, what was discussed?
- Has anyone from the Trump campaign contacted FCC regarding Section 230?
- Has Chairman Pai or his staff contacted either the White House or the Trump campaign regarding Section 230, and if so, what was discussed?

The full letter is available [HERE](#).

###

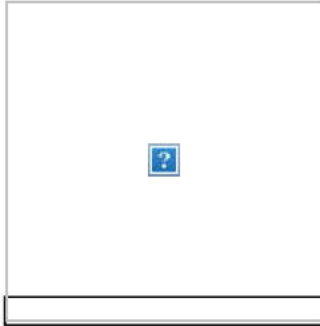
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From: [Shepardson, David \(Reuters\)](#)
To: [Brian Hart](#)
Cc: [Will Wiquist](#)
Subject: FW: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking
Date: Wednesday, October 28, 2020 3:39:51 PM
Attachments: [~WRD0002.jpg](#)
[image001.jpg](#)
[image002.jpg](#)

Do you want to comment? Pai did not directly address my question yesterday about whether he or any staff had contact with WH regarding 230. Not sure if you guys want to comment

David Shepardson

Correspondent

Reuters

Phone: +1 202 898 8324

Mobile: +1 202 579-6093

david.shepardson@thomsonreuters.com

www.reuters.com

twitter.com/davidshepardson

1333 H Street NW

Suite 700 Washington, DC 20005

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>

Sent: Wednesday, October 28, 2020 3:34 PM

To: Shepardson, David (Reuters) <David.Shepardson@thomsonreuters.com>

Subject: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

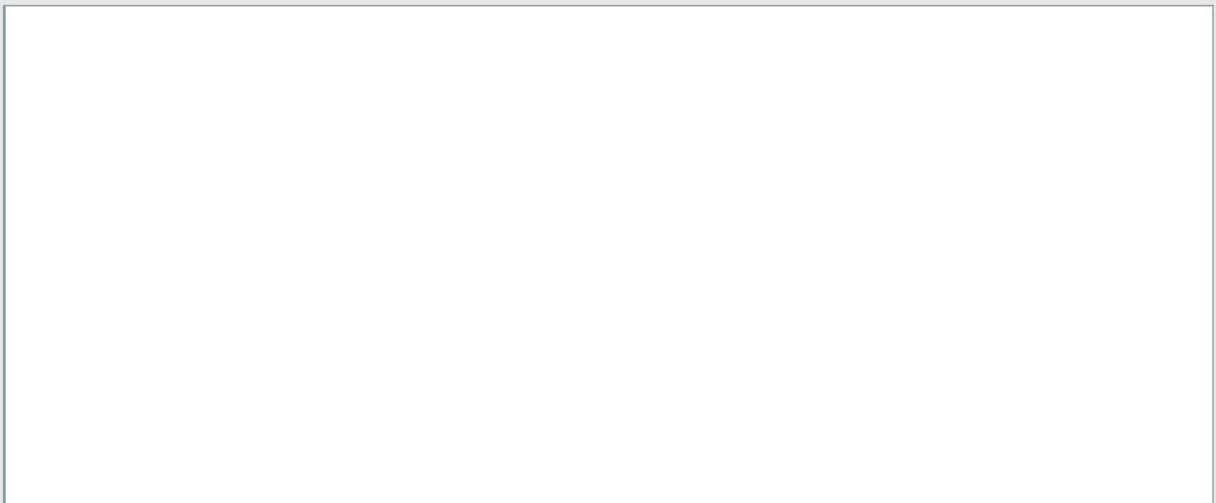


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FOR IMMEDIATE RELEASE
October 28, 2020

CONTACT
[Elysa Montfort](#) – (202) 225-5735

Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

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“The fact that this announcement came just weeks before the election, and that President Trump has

pushed for this CDA 230 rulemaking, raise serious questions about the independence of the agency. The American people deserve to know what conversations, if any, have transpired between you, your office and the White House to ensure the integrity of the FCC,” Pallone and Doyle wrote. **“Since Congress’ enactment of CDA 230, the FCC has played no role in implementing or interpreting this provision. It wasn’t until online platforms began fact-checking the President’s content that he and his Administration began an aggressive campaign to persuade the FCC to dictate how online platforms moderate content.”**

Section 230 of the Communications Decency Act stipulates that online platforms, such as Twitter and Facebook, are generally not held liable for content posted by third-party users – with a few relevant exceptions. In addition to writing that President Trump’s efforts to change this policy are driven by retaliation, Pallone and Doyle also detail the lengths to which the President has gone to retaliate against those who stand in his way, causing concern that Chairman Pai’s actions may be driven by a White House pressure campaign.

“Not only has the Trump Administration directly pressured the FCC to do its bidding on CDA 230, it appears the Administration is willing to retaliate against those who do not get in line with its agenda,” wrote the two Committee leaders.

Pallone and Doyle pointed to several examples:

- President Trump abruptly pulled his nomination of Commissioner Michael O’Rielly for another FCC term shortly after Commissioner O’Rielly publicly raised concerns over the FCC’s role in interpreting CDA 230.
- Last month, Trump nominated Nathan Simington, who reportedly worked on the National Telecommunications and Information Administration (NTIA) CDA 230 petition, to replace Commissioner O’Rielly.
- This month, Trump tweeted at Senator Roger Wicker (R-MS) urging Republicans to confirm Mr. Simington, and shortly thereafter, a nomination hearing was scheduled for November 10th.

“Now it appears the FCC is working in concert with the Trump Administration to attempt to influence the actions of online platforms by advancing a CDA 230 rulemaking,” the two Committee leaders continued in their letter to Chairman Pai.

Pallone and Doyle wrote that since the FCC is an independent regulatory agency responsible directly to Congress, it should be avoiding even the appearance of acting on behalf of the President. They requested answers to a series of questions, including:

- Has anyone from the White House, Executive Office of the President, the NTIA or Department of Justice contacted FCC regarding this Section 230 rulemaking? If so, what was discussed?
- Has anyone from the Trump campaign contacted FCC regarding Section 230?
- Has Chairman Pai or his staff contacted either the White House or the Trump campaign regarding Section 230, and if so, what was discussed?

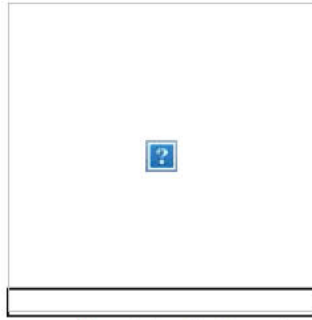
The full letter is available [HERE](#).

###

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From: [Paul Jackson](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Evan Swarztrauber](#); [Thomas Johnson](#); [Brian Hart](#)
Subject: Fw: Pallone & Doyle on FCC Initiating Section 230 Rulemaking
Date: Monday, October 19, 2020 10:33:21 AM

This just in. . .

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>
Sent: Monday, October 19, 2020 10:31 AM
To: Paul Jackson <Paul.Jackson@fcc.gov>
Subject: Pallone & Doyle on FCC Initiating Section 230 Rulemaking



October 19, 2020

[Elysa Montfort](mailto:Elysa.Montfort@fcc.gov) – (202) 225-5735

Pallone & Doyle on FCC Initiating Section 230 Rulemaking

Washington, D.C. – Energy and Commerce Chairman Frank Pallone, Jr. (D-NJ) and Communications and Technology Subcommittee Chairman Mike Doyle (D-PA) released the following statement in response to the Federal Communications Commission (FCC) initiating a Section 230 rulemaking process:

“Chairman Pai’s decision to start a Section 230 rulemaking is a blatant attempt to help a flailing President Trump. The timing and hurried nature of this decision makes clear it’s being done to influence social media companies’ behavior leading up to an election, and it is shocking to watch this supposedly independent regulatory agency jump at the opportunity to become a political appendage of President Trump’s campaign.

“From the start, Republicans have used the Section 230 debate to threaten social media companies when they remove or flag disinformation and extremism on their platforms – all because of some baseless fantasy grievance that the internet is biased against conservative views. Their approach translates into a defense of online extremism and foreign countries’ disinformation campaigns, which is a baffling and dangerous position for lawmakers to take.

“Section 230 reform that creates a structure for healthier online ecosystems is needed and we are committed to seeing it done – but the FCC’s rush to push President Trump’s agenda weeks before Election Day should be seen for the reckless and politically-motivated stunt that it is.”

###

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From: [Paul Jackson](#)
To: [Brian Hart](#); [Will Wiquist](#); [Anne Veigle](#); [Katie Gorscak](#); [Jim Balaquer](#)
Subject: Fw: Pallone Releases GAO Report Uncovering Fundamental Flaws in Trump FCC's Handling of Universal Service Fund
Date: Friday, October 30, 2020 4:11:24 PM

FYI. I just sent to OCH.

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>
Sent: Friday, October 30, 2020 4:04 PM
To: Paul Jackson <Paul.Jackson@fcc.gov>
Subject: Pallone Releases GAO Report Uncovering Fundamental Flaws in Trump FCC's Handling of Universal Service Fund



FOR IMMEDIATE RELEASE
October 30, 2020

CONTACT
[Elysa Montfort](mailto:Elysa.Montfort@fcc.gov) – (202) 225-5735

Pallone Releases GAO Report Uncovering Fundamental Flaws in Trump FCC's Handling of Universal Service Fund

Washington, D.C. – Energy and Commerce Committee Chairman Frank Pallone, Jr. (D-NJ) released a [new report](#) from the Government Accountability Office (GAO) today that openly acknowledges major flaws in the way the Trump Federal Communications Commission (FCC) has handled the Universal Service Fund's High-Cost Program. Pallone, who requested the report, released the following statement in response:

"I requested this report because I had profound concerns about the Trump FCC's handling of the Universal Service Fund, and today's report validates those fears. GAO has found that the high-cost program has been woefully maintained, with basic governance structures either wholly missing or outdated, effectively being left to rot under Chairman Pai's leadership.

"This news comes as the FCC pushes out \$16 billion in high-cost broadband funding without adequate or accurate broadband maps to guide them – and is doing so over the express objections of Democratic FCC Commissioners. It is likely that, as a result, funding will be poorly targeted and wasted, when it could and should be going toward communities in desperate need of connectivity. Today's report confirms that Chairman Pai's FCC has failed to be a proper steward of the Universal Service Fund, and future Commissions will be at a serious disadvantage in closing the digital divide as a result."

The full report is available [HERE](#).

###

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From: [Paul Jackson](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Allison Baker](#); [Preston Wise](#); [Evan Swarztrauber](#); [Brian Hart](#); [Jim Balaquer](#)
Subject: Fw: Pallone Releases GAO Report Uncovering Fundamental Flaws in Trump FCC's Handling of Universal Service Fund
Date: Friday, October 30, 2020 4:11:00 PM

(b) (5)



FOR IMMEDIATE RELEASE
October 30, 2020

CONTACT
[Elysa Montfort](#) – (202) 225-5735

**Pallone Releases GAO Report Uncovering Fundamental Flaws in Trump
FCC's Handling of Universal Service Fund**

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[new report](#) from the Government Accountability Office (GAO) today that openly acknowledges major flaws in the way the Trump Federal Communications Commission (FCC) has handled the Universal Service Fund's High-Cost Program. Pallone, who requested the report, released the following statement in response:

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From: [Brian Hart](#)
To: Theodore.Stephan@FOXNEWS.COM
Subject: Fw: Possible appearance on the Daily Briefing tomorrow, Friday, 10/16?
Date: Thursday, October 15, 2020 6:26:04 PM

Hey Ted:

The chairman is all jammed up tomorrow and can't make this work. Let me know if you want to try for something next week.

Brian

From: Stephan, Theodore <Theodore.Stephan@FOXNEWS.COM>
Sent: Thursday, October 15, 2020 5:50 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Possible appearance on the Daily Briefing tomorrow, Friday, 10/16?

Chairman Pai:

I was wondering **would you be available to appear on the Daily Briefing with Dana Perino tomorrow, Friday, 10/16 during the 2PM Eastern hour?**

We'd like to discuss Facebook Twitter's actions this week (regarding the NYPost article and how they relate to Section 230 of the Communications Act.

Please let me know it would be great to have you on.

Very best,

Ted

Ted Stephan

Booker, The Daily Briefing with Dana Perino
Fox News Channel
1211 Avenue of the Americas, 2nd Floor
New York, NY 10036
Direct: 1 (212) 850-5166
Mobile: 1 (646) 960-2240

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From: [Matthew Berry](#)
To: [Brian Hart](#)
Subject: Fw: Re:
Date: Friday, October 16, 2020 5:04:48 PM

From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Friday, October 16, 2020 5:02 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: Re: Re:

A new effort by the Federal Communications Commission to rethink the legal shield that applies to social-media sites drew widespread rebukes this week, as critics faulted the agency for reversing its past positions in the face of mounting public pressure from the White House.

The agency's move threatens to strike at the heart of a critical federal law known as Section 230, which for decades has spared tech giants from being held accountable for the ways they police their platforms. Ajit Pai, the FCC's Republican chairman, unveiled his plans to "clarify" the scope of those protections hours after Facebook and Twitter took the rare step of limiting the reach of a New York Post story about Democratic presidential candidate Joe Biden and his family, angering President Trump and his top supporters.

The FCC is an independent agency, and historically, it has sought to emphasize its separation from the White House. But some critics still saw the FCC's timing as politically peculiar. Only a year ago, top FCC aides had told the Trump administration privately that they did not want to pursue regulation around online speech, according to four people with direct knowledge of the talks, who spoke on condition of anonymity to describe confidential proceedings. The comments came as part of a series of conversations convened by the White House designed to explore potential regulation targeting Silicon Valley.

Pai himself previously had expressed opposition to new FCC regulation targeting social-media sites. On Thursday, however, he set the agency on a path toward issuing new rules around Section 230, citing concerns shared by “all three branches of government” about the tech giants’ behavior.

“Social media companies have a First Amendment right to free speech,” said Pai, who [tweeted](#) his statement at 2:30 p.m. “But they do not have a First Amendment right to a special immunity denied to other media outlets, such as newspapers and broadcasters.”

The FCC declined comment. An agency official, speaking only on the condition of anonymity, stressed there had been no contact between the White House and the commission prior to Pai’s announcement. The source said that Pai’s position had remained consistent over time, since the action he is eyeing on Section 230 is not the same as direct regulation of online speech.

AD

The White House did not respond to a request for comment.

[*The Technology 202: Silicon Valley's prized legal shield is increasingly in jeopardy as Republicans escalate attacks*](#)

The FCC's maneuver quickly sent shockwaves through Washington. Democrats blasted the agency, and the party's senior-most official at the FCC raised the prospect of political interference.

"The timing of this effort is absurd," said Commissioner Jessica Rosenworcel. "The only logical conclusion is that the agency is acting at the behest of the president to intimidate platforms in the late days of the campaign. That's not right. The FCC has no business being the president's speech police."

Some conservatives also pilloried the FCC for setting its policymaking process in motion. "Twitter and Facebook are dead wrong on this, though the First Amendment protects their right to be wrong," said Jesse Blumenthal, who leads technology and innovation policy at [Stand Together](#), a group backed by Charles Koch. "The answer to bad speech is more speech, not ineffective attempts to suppress information."

AD

Democrats and Republicans generally agree there is need to rethink Section 230, which has come to shield the web's most popular, profitable sites and services from being held accountable for wrongdoing. But Democrats have sought to reform the law in an attempt to thwart harmful content, including political disinformation, from proliferating across the web — while Republicans instead are motivated by allegations of political bias.

GOP lawmakers, led by Trump, for years have argued that Facebook, Google and Twitter systematically suppress conservative users and websites — presenting only scattershot anecdotal evidence of their claims amid a flurry of denials from major tech companies. But they escalated their attacks this week, after Facebook [limited the reach of the New York Post's reports](#) about the Biden family, the evidence for which purportedly had been gleaned from a laptop abandoned at a Delaware repair shop. Twitter, meanwhile, blocked users from sharing links to those stories. The White House and the Trump campaign blasted the tech giants for their decisions, and the president once again called for repealing Section 230.

"When government granted these protections," Trump [tweeted](#) Thursday, "they created a monster!"

[Facebook and Twitter take unusual steps to limit spread of New York Post story](#)

The FCC, meanwhile, initiated a lengthy agency process to explore potential changes to the immunity granted under the law. The agency started examining the need for new regulations after Trump signed a [controversial executive order](#) this summer that aimed to enhance the government's power to police how political speech is handled on the web. The FCC plans to release the legal rationale for its reasoning next week, agency leaders have said.

AD

Pai's announcement broke from his past public comments on the issue, according to experts. Asked at an [August 2018](#) event about the FCC's ability to police social media, for example, the chairman stressed that the agency "does not regulate them" and does not "have the authority under the laws that have been passed by Congress and the Constitution, of course, under the First Amendment."

"So from that perspective they are not going to be regulated in terms of free speech," Pai continued, stressing these tech companies should instead commit to transparency. He said consumers and competition otherwise would correct any ills: "If they want to focus on cats to the exclusion of dogs, ultimately, it's a market that's going to capitalize. There are a lot of dog owners out there who say it's a step too far. . . and they'll move to some other platform."

"The government doesn't have a role in solving every single ill that we identify on these platforms," Pai said.

AD

An FCC official, speaking on condition of anonymity, said Pai embarked on the new policymaking process in response to recent events, including a statement this week from conservative Supreme Court Justice Clarence Thomas, who appeared to invite efforts to challenge Section 230 and the immunity it confers on tech giants.

Pai's critics, however, saw in the agency's efforts the influence of months of Trump's tweets, public statements and policy pronouncements.

One source recalled a summer 2019 meeting in which White House aides and top officials from the FCC and other agencies discussed a precursor to the social-media order Trump signed this year. The person, who requested anonymity to discuss private deliberations, said some participants at the time expressed concern that independent federal agencies such as the FCC, comprised of Democratic and Republican members, might not have the votes to adopt any new regulations targeting political speech. In response, the White House appeared to issue a threat, signaling they could replace agency commissioners who fail to act, the source recalled.

AD

Months later, Trump nominated Nathan Simington, an aide at the Commerce Department, to serve as a new Republican member of the FCC. Simington has played a critical role in crafting the Commerce Department's formal request to the FCC, asking it formally wade into the debate over Section 230, according to two people familiar with the matter who requested anonymity to discuss government deliberations. Trump last week called on Senate Republicans to confirm Simington promptly.

[Trump eyes 'concrete legal steps' against social media sites for alleged bias against conservatives](#)

Outside of the FCC, other Republicans this week descended on the industry: Many GOP lawmakers have slammed the companies and pledged to press Facebook CEO Mark Zuckerberg, Google CEO Sundar Pichai and Twitter CEO Jack Dorsey about the allegations of political censorship at an already scheduled hearing days before the 2020 election. Sen. Lindsey Graham, the GOP leader of the Senate Judiciary Committee, plans to hold a vote Tuesday to authorize a subpoena that could force Twitter CEO Jack Dorsey to appear at a second congressional grilling in October.

Republican state attorneys general said they are also setting their sights on the tech companies, three weeks after Trump gathered the GOP leaders at the White House to [encourage them to probe](#) political bias.

AD

“Many of us are ready to take action,” Jeff Landry, the Republican attorney general from Louisiana, said on Friday, stressing in the meantime he thought the U.S. government should “fine them, file an injunction, [and] shut them down” for their handling of the New York Post story.

Any FCC action on Section 230 could take months, meaning the future of the agency’s efforts rest on the outcome of the 2020 presidential election. Some aides to Pai even have confided they are disinclined to proffer any new rules at all, according to two of the sources, who said they had received mixed signals about the FCC’s intentions.

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Friday, October 16, 2020 4:59 PM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: Re: Re:

Can you send around the text?

From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Friday, October 16, 2020 4:59 PM
To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: Re: Re:

<https://www.washingtonpost.com/technology/2020/10/16/fcc-facebook-twitter-section-230/>



FCC push to rethink legal protections for tech giants marks major turn after months of political pressure

In seeking to reevaluate the law, the FCC and its Republican chairman, Ajit Pai, waded into a politically contentious debate about the power and reach of the nation's largest technology companies in the heat of an election year

www.washingtonpost.com

From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Sent: Friday, October 16, 2020 10:47 AM

To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>

Subject: Re: Re:

<https://thehill.com/hilltv/rising/521347-rising-october-16-2020?jwsourc=cl>



Rising: October 16, 2020

thehill.com

Evan Swarztrauber

Policy Advisor

Office of Chairman Ajit Pai

Federal Communications Commission

(202) 418-2261 (o)

(202) 870-8405 (m)

Twitter: @EvanS_FCC

From: Thomas Johnson <Thomas.Johnson@fcc.gov>

Sent: Friday, October 16, 2020 10:41 AM

To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: Re: Re:

<https://twitter.com/SenRickScott/status/1317100543563730945?s=20>



Rick Scott on Twitter

"Glad to see @AjitPaiFCC and the @FCC addressing this issue. On October 28th at the @SenateCommerce hearing we will get more information directly from tech CEOs under oath. <https://t.co/eZSni39cVL>"

twitter.com

From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Sent: Friday, October 16, 2020 10:37 AM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: Re:

<https://twitter.com/marcorubio/status/1317083977212170240>



Marco Rubio on Twitter

"This is long overdue. As I wrote yesterday, the egregious instances of censorship & partisan content moderation by social media companies like @Twitter & @Facebook are brazen attempts to twist & manipulate America's public square. <https://t.co/au4qCGBVUr> <https://t.co/pJeaPXZzmH>"

twitter.com

Evan Swarztrauber
Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Friday, October 16, 2020 10:19 AM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject:

<https://twitter.com/ChadPergram/status/1317107081409953793>

From: [Paul Jackson](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Evan Swarztrauber](#); [Brian Hart](#)
Subject: Fw: Rep. McNerney Demands Transparency for Consumers' Internet and Phone Service Complaints
Date: Thursday, October 29, 2020 10:30:41 PM
Attachments: [image001.jpg](#)
[Letter to Chairman Pai Consumer Complaints 10.29.2020 .pdf](#)

FYI

From: Matt, Svetlana <Svetlana.Matt@mail.house.gov>
Sent: Thursday, October 29, 2020 9:40 PM
To: Matt, Svetlana <Svetlana.Matt@mail.house.gov>
Subject: FW: Rep. McNerney Demands Transparency for Consumers' Internet and Phone Service Complaints

FYI.

Svetlana Matt
Legislative Director
Office of Congressman Jerry McNerney (CA-09)

From: Cannon, Nikki <Nikki.Cannon@mail.house.gov>
Sent: Thursday, October 29, 2020 9:00 PMg
To: Matt, Svetlana <Svetlana.Matt@mail.house.gov>
Subject: Rep. McNerney Demands Transparency for Consumers' Internet and Phone Service Complaints



FOR IMMEDIATE RELEASE
October 29, 2020

Rep. McNerney Demands Transparency for Consumers' Internet and Phone Service Complaints

Stockton, CA – Today, Congressman Jerry McNerney (CA-09) sent Federal Communications Commission (FCC) Chairman Ajit Pai a letter following up on the Congressman’s request that the Chairman make publicly available all consumer complaints that the agency has received regarding internet and phone service during the COVID-19 pandemic. The Congressman asked Chairman Pai for a commitment to do this when the Chairman testified on September 17, 2020 at the House Energy and Commerce Committee’s FCC oversight hearing. In response, on October 23, 2020, the FCC posted general information on its website, but did not include any specific information about the complaints and if or how they were resolved.

“While your agency has made available a summary of the complaints on its website, the information that has been shared is incomplete. The American people deserve to know about the specific problems that are arising, whether the problems are being resolved, and how long it is taking to resolve them. Unfortunately, none of this information is publicly posted on your agency’s website,” wrote Rep. McNerney.

“It is concerning that more than seven months into the pandemic you have still not been fully upfront with the public about the problems that consumers have been facing,” continued Rep. McNerney.

In the letter, Rep. McNerney further states, “At a time when nearly every aspect of our lives depends on connectivity, transparency and accountability with respect to connectivity problems are critical.”

Rep. McNerney requested that the Chairman make the following information publicly available by November 13, 2020:

1. For each individual consumer complaint received by the FCC relating to internet or phone service during the pandemic, the text of the complaint (properly de-identified to protect the individual’s privacy), whether the complaint was resolved, and how long it took to resolve the complaint;
2. The number of complaints identified in (1) that were referred to the Enforcement Bureau or other bureaus in the agency and what further action was taken with respect to each referred complaint; and
3. With respect to the Keep Americans Connected Pledge, the number of instances in which the provider did not keep the promises it made under the Pledge.

A copy of the letter can be found [here](#).

###

Rep. Jerry McNerney proudly serves the constituents of California’s 9th Congressional District

that includes portions of San Joaquin, Contra Costa, and Sacramento Counties. For more information on Rep. McNerney's work, [follow him on Facebook](#) and on Twitter [@RepMcNerney](#).



COMMITTEE ON
ENERGY AND COMMERCE

COMMITTEE ON
SCIENCE, SPACE, AND TECHNOLOGY

Congress of the United States
House of Representatives
Washington, DC 20515-0509

October 29, 2020

The Honorable Ajit V. Pai
Federal Communications Commission
45 L Street N.E.
Washington, D.C. 20002

Dear Chairman Pai:

I am writing to follow up on my request from last month's Federal Communications Commission (FCC) oversight hearing that you make publicly available all consumer complaints the FCC has received regarding internet and phone service during the COVID-19 pandemic.¹ While your agency has made available a summary of the complaints on its website, the information that has been shared is incomplete. The American people deserve to know the specific problems that are arising, whether the problems are being resolved, and how long it is taking to resolve them. Unfortunately, none of this information is publicly posted on your agency's website.

It is concerning that more than seven months into the pandemic you have still not been fully upfront with the public about the problems that consumers have been facing. During an Energy and Commerce Committee teleconference in mid-May, I asked you about the number of complaints the FCC had received regarding communications providers not honoring commitments made under the Keep Americans Connected Pledge or other COVID-related commitments.² It was not until then that you or your agency publicly disclosed the number of complaints that had been received. Furthermore, it was not until documents from a Freedom of Information Act (FOIA) request were shared by a journalist that the public was made aware about the nature of the complaints.³ It should not take a congressional inquiry and a FOIA request to uncover these problems, especially during a pandemic.

¹ Hearing on "Trump FCC: Four Years of Lost Opportunity," House Committee on Energy and Commerce, September 17, 2020, available at <https://energycommerce.house.gov/committee-activity/hearings/hearing-on-trump-fcc-four-years-of-lost-opportunities>.

² Teleconference Forum on COVID-19 with Chairman Pai, House Committee on Energy and Commerce, May, 19, 2020, available at https://www.youtube.com/watch?v=alh_K9i8zU4&feature=youtu.be.

³ See "Read the Heartbreaking Complaints Americans Sent to the FCC After Their Internet was Shut off," The Daily Dot, June 5, 2020, available at <https://www.dailydot.com/debug/fcc-coronavirus-pledge-complaints/>.

At a time when nearly every aspect of our lives depends on connectivity, transparency and accountability with respect to connectivity problems are critical. Please make the following information publicly available by November 13, 2020:

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3. With respect to the Keep Americans Connected Pledge, the number of instances in which the provider did not keep the promises it made under the Pledge.

Thank you for your attention in this important matter.

Sincerely,



Jerry McNerney
Member of Congress

CC: The Honorable Michael O'Rielly, Commissioner, Federal Communications Commission
The Honorable Jessica Rosenworcel, Commissioner, Federal Communications Commission
The Honorable Brendan Carr, Commissioner, Federal Communications Commission
The Honorable Geoffrey Starks, Commissioner, Federal Communications Commission

From: [Ajit Pai](#)
To: [Brian Hart](#); [Matthew Berry](#); [Nicholas Degani](#); [Evan Swarztrauber](#)
Subject: Fw: Request for contact
Date: Thursday, October 15, 2020 3:33:00 PM

From: McFall, Caitlin <Caitlin.McFall@FOXNEWS.COM>
Sent: Thursday, October 15, 2020 3:27 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Request for contact

Good afternoon,

I am covering your recent announcement that the FCC will be looking into "rulemaking" surrounding Section 230, could you go into more detail what you intend to focus on?

How do you intend to increase "rulemaking?"

And do you have a response to the FCC Commissioner's comments saying, "The FCC has no business being the President's speech police."

Any additional information/comment you could provide Fox News would be greatly appreciated.

Thank you,

Caitlin McFall

Reporter
Fox News
caitlin.mcfall@foxnews.com
(760) 579-8853
@ctlmcfall

This message and its attachments may contain legally privileged or confidential information. It is intended solely for the named addressee. If you are not the addressee indicated in this message (or responsible for delivery of the message to the addressee), you may not copy or deliver this message or its attachments to anyone. Rather, you should permanently delete this message and its attachments and kindly notify the sender by reply e-mail. Any content of this message and its attachments that does not relate to the official business of Fox News or Fox Business must not be taken to have been sent or endorsed by either of them. No representation is made that this email or its attachments are without defect.

From: [Brian Hart](#)
To: Caitlin.McFall@FOXNEWS.COM
Subject: Fw: Request for contact
Date: Thursday, October 15, 2020 4:27:51 PM

Hey Caitlin: We don't have anything to add at this point beyond the chairman's statement.

From: McFall, Caitlin <Caitlin.McFall@FOXNEWS.COM>
Sent: Thursday, October 15, 2020 3:27 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Request for contact

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I am covering your recent announcement that the FCC will be looking into "rulemaking" surrounding Section 230, could you go into more detail what you intend to focus on?

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Thank you,

Caitlin McFall

Reporter
Fox News
caitlin.mcfall@foxnews.com
(760) 579-8853
[@ctlnmcfall](#)

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is made that this email or its attachments are without defect.

From: [Ajit Pai](#)
To: [Brian Hart](#); [Matthew Berry](#); [Nicholas Degani](#); [Evan Swarztrauber](#)
Subject: Fw: Request for Interview - Ben Shapiro Show / Ajit Pai
Date: Thursday, October 15, 2020 10:29:31 PM

From: Rebecca Doyle <rdoyle@bentkey.com>
Sent: Thursday, October 15, 2020 10:20 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Colton Haas <chaas@dailywire.com>
Subject: Request for Interview - Ben Shapiro Show / Ajit Pai

Hello Ajit,

I'm on the producing team of the Ben Shapiro Show podcast and radio program and am reaching out in hopes of having you on the show tomorrow to speak with Ben about your comments on legal immunities.

Might you be available tomorrow Fri. 10/16 at 7:00 AM PT / 10:00 AM ET or 7:20 AM ET / 10:20 AM ET for a video call or phone interview?

Regards,

Rebecca Doyle
Associate Producer
The Ben Shapiro Show
Bentkey Ventures

--

Rebecca Doyle
Associate Producer
The Ben Shapiro Show
Bentkey Ventures

From: [Brian Hart](#)
To: [Anne Veigle](#); [Katie Gorscak](#); [Will Wiquist](#)
Subject: Fw: Rubio Urges FCC to Update Section 230 After Egregious Censorship and Partisan Content Moderation
Date: Thursday, October 15, 2020 2:30:08 PM
Attachments: [image001.png](#)

fyi

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Thursday, October 15, 2020 2:26 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>
Subject: Fw: Rubio Urges FCC to Update Section 230 After Egregious Censorship and Partisan Content Moderation

FYI

From: Shepardson, David (Reuters) <David.Shepardson@thomsonreuters.com>
Sent: Thursday, October 15, 2020 2:25 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: FW: Rubio Urges FCC to Update Section 230 After Egregious Censorship and Partisan Content Moderation

David Shepardson

Correspondent

Reuters

Phone: ☎1 202 898 8☎24

Mobile: ☎1 202 579-609☎

david.shepardson@thomsonreuters.com

www.reuters.com

twitter.com/davidshpardson

1333 H Street NW

Suite 700 Washington, DC 20005

From: PressShop, Rubio (Rubio) <RubioPressShop@rubio.senate.gov>
Sent: Thursday, October 15, 2020 2:23 PM
To: PressShop, Rubio (Rubio) <RubioPressShop@rubio.senate.gov>
Subject: Rubio Urges FCC to Update Section 230 After Egregious Censorship and Partisan Content Moderation

cid:image001.png@01D29D82.7BCBD170

For Immediate Release
Thursday, October 15, 2020
[View Online](#)

Contact: Dan Miller
202-224-0041

RUBIO URGES FCC TO UPDATE SECTION 230 AFTER EGREGIOUS CENSORSHIP AND PARTISAN CONTENT MODERATION

Miami, FL — U.S. Senator Marco Rubio (R-FL) urged Federal Communications Commission (FCC) Chairman Ajit Pai to reexamine Section 230 of the Communications Decency Act in light of specific and egregious instances of censorship and partisan content moderation by social media companies, particularly yesterday's actions by Facebook and Twitter to restrict user access to a *New York Post* article on former Vice President Joe Biden's son, Hunter.

"The once nascent, scrappy internet companies that benefited from the protections afforded by Section 230 of the Communications Decency Act have become Goliaths intent on twisting and manipulating America's public square to their liking," **Rubio wrote**. "The *New York Post* censorship saga is only the latest example of this consistent effort by Silicon Valley giants. Twenty days before the presidential election, it is also one of the most egregious."

In June, Rubio, along with several of his colleagues, [wrote](#) to Chairman Pai to request the FCC take a fresh look at Section 230 and clearly define the criteria for which companies can receive protections under the statute. This request was made in light of troubling activities by social media companies, including partisan attempts to silence political speech and efforts to silence critics of the Chinese Communist Party.

The [full text of the letter](#) is below.

Dear Chairman Pai:

On June 9, 2020, along with several of my colleagues, I wrote to you regarding the Federal Communication Commission's (FCC's) vital role in combating the imbalanced treatment of varying viewpoints on social media platforms and the rising threat to free speech. Recent events, most notably Facebook and Twitter's decision to censor accounts, posts, and content related to a *New York Post* article on the foreign business dealings of Hunter Biden, the son of former Vice President Joe Biden, makes clear this is a problem that can no longer be ignored.

The dominance of a small number of social media platforms presents a unique challenge to everyday Americans' ability to express themselves freely and access uncensored and

filtered information. Actions taken by social media companies to censor political speech out of favor with Silicon Valley elites underscores the importance of timely measures to protect free speech and push back against partisan editorializing and politically motivated online speech policing.

The Department of Commerce's Petition for Rulemaking to the FCC regarding Section 230 of the Communications Decency Act of 1996 issued on July 27, 2020, clearly stated that "large online platforms appear to engage in selective censorship that is harming our national discourse." The once nascent, scrappy internet companies that benefited from the protections afforded by Section 230 of the Communications Decency Act have become Goliaths intent on twisting and manipulating America's public square to their liking. The *New York Post* censorship saga is only the latest example of this consistent effort by Silicon Valley giants. Twenty days before the presidential election, it is also one of the most egregious.

On Twitter, users were presented with a link to a page warning of "potentially spammy or unsafe" material when they attempted to click a link to the article. Twitter even went so far as to forcibly lock the personal account of White House Press Secretary Kayleigh McEnany for sharing the article.

Twitter's founder Jack Dorsey called the company's actions "unacceptable," but only because there was "zero context as to why we're blocking." Facebook Policy Communications Manager Andy Stone explicitly stated, in reference to the *New York Post* article, that his company was "reducing its distribution on our platform."

Regardless of whether social media companies "provide context" or wait for "third-party fact checking partners" it is abundantly clear that companies like Twitter and Facebook are playing the role of publisher.

As Congress examines and debates the appropriate measures that recognize this reality, I encourage you to proactively engage in the rulemaking process requested by the Secretary of Commerce pursuant to Executive Order 13925. It is time to reexamine Section 230. Platforms that engage in editorial activity must no longer be treated as neutral hosts, and freedom of speech, press, and viewpoint diversity must be protected.

I look forward to continuing to engage with you on this important issue.

Sincerely,

□□□

From: [Brian Hart](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Evan Swarztrauber](#); [Paul Jackson](#); [Thomas Johnson](#)
Subject: Fw: Rubio Urges FCC to Update Section 230 After Egregious Censorship and Partisan Content Moderation
Date: Thursday, October 15, 2020 2:26:53 PM
Attachments: [image001.png](#)

FYI

From: Shepardson, David (Reuters) <David.Shepardson@thomsonreuters.com>
Sent: Thursday, October 15, 2020 2:25 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: FW: Rubio Urges FCC to Update Section 230 After Egregious Censorship and Partisan Content Moderation

David Shepardson

Correspondent

Reuters

Phone: ☐1 202 898 8☐24

Mobile: ☐1 202 579-609☐

david.shepardson@thomsonreuters.com

www.reuters.com

twitter.com/davidshepardson

1333 H Street NW

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Subject: Rubio Urges FCC to Update Section 230 After Egregious Censorship and Partisan Content Moderation

cid:image001.png@01D29D82.7BCBD170



For Immediate Release
Thursday, October 15, 2020
[View Online](#)

Contact: Dan ☐oller
202-224-☐041

**RUBIO URGES FCC TO UPDATE SECTION 230 AFTER
EGREGIOUS CENSORSHIP AND PARTISAN CONTENT
MODERATION**

Miami, FL — U.S. Senator Marco Rubio (R-FL) urged Federal Communications Commission (FCC) Chairman Ajit Pai to reexamine Section 230 of the Communications Decency Act in light of specific and egregious instances of censorship and partisan content moderation by social media companies, particularly yesterday's actions by Facebook and Twitter to restrict user access to a *New York Post* article on former Vice President Joe Biden's son, Hunter.

The once nascent, scrappy internet companies that benefited from the protections afforded by Section 230 of the Communications Decency Act have become Goliaths intent on twisting and manipulating America's public square to their liking," **Rubio wrote**. "The *New York Post* censorship saga is only the latest example of this consistent effort by Silicon Valley giants. Twenty days before the presidential election, it is also one of the most egregious."

In June, Rubio, along with several of his colleagues, [wrote](#) to Chairman Pai to request the FCC take a fresh look at Section 230 and clearly define the criteria for which companies can receive protections under the statute. This request was made in light of troubling activities by social media companies, including partisan attempts to silence political speech and efforts to silence critics of the Chinese Communist Party.

The [full text of the letter](#) is below.

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The dominance of a small number of social media platforms presents a unique challenge to everyday Americans' ability to express themselves freely and access uncensored and filtered information. Actions taken by social media companies to censor political speech out of favor with Silicon Valley elites underscores the importance of timely measures to protect free speech and push back against partisan editorializing and politically motivated online speech policing.

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Regardless of whether social media companies "provide context" or wait for "third-party fact checking partners" it is abundantly clear that companies like Twitter and Facebook are playing the role of publisher.

As Congress examines and debates the appropriate measures that recognize this reality, I encourage you to proactively engage in the rulemaking process requested by the Secretary of Commerce pursuant to Executive Order 13925. It is time to reexamine Section 230. Platforms that engage in editorial activity must no longer be treated as neutral hosts, and freedom of speech, press, and viewpoint diversity must be protected.

I look forward to continuing to engage with you on this important issue.

Sincerely,

□□□

From: [Shepardson, David \(Reuters\)](#)
To: [Brian Hart](#)
Subject: FW: Rubio Urges FCC to Update Section 230 After Egregious Censorship and Partisan Content Moderation
Date: Thursday, October 15, 2020 2:25:42 PM
Attachments: [image001.png](#)

David Shepardson

Correspondent

Reuters

Phone: ☐1 202 898 8☐24

Mobile: ☐1 202 579-609☐

david.shepardson@thomsonreuters.com

www.reuters.com

twitter.com/davidshepardson

1333 H Street NW

Suite 700 Washington, DC 20005

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Sent: Thursday, October 15, 2020 2:23 PM
To: PressShop, Rubio (Rubio) <RubioPressShop@rubio.senate.gov>
Subject: Rubio Urges FCC to Update Section 230 After Egregious Censorship and Partisan Content Moderation

cid:image001.png@01D29D82.7BCBD170



For Immediate Release
Thursday, October 15, 2020
[View Online](#)

Contact: Dan ☐oller
202-224-☐041

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Sincerely,

□□□

From: [Anne Veigle](#)
To: [Will Wiquist](#); [Brian Hart](#); [Katie Gorscak](#)
Subject: FW: Section 230
Date: Tuesday, November 24, 2020 11:23:54 AM

(b) (5)

From: Herchenroeder, Karl <karlh@warren-news.com>
Sent: Tuesday, November 24, 2020 11:19 AM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Section 230

Hi, Anne:
I'm working on a story about the Section 230 rulemaking.

Several experts told me they expect the agency not to take action on the item for the rest of Pai's tenure.

Does the agency have any comment?

Best Regards,
Karl Herchenroeder
Assistant Editor/tech reporter
Communications Daily
C: 202-704-4738

From: [Anne Veigle](#)
To: [Ajit Pai](#); [Nicholas Degani](#); [Matthew Berry](#)
Cc: [Brian Hart](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: FW: Section 230
Date: Tuesday, November 24, 2020 11:31:24 AM

(b)

)

(5)

From: Herchenroeder, Karl <karlh@warren-news.com>
Sent: Tuesday, November 24, 2020 11:19 AM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Section 230

Hi, Anne:

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Does the agency have any comment?

Best Regards,
Karl Herchenroeder
Assistant Editor/tech reporter
Communications Daily
C: 202-704-4738

From: [Evan Swarztrauber](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Brian Hart](#)
Subject: Fw: STATEMENT: Chairman Pai on Section 230
Date: Thursday, October 15, 2020 6:08:08 PM
Attachments: [pastedImagebase640.png](#)

(b) (5)

Evan Swarztrauber

Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: Jordan Bloom <bloom.jordan@gmail.com>
Sent: Thursday, October 15, 2020 5:28 PM
To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: STATEMENT: Chairman Pai on Section 230

Any chance we could get an op-ed on this?

On Thu, Oct 15, 2020 at 3:30 PM Evan Swarztrauber <Evan.Swarztrauber@fcc.gov> wrote:

Good afternoon,

Today, Chairman Pai announced that he intends to move forward with a rulemaking to clarify the meaning of Section 230 of the Communications Act. You can read his full statement below, and see [his tweet here](#).

Evan Swarztrauber

Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>
Sent: Thursday, October 15, 2020 2:31 PM
Subject: STATEMENT: Chairman Pai on Section 230



Media Contact:

Brian Hart, (202) 418-0505
brian.hart@fcc.gov

For Immediate Release

STATEMENT OF CHAIRMAN PAI ON SECTION 230

WASHINGTON, October 15, 2020—Federal Communications Commission Chairman Ajit Pai issued the following statement today on Section 230 of the Communications Act:

“Members of all three branches of the federal government have expressed serious concerns about the prevailing interpretation of the immunity set forth in Section 230 of the Communications Act. There is bipartisan support in Congress to reform the law. The U.S. Department of Commerce has petitioned the Commission to ‘clarify ambiguities in section 230.’ And earlier this week, U.S. Supreme Court Justice Clarence Thomas pointed out that courts have relied upon ‘policy and purpose arguments to grant sweeping protections to Internet platforms’ that appear to go far beyond the actual text of the provision.

“As elected officials consider whether to change the law, the question remains: What does Section 230 currently mean? Many advance an overly broad interpretation that in some cases shields social media companies from consumer protection laws in a way that has no basis in the text of Section 230. The Commission’s General Counsel has informed me that the FCC has the legal authority to interpret Section 230. Consistent with this advice, I intend to move forward with a rulemaking to clarify its meaning.

“Throughout my tenure at the Federal Communications Commission, I have favored regulatory parity, transparency, and free expression. Social media companies have a First Amendment right to free speech. But they do not have a First Amendment right to a special immunity denied to other media outlets, such as newspapers and broadcasters.”

###

Office of Chairman Pai: (202) 418-1000 / Twitter: @AjitPaiFCC / www.fcc.gov/leadership/ajit-pai

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).

--

Jordan A. Bloom
bloom.jordan@gmail.com
703-725-4262

From: [David Kaut](#)
To: [Brian Hart](#)
Cc: [Will Wiquist](#); [Anne Veigle](#)
Subject: FW: STATEMENT: Chairman Pai on Section 230
Date: Thursday, October 15, 2020 5:14:01 PM
Attachments: [image002.jpg](#)

The chairman said he plans to move forward with a rulemaking. I assume that means he plans to put out an NPRM, and seek comment on possible rules, and not some sort of declaratory ruling. Is that correct?

From: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>
Sent: Thursday, October 15, 2020 2:31 PM
Subject: STATEMENT: Chairman Pai on Section 230



Media Contact:

Brian Hart, (202) 418-0505
brian.hart@fcc.gov

For Immediate Release

STATEMENT OF CHAIRMAN PAI ON SECTION 230

WASHINGTON, October 15, 2020—Federal Communications Commission Chairman Ajit Pai issued the following statement today on Section 230 of the Communications Act:

“Members of all three branches of the federal government have expressed serious concerns about the prevailing interpretation of the immunity set forth in Section 230 of the Communications Act. There is bipartisan support in Congress to reform the law. The U.S. Department of Commerce has petitioned the Commission to ‘clarify ambiguities in section 230.’ And earlier this week, U.S. Supreme Court Justice Clarence Thomas pointed out that courts have relied upon ‘policy and purpose arguments to grant sweeping protections to Internet platforms’ that appear to go far beyond the actual text of the provision.

“As elected officials consider whether to change the law, the question remains: What does Section 230 currently mean? Many advance an overly broad interpretation that in some cases shields social media companies from consumer protection laws in a way that has no basis in the text of Section 230. The Commission’s General Counsel has informed me that the FCC has the legal authority to interpret Section 230. Consistent with this advice, I intend to move forward with a rulemaking to clarify its meaning.

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Office of Chairman Pai: (202) 418-1000 / Twitter: @AjitPaiFCC / www.fcc.gov/leadership/ajit-pai

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See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).*

From: [Brian Hart](#)
To: John.roberts@FOXNEWS.COM
Subject: Fw: STATEMENT: Chairman Pai on Section 230
Date: Thursday, October 15, 2020 4:17:55 PM
Attachments: [image001.jpg](#)

From: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>
Sent: Thursday, October 15, 2020 2:31 PM
Subject: STATEMENT: Chairman Pai on Section 230



Media Contact:

Brian Hart, (202) 418-0505
brian.hart@fcc.gov

For Immediate Release

STATEMENT OF CHAIRMAN PAI ON SECTION 230

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###

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See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).*

From: [Arbel, Tali](#)
To: [Brian Hart](#)
Subject: FW: STATEMENT: Chairman Pai on Section 230
Date: Thursday, October 15, 2020 2:50:17 PM
Attachments: [image002.jpg](#)

Can you give me a sense of timing?

From: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>
Sent: Thursday, October 15, 2020 2:31 PM
Subject: STATEMENT: Chairman Pai on Section 230

INTERNAL



Media Contact:

Brian Hart, (202) 418-0505
brian.hart@fcc.gov

For Immediate Release

STATEMENT OF CHAIRMAN PAI ON SECTION 230

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From: [Brian Hart](#)
To: [Matthew Berry](#); [Nicholas Degani](#); [Ajit Pai](#); [Thomas Sullivan](#); [Evan Swarztrauber](#); [Paul Jackson](#)
Subject: Fw: STATEMENT: Chairman Pai on Section 230
Date: Thursday, October 15, 2020 2:48:31 PM

(b) (5)



From: Make, Jonathan <jmake@warren-news.com>
Sent: Thursday, October 15, 2020 2:43 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Re: STATEMENT: Chairman Pai on Section 230

Good afternoon, FCC PR folks.

Will there be any further information about the NPRM substance and timing?

We are currently writing a news bulletin about this, and then we will also have some thing longer in tonight's regular issue.

Thanks.

On Oct 15, 2020, at 2:31 PM, FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov> wrote:

<image002.jpg>

Media Contact:
Brian Hart, (202) 418-0505
brian.hart@fcc.gov

For Immediate Release

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From: [Brian Hart](#)
To: [Anne Veigle](#); [Katie Gorscak](#); [Will Wiquist](#)
Subject: Fw: STATEMENT: Chairman Pai on Section 230
Date: Thursday, October 15, 2020 2:33:00 PM
Attachments: [image001.jpg](#)

From: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>
Sent: Thursday, October 15, 2020 2:31 PM
Subject: STATEMENT: Chairman Pai on Section 230



Media Contact:
Brian Hart, (202) 418-0505
brian.hart@fcc.gov

For Immediate Release

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###

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See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).*

From: [Anne Veigle](#)
To: [Brian Hart](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: FW: Tom Johnson blog
Date: Friday, October 16, 2020 12:18:05 PM

(b) (5)

-----Original Message-----

From: Herchenroeder, Karl <karlh@warren-news.com>
Sent: Friday, October 16, 2020 12:17 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Tom Johnson blog

Hi, Anne:

Do you have any idea when Tom Johnson plans to post this blog post on the legal basis for the Section 230 rulemaking?

Just trying to plan accordingly.

Karl Herchenroeder
Assistant Editor
Communications Daily
202-704-4738

From: [Will Wiquist](#)
To: [Brian Hart](#); [Anne Veigle](#); [Katie Gorscak](#)
Subject: FW: Urgent press request
Date: Monday, October 19, 2020 11:32:54 AM

(b) (5)

From: Whitney Kimball <wkimball@gizmodo.com>
Sent: Monday, October 19, 2020 8:42 AM
To: MediaRelations <MediaRelations@fcc.gov>
Subject: Urgent press request

Hello,

I'm a reporter from Gizmodo, reaching out regarding Chairman Pai's announcement last week that the FCC plans to clarify portions of Section 230. I was just curious whether there will be a public meeting on the subject? And if not, does the FCC have a sense of when this might happen? We're eager to follow this story.

Many thanks,

Whitney Kimball

From: [Brian Hart](#)
To: [Brendan Carr](#)
Cc: [Benjamin Arden](#)
Subject: Fwd: [EXT] Re: MARK LEVIN RADIO?
Date: Friday, October 16, 2020 5:15:26 PM

Commissioner:

Please see the details below for the radio interview this evening. Please note they're looking for a backup number. I wasn't sure what number to give them, and I did not want to give them your cell phone without your clearance. Let me know if you'd like me to send them a backup number or do anything else to help facilitate.

Have a great interview and have a great weekend!

From: Richard Sementa <Richard.Sementa@cumulus.com>
Sent: Friday, October 16, 2020, 5:01 PM
To: Brian Hart
Subject: RE: [EXT] Re: MARK LEVIN RADIO?

Call into 212-268-5666 at 7:17 pm eastern. Whats the best backup number I can use?

Topics: Big tech censorship and what FCC is doing with section 230. It will be 1 segment – about 8 minutes.

Richard Sementa
Executive Producer, The Mark Levin Show | Westwood One
O: 212-613-3840
2 Penn Plaza, 17th Floor □NY, NY 10121
westwoodone.com □marklevinshow.com

From: Brian Hart [<mailto:Brian.Hart@fcc.gov>]
Sent: Friday, October 16, 2020 4:59 PM
To: Richard Sementa <Richard.Sementa@cumulus.com>
Subject: Re: [EXT] Re: MARK LEVIN RADIO?

Richard:

Commissioner Carr would love to do it and that time works for him.

Can you please send me the call in details and anything else he needs and I can send that on to him?

Let me know any specific questions that might come up if you want him to think on it beforehand. And please let me know how long the segment/s will be.

Thank you sir.

Brian

From: Richard Sementa <Richard.Sementa@cumulus.com>
Sent: Friday, October 16, 2020, 4:14 PM
To: Brian Hart
Subject: RE: [EXT] Re: MARK LEVIN RADIO?

I can do 7:20 pm est with Carr. Let me know!

Richard Sementa
Executive Producer, The Mark Levin Show | Westwood One
O: 212-613-3840
2 Penn Plaza, 17th Floor □NY, NY 10121
westwoodone.com □marklevinshow.com

From: Brian Hart [<mailto:Brian.Hart@fcc.gov>]
Sent: Friday, October 16, 2020 3:57 PM
To: Richard Sementa <Richard.Sementa@cumulus.com>
Subject: [EXT] Re: MARK LEVIN RADIO?

Hey there Richard. Unfortunately, Chairman Pai can't make those times work. Would you be interested in talking with FCC Commissioner Carr? I'm happy to connect you with him.

From: Richard Sementa <Richard.Sementa@cumulus.com>
Sent: Friday, October 16, 2020 3:38 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Lori Alexiou <Lori.Alexiou@fcc.gov>
Cc: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: MARK LEVIN RADIO?

Good afternoon

Is Ajit Pai available tonight at either 6:30 or 7:30 pm eastern to discuss Section 230, facebook and twitter? It would be by phone for about 10 minutes.

Thanks!

Richard Sementa
Executive Producer, The Mark Levin Show | Westwood One
O: 212-613-3840
2 Penn Plaza, 17th Floor □NY, NY 10121
westwoodone.com □marklevinshow.com

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From: [Brian Hart](#)
To: [Brendan Carr](#)
Subject: Fwd: [EXT] Re: MARK LEVIN RADIO?
Date: Friday, October 16, 2020 4:17:37 PM

See below. I'm happy to help facilitate and/or set this up. Or feel free to reach out directly. Let me know what I can do to help.

From: Richard Sementa <Richard.Sementa@cumulus.com>
Sent: Friday, October 16, 2020, 4:14 PM
To: Brian Hart
Subject: RE: [EXT] Re: MARK LEVIN RADIO?

I can do 7:20 pm est with Carr. Let me know!

Richard Sementa
Executive Producer, The Mark Levin Show | Westwood One
O: 212-613-3840
2 Penn Plaza, 17th Floor □NY, NY 10121
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From: Brian Hart [<mailto:Brian.Hart@fcc.gov>]
Sent: Friday, October 16, 2020 3:57 PM
To: Richard Sementa <Richard.Sementa@cumulus.com>
Subject: [EXT] Re: MARK LEVIN RADIO?

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From: Richard Sementa <Richard.Sementa@cumulus.com>
Sent: Friday, October 16, 2020 3:38 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Lori Alexiou <Lori.Alexiou@fcc.gov>
Cc: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: MARK LEVIN RADIO?

Good afternoon

Is Ajit Pai available tonight at either 6:30 or 7:30 pm eastern to discuss Section 230, facebook and twitter? It would be by phone for about 10 minutes.

Thanks!

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From: [Brian Hart](#)
To: [Brendan Carr](#)
Subject: Fwd: [EXTERNAL] RE: Dobbs
Date: Wednesday, October 21, 2020 4:01:02 PM

(b) (5)

From: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>
Sent: Wednesday, October 21, 2020, 3:18 PM
To: Brian Hart
Cc: Montana L. Hyde; Will Wiquist
Subject: RE: [EXTERNAL] RE: Dobbs

HI ALL,

A bit crazy this week but what about next week for the Chairman or Commissioner?

5pm hour.

From: McCarton, Anne
Sent: Wednesday, October 14, 2020 7:36 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: RE: [EXTERNAL] RE: Dobbs

Ok good to know... we will look for another time!!
Thanks sooo much!!
Keep me posted on any statements you all send out

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Wednesday, October 14, 2020 7:24 PM
To: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>
Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Re: [EXTERNAL] RE: Dobbs

Looks like Carr's on the FBN show.

From: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>
Sent: Wednesday, October 14, 2020 6:03 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: RE: [EXTERNAL] RE: Dobbs

If it's Cavuto on FNC he can still do FBN just an FYI – depends on which show he is doing!?

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Wednesday, October 14, 2020 6:02 PM

To: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>
Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Re: [EXTERNAL] RE: Dobbs

Ugh...sorry. Just found out Carr's doing Cavuto tomorrow. Didn't realize that.

From: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>
Sent: Wednesday, October 14, 2020 5:54 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: RE: [EXTERNAL] RE: Dobbs

Is he free tomorrow in the 5p? then I can confirm in the a.m.!

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Wednesday, October 14, 2020 4:55 PM
To: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>
Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Fw: [EXTERNAL] RE: Dobbs

Anne:

It doesn't look like the chairman can pull this off this week. Any interest in having Commissioner Carr come on? Happy to ask him and he's happy to talk on this.

And if it's helpful, here's a tweet the chairman put out today on the subject:

<https://twitter.com/AjitPaiFCC/status/1316451854973313025?s=19>

From: [Will Wiquist](#)
To: [Brian Hart](#); [Anne Veigle](#); [Katie Gorscak](#)
Subject: Fwd: Another question
Date: Monday, October 5, 2020 4:08:16 PM

(b) (5)

From: "Shepardson, David (Reuters)" <David.Shepardson@thomsonreuters.com>
Date: Monday, October 5, 2020 at 4:05:35 PM
To: "Will Wiquist" <Will.Wiquist@fcc.gov>
Subject: RE: Another question

Sorry it is an old blog

<https://www.fcc.gov/news-events/blog/2018/01/09/repairing-must-vote-timing>

It basically says that it would take 34 days

David Shepardson

Correspondent

Reuters

Phone: ☐1 202 898 8☐24

Mobile: ☐1 202 579-609☐

david.shepardson@thomsonreuters.com

www.reuters.com

twitter.com/davidshpardson

1333 H Street NW

Suite 700 Washington, DC 20005

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Monday, October 5, 2020 2:34 PM
To: Shepardson, David (Reuters) <David.Shepardson@thomsonreuters.com>
Subject: RE: Another question

What o'rielly blog?

From: Shepardson, David (Reuters) <David.Shepardson@thomsonreuters.com>
Sent: Monday, October 5, 2020 2:30 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: RE: Another question

One more question (Sorry)

So is the chairman ruling out acting on Section 230 petition before Election Day?

By my read even if he put it up under circulation I don't think it could get approved

This O'Reilly blog says it would take a minimum of 34 days

David Shepardson

Correspondent

Reuters

Phone: ☐1 202 898 8☐24

Mobile: ☐1 202 579-609☐

david.shepardson@thomsonreuters.com

www.reuters.com

twitter.com/davidshpardson

1333 H Street NW

Suite 700 Washington, DC 20005

From: Will Wiquist <Will.Wiquist@fcc.gov>

Sent: Monday, October 5, 2020 2:24 PM

To: Shepardson, David (Reuters) <David.Shepardson@thomsonreuters.com>

Cc: Brian Hart <Brian.Hart@fcc.gov>

Subject: RE: Another question

Yes, that's right.

From: Shepardson, David (Reuters) <David.Shepardson@thomsonreuters.com>

Sent: Monday, October 5, 2020 2:06 PM

To: Will Wiquist <Will.Wiquist@fcc.gov>

Cc: Brian Hart <Brian.Hart@fcc.gov>

Subject: Another question

So in essence what I was told is the chairman is addressing the three issues raised by the DC Circuit but not proposing any policy changes to the RIFO order? Is that correct?

David Shepardson

Correspondent

Reuters

Phone: ☐1 202 898 8☐24

Mobile: ☐1 202 579-609☐

david.shepardson@thomsonreuters.com

www.reuters.com

twitter.com/davidshpardson

1333 H Street NW
Suite 700 Washington, DC 20005

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From: [Brian Hart](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#)
Subject: Fwd: Axios ask on Chairman Pai future
Date: Thursday, November 12, 2020 2:37:10 PM

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

From: Margaret McGill <margaret.mcgill@axios.com>
Sent: Thursday, November 12, 2020 2:05:38 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Axios ask on Chairman Pai future

Hi all,

Hope you're both doing well! I'm getting back into the swing of things this week, and am working on a story about what the FCC could look like in January.

I'm planning to report that Chairman Pai is expected to leave the agency before inauguration, based on conversations I've had with sources. Can you confirm or offer any guidance or comment?

The premise of my story is that Nathan Simington faces a near impossible path to FCC confirmation, despite pressure from President Trump and the appeal to Republicans of starting a Biden administration with a 2-2 FCC.

That of course assumes that Chairman Pai is leaving (and Commissioner O'Rielly as well). Let me know what you can, especially if I should assume otherwise!

— Margaret

--



Margaret Harding McGill
Technology reporter
margaret.mcgill@axios.com | (571)982-0559

From: [Brian Hart](#)
To: [Jeffers, Bryn](#)
Subject: Fwd: BLOG: FCC Authority to Interpret Section 230
Date: Wednesday, October 21, 2020 11:25:05 AM

I have asked Matthew for any talking points that might be helpful. See below for a blog our General Counsel just put out, although I am not sure if you guys want to get into this stuff or stick with his tweet.

From: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>
Sent: Wednesday, October 21, 2020, 10:31 AM
Subject: BLOG: FCC Authority to Interpret Section 230

The FCC's Authority to Interpret Section 230 of the Communications Act

By FCC General Counsel Thomas M. Johnson, Jr.

Last week, FCC Chairman Ajit Pai announced his intent to move forward with a rulemaking to interpret Section 230 of the Communications Act of 1934. Under certain circumstances, Section 230 provides websites, including social media companies, that host or moderate content generated by others with immunity from liability. In announcing his decision, Chairman Pai noted that “[m]embers of all three branches of government have expressed serious concern about the prevailing interpretation” of Section 230, and observed that an overly broad interpretation could “shield[] social media companies from consumer protection laws in a way that has no basis in the text” of the statute.

The Chairman’s decision was consistent with my advice that the FCC has the legal authority to interpret Section 230. Due to the unique interest generated by this proceeding, Chairman Pai has now asked me to make my analysis public, in furtherance of his longstanding commitment to transparency in the rulemaking process.

The policy issues raised by the debate over Section 230 may be complex, but the FCC’s legal authority is straightforward. Simply put, the FCC has the authority to interpret all provisions of the Communications Act, including amendments such as Section 230. As I explain below, this authority flows from the plain meaning of Section 201(b) of the Communications Act of 1934, which confers on the FCC the power to issue rules necessary to carry out the provisions of the Act. By expressly directing that Section 230 be placed into the Communications Act, Congress made clear that the FCC’s rulemaking authority extended to the provisions of that section. Two seminal U.S. Supreme Court cases authored by the late Justice Antonin Scalia – *AT&T Corp. v. Iowa Utilities Bd.*, 525 U.S. 366 (1999) and *City of Arlington v. FCC*, 569 U.S. 290 (2013) – confirm this conclusion. Based on this authority, the Commission can feel confident proceeding with a rulemaking to clarify the scope of the Section 230 immunity shield.

Statutory Background

To understand why the Commission has authority to interpret Section 230, it helps to understand how that section became part of the Communications Act. In 1934, Congress adopted the Communications Act in its original form, establishing the FCC as an independent federal agency charged with regulating interstate and international communications. Four years later, Congress added Section 201(b), which delegated to the Commission the power to “prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of

this Act.”

Since then, the most consequential set of amendments to the Communications Act arrived in the Telecommunications Act of 1996, which updated the Act for the then-nascent Internet age. Section 1(b) of that Act made clear that, except where otherwise expressly provided, each of the 1996 Act’s provisions were to be inserted into the Communications Act of 1934.

Title V of the 1996 Act was named the “Communications Decency Act of 1996.” Among other provisions, this Title included Section 509, named “Online family empowerment.” Consistent with Section 1(b), Congress instructed in Section 509 that “Title II of the Communications Act of 1934 . . . is amended by adding at the end the following new section: Section 230.” Thus, Section 230 was born and became part of the Communications Act of 1934.

Section 230 provides, among other things, that “[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” It further provides that “[n]o provider or user of an interactive computer service shall be held liable on account of . . . any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected.” The term “interactive computer service” is defined “as any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.” That broad definition is commonly understood to include websites that host or moderate content generated by others, such as social media companies.

The FCC’s Interpretive Authority

The Supreme Court has twice considered whether the FCC’s general rulemaking authority under Section 201(b), adopted in 1938, extends to the 1996 amendments to the Act. Both times, the Court held that it does. Writing for the Court in *Iowa Utilities Board*, and employing his trademark textualist method, Justice Scalia wrote that this provision “means what it says: The FCC has rulemaking authority to carry out the provisions of [the 1934] Act.” The Court explained that “the clear fact that the 1996 Act was adopted, not as a freestanding enactment, but as an amendment to, and hence part of, [the 1934] Act” shows that Congress intended the Commission to have rulemaking authority over all its provisions. Likewise, in the later *City of Arlington* case, the Court confirmed that the Commission’s rulemaking authority “[o]f course . . . extends to the subsequently added portions of the Act.” From these authorities, a simple conclusion follows: Because Section 230 is among the “subsequently added portions of the Act,” it is subject to the FCC’s Section 201(b) rulemaking authority.

This rulemaking authority plainly encompasses the power to interpret ambiguous language throughout the Communications Act. And courts have repeatedly upheld the Commission’s authority to do so. *City of Arlington*, for example, upheld the Commission’s use of its authority under Section 201(b) to interpret a provision that preserved state and local authority over the placement of things like cell towers unless those localities failed to act within a “reasonable period of time.” The Supreme Court rejected an argument that the agency should receive no deference for its interpretation because the provision was “jurisdictional” and thus contemplated no regulatory action by the Commission. The Commission deserved deference, the Court explained, because “Congress has unambiguously vested the FCC with general authority to administer the Communications Act through

rulemaking and adjudication, and the agency interpretation at issue was promulgated in the exercise of that authority.”

Likewise, in *City of Portland v. FCC*, 969 F.3d 1020 (9th Cir. 2020), the U.S. Court of Appeals for the Ninth Circuit earlier this year largely affirmed two FCC orders clarifying the scope of a preemption provision in the Communications Act that provides that states and localities may not take actions that “have the effect of prohibiting” telecommunications service. Citing *City of Arlington*, the court said that “[w]here terms of the Telecommunications Act are ambiguous, we defer to the FCC’s reasonable interpretations.”

Concerning the Commission’s interpretive authority, there is no meaningful distinction between the jurisdictional provision in *City of Arlington*, the preemption provision in *City of Portland*, and the immunity shield in Section 230 of the Act. All three provisions appear in the Communications Act, as amended. And like the jurisdictional and preemption provisions, Section 230 contains ambiguous terms: What constitutes an action “voluntarily taken in good faith” to restrict access to material? What constitutes material that can be excluded as “otherwise objectionable”? As in *City of Arlington* and *City of Portland*, the Commission has the authority to clarify these ambiguities in Section 230. As the Supreme Court observed in *Iowa Utilities Board*, this conclusion is nothing more than application of the general principle, derived from the Supreme Court’s landmark decision in *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), that “Congress is well aware that the ambiguities it chooses to produce in a statute will be resolved by the implementing agency.”

Response to Common Objections

In response to the U.S. Department of Commerce’s petition asking the Commission to pursue a rulemaking on Section 230, some commenters supported the FCC’s authority to clarify the statute. Others, reading Section 201(b) – as well as *Iowa Utilities Board* and *City of Arlington* – narrowly, claimed that the FCC lacked such authority. I found the arguments of this latter group of commenters unpersuasive.

Some commenters claim that Congress did not intend for the Commission to administer Section 230, and therefore, the Commission has no authority to interpret it. Sometimes called “*Chevron Step Zero*,” this inquiry focuses on whether agencies deserve deference at all where there is no clear evidence that Congress intended the agency, rather than courts, to interpret an ambiguous statute. But the Supreme Court’s conclusion that Congress adopted the entire 1996 Act against the backdrop of the FCC’s Section 201 rulemaking power while leaving that power in place appears to foreclose this argument. As the Supreme Court put it in *City of Arlington*, “the whole [Act] includes all of its parts,” and therefore, the Court does not engage in a freewheeling judicial inquiry whereby “every agency rule must be subjected to a *de novo* judicial determination of whether the *particular issue* was committed to agency discretion.”

There is no reason why Section 230 of the Act alone should escape Section 201(b)’s general grant of rulemaking authority. Congress specifically instructed – in Section 509 of the Communications Decency Act, which in turn was in Title V of the Telecommunications Act of 1996 – that a new Section 230 be added to the Communications Act. While Section 230 itself deals primarily with an immunity shield, that fact alone does not exempt it from Commission rulemaking. *City of Arlington* and *City of Portland* make clear that the FCC can clarify even those ambiguous statutory provisions within the Act that are arguably directed toward courts – such as preemption or jurisdictional provisions. Similarly, *Iowa Utilities Board* upheld the Commission’s authority under Section 201(b) to interpret ambiguous provisions in the Act that provided standards for state utility commissions to resolve

pricing and interconnection disputes. Nothing in the Act, the Court explained, “logically preclude[s] the Commission’s issuance of rules to guide the state-commission judgments.” The same logic applies here: Section 201(b) allows the Commission to interpret Section 230 to guide the judgments of courts.

Others attempt to read limitations into the text of Section 201(b) that could exclude Section 230. They note that most of Section 201(b) deals with rules that apply to common carriers and argue that Congress did not intend to treat social media companies and other covered websites as common carriers. But the general grant of rulemaking authority at the end of Section 201(b) contains no reference to common carriers; it simply empowers the Commission to make rules that are “necessary in the public interest to carry out the provisions of this Act,” without qualification. For this reason, the U.S. Court of Appeals for the Sixth Circuit in *Alliance for Community Media v. FCC*, 529 F.3d 763 (6th Cir. 2008), held that Section 201(b) gave the Commission authority to interpret ambiguous provisions in the Cable Television Consumer Protection and Competition Act of 1992. Notably, that Act by its terms applies to cable operators, not common carriers. The Court reasoned, relying on *Iowa Utilities Board*, that it was sufficient that the 1992 law amended the Communications Act and incorporated the relevant provisions therein. The same reasoning applies to Section 230.

Other commenters reach beyond statutory text to argue that Section 230’s legislative history and purposes demonstrate that the Commission lacks authority to interpret it. As an initial matter, neither legislative history nor abstract purposes can trump the plain text of a statute, and as the Supreme Court has twice held, Section 201(b) “means what it says” – the FCC has the authority to interpret each and every provision of the Communications Act, as amended.

In any event, critics of an FCC rulemaking overread the legislative history and statements of purpose on which they rely and fundamentally misunderstand the narrow authority involved in clarifying the scope of the Section 230 immunity shield. For example, commenters note that language in Section 230(b) expresses Congress’s intent to “preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation.” They further point out that Section 230 co-framer and then-Congressman Chris Cox remarked in floor debates prior to passage that “we do not wish to have a Federal Computer Commission with an army of bureaucrats regulating the Internet.” And they observe that the FCC cited these authorities in the *Restoring Internet Freedom Order* as support for its decision to repeal the prior Administration’s onerous “net neutrality” rules in favor of light-touch regulation of Internet service providers.

But none of these observations bear on the central question here: whether the Commission has authority to interpret ambiguous terms in Section 230(c), which contains the immunity shield. Engaging in such interpretation would not involve creating “net neutrality” rules for social media companies, much less (as some critics have claimed) a “Fairness Doctrine” for the Internet. Rather, it would involve clarifying a legal standard that already exists: the statutory immunity shield in Section 230. Even if the FCC were to interpret that shield more narrowly than some courts previously have, that would not result in additional FCC regulation. It would simply allow private parties to bring lawsuits, as appropriate, under *other* sources of federal and state law – the same generally-applicable causes of action that apply to newspapers, broadcasters, and other publishers and speakers not covered by Section 230.

Nor does it matter that the U.S. Court of Appeals for the D.C. Circuit in *Comcast v. FCC*, 600 F.3d 642 (D.C. Cir. 2010), and the FCC itself in the *Restoring Internet Freedom Order*, agreed that Section 230(b) was merely a statement of policy and not an affirmative source of authority. The Commission need not rely on Section

230(b) as the source of its authority in this contemplated rulemaking. Instead, the Commission can comfortably use Section 201(b) to resolve ambiguities in the text of Section 230(c) – which *City of Arlington* and *Iowa Utilities Board* plainly permit.

At the end of the day, the scope of the Section 230 immunity shield must be interpreted by someone. And as the Supreme Court observed in both *Iowa Utilities Board* and *City of Arlington*, the only question is whether the FCC or a federal court will do the interpreting. Under current law, the answer is clear: The FCC receives deference for reasonable interpretations of all ambiguous terms in the Communications Act.

The fact that courts have been interpreting Section 230 for years does not prevent the Commission from construing its ambiguous terms. As the Supreme Court held in *National Cable & Telecomms. Ass'n v. Brand X Internet Servs.*, 545 U.S. 967 (2005), the FCC may act as the “authoritative interpreter” of ambiguous provisions in statutes like the Communications Act that it administers, and nothing “preclude[s] agencies from revising unwise judicial constructions of ambiguous statutes.” Section 230 allows the FCC to determine whether courts have appropriately interpreted its proper scope. Supreme Court Justice Clarence Thomas, for example, recently expressed the view that courts have “relied on policy and purpose arguments to grant sweeping protection to Internet platforms” under Section 230 that “departed from the most natural reading of the text.” Leaving such constructions unchallenged could, in Justice Thomas’s words, “have serious consequences,” like exempting Internet companies from a broad array of civil claims, even if that is not “what the law demands.” Under *Brand X*, the FCC may review these judicial interpretations to determine whether they reflect the best reading of the statute. Indeed, an agency’s role as “authoritative interpreter” may be particularly useful where, as here, courts have reached divergent interpretations of key provisions of an important statute, thus creating substantial uncertainty and disharmony in the law.

* * *

Ultimately, the five Commissioners of the FCC must decide whether this legal framework should be adopted in any future rulemaking. But in my own judgment, the FCC’s legal authority to interpret Section 230 is straightforward: Congress gave the Commission power to interpret all provisions of the Communications Act of 1934 – including amendments – and Section 230 is an amendment to the Communications Act. The Commission therefore may proceed with a rulemaking to clarify the scope of the Section 230(c) immunity shield.

From: [Brian Hart](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#)
Subject: Fwd: Comment in response to House E and C Democrats
Date: Monday, October 19, 2020 1:43:56 PM

(b) (5)

A large black rectangular redaction box covers the majority of the page content below the header. The text "(b) (5)" is written in red at the top left of this redacted area.

From: Rebecca Klar <rklar@thehill.com>
Sent: Monday, October 19, 2020 11:09 AM
To: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>
Subject: Comment in response to House E and C Democrats

Hello,

I'm reaching out to see if the FCC or specifically Chairman Ajit Pai has a comment in response to a critical statement released today by Democratic members of the House Energy and Commerce Committee criticizing Pai's announcement from last week that the panel will move forward with the Trump administration's petition to clarify Section 230 of the Communications Decency Act. A copy of their statement can be seen [screenshotted here](#).

Thank you,
Rebecca Klar

From: [Brian Hart](#)
To: [Matthew Berry](#)
Cc: [Ajit Pai](#); [Nicholas Degani](#)
Subject: Fwd: COS Matthew Berry - Fox News Booking Inquiry
Date: Monday, October 19, 2020 1:02:14 PM

Matthew: Do you have/can you use Skype? And does Wed in the 3p hour work?

From: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Sent: Monday, October 19, 2020, 12:49 PM
To: Brian Hart
Subject: RE: COS Matthew Berry - Fox News Booking Inquiry

Yes, Skype would be the best option for us. FaceTime also works.

Does Wednesday the 21st in the 3pm hour work?

Thanks!
Bryn

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Monday, October 19, 2020 12:37 PM
To: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Subject: [EXTERNAL] Fwd: COS Matthew Berry - Fox News Booking Inquiry

Bryn: Matthew is available and interested. Can he do remote from home via video app?

From: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Sent: Monday, October 19, 2020 11:18 AM
To: MediaRelations <MediaRelations@fcc.gov>
Subject: COS Matthew Berry - Fox News Booking Inquiry

Good morning,

I left a message earlier and wanted to follow up on email. Is Chief of Staff for the FCC Matthew Berry available to join us on the Fox News Channel this week, specifically tomorrow, during the 3pm hour for *Bill Hemmer Reports*? We would like to discuss his recent tweet regarding Twitter's limits on different accounts.

Please let me know if we can make this happen.

Thank you,
Bryn

Bryn K. Jeffers

Guest Greeter, Booking Unit

Fox News Channel | Washington, D.C. Bureau

(929)271-5166

Bryn.Jeffers@foxnews.com

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From: [Brian Hart](#)
To: Bryn.Jeffers@FOXNEWS.COM
Subject: Fwd: COS Matthew Berry - Fox News Booking Inquiry
Date: Monday, October 19, 2020 12:37:11 PM

Bryn: Matthew is available and interested. Can he do remote from home via video app?

From: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Sent: Monday, October 19, 2020 11:18 AM
To: MediaRelations <MediaRelations@fcc.gov>
Subject: COS Matthew Berry - Fox News Booking Inquiry

Good morning,

I left a message earlier and wanted to follow up on email. Is Chief of Staff for the FCC Matthew Berry available to join us on the Fox News Channel this week, specifically tomorrow, during the 3pm hour for *Bill Hemmer Reports*? We would like to discuss his recent tweet regarding Twitter's limits on different accounts.

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Thank you,
Bryn

Bryn K. Jeffers
Guest Greeter, Booking Unit
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From: [Matthew Berry](#)
To: [Brian Hart](#); [Ajit Pai](#); [Nicholas Degani](#); [Evan Swarztrauber](#)
Subject: Fwd: MARK LEVIN RADIO?
Date: Friday, October 16, 2020 3:41:50 PM

(b) (5)

From: "Richard Sementa" <Richard.Sementa@cumulus.com>
Date: Friday, October 16, 2020 at 3:38:22 PM
To: "Matthew Berry" <Matthew.Berry@fcc.gov>, "Brian Hart" <Brian.Hart@fcc.gov>, "Lori Alexiou" <Lori.Alexiou@fcc.gov>
Cc: "Ajit Pai" <Ajit.Pai@fcc.gov>
Subject: MARK LEVIN RADIO?

Good afternoon

Is Ajit Pai available tonight at either 6:30 or 7:30 pm eastern to discuss Section 230, facebook and twitter? It would be by phone for about 10 minutes.

Thanks!

Richard Sementa

Executive Producer, The Mark Levin Show | Westwood One

O: 212-613-3840

2 Penn Plaza, 17th Floor □ NY, NY 10121

westwoodone.com □ marklevinshow.com

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From: [Brian Hart](#)
To: [Katie Gorscak](#)
Subject: Fwd: Press prep for your review
Date: Thursday, October 22, 2020 2:31:36 PM

(b) (5)



From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Thursday, October 22, 2020 2:29:25 PM
To: Katie Gorscak <Katie.Gorscak@fcc.gov>
Cc: Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Re: Press prep for your review

(b) (5)



From: Katie Gorscak <Katie.Gorscak@fcc.gov>
Sent: Thursday, October 22, 2020 2:19:07 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Cc: Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Press prep for your review

(b) (5)



Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [Brian Hart](#)
To: [Katie Gorscak](#)
Subject: Fwd: press prep...
Date: Friday, November 13, 2020 10:34:30 AM
Attachments: [2020-11 Open Meeting - November Press Prep Grab Bag Topics Only.docx](#)

(b) (5)

From: Brian Hart
Sent: Tuesday, November 10, 2020 5:41:44 PM
To: Matthew Berry (Matthew.Berry@fcc.gov) <Matthew.Berry@fcc.gov>; Nicholas Degani (Nicholas.Degani@fcc.gov) <Nicholas.Degani@fcc.gov>; Ajit Pai (Ajit.Pai@fcc.gov) <Ajit.Pai@fcc.gov>
Subject: press prep...

(b) (5)

[Redacted]

[Redacted]

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[Redacted]

[Redacted]

From: [Shepardson, David \(Reuters\)](#)
To: [Brian Hart](#)
Subject: Fwd: Reflections on the Pai chairmanship at the FCC
Date: Friday, November 13, 2020 9:01:50 AM

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From: AEI Tech Policy <TechPolicy@aei.org>
Sent: Friday, November 13, 2020 9:01 AM
To: Shepardson, David (Reuters)
Subject: Reflections on the Pai chairmanship at the FCC



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Tech Policy Daily

The latest on technology policy from AEI

Reflections on the Pai chairmanship at the FCC

Daniel Lyons | November 13, 2020 6:00 am

Photo

Under FCC Chairman Ajit Pai's leadership, internet speeds have doubled, fiber deployment has increased, and the number of Americans without high-speed internet has fallen dramatically. As we look ahead to the future of tech policy, this FCC's accomplishments should and will cast a long shadow over whatever comes next.

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From: [Katie Gorscak](#)
To: [Brian Hart](#); [Anne Veigle](#); [Will Wiquist](#)
Subject: Hot Topics/Grab Bag
Date: Wednesday, October 21, 2020 11:16:00 AM

(b) (5) [Redacted]

[Redacted]

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [DeJarnette, Alexis \(Commerce\)](#)
To: [DeJarnette, Alexis \(Commerce\)](#); [Taylor, Emily \(Commerce\)](#)
Subject: ICYMI // Wicker Appears on Fox Business Ahead of Big Tech Hearing
Date: Wednesday, October 28, 2020 9:38:58 AM
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FOR IMMEDIATE RELEASE
October 28, 2020

Contact: [Emily Taylor](#)
[Alexis DeJarnette](#)

ICYMI: Wicker Appears on Fox Business Ahead of Big Tech Hearing

WASHINGTON – U.S. Sen. Roger Wicker, R-Miss., chairman of the Senate Committee on Commerce, Science, and Transportation, today joined Maria Bartiromo on Fox Business Network’s *Mornings with Maria* ahead of today’s Commerce Committee [hearing](#) with Big Tech CEOs.

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From: [DeJarnette, Alexis \(Commerce\)](#)
To: [DeJarnette, Alexis \(Commerce\)](#); [Taylor, Emily \(Commerce\)](#)
Subject: ICYMI // Wicker Appears on Fox Business to Discuss Big Tech Hearing
Date: Tuesday, October 27, 2020 5:02:39 PM
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FOR IMMEDIATE RELEASE
October 27, 2020

Contact: [Emily Taylor](#)
[Alexis DeJarnette](#)

ICYMI: Wicker Appears on Fox Business to Discuss Big Tech Hearing

WASHINGTON – U.S. Sen. Roger Wicker, R-Miss., chairman of the Senate Committee on Commerce, Science, and Transportation, today joined Liz Claman on Fox Business Network's *Claman Countdown* to preview tomorrow's Commerce Committee [hearing](#) with Big Tech CEOs.

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Click [here](#) to watch the interview.

###



From: [DeJarnette, Alexis \(Commerce\)](#)
To: [DeJarnette, Alexis \(Commerce\)](#); [Taylor, Emily \(Commerce\)](#)
Subject: ICYMI // Wicker Appears on Fox News Following Big Tech Hearing
Date: Wednesday, October 28, 2020 5:38:49 PM
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FOR IMMEDIATE RELEASE
October 28, 2020

Contact: [Emily Taylor](#)
[Alexis DeJarnette](#)

ICYMI: Wicker Appears on Fox News Following Big Tech Hearing

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Click [here](#) to watch the interview.

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From: [DeJarnette, Alexis \(Commerce\)](#)
To: [DeJarnette, Alexis \(Commerce\)](#); [Taylor, Emily \(Commerce\)](#)
Subject: ICYMI // Wicker Appears on Fox News to Discuss Section 230 Reform, Big Tech Hearing
Date: Wednesday, October 21, 2020 1:15:25 PM
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FOR IMMEDIATE RELEASE
October 21, 2020

Contact: [Emily Taylor](#)
[Alexis DeJarnette](#)

ICYMI: Wicker Appears on Fox News to Discuss Section 230 Reform, Big Tech Hearing

WASHINGTON – U.S. Sen. Roger Wicker, R-Miss., chairman of the Senate Committee on Commerce, Science, and Transportation, today joined Sandra Smith on Fox News Channel’s *America’s Newsroom* to discuss section 230 reform and next week’s Commerce Committee [hearing](#) with Big Tech CEOs.

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Click [here](#) to watch the interview.

###



From: [Alethea Lewis](#)
To: [Alexander Sanjenis](#); [Alisa Valentin](#); [Allison Baker](#); [Anne Veigle](#); [Arielle Roth](#); [Aurelle Porter](#); [Austin Bonner](#); [Benjamin Arden](#); [Blaise Scinto](#); [Brendan Carr](#); [Brian Hart](#); [Catherine Schroeder](#); [Cecilia Sulhoff](#); [Charles Mathias](#); [Christopher Santini](#); [Dana Shaffer](#); [Diane G. Holland](#); [Donald Stockdale](#); [Erika Olsen](#); [Erin Fitzgerald](#); [Erin McGrath](#); [Ethan Lucarelli](#); [Evan Swarztrauber](#); [Geoffrey Starks](#); [Giulia McHenry](#); [Holly Saure](#); [Jamison Prime](#); [Jesse Jachman](#); [Jessica Martinez](#); [Jessica Rosenworcel](#); [Joel G. Miller](#); [John Schauble](#); [Joseph Calascione](#); [Justin Faulb](#); [Kate Black](#); [Kathryn OBrien](#); [Katie Gorscak](#); [Kris Monteith](#); [Lauren Kravetz](#); [Lisa Fowkes](#); [Lisa Gelb](#); [Mark Stephens](#); [Matthew Berry](#); [Matthew Pearl](#); [Michael Carowitz](#); [Michelle Carey](#); [Mike ORIelly](#); [Montana L. Hyde](#); [Nadja SodosWallace](#); [Nancy Zaczek](#); [Nicholas Degani](#); [OLA Distribution List](#); [Patrick Webre](#); [Preston Wise](#); [Rachel Kazan](#); [Rosemary Harold](#); [Sean Spivey](#); [Susan Mort](#); [Thomas Johnson](#); [Thomas Sullivan](#); [Travis Litman](#); [Umair Javed](#); [Wesley Platt](#); [Will Adams](#); [Will Wiquist](#); [William Davenport](#); [Zac Champ](#); [Zenji Nakazawa](#)
Subject: Incoming Congressional Correspondence for Today
Date: Thursday, October 29, 2020 3:59:04 PM
Attachments: [Torres-Quigley870.pdf](#)
[Pallone-Doyle871.pdf](#)
[Warlorski872.pdf](#)
[Wicker-Barrasso873.pdf](#)

Cong. Norma Torres – Consumers – Public Interest Obligation – (OGC)

Cong. Mike Quigley

- Expresses concerns regarding the Commission’s intent to clarify the meaning of Section 230.
- Believes that this step is inappropriate for an independent agency.

Cong. Frank Pallone – Consumers – Public Interest Obligation – (OGC)

Cong. Mike Doyle

- Seeks details on the Commission’s roles in clarifying the meaning of Section 230.
- Poses several questions.
- Requests a response by November 2, 2020.

Cong. Jackie Walorski – Connect America – CAF – (WCB)

- Writes in support of BerryComm’s application for RDOF grant.

Sen. Roger Wicker – Connect America – Pole Attachments – (WCB)

Sen. John Barrasso

- Encourages the Commission to clarify rules governing broadband providers' access to utility poles.
- States that it would help remove impediments to broadband deployment and allow more resources to be devoted to connecting homes and businesses.

Alethea Lewis
Congressional Liaison Specialist
Federal Communications Commission
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DEBBIE WASSERMAN SCHULTZ, FLORIDA
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MIKE QUIGLEY, ILLINOIS
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NORMA J. TORRES, CALIFORNIA
CHARLIE CRIST, FLORIDA
ANN KIRKPATRICK, ARIZONA
ED CASE, HAWAII

Congress of the United States
House of Representatives
Committee on Appropriations
Washington, DC 20515-6015

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WILL HURD, TEXAS

870

SHALANDA YOUNG
CLERK AND STAFF DIRECTOR
(202) 225-2771

October 28, 2020

The Honorable Ajit Pai
Chairman, Federal Communications Commission
455 12th Street, SW
Washington, D.C. 20554

Dear Chairman Pai:

We write to express our strong objection to the Federal Communications Commission's (FCC) recent announcement that it will move forward with a rulemaking to "clarify" the meaning of Section 230 of the Communications Decency Act. This announcement, declared less than three weeks before one of the most significant elections in U.S. history, is an act of political theater to help support President's Trump flailing campaign and exacerbates the threats our country faces from foreign adversaries.

President Trump has regularly trafficked in baseless conspiracy theories and outright falsehoods. When social media companies took reasonable steps to curb the spread of such misinformation, he leveraged the full might of the Federal government to intimidate those companies and settle his personal grievances. The FCC's current actions are the direct result of such petty and unpresidential vendettas. On May 28, just days after Twitter fact-checked two of his tweets, President Trump signed Executive Order 13925 (85 Fed. Reg. 34079) directing the National Telecommunications and Information Administration to file a petition for a rulemaking by the FCC to clarify Section 230. The Executive Order was based on the unfounded belief that social media platforms are biased against conservatives and places executive branch agencies in the unacceptable position of trying to administratively constrain First Amendment protections.

Section 230 has allowed U.S. tech companies to develop innovative platforms and technologies to benefit consumers around the world. Congress also recognizes that the technology sector has

undergone massive transformations in the past 25 years and that certain aspects of Section 230 might merit modification. Instead of rushing to act in a way that could harm millions of Americans, Congress has embarked on a deliberate and nuanced examination of such changes. In the meantime, Congress has expressed disapproval for this Administration's overtly political Executive Order and the wasteful burden it places on American taxpayers. For instance, many legal scholars have called into question the legality of E.O. 13925. In fact, the House of Representatives passed a provision in H.R. 7617, the Fiscal Year 2021 Appropriations Minibus, to prohibit the use of taxpayer funds to implement this Executive Order while Congress continues its work.

Given these circumstances, the FCC's announcement on October 15 to pursue a rulemaking to "clarify" Section 230 was inappropriate for an independent agency tasked with protecting America's communications infrastructure. The decision was undoubtedly the result of political pressure from the White House. Just one day prior, President Trump had tweeted "REPEAL SECTION 230!!!" in response to Twitter's removal and Facebook's reduced distribution of a New York Post story discussing hacked materials of Hunter Biden—a story of such dubiousness that the publication's own reporter refused to put their name on it.

Regardless of the ultimate legal verdicts around E.O. 13925 and the FCC's rulemaking, Trump's comments and the FCC's announcement are already having impact. Twitter has responded that due to "feedback" it will change its policies towards hacked materials. And other social media platforms will now also face pressure to permit libelous, false, or dangerous content and conspiracy theories to avoid facetious and self-serving claims of "anti-conservative" bias. The FCC should immediately fulfill its statutory mandate to protect the national defense, the safety of life and property, and the public interest by reconsidering its decision and cease further activity on the Section 230 rulemaking.

Sincerely,



Norma J. Torres
Member of Congress



Mike Quigley
Member of Congress

ONE HUNDRED SIXTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

871

Majority (202) 225-2927
Minority (202) 225-3641

October 28, 2020

The Honorable Ajit V. Pai
Chairman
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Dear Chairman Pai:

We write seeking details regarding communications between you, individuals in the Chairman's office, or the General Counsel and those working in the Executive Office of the President or the White House, preceding your recent statement on the Federal Communications Commission's (FCC) role in interpreting Section 230 of the Communications Decency Act (CDA 230).¹ Recently, you concluded that the FCC "has the legal authority to interpret Section 230" and intends "to move forward with a rulemaking to clarify its meaning."² The fact that this announcement came just weeks before the election, and that President Trump has pushed for CDA 230 rulemaking raise serious questions about the independence of the agency. The American people deserve to know what conversations, if any, have transpired between you, your office and the White House to ensure the integrity of the FCC.

CDA 230 enables websites to moderate content online by generally providing immunity for online platforms for content posted by users.³ That means platforms are mostly not held liable for third-party content posted on their websites, with some relevant exceptions.⁴ Since Congress' enactment of CDA 230, the FCC has played no role in implementing or interpreting this provision.

It wasn't until online platforms began fact-checking the President's content that he and his Administration began an aggressive campaign to persuade the FCC to dictate how online platforms moderate content. On May 28, 2020, the President signed an Executive Order asking

¹ Federal Communications Commission, Statement of Chairman Pai on Section 230, Press Release (Oct. 15, 2020).

² *Id.*

³ 47 U.S.C. § 230.

⁴ *Id.*

the National Telecommunications and Information Administration (NTIA) to petition the FCC to rethink the scope of CDA 230.⁵ Pursuant to the Executive Order, on July 27, 2020, the NTIA filed a petition with the FCC, asking the FCC to adopt rules interpreting CDA 230 and its liability protections.⁶ And, on September 23, 2020, the Department of Justice (DOJ), on behalf of the Trump Administration, proposed changes to CDA 230 that would limit CDA 230's liability protections.⁷

Not only has the Trump Administration directly pressured the FCC to do its bidding on CDA 230, it appears the Administration is willing to retaliate against those who do not get in line with its agenda. President Trump abruptly pulled his nomination of Commissioner Michael O'Rielly for another FCC term shortly after Commissioner O'Rielly publicly raised concerns over the FCC's role in interpreting CDA 230.⁸ Last month, President Trump nominated Nathan Simington, who reportedly worked on the NTIA CDA 230 petition, to replace Commissioner O'Rielly.⁹ Just this month, President Trump tweeted at Senator Wicker urging Republicans to confirm Mr. Simington, and shortly thereafter, a nomination hearing was scheduled for November 10th.¹⁰

Now it appears the FCC is working in concert with the Trump Administration to attempt to influence the actions of online platforms by advancing a CDA 230 rulemaking. As an independent Federal regulatory agency, the FCC is not a part of the Executive branch and instead, is responsible directly to Congress. As such, the FCC should avoid even the appearance of acting on behalf of the President.

⁵ *Trump Signs Order That Could Punish Social Media Companies for How They Police Content, Drawing Criticism and Doubts of Legality*, Washington Post (May 28, 2020).

⁶ Federal Communications Commission, *National Telecommunications and Information Administration, Clarify Provisions of Section 230 of the Communications Act of 1934, as amended*, Petition for Rulemaking, RM 11862 (July 27, 2020). One week later, the FCC sought public comment on the NTIA Petition. Federal Communications Commission, *Consumer & Governmental Affairs Bureau, Reference Information Center, Petition For Rulemakings Filed*, Public Notice (Aug. 3, 2020).

⁷ Department of Justice, *The Justice Department Unveils Proposed Section 230 Legislation*, Press Release (Sept. 23, 2020).

⁸ *Trump withdraws Commissioner O'Rielly's Renomination to FCC*, Fierce Wireless (Aug. 4, 2020) (www.fiercewireless.com/regulatory/trump-withdraws-commissioner-o-rielly-s-renomination-to-fcc).

⁹ *Trump plans to nominate official for FCC amid social media push*, Reuters (September 15, 2020) (www.reuters.com/article/us-usa-fcc-simington/trump-plans-to-nominate-official-for-fcc-amid-social-media-push-idUSKBN26700Q).

¹⁰ *U.S. Senate panel to hold hearing on FCC nominee after Trump's urging*, Reuters (October 15, 2020) (www.reuters.com/article/us-trumpp-fcc/u-s-senate-panel-to-hold-hearing-on-fcc-nominee-after-trumps-urging-idUSKBN27031R).

As the Committee with jurisdiction over the FCC and CDA 230, we have significant concerns about these developments. Accordingly, we request detailed responses to the following questions below by November 2, 2020:

1. Has anyone from the White House, the Executive Office of the President, NTIA, or DOJ contacted you, staff in the Chairman's office, or the FCC General Counsel about the NTIA Petition and/or CDA 230? If so, please list every instance, the parties involved, and what was discussed.
2. Has anyone from the Trump Campaign contacted you, staff in the Chairman's office, or the FCC General Counsel about the NTIA Petition and/or CDA 230? If so, please list every instance, the parties involved, and what was discussed.
3. Have you, staff in the Chairman's office, or the FCC General Counsel contacted anyone from the White House, the Executive Office of the President, NTIA, or DOJ about the NTIA Petition and/or CDA 230? If so, please list every instance, the parties involved, and what was discussed.
4. Have you, staff in the Chairman's office, or the FCC General Counsel contacted anyone from the Trump Campaign about the NTIA Petition and/or CDA 230? If so, please list every instance, the parties involved, and what was discussed.

For the purposes of the questions above, "contact" includes status inquiries that would not be required to be disclosed under the FCC's *ex parte* rules. Thank you for your prompt attention to this important matter. If you have additional questions, please contact Gerald Leverich of the Majority Committee Staff at (202) 225-2927

Sincerely,



Frank Pallone, Jr.
Chairman



Mike Doyle
Chairman
Subcommittee on Communications
and Technology

JACKIE WALORSKI
2ND DISTRICT, INDIANA

COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON WORKER
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Congress of the United States

House of Representatives

Washington, DC 20515-1402

October 6, 2020

872

Received & Inspected

OCT 14 2020

FCC Mailroom

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

Dear Chairman Pai,

I write to introduce BerryComm, and to support its application for the Rural Opportunities Development Fund (RDOF) Grant made available by the Federal Communications Commission.

It is my understanding that BerryComm aims to provide affordable, high quality broadband internet and voice communications services to underserved households in much of rural Indiana, including my congressional district. Furthermore, I am informed that BerryComm has a goal to develop the infrastructure needed for affordable, high quality communications services in rural areas where such infrastructure does not exist or is not adequately updated to provide for current household communications needs. If approved, BerryComm states their intent to partner with local government entities and community-based nonprofit organizations who work with disadvantaged and underserved persons in rural areas to develop much of this broadband infrastructure.

As a Member of Congress, I am supportive of efforts to ensure Hoosiers in rural areas have better access to high-quality, affordable internet and communications resources. As the Ranking Member of the House Ways & Means Subcommittee on Worker and Family Rights, I know grants such as RDOF help organizations like BerryComm provide these services, especially when workers and families in rural areas need it most during unprecedented situations such as the COVID-19 pandemic.

I would respectfully ask that the FCC give full and fair consideration toward this application, as is permissible within all applicable laws, rules, and regulations.

Thank you for your consideration.

Sincerely,

Jackie Walorski

Jackie Walorski
Member of Congress

JOHN THUNE, SOUTH DAKOTA
 ROY BLUNT, MISSOURI
 TED CRUZ, TEXAS
 DEB FISCHER, NEBRASKA
 JERRY MORAN, KANSAS
 DAN SULLIVAN, ALASKA
 CORY GARDNER, COLORADO
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MARCA CANTWELL, WASHINGTON
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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
 AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <http://commerce.senate.gov>

October 28, 2020

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JOHN KEAST, STAFF DIRECTOR
 DAVID STROCKLAND, DEMOCRATIC STAFF DIRECTOR

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

Dear Chairman Pai,

The COVID-19 pandemic has changed life dramatically for almost every American. Normal activities such as work, school, and health care services now increasingly take place online. According to one estimate, average broadband usage has risen by 47 percent since the pandemic began.

Through initiatives led by the Federal Communications Commission (FCC or Commission) and private investment, a number of steps have been taken to expand broadband access to unserved areas and to address immediate connectivity needs stemming from the COVID-19 crisis. Notably, the FCC's 2020 Broadband Deployment Report finds that the number of households without access to broadband service continues to decline. Despite these encouraging advances, there is still significant work that needs to be done to connect all Americans.

As you know, timely, reasonable, and equitable access to utility poles is a critical part of expanding the availability of reliable and high-speed broadband internet service. Indeed, the Telecommunications Act of 1996 requires utilities to provide nondiscriminatory access to utility poles as they are essential to the efficient deployment of broadband facilities. The Act also requires the FCC to adopt procedures to ensure that the rates, terms, and conditions for pole attachments are just and reasonable.

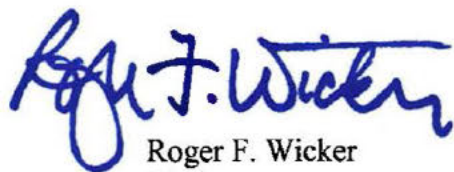
In accordance with the law, we encourage the FCC to move expeditiously to clarify rules governing broadband providers' access to utility poles and to resolve quickly any pole attachment disputes that arise in unserved areas. These actions would help remove impediments to broadband deployment and allow more resources to be devoted to connecting homes and businesses across the country.

We appreciate the FCC's ongoing work to reduce costs and remove regulatory barriers in order to close the digital divide. Thank you for your consideration of this important matter.

Sincerely,



John Barrasso, M.D.
 Chairman
 Senate Committee on Environment
 and Public Works



Roger F. Wicker
 Chairman
 Senate Committee on Commerce,
 Science, and Transportation

From: [Alethea Lewis](#)
To: [Alexander Sanjenis](#); [Alisa Valentin](#); [Allison Baker](#); [Anne Veigle](#); [Arielle Roth](#); [Aurelle Porter](#); [Austin Bonner](#); [Benjamin Arden](#); [Blaise Scinto](#); [Brendan Carr](#); [Brian Hart](#); [Catherine Schroeder](#); [Cecilia Sulhoff](#); [Charles Mathias](#); [Christopher Santini](#); [Dana Shaffer](#); [Diane G. Holland](#); [Donald Stockdale](#); [Erika Olsen](#); [Erin Fitzgerald](#); [Erin McGrath](#); [Ethan Lucarelli](#); [Evan Swartztrauber](#); [Geoffrey Starks](#); [Giulia McHenry](#); [Holly Saurer](#); [Jamison Prime](#); [Jesse Jachman](#); [Jessica Martinez](#); [Jessica Rosenworcel](#); [Joel G. Miller](#); [John Schauble](#); [Joseph Calascione](#); [Justin Faulb](#); [Kate Black](#); [Kathryn OBrien](#); [Katie Gorscak](#); [Kris Monteith](#); [Lauren Kravetz](#); [Lisa Fowlkes](#); [Lisa Gelb](#); [Mark Stephens](#); [Matthew Berry](#); [Matthew Pearl](#); [Michael Carowitz](#); [Michelle Carey](#); [Mike ORIelly](#); [Montana L. Hyde](#); [Nadja SodosWallace](#); [Nancy Zaczek](#); [Nicholas Degani](#); [OLA Distribution List](#); [Patrick Webre](#); [Preston Wise](#); [Rachel Kazan](#); [Rosemary Harold](#); [Sean Spivey](#); [Susan Mort](#); [Thomas Johnson](#); [Thomas Sullivan](#); [Travis Litman](#); [Umair Javed](#); [Wesley Platt](#); [Will Adams](#); [Will Wiquist](#); [William Davenport](#); [Zac Champ](#); [Zenji Nakazawa](#)
Subject: Incoming Congressional Correspondence for Today
Date: Tuesday, October 20, 2020 4:19:57 PM
Attachments: [Cloud et al 836.pdf](#)
[Clarke-Brooks837.pdf](#)

Cong. Michael Cloud, et al. – Consumers – Public Interest Obligation – (OGC)

- Writes regarding the Commission’s decision concerning Section 230.
- Poses several questions.
- Requests a response by October 27th.

Cong. Yvette Clarke – Innovation – Equipment Authorization – (OET)

- Asks the Commission to reconsider its rules related to the presale of radiofrequency devices to consumers.
- Believes that modifying the rules will allow device manufacturers to better gauge the market.
- Also believes that manufacturers will have greater flexibility in structuring supply chains and enable devices to be on display for consumers upon authorization.

Alethea Lewis
Congressional Liaison Specialist
Federal Communications Commission
Office of Legislative Affairs
(202) 418-0103
Alethea.Lewis@fcc.gov



Congress of the United States
House of Representatives
Washington, DC 20515-3605

October 20, 2020

The Honorable Ajit Pai
Chairman
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Dear Chairman Pai,

We are writing today to commend you for your statement that the Federal Communications Commission (FCC) would move forward with a rulemaking process to clarify Section 230 of the Communications Decency Act. The latest incident where Facebook and Twitter censored or otherwise manipulated algorithms affecting the distribution of a *New York Post* story is the most recent, but not the only, evidence that this issue should be revisited.

Facebook admitted that it was “reducing its distribution on our platform” in reference to the *New York Post* story alleging that Hunter Biden had arranged to introduce a Ukrainian businessman to then-Vice President Joe Biden. Essentially, the platform was taking links to the story out of its algorithm, and it did so prior to undertaking any independent fact-checking of the story. Similarly, Twitter admitted it was blocking the links and required the *New York Post* to delete its tweet about the story.

This *New York Post* story was banned prematurely and arbitrarily. The same rules were not applied by Facebook and Twitter to stories about President Trump and Russia, many of which ultimately proved to have no basis in fact and helped promote a three-year partisan witch hunt. The evidence now suggests that the entire line of inquiry was based on a fake dossier, planted by the Hillary Clinton campaign, and pushed forward by the Obama-Biden Administration.

Exercising editorial control of the news is ultimately not the role of an online platform which should remain neutral if it wishes to enjoy Section 230 protections. In fact, Section 230 provides legal protections to platforms from being liable for allowing hundreds, if not thousands, of fake “Trump Russian collusion” allegations from major media outlets to appear in their feeds. By now admitting they are acting as arbitrary editors and selecting which news content users can and cannot see, these online platforms are clearly acting outside of the original intent of the Section 230 protections.

Not only does this type of censorship put these online platforms' Section 230 protections at risk, it is a threat to the First Amendment protections of a free press. It raises questions as to interference in the 2020 election by social media and other online platforms used by hundreds of millions of Americans. And, it should shine a spotlight on past actions taken by platforms like Google, Facebook and Twitter to put in place policies and procedures in a manner that had a direct impact on the outcome of past elections.

As the FCC weighs whether new Section 230 regulations are in order, we ask that you consider the following questions:

1. Does the censorship of the *New York Post* content violate existing FCC regulations?
2. Do you believe the censorship of the *New York Post* content could remove an online platform's protections under Section 230 as it relates to the specific incident?
3. If so, could online platforms with a policy for exercising editorial control over news content cause it to be treated as a publisher generally and lose its Section 230 protections altogether?
4. Do you believe incidents like this one call on Congress to pass clarifying legislation to draw a clearer statutory line between publisher and platform under Section 230 or can this be done through rulemaking?
5. Are there any existing FCC regulations regarding election interference that online platforms should take into account when considering their exposure to liability?

Please provide a response not later than 5:00pm on October 27, 2020.

Sincerely,



Michael Cloud
Member of Congress



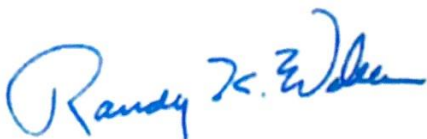
W. Gregory Steube
Member of Congress



Andy Biggs
Member of Congress



Vicky Hartzler
Member of Congress




Randy K. Weber
Member of Congress



Scott DesJarlais
Member of Congress



Ted Budd
Member of Congress



Bob Gibbs
Member of Congress



Glen Grothman
Member of Congress



Mo Brooks
Member of Congress



James Comer
Member of Congress



Jody Hice
Member of Congress



Robert B. Aderholt
Member of Congress



Fred Keller
Member of Congress



Steve King
Member of Congress



Louie Gohmert
Member of Congress



Roger Williams
Member of Congress



John Rose
Member of Congress



Dan Bishop
Member of Congress



Ralph Norman
Member of Congress

Congress of the United States
Washington, DC 20515

837

October 19, 2020

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

Dear Chairman Pai,

We write to ask that you consider adjusting Federal Communications Commission (FCC) rules related to presale of radiofrequency devices to consumers. Innovation is moving at a record pace. In the current environment brought upon by the COVID-19 pandemic, Americans have been forced to adapt to the rapid adoption of remote work, distance education, and digital health. This shift has relied on ready access to new devices - and our nation's innovators and startups are striving to keep up with consumer demand. According to the Consumer Technology Association's U.S. Consumer Technology One-Year Industry Forecast, "consumer use continues to rise in the current pandemic and demand is likely to continue past the current health crisis." By modernizing its equipment authorization and importation rules, the FCC can allow for greater innovation and access to these essential devices.

The current FCC rules prohibit conditional sales of radiofrequency devices to consumers. While well-intentioned when these were put into place in the 1970s, today these outdated rules do not reflect the current development cycles seeking to meet consumer interest and demand. Indeed, given the rise of new trends like crowdfunding, pre-ordering products occurs with increasingly regularity. However, American technology entrepreneurs cannot take advantage of these developments which plays an essential part in understanding consumer interest and demand. We believe that modifying, while not removing, these rules will allow device manufacturers to better gauge the market. For startups in particular, an adjustment in the rules would be valuable in demonstrating demand to potential funders. We therefore suggest common sense modifications to the rules that will allow consumers to make pre-orders, as long as would-be buyers are informed that the equipment is under FCC review and that any sale is conditioned upon FCC approval.

FCC rules also severely limit the importation of devices even for the express purpose of display in retail stores until after FCC approval. These strict importation rules inhibit adequate preparation and limit speed to market as companies prepare for global launches of devices. By permitting the importation of a limited number of devices for "pre-market activity," the FCC will provide device manufacturers with greater flexibility in structuring supply chains and enable devices to be on display for consumers upon authorization. Such importation should be limited to devices for which the manufacturer have a reasonable belief that FCC authorization is likely. In addition, any imported devices must be subject to strict controls, including restrictions on display

Congress of the United States
Washington, DC 20515

and advertising, as well as requiring the manufacturer to have the ability to retrieve the equipment from retailers if FCC authorization is denied.

Modernization and consumer protection are not mutually exclusive. The modernization of these FCC rules can facilitate greater innovation, while still safeguarding against risks to consumers.

These suggested changes to the FCC's rules are especially important in light of the current pandemic and the ongoing U.S. deployment of next-generation 5G networks. We urge you to move swiftly to update these rules to ensure that American technology can continue to be at the forefront of satisfying consumer needs and demands.

Signed,

Handwritten signature of Yvette D. Clarke in black ink. The signature is written in a cursive style and includes the initials "M.C." at the bottom right.

Yvette D. Clarke
Member of Congress

Handwritten signature of Susan W. Brooks in black ink. The signature is written in a cursive style.

Susan W. Brooks
Member of Congress

DORIS O. MATSUI
6TH DISTRICT, CALIFORNIA

COMMITTEE ON ENERGY
AND COMMERCE

Congress of the United States
House of Representatives
Washington, DC 20515-1504

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October 15, 2020

828

Ajit Pai
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Chairman Pai,

I write today to urge the Federal Communications Commission (FCC) to promptly consider a pending Petition for Declaratory Ruling to clarify its existing pole attachment rules to help minimize broadband deployment barriers in underserved communities. Access to a reliable, high-speed internet connection is more critical than ever, and FCC action on this Petition could help bring more Americans online.

Much of the country's broadband infrastructure is carried by cables attached to utility poles, which provide a crucial link between many rural homes and businesses across the country. Given the critical nature of pole access, the FCC's pole attachment rules were developed at the direction of Congress to ensure fair and timely access. However, when it comes to actually deploying new broadband infrastructure, this process is too often complex and costly. The FCC's broad authority in this space should be employed to ensure a more predictable and equitable process.

Accordingly, I encourage the FCC to move quickly to clarify its existing rules regarding utility pole access. Such a clarification should ensure a transparent, fair, and fast process that considers the needs of pole owners and those who need to attach to them.

Thank you for your attention to this critical issue. I look forward to working with you on increasing broadband access and closing the digital divide.

Sincerely,



Doris Matsui
Member of Congress

From: [Joy Medley](#)
To: [Alexander Sanjenis](#); [Alisa Valentin](#); [Allison Baker](#); [Anne Veigle](#); [Arielle Roth](#); [Aurelle Porter](#); [Austin Bonner](#); [Benjamin Arden](#); [Blaise Scinto](#); [Brendan Carr](#); [Brian Hart](#); [Catherine Schroeder](#); [Cecilia Sulhoff](#); [Charles Mathias](#); [Christopher Santini](#); [Dana Shaffer](#); [Diane G. Holland](#); [Donald Stockdale](#); [Erika Olsen](#); [Erin Fitzgerald](#); [Erin McGrath](#); [Evan Swarztrauber](#); [Geoffrey Starks](#); [Giulia McHenry](#); [Holly Saurer](#); [Jamison Prime](#); [Jesse Jachman](#); [Jessica Martinez](#); [Jessica Rosenworcel](#); [Joel G. Miller](#); [John Schauble](#); [Joseph Calascione](#); [Justin Faulb](#); [Kate Black](#); [Kathryn OBrien](#); [Katie Gorscak](#); [Kris Monteith](#); [Lauren Kravetz](#); [Lisa Fowlkes](#); [Lisa Gelb](#); [Mark Stephens](#); [Matthew Berry](#); [Matthew Pearl](#); [Michael Carowitz](#); [Michelle Carey](#); [Mike ORielly](#); [Montana L. Hyde](#); [Nadja SodosWallace](#); [Nancy Zaczek](#); [Nicholas Degani](#); [OLA Distribution List](#); [Patrick Webre](#); [Preston Wise](#); [Rachel Kazan](#); [Rosemary Harold](#); [Sean Spivey](#); [Susan Mort](#); [Thomas Johnson](#); [Thomas Sullivan](#); [Travis Litman](#); [Umair Javed](#); [Will Adams](#); [Will Wiquist](#); [William Davenport](#); [Zac Champ](#); [Zenji Nakazawa](#)
Subject: Incoming Congressional Correspondence for Today
Date: Thursday, October 15, 2020 5:50:43 PM
Attachments: [20_10_15 Senator Rubio to Chairman Pai re censorship and section 230.pdf](#)
[20201015 - FCC pole attachment letter \(002\).pdf](#)

Senator Rubio (R-FL)

- Re-examination of Section 230

Rep. Matsui (D-CA)

- Requests clarification of existing rules regarding utility pole access

Joy Medley
Office of Legislative Affairs
Federal Communications Commission
202.418.1907

October 15, 2020

827

The Honorable Ajit Pai
Chairman
Federal Communications Commission
45 L Street NE
Washington, D.C. 20554

Dear Chairman Pai:

On June 9, 2020, along with several of my colleagues, I wrote to you regarding the Federal Communication Commission's (FCC's) vital role in combating the imbalanced treatment of varying viewpoints on social media platforms and the rising threat to free speech. Recent events, most notably Facebook and Twitter's decision to censor accounts, posts, and content related to a *New York Post* article on the foreign business dealings of Hunter Biden, the son of former Vice President Joe Biden,¹ makes clear this is a problem that can no longer be ignored.

The dominance of a small number of social media platforms presents a unique challenge to everyday Americans' ability to express themselves freely and access uncensored and filtered information. Actions taken by social media companies to censor political speech out of favor with Silicon Valley elites underscores the importance of timely measures to protect free speech and push back against partisan editorializing and politically motivated online speech policing.

The Department of Commerce's Petition for Rulemaking to the FCC regarding Section 230 of the Communications Decency Act of 1996 issued on July 27, 2020, clearly stated that "large online platforms appear to engage in selective censorship that is harming our national discourse."² The once nascent, scrappy internet companies that benefited from the protections afforded by Section 230 of the Communications Decency Act have become Goliaths intent on twisting and manipulating America's public square to their liking. The *New York Post* censorship saga is only the latest example of this consistent effort by Silicon Valley giants. Twenty days before the presidential election, it is also one of the most egregious.

On Twitter, users were presented with a link to a page warning of "potentially spammy or unsafe" material when they attempted to click a link to the article.³ Twitter even went so far as to forcibly lock the personal account of White House Press Secretary Kayleigh McEnany for sharing the article.

¹ <https://nypost.com/2020/10/14/email-reveals-how-hunter-biden-introduced-ukrainian-biz-man-to-dad/>

² https://www.ntia.gov/files/ntia/publications/ntia_petition_for_rulemaking_7.27.20.pdf

³ https://twitter.com/safety/unsafe_link_warning?unsafe_link=https://nypost.com/2020/10/14/email-reveals-how-hunter-biden-introduced-ukrainian-biz-man-to-dad/

Twitter's founder Jack Dorsey called the company's actions "unacceptable," but only because there was "zero context as to why we're blocking."⁴ Facebook Policy Communications Manager Andy Stone explicitly stated, in reference to the *New York Post* article, that his company was "reducing its distribution on our platform."⁵

Regardless of whether social media companies "provide context" or wait for "third-party fact checking partners" it is abundantly clear that companies like Twitter and Facebook are playing the role of publisher.

As Congress examines and debates the appropriate measures that recognize this reality, I encourage you to proactively engage in the rulemaking process requested by the Secretary of Commerce pursuant to Executive Order 13925. It is time to reexamine Section 230. Platforms that engage in editorial activity must no longer be treated as neutral hosts, and freedom of speech, press, and viewpoint diversity must be protected.

I look forward to continuing to engage with you on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Rubio', written in a cursive style.

Marco Rubio
U.S. Senator

⁴ <https://twitter.com/jack/status/1316528193621327876>

⁵ <https://twitter.com/andymstone/status/1316395902479872000>

From: [Joy Medley](#)
To: [Alexander Sanjenis](#); [Alisa Valentin](#); [Allison Baker](#); [Anne Veigle](#); [Arielle Roth](#); [Aurelle Porter](#); [Austin Bonner](#); [Benjamin Arden](#); [Blaise Scinto](#); [Brendan Carr](#); [Brian Hart](#); [Catherine Schroeder](#); [Cecilia Sulhoff](#); [Charles Mathias](#); [Christopher Santini](#); [Dana Shaffer](#); [Diane G. Holland](#); [Donald Stockdale](#); [Erika Olsen](#); [Erin Fitzgerald](#); [Erin McGrath](#); [Evan Swarztrauber](#); [Geoffrey Starks](#); [Giulia McHenry](#); [Holly Saurer](#); [Jamison Prime](#); [Jesse Jachman](#); [Jessica Martinez](#); [Jessica Rosenworcel](#); [Joel G. Miller](#); [John Schauble](#); [Joseph Calascione](#); [Justin Faulb](#); [Kate Black](#); [Kathryn OBrien](#); [Katie Gorscak](#); [Kris Monteith](#); [Lauren Kravetz](#); [Lisa Fowlkes](#); [Lisa Gelb](#); [Mark Stephens](#); [Matthew Berry](#); [Matthew Pearl](#); [Michael Carowitz](#); [Michelle Carey](#); [Mike O'Rielly](#); [Montana L. Hyde](#); [Nadja SodosWallace](#); [Nancy Zaczek](#); [Nicholas Degani](#); [OLA Distribution List](#); [Patrick Webre](#); [Preston Wise](#); [Rachel Kazan](#); [Rosemary Harold](#); [Sean Spivey](#); [Susan Mort](#); [Thomas Johnson](#); [Thomas Sullivan](#); [Travis Litman](#); [Umair Javed](#); [Will Adams](#); [Will Wiquist](#); [William Davenport](#); [Zac Champ](#); [Zenji Nakazawa](#)
Subject: Incoming Congressional Correspondence for Today
Date: Tuesday, October 13, 2020 5:01:37 PM
Attachments: [2020.10.13 - NGSO Broadband Letter.pdf](#)

Senator Kevin Cramer (R-ND)

- Forwards specific questions regarding the 12GHz band and LEO broadband systems

Joy Medley
Office of Legislative Affairs
Federal Communications Commission
202.418.1907

KEVIN CRAMER
NORTH DAKOTA

SUITE 400
RUSSELL BUILDING
WASHINGTON, DC 20510
202-224-2043

United States Senate

October 13, 2020

COMMITTEES
ARMED SERVICES
BANKING, HOUSING, AND URBAN AFFAIRS
THE BUDGET
ENVIRONMENT AND PUBLIC WORKS
VETERANS' AFFAIRS

825

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

Dear Chairman Pai:

I write today to express my strong support for leveraging innovative technologies to close the digital divide, particularly during this challenging period during the COVID-19 pandemic which has underscored the critical need for broadband access to all Americans. We appreciate the Federal Communications Commission ("Commission") has recently licensed several next-generation non-geostationary satellite orbit ("NGSO") systems to operate or provide broadband service in the United States. The Commission approved these licenses to provide high-quality, fast broadband in rural and remote communities across the country.

In 2018, the Commission specifically authorized several systems to use frequencies allocated in the 12 GHz band. As the Commission appropriately recognized, the 12 GHz frequency band is allocated in the U.S. and internationally to fixed satellite systems on a co-primary basis, and thus protected from interference from secondary licensees of the band. As a result of these authorizations in 2018, satellite providers operating in Low Earth Orbit ("LEO") have invested billions of dollars in spacecraft, ground equipment, consumer premise equipment, manufacturing and test facilities, and launches to deploy their networks at an unprecedented pace. Because of the Commission's authorization and private-sector innovation, some of these providers have already begun to provide broadband service to communities that have historically been unserved or underserved.

U.S. companies are currently leading the charge in the deployment of LEO broadband systems, but with rising competition, it is imperative that the U.S. maintain its leadership position. This can only be accomplished if the spectrum is being fully utilized to the benefit of the American public.

For this reason, I respectfully request answers to the following questions:

1. What is the Commission doing to ensure that the 12 GHz band is fully utilized in the public interest?
2. Will the Commission consider penalties on incumbents that do not fully utilize the spectrum they are allocated?
3. Can the Commission ensure continued use of the 12 GHz band by NGSO systems that provide broadband service if it is in the public interest? If not, is there an avenue to compensate entities that have invested significant capital in this band if they are relocated?
4. If the rules of the 12 GHz band are changed, will the Commission hold companies accountable to the construction and coverage requirements that the Commission sets?

Thank you for your tireless work to close the digital divide. We appreciate your prompt attention to these concerns.

Sincerely,



Kevin Cramer
United States Senator

From: [Alethea Lewis](#)
To: [Alexander Sanjenis](#); [Alisa Valentin](#); [Allison Baker](#); [Anne Veigle](#); [Arielle Roth](#); [Aurelle Porter](#); [Austin Bonner](#); [Benjamin Arden](#); [Blaise Scinto](#); [Brendan Carr](#); [Brian Hart](#); [Catherine Schroeder](#); [Cecilia Sulhoff](#); [Charles Matthias](#); [Christopher Santini](#); [Dana Shaffer](#); [Diane G. Holland](#); [Donald Stockdale](#); [Erika Olsen](#); [Erin Fitzgerald](#); [Erin McGrath](#); [Ethan Lucarelli](#); [Evan Swarztrauber](#); [Geoffrey Starks](#); [Giulia McHenry](#); [Holly Saurer](#); [Jamison Prime](#); [Jesse Jachman](#); [Jessica Rosenworcel](#); [Joel G. Miller](#); [John Schauble](#); [Joseph Calascione](#); [Justin Faulb](#); [Kate Black](#); [Kathryn OBrien](#); [Katie Gorscak](#); [Kris Monteith](#); [Lauren Kravetz](#); [Lisa Fowlkes](#); [Lisa Gelb](#); [Mark Stephens](#); [Matthew Berry](#); [Matthew Pearl](#); [Michael Carowitz](#); [Michelle Carey](#); [Mike ORielly](#); [Montana L. Hyde](#); [Nadja SodosWallace](#); [Nancy Zaczek](#); [Nicholas Degani](#); [OLA Distribution List](#); [Patrick Webre](#); [Preston Wise](#); [Rachel Kazan](#); [Rosemary Harold](#); [Sean Spivey](#); [Susan Mort](#); [Thomas Johnson](#); [Thomas Sullivan](#); [Travis Litman](#); [Umair Javed](#); [Wesley Platt](#); [Will Adams](#); [Will Wiquist](#); [William Davenport](#); [Zac Champ](#); [Zenji Nakazawa](#)
Subject: Incoming Congressional Correspondence for Today
Date: Monday, November 2, 2020 4:14:42 PM
Attachments: [Kennedy893.pdf](#)

Sen. John Kennedy – Connect America – Pole Attachments – (WCB)

- Encourages the Commission to clarify rules governing broadband providers' access to utility poles.
- States that the cost of attaching to poles is too high considering the amount of federal resources spent on broadband infrastructure.

Alethea Lewis
Congressional Liaison Specialist
Federal Communications Commission
Office of Legislative Affairs
(202) 418-0103
Alethea.Lewis@fcc.gov

United States Senate

November 2, 2020

893

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

Dear Chairman Pai,

I write today to urge the Federal Communications Commission (FCC) to quickly consider a pending Petition for Declaratory Ruling to clarify its existing pole attachment rules to help remove unnecessary deployment barriers in rural communities that do not have access to broadband infrastructure. Even before the COVID-19 pandemic arrived, access to reliable high-speed internet was growing increasingly critical for business development, access to education, rural healthcare services, and a growing list of priorities surrounding an American's daily life. FCC action on this Petition could help eliminate an impediment to rural broadband deployment and bring more Americans online.

I have been a staunch advocate for the deployment of broadband in rural areas. I have championed this cause on the Senate floor and at the Senate Committee on Appropriations where I serve as Chairman of the subcommittee on Financial Services and General Government, which has oversight of the FCC. Too many Americans are still on the wrong side of the digital divide, particularly in rural areas where nearly 15 million Americans do not have access to high speed broadband.¹ We need to do what we can – both large and small – to rectify this inequity.

In the Telecommunications Act of 1996, Congress recognized that communications providers needed fair rules to obtain access to utility poles. Congress granted broad authority to the FCC to craft regulations that would balance the rights and responsibilities of pole owners with those who need to attach to them. It is time for the FCC to clarify its rules to ensure that the rules – and the process for enforcing them – remain fair, equitable, transparent, and, most importantly, encourage accelerated deployment of high-speed internet service to close the gap in rural areas.

Much of the country's rural broadband infrastructure is carried by utility poles, so the rules and timelines around how broadband companies attach to poles are critical to deploying broadband. I understand that pole related costs alone can account for as much as one third of the total buildout expense in rural areas, and that does not even account for expenses from construction delays that can occur when broadband companies don't receive pole permits in a

¹ FCC 2020 Broadband Deployment Report, April 24, 2020,
<https://docs.fcc.gov/public/attachments/FCC-20-50A1.pdf>

timely fashion.² This cost of attaching to poles is too high when you consider the amount of federal resources spent on broadband infrastructure –harming consumers and taxpayers alike. I am concerned that these issues are unnecessarily delaying – and even preventing – rural buildout. Steps to address this problem should be taken now.

I encourage the FCC to act expeditiously, using its authority to clarify its rules for attaching broadband infrastructure to utility poles and eliminating this as a barrier to deployment. A transparent, equitable, fast process for accessing utility poles would allow investments in rural broadband to reach more unserved homes and businesses, and to do so as fast as possible. This is particularly critical and not only during the current COVID-19 pandemic.

Every American deserves access to high-speed internet and rural populations have been left behind for far too long. By connecting more Americans to the internet, we can strengthen our economy, expand opportunity and usher in a better future for all.

Sincerely,



John Kennedy
United States Senator

² NCTA Petition for Expedited Declaratory Ruling (Pages 3–4), July 16, 2020, https://ecfsapi.fcc.gov/file/107161552527661/071620%2017-84%20NCTA%20Petition_for_Declaratory_Ruling.pdf

From: [Molly McDonough](#)
To: [Brian Hart](#)
Subject: Interview Invitation from Legal Talk Network
Date: Thursday, October 29, 2020 5:56:49 PM

Hello Brian,

My name is Molly McDonough and I am the producer for [Legal Talk Today](#), a regular current events show on the [Legal Talk Network](#). The reason for my email is that we'd like to set up a podcast interview with Ajit Pai about calls to reform Section 230 of the Communications Act.

This interview would be about 10-15 minutes. The executive producer and host, Laurence Colletti, will send questions in advance. If an interview is possible, we are looking at recording via Zoom (without video) ideally on Tuesday or Wednesday, though I'm sure those are busy days. We can work with his schedule.

If you're not familiar with Legal Talk Network and this show, below are links to past episodes to give you an idea about the production. Please let me know if there's interest and we'll take next steps. Thank you in advance!

Past Episodes:

- [President Trump's Deferral on Payroll Taxes](#)
- [Nominations, Politics, & Contention: a Historical Look at our Supreme Court](#)
- [FAA Approval for Amazon's Aerial Delivery Drones](#)
- [Why are Bankruptcies so low During COVID-19](#)
- [Suing Fido: Allergies vs. Emotional Support Animal](#)

Best,

Molly McDonough

--

Molly McDonough
Producer

[Legal Talk Today](#)

via [Legal Talk Network](#), where we podcast law

312-927-0962

From: [Sean Moran](#)
To: [Brian Hart](#)
Subject: Interview request -- Breitbart News
Date: Thursday, October 15, 2020 3:10:58 PM

Hey Brian, hope all is well. Big news today with the chairman's announcement. What do you think of an interview with the chairman about his decision to move forward with a provision on clarifying Section 230? We can schedule when convenient, either in person, or over the phone. Happy to discuss details on how to make this work if interested.

Best,

Sean Moran
Policy Reporter
Breitbart News

From: [Paul Jackson](#)
To: [Brian Hart](#)
Subject: Is Tom's 230 blog supposed to go out today?
Date: Wednesday, October 21, 2020 9:52:19 AM

From: [Richard Sementa](#)
To: [Matthew Berry](#); [Brian Hart](#); [Lori Alexiou](#)
Cc: [Ajit Pai](#)
Subject: MARK LEVIN RADIO?
Date: Friday, October 16, 2020 3:38:24 PM

Good afternoon

Is Ajit Pai available tonight at either 6:30 or 7:30 pm eastern to discuss Section 230, facebook and twitter? It would be by phone for about 10 minutes.

Thanks!

Richard Sementa

Executive Producer, The Mark Levin Show | Westwood One

O: 212-613-3840

2 Penn Plaza, 17th Floor □NY, NY 10121

westwoodone.com □ marklevinshow.com

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From: [Farghalli, Nancy](#)
To: [Brian Hart](#)
Subject: Marketplace
Date: Friday, October 16, 2020 1:46:12 PM

Hey Brian

Hope you are well.

I'm writing to see if you have time to discuss an interview request for Director Pai. I'd like to see if Kai can interview him next week to discuss Section 230 and the steps Mr. Pai outlined yesterday about the role of the FCC in drafting new regulations.

My number is (b) (6)

Thank you for considering the request.

Best,
Nancy Farghalli
Marketplace Executive Producer

From: [Sara Morrison](#)
To: [Brian Hart](#)
Subject: media inquiry: Section 230
Date: Thursday, October 15, 2020 5:28:15 PM

Hi Brian,

I'm writing about Chairman Pai's statement about Section 230 today. I was wondering how the FCC has the legal authority to interpret Section 230, as the General Counsel claimed -- where is that in the law?

As I'm sure you know, Section 230's co-authors are on record now and back in 1995 saying that the FCC was intentionally not given this authority, and I believe the law has been around for 25 or so years without FCC intervention (until now).

Thanks,
Sara

--

Sara Morrison • Reporter, Open Sourced
Work: (212) 508-0748



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From: [Make, Jonathan](#)
To: [Anne Veigle](#); [Brian Hart](#); [Katie Gorscak](#); [Will Wiquist](#)
Subject: media Q
Date: Tuesday, November 10, 2020 4:23:02 PM

Hi FCC PR –

Just checking in case there is any on the record comment re the letter below? We are writing a news bulletin with a 4:30P deadline. Our regular story has a 5P deadline.

Does the FCC intend to honor this request?

I've also tried a few of you by phone.

Thank you.

Jonathan

From: Energy & Commerce News [<mailto:ecdemnews@ecdem.housecommunications.gov>]
Sent: Tuesday, November 10, 2020 3:18 PM
To: Make, Jonathan
Subject: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results



FOR IMMEDIATE RELEASE
November 10, 2020

CONTACT
[Elysa Montfort](#) (202) 225-5735

E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

Washington, D.C. – Energy and Commerce Committee leaders today wrote to Federal Communications Commission (FCC) Chairman Ajit Pai and Federal Trade Commission (FTC) Chairman Joseph Simons demanding that the two commissions stop work on all partisan or controversial items currently under consideration in light of the results of last week’s presidential election.

“With the results of the 2020 presidential election now apparent, leadership of the FTC will undoubtedly be changing,” Energy and Commerce Committee Chairman Frank Pallone, Jr. (D-NJ) and Consumer Protection and Commerce Subcommittee Chair Jan Schakowsky (D-IL) wrote in a letter to the FTC. **“As a traditional part of the transfer of power — and as part of our oversight responsibilities — we strongly urge the agency to only pursue consensus and administrative matters that are non-partisan for the remainder of your tenure.”**

Pallone and Communications and Technology Subcommittee Chairman Mike Doyle (D-PA) expressed the same sentiment in their letter to the FCC, adding: **“We note that you have previously welcomed calls from congressional leaders for the FCC to ‘halt further action on controversial items during the transition period.’ We hope you will respect this time-honored tradition now.”**

In both letters, the Committee leaders acknowledge there are likely a number of consensus matters for the two commissions to carry out and the lawmakers encourage them to do so quickly.

The letter to FTC is available [HERE](#) and the letter to FCC is available [HERE](#).

###

[energycommerce.house.gov](#) | [Twitter](#) | [Facebook](#) | [Instagram](#) | [YouTube](#) | [Flickr](#)

Energy & Commerce Democrats | 2125 Rayburn HOB, Washington, DC 20515 | 2125 Rayburn HOB, Washington, DC 20003

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From: [Henry Kenyon](#)
To: [Brian Hart](#)
Subject: Media Query Re: Chairman Pai's Comment on Section 230
Date: Monday, October 19, 2020 1:13:02 PM

Mr. Hart:

I've got a few questions about Chairman Pai's statement on Section 230.

First, is the FCC considering investigating Section 230? Exactly what is the FCC's authority in this matter and what can it do from a regulatory perspective?

If the FCC is considering an inquiry of some sort, is there a timetable?

Respectfully,

Henry Kenyon
Data Privacy Reporter/Analyst
Congressional Quarterly/Roll Call
M: 571-338-8500

From: [Todd Shields \(BLOOMBERG/ NEWSROOM:\)](#)
To: [Will Wiquist](#); [Anne Veigle](#); [Brian Hart](#)
Subject: Mr. Pai doing White House bidding on Section 230?
Date: Thursday, October 15, 2020 5:09:37 PM

that's what folks are saying to me. Any reaction to that? Has the White House reached out regarding Section 230?
thanks/ts

Todd Shields / reporter / Bloomberg News / (202) 807-2075 or cell (443) 223-6008

Todd Shields
Bloomberg News □reporter - Washington
(202□807-2075 (office□
-- www.bloomberg.net --
@TShields□

<< @TShields3 -- Covering voting, USPS, tech, FCC -- (202) 807-2075 >>

From: [Katie Gorscak](#)
To: [Michael Carowitz](#); [Preston Wise](#); [Zenji Nakazawa](#); [Allison Baker](#); [Alexander Sanjenis](#); [Sean Spivey](#)
Cc: [Brian Hart](#); [Anne Veigle](#); [Will Wiquist](#); [Matthew Berry](#); [Nicholas Degani](#)
Subject: November Press Prep
Date: Friday, November 13, 2020 3:57:55 PM
Attachments: [2020-11 Open Meeting - November Press Prep Draft.docx](#)

(b) (5) [Redacted]

[Redacted]

[Redacted]

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [Katie Gorscak](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#)
Cc: [Evan Swarztrauber](#); [Preston Wise](#); [Michael Carowitz](#); [Zenji Nakazawa](#); [Allison Baker](#); [Alexander Sanjenis](#); [Sean Spivey](#); [Anne Veigle](#); [Brian Hart](#); [Will Wiquist](#)
Subject: October Open Meeting press prep
Date: Friday, October 23, 2020 2:40:09 PM
Attachments: [2020-10 Open Meeting - October Press Prep Draft -to OCH.docx](#)

To all:

Attached is press prep for Tuesday's Open Meeting press conference.

Have a wonderful weekend.

Regards,

Katie

From: [Katie Gorscak](#)
To: [Brian Hart](#); [Anne Veigle](#); [Will Wiquist](#); [Rochelle Cohen](#)
Subject: October Press Prep
Date: Tuesday, October 20, 2020 12:01:19 PM

(b) (5) [Redacted]

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 - [Redacted]

Regards,

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [Katie Gorscak](#)
To: [Allison Baker](#); [Preston Wise](#); [Zenji Nakazawa](#); [Michael Carowitz](#); [Sean Spivey](#); [Alexander Sanjenis](#)
Cc: [Brian Hart](#); [Anne Veigle](#); [Will Wiquist](#); [Rochelle Cohen](#); [Matthew Berry](#); [Nicholas Degani](#)
Subject: October Press Prep
Date: Thursday, October 22, 2020 3:04:37 PM
Attachments: [2020-10 Open Meeting - October Press Prep Draft.docx](#)

Advisors – The draft press prep document is attached for your review. Please send us your edits by 3 p.m. tomorrow.

Regards,

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [Perera, David \(LNG-MLEX\)](#)
To: [Brian Hart](#)
Subject: open meeting
Date: Friday, October 23, 2020 3:43:09 PM
Attachments: [image001.png](#)

Hi Brian,

Will Chairman Pai be available, virtually, after this Tuesday's open commission meeting?

Cheers, Dave

David Perera ☐ MLex data security and privacy reporter
perera@mlex.com ☐ o: 202 909 2141 m: 202 2☐0 9949

1776 I (Eye☐Street NW Suite 260 ☐ Washington, D.C. 20006 ☐ United States ☐ www.mlexmarketinsight.com ☐ www.ftcwatch.com



From: [Brian Hart](#)
To: John.roberts@FOXNEWS.COM
Subject: Pai - Sec. 230
Date: Thursday, October 15, 2020 4:15:52 PM

Hey John. We don't have anything to add to the chairman's statement at this point.

All the best,

Brian

From: [Todd Shields \(BLOOMBERG/ NEWSROOM:\)](#)
To: [Will Wiquist](#); [Anne Veigle](#); [Brian Hart](#)
Subject: Pai in 2018: FCC lacks authority - comment?
Date: Friday, October 16, 2020 11:54:10 AM

hello esteemed FCCers, this is a quote from Mr. Pai in 2018, regarding lack of authority to regulate tech platforms. We probably will write this into our story. Have you a comment? thanks/ts

Ajit Pai August 3 2018

"The FCC does not regulate them. We don't have authority under the laws that have been passed by Congress and the Constitution, of course under the First Amendment. So from that perspective they are not going to be regulated in terms of free speech."
at 38:43 of this C-Span clip:

<https://www.c-span.org/video/?449042-7/fcc-chair-ajit-pai-resurgent-gathering>

thanks/ts

Todd Shields / reporter / Bloomberg News / (202) 807-2075 or cell (443) 223-6008

Todd Shields
Bloomberg News □ reporter - Washington
(202 □ 807-2075 (office □
-- www.bloomberg.net --
@TShields □

<< @TShields3 -- Covering voting, USPS, tech, FCC -- (202) 807-2075 >>

From: [Perera, David \(LNG-MLEX\)](#)
To: [Brian Hart](#); [Will Wiquist](#)
Subject: Pai statement on Section 230
Date: Thursday, October 15, 2020 3:24:19 PM
Attachments: [image001.png](#)
Importance: High

Hi Biran,, Hi Will,

Could you send me that Pai statement on Section 230? The website appears to be down. Cheers, Dave

David Perera ☐ MLex data security and privacy reporter
perera@mlex.com ☐ b: 202 909 2141 m: 202 2☐0 9949

1776 I (Eye☐Street NW Suite 260 ☐Washington, D.C. 20006 ☐United States ☐ www.mlexmarketinsight.com ☐ www.ftcwatch.com



From: [Sharon Hurd](#)
To: [Brian Hart](#); [Anne Veigle](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: PC Mag re: question on fcc interpreting section 230
Date: Thursday, October 15, 2020 2:53:06 PM

From: Michael Kan <michael.kan@ziffmedia.com>
Sent: Thursday, October 15, 2020 2:50 PM
To: MediaRelations <MediaRelations@fcc.gov>
Subject: question on fcc interpreting section 230

Hi, I'm a reporter with PCMag. I saw Ajit Pai's statement on how the FCC will seek to clarify the meaning of Section 230 of the Communications Decency Act. Does the FCC have a timeline on when it'll seek to intercept Section 230, and how the proceedings will occur? Will this occur over a commission vote?

--

Michael Kan
PCMag Reporter
Signal: 415 696 5528

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From: [Perera, David \(LNG-MLEX\)](#)
To: [Brian Hart](#); [Will Wiquist](#)
Subject: post-meeting presser
Date: Wednesday, November 18, 2020 10:09:43 AM
Attachments: [image001.png](#)

Hi Brian, Hi Will,

Will Chairman Pai be having a post-meeting press availability? Thanks, Dave

David Perera ☐ MLex data security and privacy reporter
perera@mlex.com ☐ o: 202 909 2141 m: 202 2☐0 9949

1776 I (Eye☐Street NW Suite 260 ☐ Washington, D.C. 20006 ☐ United States ☐ www.mlexmarketinsight.com ☐ www.ftcwatch.com



From: [Katie Gorscak](#)
To: [Brian Hart](#); [Anne Veigle](#); [Will Wiquist](#); [Rochelle Cohen](#)
Subject: Press Prep for September meeting
Date: Monday, September 21, 2020 4:37:08 PM

It's that time again...

(b) (5) [Redacted]

[Redacted]

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

[Redacted]

From: [Katie Gorscak](#)
To: [Brian Hart](#)
Cc: [Anne Veigle](#); [Will Wiquist](#)
Subject: Press prep for your review
Date: Thursday, October 22, 2020 2:19:09 PM
Attachments: [2020-10 Open Meeting - October Press Prep Draft.docx](#)

(b) (5)

A large black rectangular redaction box covers the majority of the content in this section. The text "(b) (5)" is visible at the top left of the redacted area.

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [Lamar Robertson](#)
To: [Brian Hart](#); [Anne Veigle](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: press prep question
Date: Tuesday, October 27, 2020 8:22:11 AM

GOP

[@GOP](#)

· [Oct 23](#)

Pres. Trump is fighting for YOU! Here are some of his priorities for a 2nd term: *Establish Permanent Manned Presence on The Moon *Send the 1st Manned Mission to Mars *Build World's Greatest Infrastructure System ***Establish National High-Speed Wireless Internet Network**

There were mentions of this RNC tweet in the Monday clips and I'm guessing we had some incoming questions from the press, so you likely have a Q on this already. Regardless, I thought I'd still flag this since there's a lot going on and Friday afternoon stories can fall through the cracks.

From: [Brian Hart](#)
To: [Matthew Berry \(Matthew.Berry@fcc.gov\)](#); [Nicholas Degani \(Nicholas.Degani@fcc.gov\)](#); [Ajit Pai \(Ajit.Pai@fcc.gov\)](#)
Subject: press prep...
Date: Tuesday, November 10, 2020 5:41:00 PM
Attachments: [2020-11 Open Meeting - November Press Prep Grab Bag Topics Only.docx](#)

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

From: [Katie Gorscak](#)
To: [Brian Hart](#)
Cc: [Will Wiquist](#); [Anne Veigle](#)
Subject: Press Prep
Date: Tuesday, September 22, 2020 4:08:09 PM
Attachments: [2020-09 Open Meeting - September Press Prep draft.docx](#)

Here is the draft with list of topics. I still haven't edited some of mine so I'd ignore anything in the meeting items section.

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

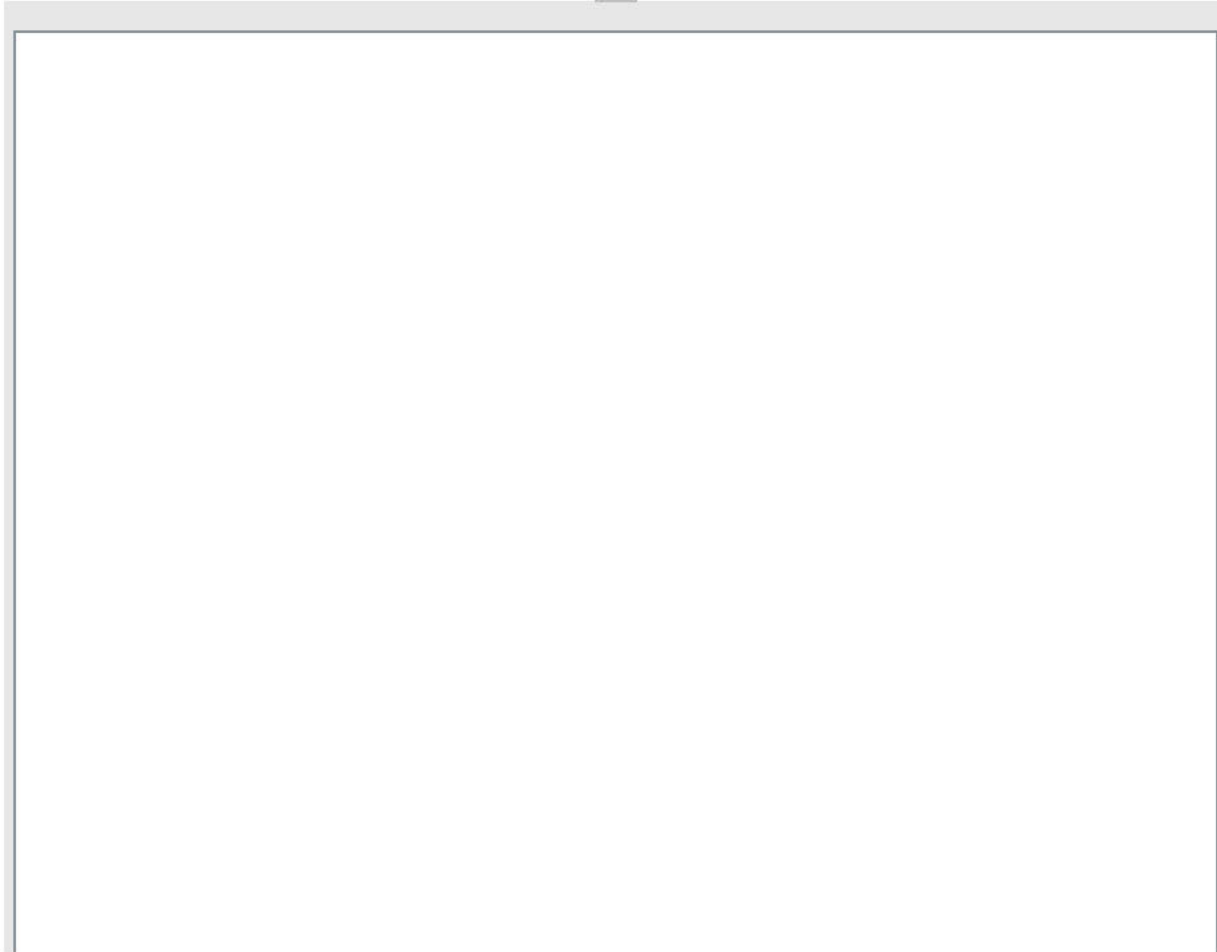
From: [Will Wiquist](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Sean Spivey](#)
Cc: [Brian Hart](#); [Anne Veigle](#); [Katie Gorskak](#); [Paul Jackson](#); [Rebecca Brown](#)
Subject: Queries: CommDaily on Records Letter; TR Daily re 5.9 request from DOT
Date: Tuesday, November 10, 2020 1:38:23 PM

(b) (5)

- [REDACTED]

- [REDACTED]

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>
Sent: Tuesday, November 10, 2020 10:57 AM
To: Phillips, Jimm <jphillips@warren-news.com>
Subject: ICYMI: House Committee Chairs Send Dozens of Letters Directing White House and Federal Agencies to Preserve Documents



FOR IMMEDIATE RELEASE

November 10, 2020

CONTACT

[CJ Young](#) (202) 225-5735

House Committee Chairs Send Dozens of Letters Directing White House and Federal Agencies to Preserve Documents

Washington, D.C. – Today, Committee Chairs across the House of Representatives sent [letters](#) directing the White House and more than 50 federal agencies within their jurisdictions to comply with federal record-keeping laws and preserve information responsive to congressional subpoenas and investigations.

“As the Trump Administration prepares for the transition of power to the new Biden Administration, we write to remind you that all Executive Office of the President employees and officials must comply with record preservation obligations set forth in federal law and preserve information relevant to congressional oversight,” the Chairs wrote to White House Counsel Pat

Cipollone.

In today's letters, the Chairs directed the Administration to preserve all records in accordance with the Presidential Records Act, the Federal Records Act, and related regulations, as well as all documents that are or may be potentially responsive to any congressional inquiry, request, investigation, or subpoena that was initiated, continued, or otherwise undertaken during the 116th Congress.

These preservation letters cover documents and electronic messages and metadata involving official business that were sent using both official and personal accounts or devices, including communications through text messaging, phone-based message applications, or encryption software.

“Over the last four years, the Administration obstructed numerous congressional investigations by refusing to provide responsive information,” the Chairs wrote in letters to agencies. **“You are obligated to ensure that any information previously requested by Congress—and any other information that is required by law to be preserved—is saved and appropriately archived in a manner that is easily retrievable.”**

Collectively, the letters were signed by:

Oversight and Reform Committee Chair Carolyn B. Maloney
Agriculture Committee Chair Collin Peterson
Appropriations Committee Chair Nita M. Lowey
Armed Services Committee Chair Adam Smith
Budget Committee Chair John Yarmuth
Committee on House Administration Chair Zoe Lofgren
Education and Labor Committee Chair Bobby Scott
Energy and Commerce Committee Chair Frank Pallone, Jr.
Financial Services Committee Chair Maxine Waters
Foreign Affairs Committee Chair Eliot Engel
Homeland Security Committee Chair Bennie G. Thompson
Permanent Select Committee on Intelligence Chair Adam B. Schiff
Judiciary Committee Chair Jerrold Nadler
Natural Resources Committee Chair Raúl M. Grijalva
Rules Committee Chair James P. McGovern
Science, Space, and Technology Committee Chair Eddie Bernice Johnson
Select Committee on the Climate Crisis Chair Kathy Castor
Small Business Committee Chair Nydia M. Velázquez
Transportation and Infrastructure Committee Chair Peter A. DeFazio
Veterans' Affairs Committee Chair Mark Takano
Ways & Means Committee Chair Richard E. Neal.

The Committee Chairs thank Reps. Sean Casten and Tom Malinowski for their substantial contributions to this effort.

Click [here](#) to read today's letters.

###

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From: [Phillips, Jimm](#)
To: [Anne Veigle](#); [Brian Hart](#); [Will Wiquist](#)
Subject: Query Re: House Dems" Request for Info on "Conversions" of Political Appointees to Civil Service Roles
Date: Wednesday, November 25, 2020 4:34:58 PM
Importance: High

All,

Any FCC comment on House Democratic leaders' request for information (https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2020-11-25.Cmte_.%20Chairs%20to%20Agencies_Burrowing%20In.pdf) on "conversions of political appointees to civil service positions" during President Donald Trump's administration?

Thanks,
Jimm Phillips
Communications Daily
jphillips@warren-news.com

From: [Phillips, Jimm](#)
To: [Will Wiquist](#); [Brian Hart](#); [Anne Veigle](#)
Subject: Query Re: ICYMI: House Committee Chairs Send Dozens of Letters Directing White House and Federal Agencies to Preserve Documents
Date: Tuesday, November 10, 2020 12:52:00 PM

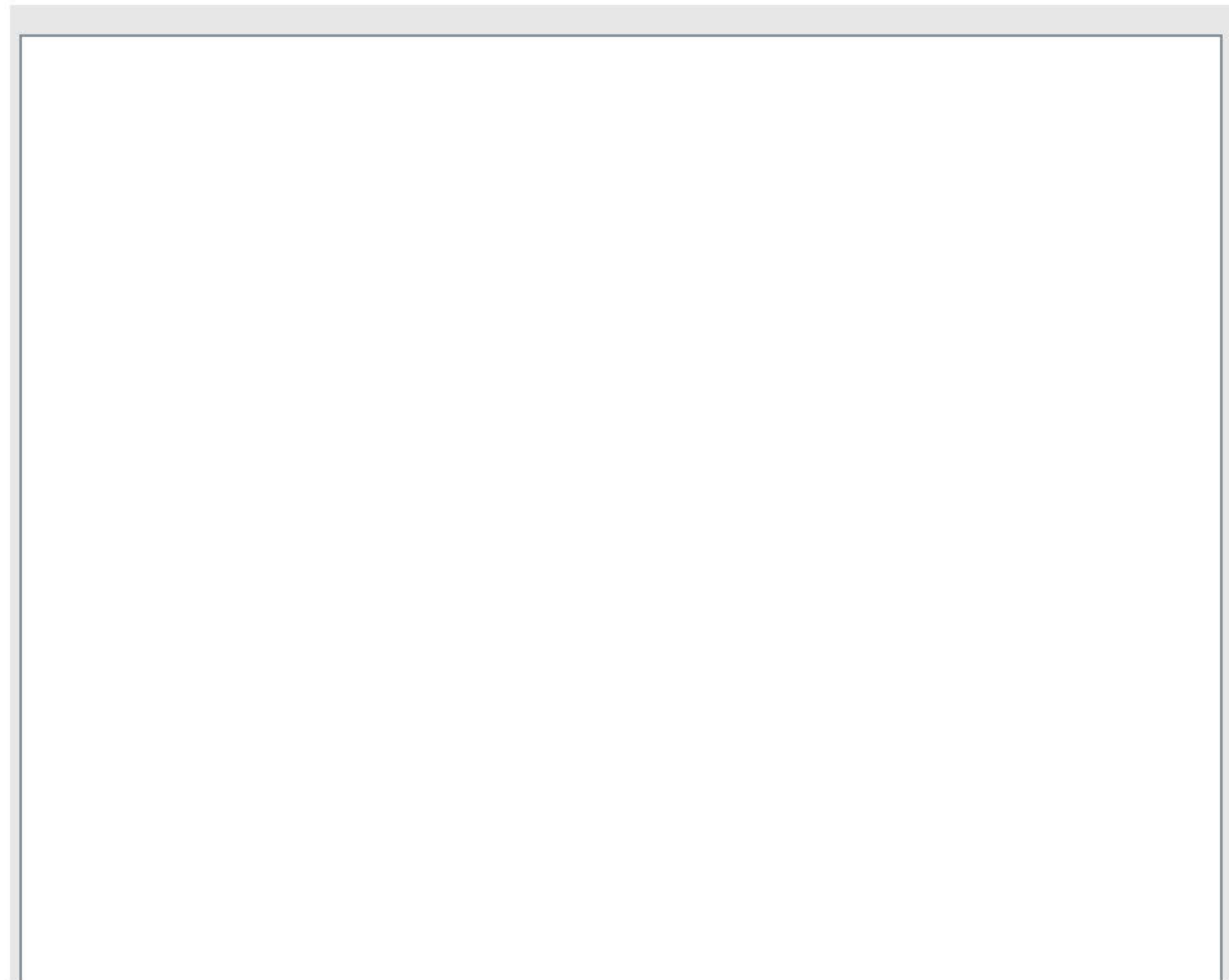
All,

Any FCC comment?

Thanks,
Jimm

Jimm Phillips
Communications Daily
jphillips@warren-news.com

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>
Sent: Tuesday, November 10, 2020 10:57 AM
To: Phillips, Jimm <jphillips@warren-news.com>
Subject: ICYMI: House Committee Chairs Send Dozens of Letters Directing White House and Federal Agencies to Preserve Documents



FOR IMMEDIATE RELEASE
November 10, 2020

CONTACT
[CJ Young](#) (202) 225-5735

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Collectively, the letters were signed by:

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Appropriations Committee Chair Nita M. Lowey
Armed Services Committee Chair Adam Smith
Budget Committee Chair John Yarmuth
Committee on House Administration Chair Zoe Lofgren
Education and Labor Committee Chair Bobby Scott
Energy and Commerce Committee Chair Frank Pallone, Jr.
Financial Services Committee Chair Maxine Waters
Foreign Affairs Committee Chair Eliot Engel
Homeland Security Committee Chair Bennie G. Thompson
Permanent Select Committee on Intelligence Chair Adam B. Schiff
Judiciary Committee Chair Jerrold Nadler
Natural Resources Committee Chair Raúl M. Grijalva
Rules Committee Chair James P. McGovern
Science, Space, and Technology Committee Chair Eddie Bernice Johnson
Select Committee on the Climate Crisis Chair Kathy Castor
Small Business Committee Chair Nydia M. Velázquez
Transportation and Infrastructure Committee Chair Peter A. DeFazio
Veterans' Affairs Committee Chair Mark Takano
Ways & Means Committee Chair Richard E. Neal.

The Committee Chairs thank Reps. Sean Casten and Tom Malinowski for their substantial contributions to this effort.

Click [here](#) to read today's letters.

###

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Washington, DC 20003

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From: [Phillips, Jimm](#)
To: [Brian Hart](#); [Will Wiquist](#)
Subject: Query Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking
Date: Wednesday, October 28, 2020 3:38:27 PM

Will/Brian,

Any FCC comment on this?

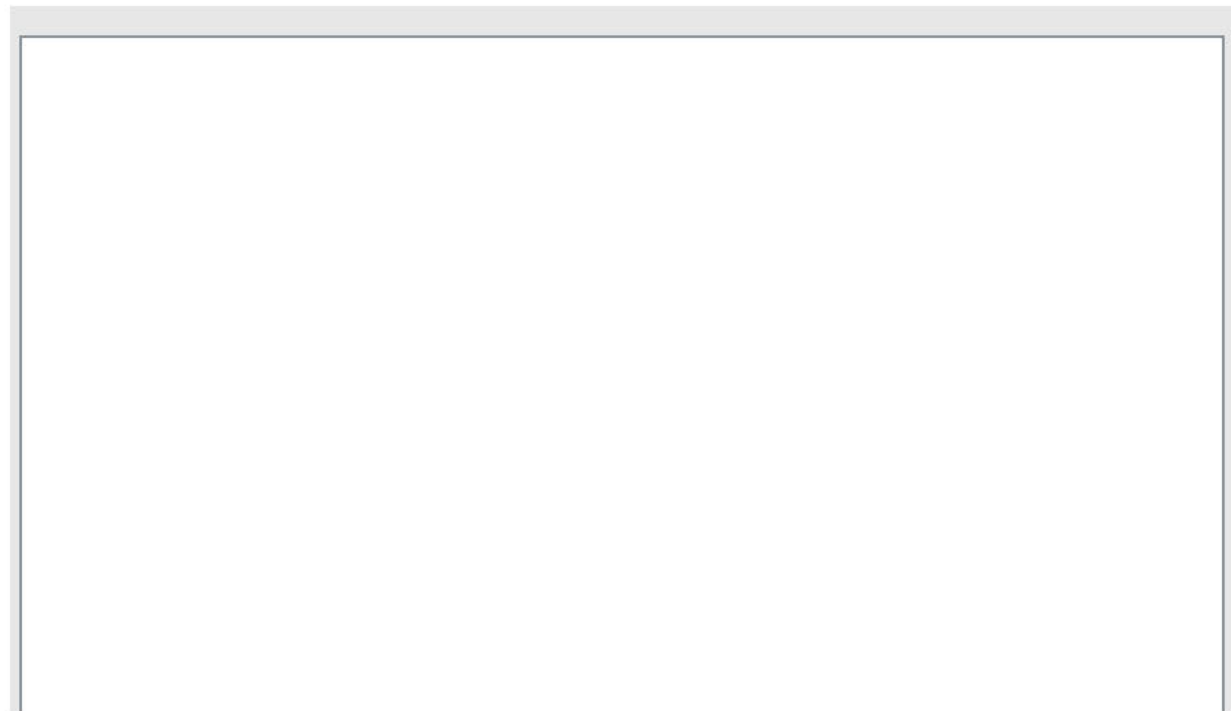
Thanks,
Jimm

Jimm Phillips
Communications Daily
jphillips@warren-news.com

From: Phillips, Jimm <jphillips@warren-news.com>
Sent: Wednesday, October 28, 2020 3:37 PM
To: Make, Jonathan <jmake@warren-news.com>; Herchenroeder, Karl <karlh@warren-news.com>
Subject: Fw: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

I'll file an add to KH story

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>
Sent: Wednesday, October 28, 2020 3:34 PM
To: Phillips, Jimm <jphillips@warren-news.com>
Subject: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking



FOR IMMEDIATE RELEASE
October 28, 2020

CONTACT
[Elysa Montfort](#) – (202) 225-5735

Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

“It wasn’t until online platforms began fact-checking the President’s content that he and his Administration began an aggressive campaign to persuade the FCC to dictate how online platforms moderate content”

Washington, D.C. – Energy and Commerce Committee Chairman Frank Pallone, Jr. (D-NJ) and Communications and Technology Subcommittee Chairman Mike Doyle (D-PA) [wrote to](#) Federal Communications Commission (FCC) Chairman Ajit Pai today demanding answers for the FCC’s recent and sudden announcement that it is moving forward with a Section 230 rulemaking.

“The fact that this announcement came just weeks before the election, and that President Trump has pushed for this CDA 230 rulemaking, raise serious questions about the independence of the agency. The American people deserve to know what conversations, if any, have transpired between you, your office and the White House to ensure the integrity of the FCC,” Pallone and

Doyle wrote. **“Since Congress’ enactment of CDA 230, the FCC has played no role in implementing or interpreting this provision. It wasn’t until online platforms began fact-checking the President’s content that he and his Administration began an aggressive campaign to persuade the FCC to dictate how online platforms moderate content.”**

Section 230 of the Communications Decency Act stipulates that online platforms, such as Twitter and Facebook, are generally not held liable for content posted by third-party users – with a few relevant exceptions. In addition to writing that President Trump’s efforts to change this policy are driven by retaliation, Pallone and Doyle also detail the lengths to which the President has gone to retaliate against those who stand in his way, causing concern that Chairman Pai’s actions may be driven by a White House pressure campaign.

“Not only has the Trump Administration directly pressured the FCC to do its bidding on CDA 230, it appears the Administration is willing to retaliate against those who do not get in line with its agenda,” wrote the two Committee leaders.

Pallone and Doyle pointed to several examples:

- President Trump abruptly pulled his nomination of Commissioner Michael O’Rielly for another FCC term shortly after Commissioner O’Rielly publicly raised concerns over the FCC’s role in interpreting CDA 230.
- Last month, Trump nominated Nathan Simington, who reportedly worked on the National Telecommunications and Information Administration (NTIA) CDA 230 petition, to replace Commissioner O’Rielly.
- This month, Trump tweeted at Senator Roger Wicker (R-MS) urging Republicans to confirm Mr. Simington, and shortly thereafter, a nomination hearing was scheduled for November 10th.

“Now it appears the FCC is working in concert with the Trump Administration to attempt to influence the actions of online platforms by advancing a CDA 230 rulemaking,” the two Committee leaders continued in their letter to Chairman Pai.

Pallone and Doyle wrote that since the FCC is an independent regulatory agency responsible directly to Congress, it should be avoiding even the appearance of acting on behalf of the President. They requested answers to a series of questions, including:

- Has anyone from the White House, Executive Office of the President, the NTIA or Department of Justice contacted FCC regarding this Section 230 rulemaking? If so, what was discussed?
- Has anyone from the Trump campaign contacted FCC regarding Section 230?
- Has Chairman Pai or his staff contacted either the White House or the Trump campaign regarding Section 230, and if so, what was discussed?

The full letter is available [HERE](#).

###

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From: [Brian Hart](#)
To: [David McCabe](#)
Subject: RE:
Date: Wednesday, September 23, 2020 3:55:29 PM

(ugh...sat unsent for hours... sorry)

No update at this point.

From: David McCabe <david.mccabe@nytimes.com>
Sent: Wednesday, September 23, 2020 1:42 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject:

Hey Brian — Hope you're holding up ok. We're writing about DOJ's Section 230 proposal today, and we note it's unclear what the FCC will do with the DOC petition on the issue. Do you have any update on that?

Thanks, David, (b) (6)

--

David McCabe
Reporter
The New York Times

From: [Brian Hart](#)
To: [Richard Sementa](#)
Subject: Re: [EXT] Re: MARK LEVIN RADIO?
Date: Friday, October 16, 2020 11:58:47 PM

Thank you. Have a great weekend.

From: Richard Sementa <Richard.Sementa@cumulus.com>
Sent: Friday, October 16, 2020 11:15 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: [EXT] Re: MARK LEVIN RADIO?

Here's the interview

<https://playlist.megaphone.fm/?e=WWO8441804766&start=2965>

Sent from my Galaxy S10

----- Original message -----

From: Brian Hart <Brian.Hart@fcc.gov>
Date: 10/16/20 5:28 PM (GMT-05:00)
To: Richard Sementa <Richard.Sementa@cumulus.com>
Subject: Re: [EXT] Re: MARK LEVIN RADIO?

His cell phone is (b) (6).

Thank you sir.

From: Richard Sementa <Richard.Sementa@cumulus.com>
Sent: Friday, October 16, 2020, 5:01 PM
To: Brian Hart
Subject: RE: [EXT] Re: MARK LEVIN RADIO?

Call into 212-268-5666 at 7:17 pm eastern. Whats the best backup number I can use?

Topics: Big tech censorship and what FCC is doing with section 230. It will be 1 segment – about 8 minutes.

Richard Sementa

Executive Producer, The Mark Levin Show | Westwood One

O: 212-613-3840

2 Penn Plaza, 17th Floor □NY, NY 10121

westwoodone.com □marklevinshow.com

From: Brian Hart [mailto:Brian.Hart@fcc.gov]

Sent: Friday, October 16, 2020 4:59 PM
To: Richard Sementa <Richard.Sementa@cumulus.com>
Subject: Re: [EXT] Re: MARK LEVIN RADIO?

Richard:

Commissioner Carr would love to do it and that time works for him.

Can you please send me the call in details and anything else he needs and I can send that on to him?

Let me know any specific questions that might come up if you want him to think on it beforehand. And please let me know how long the segment/s will be.

Thank you sir.

Brian

From: Richard Sementa <Richard.Sementa@cumulus.com>
Sent: Friday, October 16, 2020, 4:14 PM
To: Brian Hart
Subject: RE: [EXT] Re: MARK LEVIN RADIO?

I can do 7:20 pm est with Carr. Let me know!

Richard Sementa
Executive Producer, The Mark Levin Show | Westwood One
O: 212-613-3840
2 Penn Plaza, 17th Floor □NY, NY 10121
westwoodone.com □marklevinshow.com

From: Brian Hart [<mailto:Brian.Hart@fcc.gov>]
Sent: Friday, October 16, 2020 3:57 PM
To: Richard Sementa <Richard.Sementa@cumulus.com>
Subject: [EXT] Re: MARK LEVIN RADIO?

Hey there Richard. Unfortunately, Chairman Pai can't make those times work. Would you be interested in talking with FCC Commissioner Carr? I'm happy to connect you with him.

From: Richard Sementa <Richard.Sementa@cumulus.com>
Sent: Friday, October 16, 2020 3:38 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Lori Alexiou <Lori.Alexiou@fcc.gov>
Cc: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: MARK LEVIN RADIO?

Good afternoon

Is Ajit Pai available tonight at either 6:30 or 7:30 pm eastern to discuss Section 230, facebook and twitter? It would be by phone for about 10 minutes.

Thanks!

Richard Sementa

Executive Producer, The Mark Levin Show | Westwood One

O: 212-613-3840

2 Penn Plaza, 17th Floor □NY, NY 10121

westwoodone.com □ marklevinshow.com

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From: [Stephan.Theodore](#)
To: [Brian.Hart](#)
Subject: Re: [EXTERNAL] Fw: Possible appearance on the Daily Briefing tomorrow, Friday, 10/16?
Date: Thursday, October 15, 2020 6:40:41 PM

Copy- will circle back with dates

Sent from my iPhone

On Oct 15, 2020, at 6:26 PM, Brian Hart <Brian.Hart@fcc.gov> wrote:

Hey Ted:

The chairman is all jammed up tomorrow and can't make this work. Let me know if you want to try for something next week.

Brian

From: Stephan, Theodore <Theodore.Stephan@FOXNEWS.COM>
Sent: Thursday, October 15, 2020 5:50 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Possible appearance on the Daily Briefing tomorrow, Friday, 10/16?

Chairman Pai:

I was wondering **would you be available to appear on the Daily Briefing with Dana Perino tomorrow, Friday, 10/16 during the 2PM Eastern hour?**

We'd like to discuss Facebook/Twitter's actions this week (regarding the NYPost article and how they relate to Section 230 of the Communications Act.

Please let me know it would be great to have you on.

Very best,

Ted

Ted Stephan
Booker, The Daily Briefing with Dana Perino
Fox News Channel
1211 Avenue of the Americas, 2nd Floor
New York, NY 10036
Direct: 1 (212) 850-5166
Mobile: 1 (646) 960-2240

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From: [McCarton, Anne](#)
To: [Brian Hart](#)
Cc: [Montana L. Hyde](#); [Will Wiquist](#)
Subject: RE: [EXTERNAL] RE: Dobbs
Date: Wednesday, October 14, 2020 5:13:05 PM

Let me work on this!
Like the idea!!

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Wednesday, October 14, 2020 4:55 PM
To: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>
Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Fw: [EXTERNAL] RE: Dobbs

Anne:

It doesn't look like the chairman can pull this off this week. Any interest in having Commissioner Carr come on? Happy to ask him and he's happy to talk on this.

And if it's helpful, here's a tweet the chairman put out today on the subject:

<https://twitter.com/AjitPaiFCC/status/1316451854973313025?s=19>

From: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>
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"Lou Dobbs Tonight"
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From: Will Wiquist <Will.Wiquist@fcc.gov>

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From: [Brian Hart](#)
To: [Matthew Berry](#); [Ajit Pai](#); [Nicholas Degani](#)
Subject: Re: [EXTERNAL] RE: Dobbs
Date: Wednesday, October 14, 2020 4:55:42 PM

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Wednesday, October 14, 2020 4:52 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: Re: [EXTERNAL] RE: Dobbs

(b) (5)

From: "Ajit Pai" <Ajit.Pai@fcc.gov>
Date: Wednesday, October 14, 2020 at 4:45:07 PM
To: "Brian Hart" <Brian.Hart@fcc.gov>, "Matthew Berry" <Matthew.Berry@fcc.gov>, "Nicholas Degani" <Nicholas.Degani@fcc.gov>
Subject: Re: [EXTERNAL] RE: Dobbs

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Subject: Re: [EXTERNAL] RE: Dobbs
Date: Wednesday, October 14, 2020 4:48:54 PM

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From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Wednesday, October 14, 2020 4:46 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
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To: "Ajit Pai" <Ajit.Pai@fcc.gov>, "Matthew Berry" <Matthew.Berry@fcc.gov>, "Nicholas Degani" <Nicholas.Degani@fcc.gov>
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To: [Thomas Johnson](#); [Ajit Pai](#); [Brian Hart](#); [Nicholas Degani](#)
Subject: Re: [EXTERNAL] RE: Dobbs
Date: Wednesday, October 21, 2020 4:01:22 PM

(b) (5)

From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Wednesday, October 21, 2020 3:58 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
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Ajit V. Pai
Chairman, Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
(202)418-1000
Twitter: @AjitPaiFCC

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Wednesday, October 21, 2020 3:31 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>
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HI ALL,

A bit crazy this week but what about next week for the Chairman or Commissioner?

5pm hour.

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Ok good to know... we will look for another time!!
Thanks sooo much!!
Keep me posted on any statements you all send out

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Looks like Carr's on the FBN show.

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If it's Cavuto on FNC he can still do FBN just an FYI – depends on which show he is doing!?

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Subject: Re: [EXTERNAL] RE: Dobbs

Ugh...sorry. Just found out Carr's doing Cavuto tomorrow. Didn't realize that.

From: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>
Sent: Wednesday, October 14, 2020 5:54 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>

Subject: RE: [EXTERNAL] RE: Dobbs

Is he free tomorrow in the 5p? then I can confirm in the a.m.!

From: Brian Hart <Brian.Hart@fcc.gov>

Sent: Wednesday, October 14, 2020 4:55 PM

To: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>

Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>

Subject: Fw: [EXTERNAL] RE: Dobbs

Anne:

It doesn't look like the chairman can pull this off this week. Any interest in having Commissioner Carr come on? Happy to ask him and he's happy to talk on this.

And if it's helpful, here's a tweet the chairman put out today on the subject:

<https://twitter.com/AjitPaiFCC/status/1316451854973313025?s=19>

From: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>

Sent: Wednesday, October 14, 2020 4:35 PM

To: Montana L. Hyde <Montana.Hyde@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>

Subject: RE: [EXTERNAL] RE: Dobbs

Can the Chairman weigh in at all on Twitter and Facebook censoring the NY Post

We are in interesting times... wanted to see if you had any thoughts yet and at some point we could discuss an interview.

From: Montana L. Hyde <Montana.Hyde@fcc.gov>

Sent: Tuesday, May 19, 2020 5:57 PM

To: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>; Will Wiquist <Will.Wiquist@fcc.gov>

Cc: Fawcett, John <John.Fawcett@FOXNEWS.COM>

Subject: RE: [EXTERNAL] RE: Dobbs

We're waiting to hear back from him on that. I'll follow up once I hear if he can swing it or not.

From: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>

Sent: Tuesday, May 19, 2020 5:56 PM

To: Montana L. Hyde <Montana.Hyde@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>

Cc: Fawcett, John <John.Fawcett@FOXNEWS.COM>

Subject: RE: [EXTERNAL] RE: Dobbs

Hi there Team Pai

Is there any chance that the Chairman could call Lou this evening?

From: McCarton, Anne
Sent: Tuesday, May 19, 2020 5:33 PM
To: Montana L. Hyde <Montana.Hyde@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Cc: Fawcett, John <John.Fawcett@FOXNEWS.COM>
Subject: RE: [EXTERNAL] RE: Dobbs

Actually... Lou would love to talk tonite... any chance that can happen? Show is over at 6p!!

From: Montana L. Hyde <Montana.Hyde@fcc.gov>
Sent: Tuesday, May 19, 2020 4:45 PM
To: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>; Will Wiquist <Will.Wiquist@fcc.gov>
Cc: Fawcett, John <John.Fawcett@FOXNEWS.COM>
Subject: RE: [EXTERNAL] RE: Dobbs

Hi Anne – yes, 10:30am tomorrow morning works for Chairman Pai. Thank you!

Montana Hyde
Office of Chairman Ajit Pai
Federal Communications Commission
(703) 969-2494 – Direct
Montana.hyde@fcc.gov

From: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>
Sent: Tuesday, May 19, 2020 4:39 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>
Cc: Fawcett, John <John.Fawcett@FOXNEWS.COM>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: RE: [EXTERNAL] RE: Dobbs

Hi there... why don't we all connect around 10a tomorrow and we will share Lou's personal number with you!

Thanks so much... can around 1030a work for the call?

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Tuesday, May 19, 2020 4:37 PM
To: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>
Cc: Fawcett, John <John.Fawcett@FOXNEWS.COM>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: RE: [EXTERNAL] RE: Dobbs

+Montana, the Chairman's confidential assistant.

He would be happy to talk with Lou. Tomorrow morning would be better but otherwise he can make tonight work.

From: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>
Sent: Tuesday, May 19, 2020 4:33 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>
Cc: Fawcett, John <John.Fawcett@FOXNEWS.COM>
Subject: RE: [EXTERNAL] RE: Dobbs

Tonight around 630 perhaps or I am sure tomorrow morning is fine!
What do you think is convenient for the Chairman?

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Tuesday, May 19, 2020 4:32 PM
To: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>
Cc: Fawcett, John <John.Fawcett@FOXNEWS.COM>
Subject: RE: [EXTERNAL] RE: Dobbs

We he hoping to do this today?

From: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>
Sent: Tuesday, May 19, 2020 4:23 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>
Cc: Fawcett, John <John.Fawcett@FOXNEWS.COM>
Subject: RE: [EXTERNAL] RE: Dobbs

He can call Lou directly but if you could just tell us what time... and we can share Lou's number with you...

He has the show from 5-6p – so anywhere after that....

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Tuesday, May 19, 2020 4:08 PM
To: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>
Cc: Fawcett, John <John.Fawcett@FOXNEWS.COM>
Subject: RE: [EXTERNAL] RE: Dobbs

No need to press him but thought I'd ask. If the chairman want's to give him a call, should he call John?

From: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>
Sent: Tuesday, May 19, 2020 4:06 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>
Cc: Fawcett, John <John.Fawcett@FOXNEWS.COM>
Subject: Re: [EXTERNAL] RE: Dobbs

he didn't specify... just wanted to chat one on one! if you need us to get topics John can ask!

thanks so much Will!!

Anne McCarton
Senior Booker
Fox Business
"Lou Dobbs Tonight"
...now Live at 5pm

On May 19, 2020, at 4:01 PM, Will Wiquist <Will.Wiquist@fcc.gov> wrote:

I'm happy to pass this along to the Chairman's office. Is there anything in particular he'd like to discuss that I should pass along?

From: McCarton, Anne <Anne.McCarton@FOXNEWS.COM>
Sent: Tuesday, May 19, 2020 3:54 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Fawcett, John <John.Fawcett@FOXNEWS.COM>
Subject: RE: Dobbs

Hi Will:

Lou was hoping to have a chat with Chairman Pai. Might he have some time? I have also cc'd Lou's assistant John who can work on connecting them too!

From: Will Wiquist <Will.Wiquist@fcc.gov>

This message and its attachments may contain legally privileged or confidential information. It is intended solely for the named addressee. If you are not the addressee indicated in this message (or responsible for delivery of the message to the addressee), you may not copy or deliver this message or its attachments to anyone. Rather, you should permanently delete this message and its attachments and kindly notify the sender by reply e-mail. Any content of this message and its attachments that does not relate to the official business of Fox News or Fox Business must not be taken to have

been sent or endorsed by either of them. No representation is made that this email or its attachments are without defect.

From: [Brian Hart](#)
To: [Ajit Pai](#); [Nicholas Degani](#); [Matthew Berry](#); [Paul Jackson](#)
Cc: [Thomas Johnson](#); [Evan Swarztrauber](#)
Subject: Re: 230 Statement
Date: Thursday, October 15, 2020 1:41:49 PM

(b) (5)

[Redacted]

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Thursday, October 15, 2020 1:37 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: 230 Statement

+1

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Thursday, October 15, 2020 1:32 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: RE: 230 Statement

Thanks. Looks good to me.

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Thursday, October 15, 2020 1:27 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: 230 Statement

(b) (5)

[Redacted]

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Thursday, October 15, 2020 1:23 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: 230 Statement

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Thursday, October 15, 2020 1:22 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: 230 Statement

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Thursday, October 15, 2020 1:21 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: 230 Statement

Draft attached.

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Thursday, October 15, 2020 12:41 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: 230 Statement

(b) (5)

[Redacted content]

(b) (5)

From: [Thomas Johnson](#)
To: [Ajit Pai](#); [Brian Hart](#); [Nicholas Degani](#); [Matthew Berry](#); [Paul Jackson](#)
Cc: [Evan Swarztrauber](#)
Subject: Re: 230 Statement
Date: Thursday, October 15, 2020 1:23:17 PM

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Thursday, October 15, 2020 1:22 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: 230 Statement

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Thursday, October 15, 2020 1:21 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: 230 Statement

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From: Nicholas Degani <Nicholas.Degani@fcc.gov>
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To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: 230 Statement

(b) (5)

[Redacted content]

(b) (5)

[Redacted text block]

[Redacted text block]

Media Contact:

Brian Hart, (202) 418-0505
brian.hart@fcc.gov

For Immediate Release

STATEMENT OF CHAIRMAN PAI ON SECTION 230

WASHINGTON, October 15, 2020—Federal Communications Commission Chairman Ajit Pai issued the following statement today on Section 230 of the Communications Act:

“Members of all three branches of the federal government have expressed serious concerns about the prevailing interpretation of the immunity set forth in Section 230 of the Communications Act. There is bipartisan support in Congress to reform the law. The U.S. Department of Commerce has petitioned the Commission to ‘clarify ambiguities in section 230.’ And earlier this week, U.S. Supreme Court Justice Clarence Thomas pointed out that courts have relied upon ‘policy and purpose arguments to grant sweeping protections to Internet platforms’ that appear to go far beyond the actual text of the provision.

“As elected officials consider whether to change the law, the question remains: What does Section 230 currently mean? Many advance an overly broad interpretation that in some cases shields social media companies from consumer protection laws in a way that has no basis in the text of Section 230. The Commission’s General Counsel has informed me that the FCC has the legal authority to interpret Section 230. Consistent with this advice, I intend to move forward with a rulemaking to clarify its meaning.

“Throughout my tenure at the Federal Communications Commission, I have favored regulatory parity, transparency, and free expression. Social media companies have a First Amendment right to free speech. But they do not have a First Amendment right to a special immunity denied to other media outlets, such as newspapers and broadcasters.”

###

Office of Chairman Pai: (202) 418-1000 / Twitter: @AjitPaiFCC / www.fcc.gov/leadership/ajit-pai

*This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.
See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).*

From: [Brian Hart](#)
To: [Nicholas Degani](#); [Matthew Berry](#); [Ajit Pai](#); [Paul Jackson](#)
Cc: [Thomas Johnson](#); [Evan Swarztrauber](#)
Bcc: [Will Wiquist](#)
Subject: Re: 230 Statement
Date: Thursday, October 15, 2020 2:01:26 PM
Attachments: [2020-10-15 Statement - Sec 230 Rulemaking-final.docx](#)

Final with that revision attached.

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Thursday, October 15, 2020 1:58 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: RE: 230 Statement

+1

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Thursday, October 15, 2020 1:56 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: 230 Statement

Agreed. Good catch!

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Thursday, October 15, 2020 1:54 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: 230 Statement

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Thursday, October 15, 2020 1:37 PM
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Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: RE: 230 Statement

Thanks. Looks good to me.

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Thursday, October 15, 2020 1:27 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: 230 Statement

(b) (5)



From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Thursday, October 15, 2020 1:23 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: 230 Statement

(b) (5)



From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Thursday, October 15, 2020 1:22 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: 230 Statement

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Thursday, October 15, 2020 1:21 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: 230 Statement

Draft attached.

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Thursday, October 15, 2020 12:41 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: 230 Statement

(b) (5)

[Redacted content]

From: [Ajit Pai](#)
To: [Evan Swarztrauber](#); [Matthew Berry](#); [Nicholas Degani](#); [Thomas Johnson](#); [Brian Hart](#); [Anne Veigle](#)
Cc: [Preston Wise](#)
Subject: Re: A different kind of press prep
Date: Wednesday, November 18, 2020 12:03:05 PM

(b) (5)

From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Sent: Wednesday, November 18, 2020 12:02 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Cc: Preston Wise <Preston.Wise@fcc.gov>
Subject: A different kind of press prep

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Evan Swarztrauber
Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: [Ajit Pai](#)
To: [Matthew Berry](#); [Nicholas Degani](#); [Brian Hart](#); [Montana L. Hyde](#)
Subject: Re: Advisory ASP TO AIR EXCLUSIVE CONVERSATIONS WITH SENIOR LAWMAKERS ON THE FUTURE OF INFORMATION, MEDIA AND TECHNOLOGY
Date: Monday, October 26, 2020 11:40:20 AM

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Monday, October 26, 2020 11:29 AM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Re: Advisory ASP TO AIR EXCLUSIVE CONVERSATIONS WITH SENIOR LAWMAKERS ON THE FUTURE OF INFORMATION, MEDIA AND TECHNOLOGY

(b) (5)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Monday, October 26, 2020 11:29 AM
To: Brian Hart <Brian.Hart@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Cc: Matthew Berry <Matthew.Berry@fcc.gov>
Subject: RE: Advisory ASP TO AIR EXCLUSIVE CONVERSATIONS WITH SENIOR LAWMAKERS ON THE FUTURE OF INFORMATION, MEDIA AND TECHNOLOGY

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Monday, October 26, 2020 11:26 AM
To: Montana L. Hyde <Montana.Hyde@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Cc: Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>
Subject: Re: Advisory ASP TO AIR EXCLUSIVE CONVERSATIONS WITH SENIOR LAWMAKERS ON THE FUTURE OF INFORMATION, MEDIA AND TECHNOLOGY

(b) (5)

From: Montana L. Hyde <[Montana.Hyde@fcc.gov](#)>
Sent: Monday, October 26, 2020 11:22 AM
To: Ajit Pai <[Ajit.Pai@fcc.gov](#)>
Cc: Nicholas Degani <[Nicholas.Degani@fcc.gov](#)>; Matthew Berry <[Matthew.Berry@fcc.gov](#)>; Brian Hart <[Brian.Hart@fcc.gov](#)>
Subject: FW: Advisory ASP TO AIR EXCLUSIVE CONVERSATIONS WITH SENIOR LAWMAKERS ON THE FUTURE OF INFORMATION, MEDIA AND TECHNOLOGY

(b) (5)

From: Jessica Gail <jessicagail85@gmail.com>

Sent: Monday, October 26, 2020 10:45 AM

To: Montana L. Hyde <Montana.Hyde@fcc.gov>

Subject: Advisory ASP TO AIR EXCLUSIVE CONVERSATIONS WITH SENIOR LAWMAKERS ON THE FUTURE OF INFORMATION, MEDIA AND TECHNOLOGY

FOR IMMEDIATE RELEASE

October 25, 2020

Contact: press@astartingpoint.com

ADVISORY: ASP TO AIR EXCLUSIVE CONVERSATIONS WITH SENIOR LAWMAKERS ON THE FUTURE OF INFORMATION, MEDIA AND TECHNOLOGY

WASHINGTON, DC □ This week on [A Starting Point](#) (ASP) top lawmakers and government stakeholders will join ASP for a comprehensive examination of one of the greatest issues of our time: the changing face of media, information and technology. In a special, one-week series, ASP will host exclusive conversations, debates and viewpoints from lawmakers about how we receive news and information in an increasingly digital world.

As the CEO's of Facebook, Google and Twitter prepare to testify before the Senate Commerce Committee on potential reforms to Section 230 of the Communications Decency Act, **ASP's Co-Founders Chris Evans and Mark Kassen will speak with U.S. Senator Ron Wyden**, the original author of the 1996 Section 230 law, **and U.S. Senator Maria Cantwell**, author of a new report on online disinformation and the decline of local news.

More conversations to be announced in the coming days will explore content moderation and speech protection, the age of social media and its impact on local journalism, advertising and privacy protections, national security and the elections, and potential reforms to the Section 230 statute.

Please be advised of the current schedule on ASP this week:

Monday 10/26 at 6:00pm ET / 3:00pm PT

ASP Chat with Senator Maria Cantwell (D-WA) □ Chris Evans and Mark Kassen
The Decline of Local News

www.astartingpoint.com

Tuesday 10/27 at 3:00pm ET / 12:00pm PT

ASP Chat with Senator Ron Wyden (D-OR) □ Chris Evans and Mark Kassen
Reforming Section 230 in the Digital Era

www.astartingpoint.com

**REMARKS OF FCC CHIEF OF STAFF MATTHEW BERRY
AT THE 9th ANNUAL AMERICAS SPECTRUM MANAGEMENT CONFERENCE
PANEL ON “COVID-19—WHAT IMPACT AND LESSONS FOR THE SPECTRUM
COMMUNITY?”**

OCTOBER 12, 2020

Good morning. Thank you, Johanne. It’s great to be with all of you, and I look forward to a lively discussion with my fellow panelists Miguel, Scott, and Tom.

Earlier this morning, Chairman Pai kicked off this conference with a summary of the Commission’s efforts to promote United States leadership in 5G. He noted how all of our major initiatives over the past two years had been laid out in his 2018 remarks at this very conference. But while we knew long ago that we would be spending the past few years repurposing spectrum for commercial use and removing barriers to infrastructure deployment, I did not foresee that we would spend most of 2020 dealing with a once-in-a-century pandemic.

I’m proud of all of the FCC’s efforts to keep Americans connected during this difficult time. But this morning, given the topic of the panel, I’d like to focus on our work on the spectrum front. When the pandemic hit, we understood that increased demand would be placed on our nation’s broadband networks as Americans engaged in social distancing. And with respect to wireless broadband in particular, we quickly recognized that one of our most effective tools for meeting increased consumer demand would be giving providers temporary access to additional spectrum.

So on March 15, just two days after the President declared the COVID-19 outbreak to be a national emergency, we granted our first Special Temporary Authority—or STA—to respond to the crisis, allowing T-Mobile to use additional spectrum in the 600 MHz Band.

And that was just the beginning. Our strategy was to grant access to additional spectrum wherever possible and wherever it could make a difference.

So, for example, since that first STA grant on March 15, we approved an additional 23 STAs in the 600 MHz band.

We granted STAs to AT&T, U.S. Cellular, and Verizon to use AWS-3 spectrum to expand the capacity of their networks.

We also granted AT&T temporary authority to use spectrum licensed to DISH in the AWS-4 band for the purpose of boosting network coverage in Puerto Rico and the U.S. Virgin Islands.

We allowed dozens of fixed wireless Internet service providers to use the lower 45 megahertz of spectrum in the 5.9 GHz band. These WISPs deliver Internet access to some of the hardest-to-connect rural communities in our country, and these STAs have made a difference. To give just two examples, Skynet360 in Florida City, Florida, used a 5.9 GHz STA to extend network access to over 100 homes in a rural area of the Florida Everglades. And Amplex in Luckey, Ohio, reports that its 5.9 GHz STA helped increase bandwidth across its network by 50% and handle a greater than 30% increase in traffic due to the pandemic. Altogether, the Commission has approved 160 STAs in the 5.9 GHz band.

Speaking of the hardest-to-serve communities, we approved the temporary use of unassigned 2.5 GHz spectrum to provide wireless broadband service over the reservation of the Pueblo of Zuni in New Mexico. We granted 2.5 GHz STAs to the Confederated Salish & Kootenai Tribes, Santa Clara Pueblo, Lower Brule Sioux, Makah Tribe, and the Navajo Nation. And we also approved temporary access to 2.5

GHz spectrum to improve access to wireless broadband services in low-income, rural communities in Harlan County, Kentucky.

Of course, our efforts haven't been limited to providing additional spectrum for use in remote areas. For example, we granted New York City an STA to expand the capacity and coverage of its Fire Department's communications system using T-Band spectrum. This increased bandwidth helped to support emergency medical dispatch operations during the coronavirus pandemic.

We also approved 21 STAs for backhaul communications services in the 6 GHz, 11 GHz, 18 GHz, and 70/80/90 GHz bands.

Add them all up, and the Commission has so far approved over 230 COVID-19 related STAs. That averages out to more than one-a-day since our first on March 15.

What has been the result? During the pandemic, we've been very pleased by the performance of our nation's wireless networks. For example, according to Ookla, notwithstanding increased demand, in April average mobile broadband download speeds in the United States were actually faster than they were in February, before the pandemic hit, and they've gotten faster since.

I believe that much of this success is due to the policies that we put in place well before the pandemic, market-based policies that encouraged investment in broadband networks and made it easier to deploy infrastructure. But making more spectrum available during the pandemic has also made a positive impact. For example, we've seen evidence that our 600 MHz STAs helped T-Mobile double the speed of its 4G LTE service in certain parts of the country.

The last thing I want to say before I wrap up is that all this work was done on top of the Commission's regular workload. Even with all our COVID-19 related activity, of which I only mentioned a fraction, the Commission was able to complete major proceedings like our order to make the entire 6 GHz band available for unlicensed use—all while working remotely, I would add. So if there's one lesson I've learned about how best to deal with a crisis like a pandemic, it's to hire and nurture a staff as great as the FCC's.

Thank you again for the opportunity to be here. I look forward to the discussion.

From: [Matthew Berry](#)
To: [Ajit Pai](#); [Katie Gorskak](#); [Thomas Sullivan](#); [Sean Spivey](#); [Brian Hart](#); [Will Wiquist](#); [Lamar Robertson](#); [Nicholas Degani](#); [Evan Swarztrauber](#); [Montana L. Hyde](#)
Subject: Re: Americas Spectrum Management Conference
Date: Monday, October 12, 2020 10:50:22 AM
Attachments: [MB americas spectrum conf-FINAL.docx](#)

Attached please find the remarks I delivered this morning. They are ready to be posted and sent out.

Thanks all!

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Monday, October 12, 2020 10:13 AM
To: Katie Gorskak <Katie.Gorskak@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

By the way, the first question of the box was about ... Ginger the Bulldog!

Ajit V. Pai
Chairman, Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
(202)418-1000
Twitter: @AjitPaiFCC

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Monday, October 12, 2020 10:11 AM
To: Katie Gorskak <Katie.Gorskak@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

I'm all done! Thanks so much to everybody.

Ajit V. Pai

Chairman, Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
(202)418-1000
Twitter: @AjitPaiFCC

From: Katie Gorscak <Katie.Gorscak@fcc.gov>
Sent: Monday, October 12, 2020 10:06 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

(b) (5)




From: "Ajit Pai" <Ajit.Pai@fcc.gov>
Date: Monday, October 12, 2020 at 9:39:47 AM
To: "Matthew Berry" <Matthew.Berry@fcc.gov>, "Thomas Sullivan" <Thomas.Sullivan@fcc.gov>, "Sean Spivey" <Sean.Spivey@fcc.gov>, "Brian Hart" <Brian.Hart@fcc.gov>, "Will Wiquist" <Will.Wiquist@fcc.gov>, "Lamar Robertson" <Lamar.Robertson@fcc.gov>, "Nicholas Degani" <Nicholas.Degani@fcc.gov>, "Evan Swarztrauber" <Evan.Swarztrauber@fcc.gov>, "Katie Gorscak" <Katie.Gorscak@fcc.gov>, "Montana L. Hyde" <Montana.Hyde@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

(b) (5)



From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Monday, October 12, 2020 8:54 AM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

Yep. Should be good to go.

Ajit V. Pai

Chairman, Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
(202)418-1000
Twitter: @AjitPaiFCC

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Monday, October 12, 2020 8:53 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

Did they send you the link for today?

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Sunday, October 11, 2020 11:41 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

They sent me a different link for tomorrow than they did for the prep session although both used streamyard.com.

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Sunday, October 11, 2020 11:39 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

Sounds good. This is the link they gave me for the prep session, <https://streamyard.com/pwf2w7ff2q>, but I wasn't sure if there was a unique one for the event itself.

StreamYard | Browser-based live
studio for professionals



Engage your Facebook, or YouTube, Live audience with interviews and shows; all the tools you need for professional shows right in your browser.

streamyard.com

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Sunday, October 11, 2020 11:37 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swartrauber <Evan.Swartrauber@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>

Subject: Re: Americas Spectrum Management Conference

I am on the panel after you speak, and they sent me a link to use for tomorrow morning. I did a practice prep session last week, and it was easy to use.

From: Ajit Pai <Ajit.Pai@fcc.gov>

Sent: Sunday, October 11, 2020 11:22 PM

To: Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swartrauber <Evan.Swartrauber@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>

Subject: Re: Americas Spectrum Management Conference

Many thanks!

From: Thomas Sullivan <Thomas.Sullivan@fcc.gov>

Sent: Sunday, October 11, 2020 11:22 PM

To: Sean Spivey <Sean.Spivey@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swartrauber <Evan.Swartrauber@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>

Subject: RE: Americas Spectrum Management Conference

It will be a live feed. I've asked the organizers to send a link to you, me, Sean and Montana ASAP. It should be there for you tomorrow.

From: Sean Spivey <Sean.Spivey@fcc.gov>

Sent: Sunday, October 11, 2020 10:20 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>

Subject: Re: Americas Spectrum Management Conference

These edits look good to me. I don't have the details for the event either but I believe this one will be live over Zoom.

C. Sean Spivey
(202) 418-0162

----- Original Message -----

From: Ajit Pai <Ajit.Pai@fcc.gov>

Date: Sun, Oct 11, 2020, 10:04 PM

To: Brian Hart <Brian.Hart@fcc.gov>, Will Wiquist <Will.Wiquist@fcc.gov>, Matthew Berry <Matthew.Berry@fcc.gov>, Sean Spivey <Sean.Spivey@fcc.gov>, Lamar Robertson <Lamar.Robertson@fcc.gov>, Nicholas Degani <Nicholas.Degani@fcc.gov>, Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>, Thomas Sullivan <Thomas.Sullivan@fcc.gov>, Katie Gorscak <Katie.Gorscak@fcc.gov>, "Montana L. Hyde" <Montana.Hyde@fcc.gov>

Subject: Re: Americas Spectrum Management Conference

+MH

By the way, does anyone have any details for this? I see a 9AM spot on the calendar, but there's no link to Teams/Zoom/etc. Am I just recording myself and then sending to everyone on Google Drive?

From: Ajit Pai <Ajit.Pai@fcc.gov>

Sent: Sunday, October 11, 2020 9:46 PM

To: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>

Subject: Re: Americas Spectrum Management Conference

Here it is. Others may have edits!

From: Ajit Pai <Ajit.Pai@fcc.gov>

Sent: Sunday, October 11, 2020 8:51 PM

To: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber

<Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>

Subject: Re: Americas Spectrum Management Conference

Slipped through the cracks for me! Editing and will send as soon as I can.

Ajit V. Pai
Chairman, Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
(202)418-1000
Twitter: @AjitPaiFCC

From: Brian Hart <Brian.Hart@fcc.gov>

Sent: Sunday, October 11, 2020 8:46 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>

Subject: Re: Americas Spectrum Management Conference

Can you please send the final version (might have missed it) and let us know when your remarks are concluded? We'll get them posted and sent around.

From: Ajit Pai <Ajit.Pai@fcc.gov>

Sent: Sunday, October 11, 2020 8:05 PM

To: Will Wiquist <Will.Wiquist@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>

Subject: Re: Americas Spectrum Management Conference

How about we go ahead and post on Monday?

From: Will Wiquist <Will.Wiquist@fcc.gov>

Sent: Sunday, October 11, 2020 8:04 PM

To: Brian Hart <Brian.Hart@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>

Subject: Re: Americas Spectrum Management Conference

+Katie.

From: "Brian Hart" <Brian.Hart@fcc.gov>
Date: Friday, October 9, 2020 at 5:27:22 PM
To: "Matthew Berry" <Matthew.Berry@fcc.gov>, "Sean Spivey" <Sean.Spivey@fcc.gov>, "Lamar Robertson" <Lamar.Robertson@fcc.gov>, "Ajit Pai" <Ajit.Pai@fcc.gov>, "Nicholas Degani" <Nicholas.Degani@fcc.gov>, "Evan Swarztrauber" <Evan.Swarztrauber@fcc.gov>, "Thomas Sullivan" <Thomas.Sullivan@fcc.gov>
Cc: "Will Wiquist" <Will.Wiquist@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

Whichever you prefer is fine with OMR.

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Friday, October 9, 2020 5:04 PM
To: Sean Spivey <Sean.Spivey@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

One issue: With Monday being a holiday, should we send out and post Ajit's remarks and my remarks on Monday after they are given? Or wait until Tuesday?

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Friday, October 9, 2020 3:17 PM
To: Sean Spivey <Sean.Spivey@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

Thanks. Accepting Sean's edits and adding my own. I think that this is ready for Ajit's review.

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Friday, October 9, 2020 2:24 PM
To: Sean Spivey <Sean.Spivey@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>
Subject: Re: Americas Spectrum Management Conference

Jumping in . . .

From: Sean Spivey <Sean.Spivey@fcc.gov>

Sent: Friday, October 9, 2020 1:13 PM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>

Subject: RE: Americas Spectrum Management Conference

Sorry for the delay (VDI is not holding up well against my parent's internet connection). Attached please find some suggested edits from me.

Sean

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Friday, October 9, 2020 9:52 AM

To: Lamar Robertson <Lamar.Robertson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>

Subject: Re: Americas Spectrum Management Conference

Sean, can you go in and edit?

From: "Lamar Robertson" <Lamar.Robertson@fcc.gov>

Date: Thursday, October 8, 2020 at 7:20:27 PM

To: "Ajit Pai" <Ajit.Pai@fcc.gov>, "Matthew Berry" <Matthew.Berry@fcc.gov>, "Nicholas Degani" <Nicholas.Degani@fcc.gov>, "Sean Spivey" <Sean.Spivey@fcc.gov>, "Evan Swarztrauber" <Evan.Swarztrauber@fcc.gov>, "Thomas Sullivan" <Thomas.Sullivan@fcc.gov>

Subject: Americas Spectrum Management Conference

Attached are remarks for Monday's conference. IB said they wanted 12-15 minutes, and these are right around 15. If that's too long, there are some easy, obvious ways to trim it down.

From: [FCC Office of Media Relations](#)
Subject: SPEECH: Remarks of FCC Chief of Staff Matthew Berry at the 9th Annual Americas Spectrum Management Conference
Date: Monday, October 12, 2020 11:14:58 AM

**REMARKS OF FCC CHIEF OF STAFF MATTHEW BERRY
AT THE 9th ANNUAL AMERICAS SPECTRUM MANAGEMENT CONFERENCE
PANEL ON “COVID-19—WHAT IMPACT AND LESSONS FOR THE SPECTRUM
COMMUNITY?”**

OCTOBER 12, 2020

Good morning. Thank you, Johanne. It’s great to be with all of you, and I look forward to a lively discussion with my fellow panelists Miguel, Scott, and Tom.

Earlier this morning, Chairman Pai kicked off this conference with a summary of the Commission’s efforts to promote United States leadership in 5G. He noted how all of our major initiatives over the past two years had been laid out in his 2018 remarks at this very conference. But while we knew long ago that we would be spending the past few years repurposing spectrum for commercial use and removing barriers to infrastructure deployment, I did not foresee that we would spend most of 2020 dealing with a once-in-a-century pandemic.

I’m proud of all of the FCC’s efforts to keep Americans connected during this difficult time. But this morning, given the topic of the panel, I’d like to focus on our work on the spectrum front. When the pandemic hit, we understood that increased demand would be placed on our nation’s broadband networks as Americans engaged in social distancing. And with respect to wireless broadband in particular, we quickly recognized that one of our most effective tools for meeting increased consumer demand would be giving providers temporary access to additional spectrum.

So on March 15, just two days after the President declared the COVID-19 outbreak to be a national emergency, we granted our first Special Temporary Authority—or STA—to respond to the crisis, allowing T-Mobile to use additional spectrum in the 600 MHz Band.

And that was just the beginning. Our strategy was to grant access to additional spectrum wherever possible and wherever it could make a difference.

So, for example, since that first STA grant on March 15, we approved an additional 23 STAs in the 600 MHz band.

We granted STAs to AT&T, U.S. Cellular, and Verizon to use AWS-3 spectrum to expand the capacity of their networks.

We also granted AT&T temporary authority to use spectrum licensed to DISH in the AWS-4 band for the purpose of boosting network coverage in Puerto Rico and the U.S. Virgin Islands.

We allowed dozens of fixed wireless Internet service providers to use the lower 45 megahertz of spectrum in the 5.9 GHz band. These WISPs deliver Internet access to some of the hardest-to-connect rural communities in our country, and these STAs have made a difference. To give just two examples, Skynet360 in Florida City, Florida, used a 5.9 GHz STA to extend network access to over 100 homes in a rural area of the Florida Everglades. And Amplex in Luckey, Ohio, reports that its 5.9 GHz STA helped increase bandwidth across its network by 50% and handle a greater than 30% increase in traffic due to the pandemic. Altogether, the Commission has approved 160 STAs in the 5.9 GHz band.

Speaking of the hardest-to-serve communities, we approved the temporary use of unassigned

2.5 GHz spectrum to provide wireless broadband service over the reservation of the Pueblo of Zuni in New Mexico. We granted 2.5 GHz STAs to the Confederated Salish & Kootenai Tribes, Santa Clara Pueblo, Lower Brule Sioux, Makah Tribe, and the Navajo Nation. And we also approved temporary access to 2.5 GHz spectrum to improve access to wireless broadband services in low-income, rural communities in Harlan County, Kentucky.

Of course, our efforts haven't been limited to providing additional spectrum for use in remote areas. For example, we granted New York City an STA to expand the capacity and coverage of its Fire Department's communications system using T-Band spectrum. This increased bandwidth helped to support emergency medical dispatch operations during the coronavirus pandemic.

We also approved 21 STAs for backhaul communications services in the 6 GHz, 11 GHz, 18 GHz, and 70/80/90 GHz bands.

Add them all up, and the Commission has so far approved over 230 COVID-19 related STAs. That averages out to more than one-a-day since our first on March 15.

What has been the result? During the pandemic, we've been very pleased by the performance of our nation's wireless networks. For example, according to Ookla, notwithstanding increased demand, in April average mobile broadband download speeds in the United States were actually faster than they were in February, before the pandemic hit, and they've gotten faster since.

I believe that much of this success is due to the policies that we put in place well before the pandemic, market-based policies that encouraged investment in broadband networks and made it easier to deploy infrastructure. But making more spectrum available during the pandemic has also made a positive impact. For example, we've seen evidence that our 600 MHz STAs helped T-Mobile double the speed of its 4G LTE service in certain parts of the country.

The last thing I want to say before I wrap up is that all this work was done on top of the Commission's regular workload. Even with all our COVID-19 related activity, of which I only mentioned a fraction, the Commission was able to complete major proceedings like our order to make the entire 6 GHz band available for unlicensed use—all while working remotely, I would add. So if there's one lesson I've learned about how best to deal with a crisis like a pandemic, it's to hire and nurture a staff as great as the FCC's.

Thank you again for the opportunity to be here. I look forward to the discussion.

From: [Will Wiquist](#)
To: [Shepardson, David \(Reuters\)](#)
Cc: [Brian Hart](#)
Subject: RE: Another question
Date: Monday, October 5, 2020 2:24:18 PM

Yes, that's right.

From: Shepardson, David (Reuters) <David.Shepardson@thomsonreuters.com>
Sent: Monday, October 5, 2020 2:06 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: Another question

So in essence what I was told is the chairman is addressing the three issues raised by the DC Circuit but not proposing any policy changes to the RIFO order? Is that correct?

David Shepardson

Correspondent

Reuters

Phone: ☐1 202 898 8☐24

Mobile: ☐1 202 579-609☐

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From: [Nicholas Degani](#)
To: [Matthew Berry](#); [Brian Hart](#); [Ajit Pai](#)
Cc: [Evan Swarztrauber](#); [Montana L. Hyde](#)
Subject: RE: Arranging a Reason TV interview with Chairman Pai
Date: Wednesday, November 18, 2020 1:54:26 PM

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Wednesday, November 18, 2020 1:47 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Cc: Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Wednesday, November 18, 2020 1:45 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Cc: Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Wednesday, November 18, 2020 1:37 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Cc: Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Wednesday, November 18, 2020 12:43 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>

Cc: Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>

Subject: Fw: Arranging a Reason TV interview with Chairman Pai

See below for the general questions that Nick Gillespie will ask on your Reason interview this afternoon.

From: Nick Gillespie <gillespie@reason.com>

Sent: Wednesday, November 18, 2020 12:30 PM

To: Brian Hart <Brian.Hart@fcc.gov>

Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>

Subject: Re: Arranging a Reason TV interview with Chairman Pai

Yes:

1. Explain how his term as chairman plays out (short description of what happens between now and the Biden administration appointing a new chairman).
2. I'll ask him to reflect on his legacy as chairman. What is he most proud of, and what work on his agenda still needs to be done?
3. We'll probably already discuss this as part of 2, but if not: What does the battle over Net Neutrality say about the strength of the internet to deliver information and content apart from specific governmental policies?
4. What are his thoughts on Section 230 reform, which he talks about in his October 15 statement?
5. What are the main threats to freedom of expression on the internet and in other areas governed by the FCC? What are the main bright spots?

Nick Gillespie

[Editor at Large, Reason](#)

513.255.5151 (c)

gillespie@reason.com

From: [Matthew Berry](#)
To: [Ajit Pai](#); [Brian Hart](#)
Cc: [Nicholas Degani](#); [Evan Swarztrauber](#); [Montana L. Hyde](#)
Subject: Re: Arranging a Reason TV interview with Chairman Pai
Date: Wednesday, November 18, 2020 1:41:10 PM

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Wednesday, November 18, 2020 1:37 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Cc: Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
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(b) (5)

[Redacted]

[Redacted]

[Redacted]

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Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>
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Nick Gillespie
[Editor at Large, Reason](#)
513.255.5151 (c)
gillespie@reason.com

From: [Brian Hart](#)
To: [Ajit Pai](#)
Subject: Re: Arranging a Reason TV interview with Chairman Pai
Date: Wednesday, November 18, 2020 10:44:23 AM

(b) (5)




From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Wednesday, November 18, 2020 9:20 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

(b) (5)




From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Wednesday, November 18, 2020 9:19 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Fw: Arranging a Reason TV interview with Chairman Pai

Reminder: Reason Magazine Zoom interview today at 3p. I've asked Montana to put in your calendar.

From: Nick Gillespie <gillespie@reason.com>
Sent: Tuesday, November 17, 2020 11:48 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

Hi guys,

Looking forward to talking with the chairman tomorrow at 3pm ET/12 noon PT. Here's the Zoom link:

<https://reason.zoom.us/j/4845143735> (Passcode: reason68)

Thanks much!

Nick Gillespie
[Editor at Large, Reason](#)
513.255.5151 (c)
gillespie@reason.com

On Fri, Nov 13, 2020 at 8:59 AM Brian Hart <Brian.Hart@fcc.gov> wrote:

Thank you. The chairman is his own tech support from his house. He's got a good spot/backdrop with decent ambient lighting. He's on zoom often and is pretty well versed. But Montana and I are happy to help if there is anything we can do ahead of time.

From: Nick Gillespie <gillespie@reason.com>

Sent: Friday, November 13, 2020 11:46:53 AM

To: Brian Hart <Brian.Hart@fcc.gov>

Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>

Subject: Re: Arranging a Reason TV interview with Chairman Pai

yes, that works--Wednesday November 18, 3pm ET/12 noon pt, via Zoom. If we can squeeze a few more minutes out of Chairman Pai, all the better!

This will be via Zoom. I'll send a link the day before and will send out topics either later today or Monday.

Do you have tech people I can connect my video producers with? We want to make sure everything looks and sounds as good as possible.

Thanks,

Nick Gillespie

[Editor at Large, Reason](#)

513.255.5151 (c)

gillespie@reason.com

On Fri, Nov 13, 2020 at 5:42 AM Brian Hart <Brian.Hart@fcc.gov> wrote:

Yes sir. Copying Montana to confirm that time still works.

Wednesday Nov 18

3p-3:30p EST

Zoom video interview

That all correct/work?

Can Can you please send over a general sense of the topics and questions you want to go over?

From: Nick Gillespie <gillespie@reason.com>

Sent: Thursday, November 12, 2020 11:30 PM

To: Brian Hart <Brian.Hart@fcc.gov>

Subject: Re: Arranging a Reason TV interview with Chairman Pai

That's great! 3pm ET, right?

nick gillespie
editor at large, reason
gillespie@reason.com
513.255.5151
5 bleecker street, 4f
ny, ny 10012

On Thu, Nov 12, 2020, 6:12 PM Brian Hart <Brian.Hart@fcc.gov> wrote:
3p Wednesday Nov 18?

From: Nick Gillespie <gillespie@reason.com>
Sent: Wednesday, November 11, 2020 11:20:03 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

Thanks very much!

Nick

Nick Gillespie
[Editor at Large, Reason](mailto:gillespie@reason.com)
513.255.5151 (c)
gillespie@reason.com

On Wed, Nov 11, 2020 at 8:07 AM Brian Hart <Brian.Hart@fcc.gov> wrote:
The chairman is off for the rest of the week, and the rest of the commission is off today for veterans day. I'll try to check on this tomorrow with his scheduler. But won't be able to confirm with him until early next week.

From: Nick Gillespie <gillespie@reason.com>
Sent: Wednesday, November 11, 2020 11:05:29 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

Brian,

Sorry for the non-responsiveness. What if anything is possible tomorrow or Friday or any day next week? I realize doing it before the award program may not be possible, and that's ok.

Thanks,

Nick

Nick Gillespie
[Editor at Large, Reason](#)
513.255.5151 (c)
gillespie@reason.com

On Mon, Nov 2, 2020 at 11:01 AM Brian Hart <Brian.Hart@fcc.gov> wrote:
Any of these blocks of time work for 30-40 minutes?

- 11/9: 10:00am—2:00pm
- 11/10: 10:00am—2:00pm or after 3:30pm

From: Nick Gillespie <gillespie@reason.com>
Sent: Thursday, October 29, 2020 7:19 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

Great.

Ideally, we'll do the interview via Zoom, yes.

Please keep me posted!

Thanks,

Nick Gillespie
[Editor at Large, Reason](#)
513.255.5151 (c)
gillespie@reason.com

On Thu, Oct 29, 2020 at 4:08 PM Brian Hart <Brian.Hart@fcc.gov> wrote:
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To: Brian Hart <Brian.Hart@fcc.gov>
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Hi Brian, following up on this! Please let me know your thoughts.

Thanks,

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Nick Gillespie

[Editor at Large, Reason](#)

513.255.5151 (c)

gillespie@reason.com

On Mon, Oct 19, 2020 at 12:21 PM Nick Gillespie <gillespie@reason.com>
wrote:

Hi Brian,

I'm writing to arrange an interview with Chairman Pai in anticipation of his receiving Reason Foundation's Savas Award on November 19.

Ideally, we'd conduct the interview via Zoom for about 30 to 40 minutes sometime during the week of November 9 through November 13 (we're hoping to release the video and audio versions of the interview just before the awards ceremony).

Is that doable? Is there more information I can supply that will help you make a decision? Please let me know.

Thanks--

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[Editor at Large, Reason](#)

513.255.5151 (c)

gillespie@reason.com

From: [Montana L. Hyde](#)
To: [Brian Hart](#); [Nick Gillespie](#)
Subject: RE: Arranging a Reason TV interview with Chairman Pai
Date: Friday, November 13, 2020 10:37:53 AM

Yep, that works for Chairman Pai.

Montana Hyde
Office of Chairman Ajit Pai
Federal Communications Commission
(703) 969-2494 – Direct
Montana.hyde@fcc.gov

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Friday, November 13, 2020 8:42 AM
To: Nick Gillespie <gillespie@reason.com>
Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

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Wednesday Nov 18
3p-3:30p EST
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[Editor at Large, Reason](#)

513.255.5151 (c)

gillespie@reason.com

From: [Montana L. Hyde](#)
To: [Brian Hart](#)
Subject: RE: Arranging a Reason TV interview with Chairman Pai
Date: Thursday, November 12, 2020 2:01:58 PM

He can do the afternoon after Open Meeting. Depending on what time the press conference is that day, he's open the whole afternoon after that.

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Thursday, November 12, 2020 12:58 PM
To: Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Fw: Arranging a Reason TV interview with Chairman Pai

Is there a good time after the open meeting for the chairman to shoot this video interview with a reason magazine? The chairman is receiving an award for them on Thursday. The meeting is on Wednesday. Tight window.

From: Nick Gillespie <gillespie@reason.com>
Sent: Wednesday, November 11, 2020 11:20 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

Thanks very much!

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[Editor at Large, Reason](#)
513.255.5151 (c)
gillespie@reason.com

From: [Ajit Pai](#)
To: [Brian Hart](#); [Matthew Berry](#); [Nicholas Degani](#); [Evan Swarztrauber](#)
Subject: Re: Arranging a Reason TV interview with Chairman Pai
Date: Tuesday, October 20, 2020 1:59:15 PM

OK!

Ajit V. Pai
Chairman, Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
(202)418-1000
Twitter: @AjitPaiFCC

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Tuesday, October 20, 2020 1:27 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

(b) (5)

From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Sent: Tuesday, October 20, 2020 11:06:46 AM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Re: Arranging a Reason TV interview with Chairman Pai

(b) (5)

Evan Swarztrauber
Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Monday, October 19, 2020 4:21 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Re: Arranging a Reason TV interview with Chairman Pai

(b) (5)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>

Sent: Monday, October 19, 2020 4:15 PM

To: Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: RE: Arranging a Reason TV interview with Chairman Pai

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>

Sent: Monday, October 19, 2020 4:14 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Fw: Arranging a Reason TV interview with Chairman Pai

(b) (5)

From: Nick Gillespie <gillespie@reason.com>

Sent: Monday, October 19, 2020 3:21 PM

To: Brian Hart <Brian.Hart@fcc.gov>

Subject: Arranging a Reason TV interview with Chairman Pai

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Nick Gillespie

Editor at Large, Reason
513.255.5151 (c)
gillespie@reason.com

From: [Will Wiquist](#)
To: [Anne Veigle](#); [Katie Gorscak](#)
Cc: [Brian Hart](#)
Subject: RE: ARS Technica re: Pallone & Doyle on FCC Initiating Section 230 Rulemaking
Date: Tuesday, October 20, 2020 1:47:36 PM

(b) (5)

From: Sharon Hurd <Sharon.Hurd@fcc.gov>
Sent: Tuesday, October 20, 2020 1:47 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: ARS Technica re: Pallone & Doyle on FCC Initiating Section 230 Rulemaking

From: Jon Brodtkin <jon.brodtkin@arstechnica.com>
Sent: Tuesday, October 20, 2020 1:46 PM
To: MediaRelations <MediaRelations@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: RE: Pallone & Doyle on FCC Initiating Section 230 Rulemaking

Hi, I am writing an article this afternoon about Pallone and Doyle [saying](#) the Section 230 rulemaking shows the FCC "has become a political appendage of President Trump's campaign." Let me know if Chairman Pai's office has any response, thanks.

From: [Matthew Berry](#)
To: [Nicholas Degani](#); [Brian Hart](#); [Ajit Pai](#)
Subject: Re: Axios ask on Chairman Pai future
Date: Thursday, November 12, 2020 5:22:12 PM

(b)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Thursday, November 12, 2020 4:27 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>
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From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Thursday, November 12, 2020 2:40:21 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Re: Axios ask on Chairman Pai future

(b)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Thursday, November 12, 2020 2:40 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>
Subject: RE: Axios ask on Chairman Pai future

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>

Sent: Thursday, November 12, 2020 2:37 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>

Subject: Fwd: Axios ask on Chairman Pai future

(b) (5)

From: Margaret McGill <margaret.mcgill@axios.com>

Sent: Thursday, November 12, 2020 2:05:38 PM

To: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>

Subject: Axios ask on Chairman Pai future

Hi all,

Hope you're both doing well! I'm getting back into the swing of things this week, and am working on a story about what the FCC could look like in January.

I'm planning to report that Chairman Pai is expected to leave the agency before inauguration, based on conversations I've had with sources. Can you confirm or offer any guidance or comment?

The premise of my story is that Nathan Simington faces a near impossible path to FCC confirmation, despite pressure from President Trump and the appeal to Republicans of starting a Biden administration with a 2-2 FCC.

That of course assumes that Chairman Pai is leaving (and Commissioner O'Rielly as well). Let me know what you can, especially if I should assume otherwise!

— Margaret



Margaret Harding McGill

Technology reporter

margaret.mcgill@axios.com | (571)982-0559

From: [Brittany Stevenson](#)
To: [Will Wiquist](#)
Cc: [Brian Hart](#)
Subject: Re: Blog post
Date: Wednesday, October 21, 2020 12:08:23 PM

Thanks Will.

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Wednesday, October 21, 2020 12:04 PM
To: Brittany Stevenson <Brittany.Stevenson@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: Blog post

Fine here. Thanks.

From: Brittany Stevenson <Brittany.Stevenson@fcc.gov>
Sent: Wednesday, October 21, 2020 12:03 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Blog post

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

From: Will Wiquist <[Will.Wiquist@fcc.gov](#)>
Sent: Wednesday, October 21, 2020 11:56 AM
To: Brittany Stevenson <[Brittany.Stevenson@fcc.gov](#)>
Cc: Brian Hart <[Brian.Hart@fcc.gov](#)>

Subject: FW: Blog post

All set Britt.

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Wednesday, October 21, 2020 11:45 AM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brittany Stevenson <Brittany.Stevenson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Re: Blog post

OK here. Thanks.

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Wednesday, October 21, 2020 11:36 AM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brittany Stevenson <Brittany.Stevenson@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Subject: RE: Blog post

(b) (5)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Wednesday, October 21, 2020 10:58 AM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brittany Stevenson <Brittany.Stevenson@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Re: Blog post

(b) (5)

[REDACTED]

[REDACTED]

From: "Will Wiquist" <Will.Wiquist@fcc.gov>
Date: Wednesday, October 21, 2020 at 10:54:49 AM
To: "Thomas Johnson" <Thomas.Johnson@fcc.gov>, "Brittany Stevenson" <Brittany.Stevenson@fcc.gov>, "Matthew Berry" <Matthew.Berry@fcc.gov>, "Ajit Pai" <Ajit.Pai@fcc.gov>, "Nicholas Degani" <Nicholas.Degani@fcc.gov>, "Evan Swarztrauber" <Evan.Swarztrauber@fcc.gov>, "Michael J. Carlson" <Michael.Carlson@fcc.gov>, "Brian Hart" <Brian.Hart@fcc.gov>, "Anne Veigle" <Anne.Veigle@fcc.gov>
Subject: RE: Blog post

(b) (5)

From: Thomas Johnson <Thomas.Johnson@fcc.gov>

Sent: Wednesday, October 21, 2020 10:44 AM

To: Brittany Stevenson <Brittany.Stevenson@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>

Subject: Re: Blog post

Thanks all! My tweet's out:

<https://twitter.com/TomMJohnsonJr/status/1318925812675104768?s=20>



[Tom Johnson on Twitter](#)

"Today, as the @FCC's General Counsel, I explain why the Commission has authority to interpret #Section230 and clarify the scope of the immunity protections accorded to social media companies and other websites. Read my full analysis: <https://t.co/vwjcnSzl5q>"

twitter.com

From: Brittany Stevenson <Brittany.Stevenson@fcc.gov>

Sent: Wednesday, October 21, 2020 10:40 AM

To: Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>

Subject: Re: Blog post

The blog post is live: <https://www.fcc.gov/news-events/blog/2020/10/21/fccs-authority-interpret-section-230-communications-act>

Here's the short link for promotion on social media: <https://go.usa.gov/x7C9h>

From: Will Wiquist <Will.Wiquist@fcc.gov>

Sent: Wednesday, October 21, 2020 10:27 AM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>

Cc: Brittany Stevenson <Brittany.Stevenson@fcc.gov>

Subject: RE: Blog post

+Britt who is loading it now into the blog and can send the link once it's live.

The email version is teed up and should be able to go our right at 10:30.

We'll also do a few social media posts.

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Wednesday, October 21, 2020 10:21 AM

To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>

Subject: Re: Blog post

OK, unless anyone objects by 10:30, let's go ahead.

From: Thomas Johnson <Thomas.Johnson@fcc.gov>

Sent: Wednesday, October 21, 2020 10:11 AM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>

Subject: Blog post

Creating new thread to avoid confusion -- this should be good to post.

From: [Ajit Pai](#)
To: [Matthew Berry](#); [Thomas Johnson](#); [Brittany Stevenson](#); [Will Wiquist](#); [Nicholas Degani](#); [Evan Swarztrauber](#); [Michael J. Carlson](#); [Brian Hart](#); [Anne Veigle](#)
Subject: Re: Blog post
Date: Wednesday, October 21, 2020 10:52:06 AM

Done.

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Wednesday, October 21, 2020 10:51 AM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Brittany Stevenson <Brittany.Stevenson@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Re: Blog post

Ajit, (b) (5)

From: "Thomas Johnson" <Thomas.Johnson@fcc.gov>
Date: Wednesday, October 21, 2020 at 10:43:43 AM
To: "Brittany Stevenson" <Brittany.Stevenson@fcc.gov>, "Will Wiquist" <Will.Wiquist@fcc.gov>, "Matthew Berry" <Matthew.Berry@fcc.gov>, "Ajit Pai" <Ajit.Pai@fcc.gov>, "Nicholas Degani" <Nicholas.Degani@fcc.gov>, "Evan Swarztrauber" <Evan.Swarztrauber@fcc.gov>, "Michael J. Carlson" <Michael.Carlson@fcc.gov>, "Brian Hart" <Brian.Hart@fcc.gov>, "Anne Veigle" <Anne.Veigle@fcc.gov>
Subject: Re: Blog post

Thanks all! My tweet's out:

<https://twitter.com/TomMJohnsonJr/status/1318925812675104768?s=20>



Tom Johnson on Twitter

"Today, as the @FCC's General Counsel, I explain why the Commission has authority to interpret #Section230 and clarify the scope of the immunity protections accorded to social media companies and other websites. Read my full analysis: <https://t.co/vwjcnSzI5q>"

twitter.com

From: Brittany Stevenson <Brittany.Stevenson@fcc.gov>

Sent: Wednesday, October 21, 2020 10:40 AM

To: Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>

Subject: Re: Blog post

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Here's the short link for promotion on social media: <https://go.usa.gov/x7C9h>

From: Will Wiquist <Will.Wiquist@fcc.gov>

Sent: Wednesday, October 21, 2020 10:27 AM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>

Cc: Brittany Stevenson <Brittany.Stevenson@fcc.gov>

Subject: RE: Blog post

+Britt who is loading it now into the blog and can send the link once it's live.

The email version is teed up and should be able to go our right at 10:30.

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From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Wednesday, October 21, 2020 10:21 AM

To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>

Subject: Re: Blog post

OK, unless anyone objects by 10:30, let's go ahead.

From: Thomas Johnson <Thomas.Johnson@fcc.gov>

Sent: Wednesday, October 21, 2020 10:11 AM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>

Subject: Blog post

Creating new thread to avoid confusion -- this should be good to post.

From: [Brian Hart](#)
To: [Thomas Johnson](#); [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Evan Swarztrauber](#); [Michael J. Carlson](#); [Anne Veigle](#); [Will Wiquist](#)
Subject: Re: Blog post
Date: Wednesday, October 21, 2020 10:14:39 AM

We will start posting in five minutes. Last call for edits/delays.

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Wednesday, October 21, 2020 10:11:54 AM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Re: Blog post

Everyone good to go?

From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Wednesday, October 21, 2020 10:11:02 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Blog post

Creating new thread to avoid confusion -- this should be good to post.

From: [Thomas Johnson](#)
To: [Matthew Berry](#); [Will Wiquist](#); [Nicholas Degani](#); [Ajit Pai](#); [Evan Swarztrauber](#)
Cc: [Michael J. Carlson](#); [Brian Hart](#); [Anne Veigle](#)
Subject: Re: Blog post
Date: Wednesday, October 21, 2020 9:50:00 AM

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Wednesday, October 21, 2020 9:47 AM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Re: Blog post

(b) (5)

From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Wednesday, October 21, 2020 9:44 AM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Re: Blog post

(b) (5)

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Wednesday, October 21, 2020 9:42 AM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Subject: RE: Blog post

(b) (5)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Wednesday, October 21, 2020 9:41 AM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Subject: RE: Blog post

(b) (5)

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Wednesday, October 21, 2020 9:41 AM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Subject: RE: Blog post

(b) (5)

From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Wednesday, October 21, 2020 9:36 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Re: Blog post

(b) (5)

From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Wednesday, October 21, 2020 9:14 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Re: Blog post

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>

Sent: Tuesday, October 20, 2020 10:11 PM

To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>;
Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>

Subject: Re: Blog post

(b) (5)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>

Sent: Tuesday, October 20, 2020 8:23 PM

To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Ajit
Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>

Subject: Re: Blog post

(b) (5)

From: "Thomas Johnson" <Thomas.Johnson@fcc.gov>

Date: Tuesday, October 20, 2020 at 7:36:07 PM

To: "Matthew Berry" <Matthew.Berry@fcc.gov>, "Nicholas Degani" <Nicholas.Degani@fcc.gov>,
"Ajit Pai" <Ajit.Pai@fcc.gov>, "Evan Swarztrauber" <Evan.Swarztrauber@fcc.gov>

Cc: "Michael J. Carlson" <Michael.Carlson@fcc.gov>

Subject: Re: Blog post

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Tuesday, October 20, 2020 5:19 PM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: Re: Blog post

(b) (5)
[Redacted]

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Tuesday, October 20, 2020 1:26 PM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: Re: Blog post

Attached please find minor feedback.

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Tuesday, October 20, 2020 1:07 PM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: Re: Blog post

Jumping in . . .

From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Tuesday, October 20, 2020 1:05 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: Re: Blog post

(b) (5)
[Redacted]

From: Nicholas Degani <Nicholas.Degani@fcc.gov>

Sent: Tuesday, October 20, 2020 12:57 PM

To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>

Subject: RE: Blog post

(b) (5)

From: Thomas Johnson <Thomas.Johnson@fcc.gov>

Sent: Tuesday, October 20, 2020 12:21 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>

Subject: Re: Blog post

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>

Sent: Monday, October 19, 2020 10:44 PM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>

Subject: Re: Blog post

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Monday, October 19, 2020 10:16 PM

To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>

Subject: Re: Blog post

Thanks. If folks have time, let's discuss after the staff meeting tomorrow.

From: Thomas Johnson <Thomas.Johnson@fcc.gov>

Sent: Monday, October 19, 2020 9:57 PM

To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>

Subject: Re: Blog post

Thanks, Nick and Matthew. (b) (5)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Monday, October 19, 2020 5:10 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: RE: Blog post

Agreed. (b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Monday, October 19, 2020 5:08 PM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: Re: Blog post

(b) (5)

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Sent: Monday, October 19, 2020 4:39 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: Blog post

(b) (5)

From: [Make, Jonathan](#)
To: [Anne Veigle](#); [Brian Hart](#); [Katie Gorscak](#); [Will Wiquist](#)
Cc: [Buskirk, Howard](#); [Tayloe, Monty](#)
Subject: RE: BLOG: Chairman Pai Outlines Agenda for December Open Meeting
Date: Wednesday, November 18, 2020 3:16:04 PM

Hi FCC PR folks,

Is FCC saying on the record whether it's now adopting pencils down, now that the blog post has been published? I understand that before today, we were referred to the blog.

We'll have a news bulletin momentarily, then a news story w/ a 4:30P E. deadline.

Just double checking.

Thanks as always.

From: FCC Office of Media Relations [mailto:FCCOfficeofMediaRelations@fcc.gov]
Sent: Wednesday, November 18, 2020 3:03 PM
Subject: BLOG: Chairman Pai Outlines Agenda for December Open Meeting

Below, please find FCC Chairman Ajit Pai's new blog post outlining the agenda for next month's Open Commission Meeting.

[To Safe and Secure Holidays . . . and Networks](#)

By FCC Chairman Ajit Pai

Every month, I use this platform to tout the items on the FCC's upcoming monthly meeting agenda and explain how they will help to address key challenges facing our country. For our December 2020 meeting, it's not just me saying that the Commission is dealing with some heady issues. Last week, National Security Advisor Robert O'Brien gave [an interview](#) in which he said the "number one concern" for democracy at home and abroad is the integrity of our communications networks. In particular, he warned that installing equipment from Chinese firms in the backbone of our 5G networks could give the Communist Chinese government "backdoors to pull up every bit of data in the world."

I agree wholeheartedly. Or, as I'm fond of quipping on Twitter, "[you don't say](#)." The FCC recognizes this threat and has taken a series of actions to secure the integrity of the communications supply chain. Specifically, the FCC voted to prohibit the use of money from our Universal Service Fund to purchase or obtain any equipment or services produced or provided by companies posing a national security threat, including the world's largest global 5G supplier — Huawei. We also started a process to identify and catalog insecure equipment used in USF-funded communications networks, with an eye to implementing a program to remove and replace it. More recently, we hosted a forum on Open Radio Access Networks, or Open RANs, which could transform 5G network architecture, costs, and security.

This December, the Commission will have the opportunity to build on this progress and take critical

next steps toward securing our communications networks. We will be voting on an Order implementing the Secure and Trusted Communications Networks Act of 2019. These new rules would establish the procedures and criteria for publishing a list of the communications equipment and services that pose an unacceptable risk to the national security of the United States. They would then require eligible telecommunications carriers to remove and replace such equipment from their networks, and would establish the Secure and Trusted Communications Networks Reimbursement Program to subsidize smaller carriers to remove and replace such equipment. Moreover, to ensure we are informed about the ongoing presence of insecure equipment in communications networks, the rules would also mandate strict reporting requirements.

Our December agenda will feature two additional national security matters, which I am unable to discuss in detail at this time.

Just as the Commission wants to stop the deployment of technologies that could undermine the security of our communications networks, we want to accelerate the development of new technologies that could help grow our economy and improve our quality of life. Every day, pretty much every American uses multiple devices or gadgets that were approved through the FCC's equipment authorization program, whether it's your cellphone, your laptop, or your Wi-Fi router. This authorization process offers consumers assurance that their devices will work as intended and operate free from harmful interference.

As the pace of innovation has increased in the Internet age and product development cycles have accelerated, our equipment authorization rules in some ways have failed to keep pace. In particular, our rules limit the ability of device manufacturers to market and import radiofrequency devices in the most efficient and cost-effective ways possible. That's why I'm proposing targeted enhancements to our equipment authorization rules to make sure the newest technologies and must-have devices reach consumers as quickly as possible while still meeting our substantive standards.

Next up on our December agenda is a proposal to encourage the deployment of services using ATSC 3.0 — the "[next generation](#)" broadcast television standard. The rollout of ATSC 3.0 is well under way, with stations in a dozen markets licensed to transmit in this new standard, and twenty ATSC 3.0 compatible televisions set to be available for sale this year. The new standard promises to finally realize the potential for broadcast spectrum capacity to support so-called "Broadcast Internet" services — digital services beyond traditional over-the-air video, integrated into the broadband ecosystem. This December, the Commission will vote on a Report and Order that clarifies and updates the regulatory landscape in order to foster the efficient and robust use of broadcast spectrum capacity for the provision of such services. Specifically, it clarifies the basis on which to calculate ancillary and supplementary service fees, which are an assessment on the revenues earned by television stations from such services that we are required by statute to collect. It also retains the existing standard of derogation of broadcast service, while amending the rule to eliminate an outdated reference to analog television. And although the Report and Order generally declines at this time to adjust the 5% fee imposed on ancillary and supplementary services, it does lower the fee to 2.5% for noncommercial educational stations, which are uniquely positioned to take full advantage of the possibilities of Broadcast Internet, for nonprofit, noncommercial, educational services.

With Thanksgiving around the corner, it's only fitting that I conclude by thanking all the staff who have worked on these items. More broadly, I will be forever grateful to all the members of the FCC family who have gone above and beyond to serve the American people in unprecedented conditions during an unforgettable year. Here's wishing my colleagues and all of you a [Happy Thanksgiving](#).

From: [Jeffers, Bryn](#)
To: [Brian Hart](#)
Subject: RE: BLOG: FCC Authority to Interpret Section 230
Date: Wednesday, October 21, 2020 11:51:23 AM

Thanks for sending that – I will pass it along.

Let me know if there's anything Matthew would like to share, and we should be all set!

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Wednesday, October 21, 2020 11:25 AM
To: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Subject: [EXTERNAL] Fwd: BLOG: FCC Authority to Interpret Section 230

I have asked Matthew for any talking points that might be helpful. See below for a blog our General Counsel just put out, although I am not sure if you guys want to get into this stuff or stick with his tweet.

From: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>
Sent: Wednesday, October 21, 2020, 10:31 AM
Subject: BLOG: FCC Authority to Interpret Section 230

The FCC's Authority to Interpret Section 230 of the Communications Act

By FCC General Counsel Thomas M. Johnson, Jr.

Last week, FCC Chairman Ajit Pai announced his intent to move forward with a rulemaking to interpret Section 230 of the Communications Act of 1934. Under certain circumstances, Section 230 provides websites, including social media companies, that host or moderate content generated by others with immunity from liability. In announcing his decision, Chairman Pai noted that “[m]embers of all three branches of government have expressed serious concern about the prevailing interpretation” of Section 230, and observed that an overly broad interpretation could “shield[] social media companies from consumer protection laws in a way that has no basis in the text” of the statute.

The Chairman's decision was consistent with my advice that the FCC has the legal authority to interpret Section 230. Due to the unique interest generated by this proceeding, Chairman Pai has now asked me to make my analysis public, in furtherance of his longstanding commitment to transparency in the rulemaking process.

The policy issues raised by the debate over Section 230 may be complex, but the FCC's legal authority is straightforward. Simply put, the FCC has the authority to interpret all provisions of the Communications Act, including amendments such as Section 230. As I explain below, this authority flows from the plain meaning of Section 201(b) of the Communications Act of 1934, which confers on the FCC the power to issue rules necessary to carry out the provisions of the Act. By expressly directing that Section 230 be placed into the Communications Act, Congress made clear that the FCC's rulemaking authority extended to the provisions of that section. Two seminal U.S. Supreme Court cases authored by the late Justice Antonin Scalia

– *AT&T Corp. v. Iowa Utilities Bd.*, 525 U.S. 366 (1999) and *City of Arlington v. FCC*, 569 U.S. 290 (2013) – confirm this conclusion. Based on this authority, the Commission can feel confident proceeding with a rulemaking to clarify the scope of the Section 230 immunity shield.

Statutory Background

To understand why the Commission has authority to interpret Section 230, it helps to understand how that section became part of the Communications Act. In 1934, Congress adopted the Communications Act in its original form, establishing the FCC as an independent federal agency charged with regulating interstate and international communications. Four years later, Congress added Section 201(b), which delegated to the Commission the power to “prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this Act.”

Since then, the most consequential set of amendments to the Communications Act arrived in the Telecommunications Act of 1996, which updated the Act for the then-nascent Internet age. Section 1(b) of that Act made clear that, except where otherwise expressly provided, each of the 1996 Act’s provisions were to be inserted into the Communications Act of 1934.

Title V of the 1996 Act was named the “Communications Decency Act of 1996.” Among other provisions, this Title included Section 509, named “Online family empowerment.” Consistent with Section 1(b), Congress instructed in Section 509 that “Title II of the Communications Act of 1934 . . . is amended by adding at the end the following new section: Section 230.” Thus, Section 230 was born and became part of the Communications Act of 1934.

Section 230 provides, among other things, that “[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” It further provides that “[n]o provider or user of an interactive computer service shall be held liable on account of . . . any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected.” The term “interactive computer service” is defined “as any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.” That broad definition is commonly understood to include websites that host or moderate content generated by others, such as social media companies.

The FCC’s Interpretive Authority

The Supreme Court has twice considered whether the FCC’s general rulemaking authority under Section 201(b), adopted in 1938, extends to the 1996 amendments to the Act. Both times, the Court held that it does. Writing for the Court in *Iowa Utilities Board*, and employing his trademark textualist method, Justice Scalia wrote that this provision “means what it says: The FCC has rulemaking authority to carry out the ‘provisions of [the 1934] Act.’” The Court explained that “the clear fact that the 1996 Act was adopted, not as a freestanding enactment, but as an amendment to, and hence part of, [the 1934] Act” shows that Congress intended the Commission to have rulemaking authority over all its provisions. Likewise, in the later *City of Arlington* case, the Court confirmed that the Commission’s rulemaking authority “[o]f course . . . extends to the subsequently added portions of the Act.” From these authorities, a simple conclusion follows: Because Section 230 is among the “subsequently added portions of the Act,” it is subject to the FCC’s Section 201(b)

rulemaking authority.

This rulemaking authority plainly encompasses the power to interpret ambiguous language throughout the Communications Act. And courts have repeatedly upheld the Commission's authority to do so. *City of Arlington*, for example, upheld the Commission's use of its authority under Section 201(b) to interpret a provision that preserved state and local authority over the placement of things like cell towers unless those localities failed to act within a "reasonable period of time." The Supreme Court rejected an argument that the agency should receive no deference for its interpretation because the provision was "jurisdictional" and thus contemplated no regulatory action by the Commission. The Commission deserved deference, the Court explained, because "Congress has unambiguously vested the FCC with general authority to administer the Communications Act through rulemaking and adjudication, and the agency interpretation at issue was promulgated in the exercise of that authority."

Likewise, in *City of Portland v. FCC*, 969 F.3d 1020 (9th Cir. 2020), the U.S. Court of Appeals for the Ninth Circuit earlier this year largely affirmed two FCC orders clarifying the scope of a preemption provision in the Communications Act that provides that states and localities may not take actions that "have the effect of prohibiting" telecommunications service. Citing *City of Arlington*, the court said that "[w]here terms of the Telecommunications Act are ambiguous, we defer to the FCC's reasonable interpretations."

Concerning the Commission's interpretive authority, there is no meaningful distinction between the jurisdictional provision in *City of Arlington*, the preemption provision in *City of Portland*, and the immunity shield in Section 230 of the Act. All three provisions appear in the Communications Act, as amended. And like the jurisdictional and preemption provisions, Section 230 contains ambiguous terms: What constitutes an action "voluntarily taken in good faith" to restrict access to material? What constitutes material that can be excluded as "otherwise objectionable"? As in *City of Arlington* and *City of Portland*, the Commission has the authority to clarify these ambiguities in Section 230. As the Supreme Court observed in *Iowa Utilities Board*, this conclusion is nothing more than application of the general principle, derived from the Supreme Court's landmark decision in *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), that "Congress is well aware that the ambiguities it chooses to produce in a statute will be resolved by the implementing agency."

Response to Common Objections

In response to the U.S. Department of Commerce's petition asking the Commission to pursue a rulemaking on Section 230, some commenters supported the FCC's authority to clarify the statute. Others, reading Section 201(b) – as well as *Iowa Utilities Board* and *City of Arlington* – narrowly, claimed that the FCC lacked such authority. I found the arguments of this latter group of commenters unpersuasive.

Some commenters claim that Congress did not intend for the Commission to administer Section 230, and therefore, the Commission has no authority to interpret it. Sometimes called "*Chevron* Step Zero," this inquiry focuses on whether agencies deserve deference at all where there is no clear evidence that Congress intended the agency, rather than courts, to interpret an ambiguous statute. But the Supreme Court's conclusion that Congress adopted the entire 1996 Act against the backdrop of the FCC's Section 201 rulemaking power while leaving that power in place appears to foreclose this argument. As the Supreme Court put it in *City of Arlington*, "the whole [Act] includes all of its parts," and therefore, the Court does not engage in a freewheeling judicial inquiry whereby "every agency rule must be subjected to a *de novo* judicial determination of whether the *particular issue* was committed to agency

discretion.”

There is no reason why Section 230 of the Act alone should escape Section 201(b)'s general grant of rulemaking authority. Congress specifically instructed – in Section 509 of the Communications Decency Act, which in turn was in Title V of the Telecommunications Act of 1996 – that a new Section 230 be added to the Communications Act. While Section 230 itself deals primarily with an immunity shield, that fact alone does not exempt it from Commission rulemaking. *City of Arlington* and *City of Portland* make clear that the FCC can clarify even those ambiguous statutory provisions within the Act that are arguably directed toward courts – such as preemption or jurisdictional provisions. Similarly, *Iowa Utilities Board* upheld the Commission's authority under Section 201(b) to interpret ambiguous provisions in the Act that provided standards for state utility commissions to resolve pricing and interconnection disputes. Nothing in the Act, the Court explained, “logically preclude[s] the Commission's issuance of rules to guide the state-commission judgments.” The same logic applies here: Section 201(b) allows the Commission to interpret Section 230 to guide the judgments of courts.

Others attempt to read limitations into the text of Section 201(b) that could exclude Section 230. They note that most of Section 201(b) deals with rules that apply to common carriers and argue that Congress did not intend to treat social media companies and other covered websites as common carriers. But the general grant of rulemaking authority at the end of Section 201(b) contains no reference to common carriers; it simply empowers the Commission to make rules that are “necessary in the public interest to carry out the provisions of this Act,” without qualification. For this reason, the U.S. Court of Appeals for the Sixth Circuit in *Alliance for Community Media v. FCC*, 529 F.3d 763 (6th Cir. 2008), held that Section 201(b) gave the Commission authority to interpret ambiguous provisions in the Cable Television Consumer Protection and Competition Act of 1992. Notably, that Act by its terms applies to cable operators, not common carriers. The Court reasoned, relying on *Iowa Utilities Board*, that it was sufficient that the 1992 law amended the Communications Act and incorporated the relevant provisions therein. The same reasoning applies to Section 230.

Other commenters reach beyond statutory text to argue that Section 230's legislative history and purposes demonstrate that the Commission lacks authority to interpret it. As an initial matter, neither legislative history nor abstract purposes can trump the plain text of a statute, and as the Supreme Court has twice held, Section 201(b) “means what it says” – the FCC has the authority to interpret each and every provision of the Communications Act, as amended.

In any event, critics of an FCC rulemaking overread the legislative history and statements of purpose on which they rely and fundamentally misunderstand the narrow authority involved in clarifying the scope of the Section 230 immunity shield. For example, commenters note that language in Section 230(b) expresses Congress's intent to “preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation.” They further point out that Section 230 co-framer and then-Congressman Chris Cox remarked in floor debates prior to passage that “we do not wish to have a Federal Computer Commission with an army of bureaucrats regulating the Internet.” And they observe that the FCC cited these authorities in the *Restoring Internet Freedom Order* as support for its decision to repeal the prior Administration's onerous “net neutrality” rules in favor of light-touch regulation of Internet service providers.

But none of these observations bear on the central question here: whether the Commission has authority to interpret ambiguous terms in Section 230(c), which contains the immunity shield. Engaging in such interpretation would not involve creating “net neutrality” rules for social media companies, much less (as some critics

have claimed) a “Fairness Doctrine” for the Internet. Rather, it would involve clarifying a legal standard that already exists: the statutory immunity shield in Section 230. Even if the FCC were to interpret that shield more narrowly than some courts previously have, that would not result in additional FCC regulation. It would simply allow private parties to bring lawsuits, as appropriate, under *other* sources of federal and state law – the same generally-applicable causes of action that apply to newspapers, broadcasters, and other publishers and speakers not covered by Section 230.

Nor does it matter that the U.S. Court of Appeals for the D.C. Circuit in *Comcast v. FCC*, 600 F.3d 642 (D.C. Cir. 2010), and the FCC itself in the *Restoring Internet Freedom Order*, agreed that Section 230(b) was merely a statement of policy and not an affirmative source of authority. The Commission need not rely on Section 230(b) as the source of its authority in this contemplated rulemaking. Instead, the Commission can comfortably use Section 201(b) to resolve ambiguities in the text of Section 230(c) – which *City of Arlington* and *Iowa Utilities Board* plainly permit.

At the end of the day, the scope of the Section 230 immunity shield must be interpreted by someone. And as the Supreme Court observed in both *Iowa Utilities Board* and *City of Arlington*, the only question is whether the FCC or a federal court will do the interpreting. Under current law, the answer is clear: The FCC receives deference for reasonable interpretations of all ambiguous terms in the Communications Act.

The fact that courts have been interpreting Section 230 for years does not prevent the Commission from construing its ambiguous terms. As the Supreme Court held in *National Cable & Telecomms. Ass’n v. Brand X Internet Servs.*, 545 U.S. 967 (2005), the FCC may act as the “authoritative interpreter” of ambiguous provisions in statutes like the Communications Act that it administers, and nothing “preclude[s] agencies from revising unwise judicial constructions of ambiguous statutes.” Section 230 allows the FCC to determine whether courts have appropriately interpreted its proper scope. Supreme Court Justice Clarence Thomas, for example, recently expressed the view that courts have “relied on policy and purpose arguments to grant sweeping protection to Internet platforms” under Section 230 that “departed from the most natural reading of the text.” Leaving such constructions unchallenged could, in Justice Thomas’s words, “have serious consequences,” like exempting Internet companies from a broad array of civil claims, even if that is not “what the law demands.” Under *Brand X*, the FCC may review these judicial interpretations to determine whether they reflect the best reading of the statute. Indeed, an agency’s role as “authoritative interpreter” may be particularly useful where, as here, courts have reached divergent interpretations of key provisions of an important statute, thus creating substantial uncertainty and disharmony in the law.

* * *

Ultimately, the five Commissioners of the FCC must decide whether this legal framework should be adopted in any future rulemaking. But in my own judgment, the FCC’s legal authority to interpret Section 230 is straightforward: Congress gave the Commission power to interpret all provisions of the Communications Act of 1934 – including amendments – and Section 230 is an amendment to the Communications Act. The Commission therefore may proceed with a rulemaking to clarify the scope of the Section 230(c) immunity shield.

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From: [Will Wiquist](#)
To: [Make, Jonathan](#); [Anne Veigle](#); [Brian Hart](#); [Katie Gorscak](#)
Cc: [Herchenroeder, Karl](#)
Subject: RE: BLOG: FCC Authority to Interpret Section 230
Date: Wednesday, October 21, 2020 10:46:47 AM

We have no update from the blog we just posted.

From: Make, Jonathan <jmake@warren-news.com>
Sent: Wednesday, October 21, 2020 10:43 AM
To: Anne Veigle <Anne.Veigle@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Cc: Herchenroeder, Karl <karlh@warren-news.com>
Subject: Re: BLOG: FCC Authority to Interpret Section 230

Good morning.

Checking in case there is an update on when the rulemaking might circulate.

My colleague Karl is writing a news bulletin about this that will run in about 15 minutes. And we will have something in our regular issue tonight as well.

Please let us know if you have any further comment for either of those news items.

Thanks, all.

On Oct 21, 2020, at 10:31 AM, FCC Office of Media Relations
<FCCOfficeofMediaRelations@fcc.gov> wrote:

The FCC's Authority to Interpret Section 230 of the Communications Act

By FCC General Counsel Thomas M. Johnson, Jr.

Last week, FCC Chairman Ajit Pai announced his intent to move forward with a rulemaking to interpret Section 230 of the Communications Act of 1934. Under certain circumstances, Section 230 provides websites, including social media companies, that host or moderate content generated by others with immunity from liability. In announcing his decision, Chairman Pai noted that “[m]embers of all three branches of government have expressed serious concern about the prevailing interpretation” of Section 230, and observed that an overly broad interpretation could “shield[] social media companies from consumer protection laws in a way that has no basis in the text” of the statute.

The Chairman's decision was consistent with my advice that the FCC has the legal authority to interpret Section 230. Due to the unique interest generated by this proceeding, Chairman Pai has now asked me to make my analysis public, in furtherance of his longstanding commitment to transparency in the rulemaking process.

The policy issues raised by the debate over Section 230 may be complex, but the FCC's legal authority is straightforward. Simply put, the FCC has the authority to interpret all provisions of the Communications Act, including amendments such as Section 230. As I explain below, this authority flows from the plain meaning of Section 201(b) of the Communications Act of 1934, which confers on the FCC the power to issue rules necessary to carry out the provisions of the Act. By expressly directing that Section 230 be placed into the Communications Act, Congress made clear that the FCC's rulemaking authority extended to the provisions of that section. Two seminal U.S. Supreme Court cases authored by the late Justice Antonin Scalia – *AT&T Corp. v. Iowa Utilities Bd.*, 525 U.S. 366 (1999) and *City of Arlington v. FCC*, 569 U.S. 290 (2013) – confirm this conclusion. Based on this authority, the Commission can feel confident proceeding with a rulemaking to clarify the scope of the Section 230 immunity shield.

Statutory Background

To understand why the Commission has authority to interpret Section 230, it helps to understand how that section became part of the Communications Act. In 1934, Congress adopted the Communications Act in its original form, establishing the FCC as an independent federal agency charged with regulating interstate and international communications. Four years later, Congress added Section 201(b), which delegated to the Commission the power to “prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this Act.”

Since then, the most consequential set of amendments to the Communications Act arrived in the Telecommunications Act of 1996, which updated the Act for the then-nascent Internet age. Section 1(b) of that Act made clear that, except where otherwise expressly provided, each of the 1996 Act's provisions were to be inserted into the Communications Act of 1934.

Title V of the 1996 Act was named the “Communications Decency Act of 1996.” Among other provisions, this Title included Section 509, named “Online family empowerment.” Consistent with Section 1(b), Congress instructed in Section 509 that “Title II of the Communications Act of 1934 . . . is amended by adding at the end the following new section: Section 230.” Thus, Section 230 was born and became part of the Communications Act of 1934.

Section 230 provides, among other things, that “[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” It further provides that “[n]o provider or user of an interactive computer service shall be held liable on account of . . . any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected.”

The term “interactive computer service” is defined “as any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.” That broad definition is commonly understood to include websites that host or moderate content generated by others, such as social media companies.

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The Supreme Court has twice considered whether the FCC’s general rulemaking authority under Section 201(b), adopted in 1938, extends to the 1996 amendments to the Act. Both times, the Court held that it does. Writing for the Court in *Iowa Utilities Board*, and employing his trademark textualist method, Justice Scalia wrote that this provision “means what it says: The FCC has rulemaking authority to carry out the ‘provisions of [the 1934] Act.’” The Court explained that “the clear fact that the 1996 Act was adopted, not as a freestanding enactment, but as an amendment to, and hence part of, [the 1934] Act” shows that Congress intended the Commission to have rulemaking authority over all its provisions. Likewise, in the later *City of Arlington* case, the Court confirmed that the Commission’s rulemaking authority “[o]f course . . . extends to the subsequently added portions of the Act.” From these authorities, a simple conclusion follows: Because Section 230 is among the “subsequently added portions of the Act,” it is subject to the FCC’s Section 201(b) rulemaking authority.

This rulemaking authority plainly encompasses the power to interpret ambiguous language throughout the Communications Act. And courts have repeatedly upheld the Commission’s authority to do so. *City of Arlington*, for example, upheld the Commission’s use of its authority under Section 201(b) to interpret a provision that preserved state and local authority over the placement of things like cell towers unless those localities failed to act within a “reasonable period of time.” The Supreme Court rejected an argument that the agency should receive no deference for its interpretation because the provision was “jurisdictional” and thus contemplated no regulatory action by the Commission. The Commission deserved deference, the Court explained, because “Congress has unambiguously vested the FCC with general authority to administer the Communications Act through rulemaking and adjudication, and the agency interpretation at issue was promulgated in the exercise of that authority.”

Likewise, in *City of Portland v. FCC*, 969 F.3d 1020 (9th Cir. 2020), the U.S. Court of Appeals for the Ninth Circuit earlier this year largely affirmed two FCC orders clarifying the scope of a preemption provision in the Communications Act that provides that states and localities may not take actions that “have the effect of prohibiting” telecommunications service. Citing *City of Arlington*, the court said that “[w]here terms of the Telecommunications Act are ambiguous, we defer to the FCC’s reasonable interpretations.”

Concerning the Commission’s interpretive authority, there is no meaningful distinction between the jurisdictional provision in *City of Arlington*, the preemption provision in *City of Portland*, and the immunity shield in Section 230 of the Act. All three provisions appear in the Communications Act, as amended. And like the jurisdictional and

preemption provisions, Section 230 contains ambiguous terms: What constitutes an action “voluntarily taken in good faith” to restrict access to material? What constitutes material that can be excluded as “otherwise objectionable”? As in *City of Arlington* and *City of Portland*, the Commission has the authority to clarify these ambiguities in Section 230. As the Supreme Court observed in *Iowa Utilities Board*, this conclusion is nothing more than application of the general principle, derived from the Supreme Court’s landmark decision in *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), that “Congress is well aware that the ambiguities it chooses to produce in a statute will be resolved by the implementing agency.”

Response to Common Objections

In response to the U.S. Department of Commerce’s petition asking the Commission to pursue a rulemaking on Section 230, some commenters supported the FCC’s authority to clarify the statute. Others, reading Section 201(b) – as well as *Iowa Utilities Board* and *City of Arlington* – narrowly, claimed that the FCC lacked such authority. I found the arguments of this latter group of commenters unpersuasive.

Some commenters claim that Congress did not intend for the Commission to administer Section 230, and therefore, the Commission has no authority to interpret it. Sometimes called “*Chevron Step Zero*,” this inquiry focuses on whether agencies deserve deference at all where there is no clear evidence that Congress intended the agency, rather than courts, to interpret an ambiguous statute. But the Supreme Court’s conclusion that Congress adopted the entire 1996 Act against the backdrop of the FCC’s Section 201 rulemaking power while leaving that power in place appears to foreclose this argument. As the Supreme Court put it in *City of Arlington*, “the whole [Act] includes all of its parts,” and therefore, the Court does not engage in a freewheeling judicial inquiry whereby “every agency rule must be subjected to a *de novo* judicial determination of whether the *particular issue* was committed to agency discretion.”

There is no reason why Section 230 of the Act alone should escape Section 201(b)’s general grant of rulemaking authority. Congress specifically instructed – in Section 509 of the Communications Decency Act, which in turn was in Title V of the Telecommunications Act of 1996 – that a new Section 230 be added to the Communications Act. While Section 230 itself deals primarily with an immunity shield, that fact alone does not exempt it from Commission rulemaking. *City of Arlington* and *City of Portland* make clear that the FCC can clarify even those ambiguous statutory provisions within the Act that are arguably directed toward courts – such as preemption or jurisdictional provisions. Similarly, *Iowa Utilities Board* upheld the Commission’s authority under Section 201(b) to interpret ambiguous provisions in the Act that provided standards for state utility commissions to resolve pricing and interconnection disputes. Nothing in the Act, the Court explained, “logically preclude[s] the Commission’s issuance of rules to guide the state-commission judgments.” The same logic applies here: Section 201(b) allows the Commission to interpret Section 230 to guide the judgments of courts.

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of Section 201(b) contains no reference to common carriers; it simply empowers the Commission to make rules that are “necessary in the public interest to carry out the provisions of this Act,” without qualification. For this reason, the U.S. Court of Appeals for the Sixth Circuit in *Alliance for Community Media v. FCC*, 529 F.3d 763 (6th Cir. 2008), held that Section 201(b) gave the Commission authority to interpret ambiguous provisions in the Cable Television Consumer Protection and Competition Act of 1992. Notably, that Act by its terms applies to cable operators, not common carriers. The Court reasoned, relying on *Iowa Utilities Board*, that it was sufficient that the 1992 law amended the Communications Act and incorporated the relevant provisions therein. The same reasoning applies to Section 230.

Other commenters reach beyond statutory text to argue that Section 230’s legislative history and purposes demonstrate that the Commission lacks authority to interpret it. As an initial matter, neither legislative history nor abstract purposes can trump the plain text of a statute, and as the Supreme Court has twice held, Section 201(b) “means what it says” — the FCC has the authority to interpret each and every provision of the Communications Act, as amended.

In any event, critics of an FCC rulemaking overread the legislative history and statements of purpose on which they rely and fundamentally misunderstand the narrow authority involved in clarifying the scope of the Section 230 immunity shield. For example, commenters note that language in Section 230(b) expresses Congress’s intent to “preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation.” They further point out that Section 230 co-framer and then-Congressman Chris Cox remarked in floor debates prior to passage that “we do not wish to have a Federal Computer Commission with an army of bureaucrats regulating the Internet.” And they observe that the FCC cited these authorities in the *Restoring Internet Freedom Order* as support for its decision to repeal the prior Administration’s onerous “net neutrality” rules in favor of light-touch regulation of Internet service providers.

But none of these observations bear on the central question here: whether the Commission has authority to interpret ambiguous terms in Section 230(c), which contains the immunity shield. Engaging in such interpretation would not involve creating “net neutrality” rules for social media companies, much less (as some critics have claimed) a “Fairness Doctrine” for the Internet. Rather, it would involve clarifying a legal standard that already exists: the statutory immunity shield in Section 230. Even if the FCC were to interpret that shield more narrowly than some courts previously have, that would not result in additional FCC regulation. It would simply allow private parties to bring lawsuits, as appropriate, under *other* sources of federal and state law — the same generally-applicable causes of action that apply to newspapers, broadcasters, and other publishers and speakers not covered by Section 230.

Nor does it matter that the U.S. Court of Appeals for the D.C. Circuit in *Comcast v. FCC*, 600 F.3d 642 (D.C. Cir. 2010), and the FCC itself in the *Restoring Internet Freedom Order*, agreed that Section 230(b) was merely a statement of policy and not an affirmative source of authority. The Commission need not rely on Section 230(b) as the source of its authority in this contemplated rulemaking. Instead, the Commission can

comfortably use Section 201(b) to resolve ambiguities in the text of Section 230(c) – which *City of Arlington* and *Iowa Utilities Board* plainly permit.

At the end of the day, the scope of the Section 230 immunity shield must be interpreted by someone. And as the Supreme Court observed in both *Iowa Utilities Board* and *City of Arlington*, the only question is whether the FCC or a federal court will do the interpreting. Under current law, the answer is clear: The FCC receives deference for reasonable interpretations of all ambiguous terms in the Communications Act.

The fact that courts have been interpreting Section 230 for years does not prevent the Commission from construing its ambiguous terms. As the Supreme Court held in *National Cable & Telecomms. Ass'n v. Brand X Internet Servs.*, 545 U.S. 967 (2005), the FCC may act as the “authoritative interpreter” of ambiguous provisions in statutes like the Communications Act that it administers, and nothing “preclude[s] agencies from revising unwise judicial constructions of ambiguous statutes.” Section 230 allows the FCC to determine whether courts have appropriately interpreted its proper scope. Supreme Court Justice Clarence Thomas, for example, recently expressed the view that courts have “relied on policy and purpose arguments to grant sweeping protection to Internet platforms” under Section 230 that “departed from the most natural reading of the text.” Leaving such constructions unchallenged could, in Justice Thomas’s words, “have serious consequences,” like exempting Internet companies from a broad array of civil claims, even if that is not “what the law demands.” Under *Brand X*, the FCC may review these judicial interpretations to determine whether they reflect the best reading of the statute. Indeed, an agency’s role as “authoritative interpreter” may be particularly useful where, as here, courts have reached divergent interpretations of key provisions of an important statute, thus creating substantial uncertainty and disharmony in the law.

* * *

Ultimately, the five Commissioners of the FCC must decide whether this legal framework should be adopted in any future rulemaking. But in my own judgment, the FCC’s legal authority to interpret Section 230 is straightforward: Congress gave the Commission power to interpret all provisions of the Communications Act of 1934 – including amendments – and Section 230 is an amendment to the Communications Act. The Commission therefore may proceed with a rulemaking to clarify the scope of the Section 230(c) immunity shield.

From: [Make, Jonathan](#)
To: [Anne Veigle](#); [Brian Hart](#); [Katie Gorscak](#); [Will Wiquist](#)
Cc: [Herchenroeder, Karl](#)
Subject: Re: BLOG: FCC Authority to Interpret Section 230
Date: Wednesday, October 21, 2020 10:43:21 AM

Good morning.

Checking in case there is an update on when the rulemaking might circulate.

My colleague Karl is writing a news bulletin about this that will run in about 15 minutes. And we will have something in our regular issue tonight as well.

Please let us know if you have any further comment for either of those news items.

Thanks, all.

On Oct 21, 2020, at 10:31 AM, FCC Office of Media Relations
<FCCOfficeofMediaRelations@fcc.gov> wrote:

The FCC's Authority to Interpret Section 230 of the Communications Act

By FCC General Counsel Thomas M. Johnson, Jr.

Last week, FCC Chairman Ajit Pai announced his intent to move forward with a rulemaking to interpret Section 230 of the Communications Act of 1934. Under certain circumstances, Section 230 provides websites, including social media companies, that host or moderate content generated by others with immunity from liability. In announcing his decision, Chairman Pai noted that “[m]embers of all three branches of government have expressed serious concern about the prevailing interpretation” of Section 230, and observed that an overly broad interpretation could “shield[] social media companies from consumer protection laws in a way that has no basis in the text” of the statute.

The Chairman’s decision was consistent with my advice that the FCC has the legal authority to interpret Section 230. Due to the unique interest generated by this proceeding, Chairman Pai has now asked me to make my analysis public, in furtherance of his longstanding commitment to transparency in the rulemaking process.

The policy issues raised by the debate over Section 230 may be complex, but the FCC’s legal authority is straightforward. Simply put, the FCC has the authority to interpret all provisions of the Communications Act, including amendments such as Section 230. As I explain below, this authority flows from the plain meaning of Section 201(b) of the Communications Act of 1934, which confers on the FCC the power to issue rules necessary to carry out the provisions of the Act. By expressly directing that Section 230 be placed into the Communications Act, Congress made clear that the FCC’s rulemaking authority extended to the provisions of that section. Two seminal U.S. Supreme Court cases

authored by the late Justice Antonin Scalia – *AT&T Corp. v. Iowa Utilities Bd.*, 525 U.S. 366 (1999) and *City of Arlington v. FCC*, 569 U.S. 290 (2013) – confirm this conclusion. Based on this authority, the Commission can feel confident proceeding with a rulemaking to clarify the scope of the Section 230 immunity shield.

Statutory Background

To understand why the Commission has authority to interpret Section 230, it helps to understand how that section became part of the Communications Act. In 1934, Congress adopted the Communications Act in its original form, establishing the FCC as an independent federal agency charged with regulating interstate and international communications. Four years later, Congress added Section 201(b), which delegated to the Commission the power to “prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this Act.”

Since then, the most consequential set of amendments to the Communications Act arrived in the Telecommunications Act of 1996, which updated the Act for the then-nascent Internet age. Section 1(b) of that Act made clear that, except where otherwise expressly provided, each of the 1996 Act’s provisions were to be inserted into the Communications Act of 1934.

Title V of the 1996 Act was named the “Communications Decency Act of 1996.” Among other provisions, this Title included Section 509, named “Online family empowerment.” Consistent with Section 1(b), Congress instructed in Section 509 that “Title II of the Communications Act of 1934 . . . is amended by adding at the end the following new section: Section 230.” Thus, Section 230 was born and became part of the Communications Act of 1934.

Section 230 provides, among other things, that “[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” It further provides that “[n]o provider or user of an interactive computer service shall be held liable on account of . . . any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected.” The term “interactive computer service” is defined “as any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.” That broad definition is commonly understood to include websites that host or moderate content generated by others, such as social media companies.

The FCC’s Interpretive Authority

The Supreme Court has twice considered whether the FCC’s general rulemaking authority under Section 201(b), adopted in 1938, extends to the 1996 amendments to the Act. Both times, the Court held that it does. Writing for the Court in *Iowa Utilities Board*, and employing his trademark textualist method, Justice Scalia wrote that this provision “means what it says: The FCC has rulemaking authority to carry out the

'provisions of [the 1934] Act.'" The Court explained that "the clear fact that the 1996 Act was adopted, not as a freestanding enactment, but as an amendment to, and hence part of, [the 1934] Act" shows that Congress intended the Commission to have rulemaking authority over all its provisions. Likewise, in the later *City of Arlington* case, the Court confirmed that the Commission's rulemaking authority "[o]f course . . . extends to the subsequently added portions of the Act." From these authorities, a simple conclusion follows: Because Section 230 is among the "subsequently added portions of the Act," it is subject to the FCC's Section 201(b) rulemaking authority.

This rulemaking authority plainly encompasses the power to interpret ambiguous language throughout the Communications Act. And courts have repeatedly upheld the Commission's authority to do so. *City of Arlington*, for example, upheld the Commission's use of its authority under Section 201(b) to interpret a provision that preserved state and local authority over the placement of things like cell towers unless those localities failed to act within a "reasonable period of time." The Supreme Court rejected an argument that the agency should receive no deference for its interpretation because the provision was "jurisdictional" and thus contemplated no regulatory action by the Commission. The Commission deserved deference, the Court explained, because "Congress has unambiguously vested the FCC with general authority to administer the Communications Act through rulemaking and adjudication, and the agency interpretation at issue was promulgated in the exercise of that authority."

Likewise, in *City of Portland v. FCC*, 969 F.3d 1020 (9th Cir. 2020), the U.S. Court of Appeals for the Ninth Circuit earlier this year largely affirmed two FCC orders clarifying the scope of a preemption provision in the Communications Act that provides that states and localities may not take actions that "have the effect of prohibiting" telecommunications service. Citing *City of Arlington*, the court said that "[w]here terms of the Telecommunications Act are ambiguous, we defer to the FCC's reasonable interpretations."

Concerning the Commission's interpretive authority, there is no meaningful distinction between the jurisdictional provision in *City of Arlington*, the preemption provision in *City of Portland*, and the immunity shield in Section 230 of the Act. All three provisions appear in the Communications Act, as amended. And like the jurisdictional and preemption provisions, Section 230 contains ambiguous terms: What constitutes an action "voluntarily taken in good faith" to restrict access to material? What constitutes material that can be excluded as "otherwise objectionable"? As in *City of Arlington* and *City of Portland*, the Commission has the authority to clarify these ambiguities in Section 230. As the Supreme Court observed in *Iowa Utilities Board*, this conclusion is nothing more than application of the general principle, derived from the Supreme Court's landmark decision in *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), that "Congress is well aware that the ambiguities it chooses to produce in a statute will be resolved by the implementing agency."

Response to Common Objections

In response to the U.S. Department of Commerce's petition asking the Commission to pursue a rulemaking on Section 230, some commenters supported the FCC's authority to clarify the statute. Others, reading

Section 201(b) – as well as *Iowa Utilities Board* and *City of Arlington* – narrowly, claimed that the FCC lacked such authority. I found the arguments of this latter group of commenters unpersuasive.

Some commenters claim that Congress did not intend for the Commission to administer Section 230, and therefore, the Commission has no authority to interpret it. Sometimes called “*Chevron Step Zero*,” this inquiry focuses on whether agencies deserve deference at all where there is no clear evidence that Congress intended the agency, rather than courts, to interpret an ambiguous statute. But the Supreme Court’s conclusion that Congress adopted the entire 1996 Act against the backdrop of the FCC’s Section 201 rulemaking power while leaving that power in place appears to foreclose this argument. As the Supreme Court put it in *City of Arlington*, “the whole [Act] includes all of its parts,” and therefore, the Court does not engage in a freewheeling judicial inquiry whereby “every agency rule must be subjected to a *de novo* judicial determination of whether the *particular issue* was committed to agency discretion.”

There is no reason why Section 230 of the Act alone should escape Section 201(b)’s general grant of rulemaking authority. Congress specifically instructed – in Section 509 of the Communications Decency Act, which in turn was in Title V of the Telecommunications Act of 1996 – that a new Section 230 be added to the Communications Act. While Section 230 itself deals primarily with an immunity shield, that fact alone does not exempt it from Commission rulemaking. *City of Arlington* and *City of Portland* make clear that the FCC can clarify even those ambiguous statutory provisions within the Act that are arguably directed toward courts – such as preemption or jurisdictional provisions. Similarly, *Iowa Utilities Board* upheld the Commission’s authority under Section 201(b) to interpret ambiguous provisions in the Act that provided standards for state utility commissions to resolve pricing and interconnection disputes. Nothing in the Act, the Court explained, “logically preclude[s] the Commission’s issuance of rules to guide the state-commission judgments.” The same logic applies here: Section 201(b) allows the Commission to interpret Section 230 to guide the judgments of courts.

Others attempt to read limitations into the text of Section 201(b) that could exclude Section 230. They note that most of Section 201(b) deals with rules that apply to common carriers and argue that Congress did not intend to treat social media companies and other covered websites as common carriers. But the general grant of rulemaking authority at the end of Section 201(b) contains no reference to common carriers; it simply empowers the Commission to make rules that are “necessary in the public interest to carry out the provisions of this Act,” without qualification. For this reason, the U.S. Court of Appeals for the Sixth Circuit in *Alliance for Community Media v. FCC*, 529 F.3d 763 (6th Cir. 2008), held that Section 201(b) gave the Commission authority to interpret ambiguous provisions in the Cable Television Consumer Protection and Competition Act of 1992. Notably, that Act by its terms applies to cable operators, not common carriers. The Court reasoned, relying on *Iowa Utilities Board*, that it was sufficient that the 1992 law amended the Communications Act and incorporated the relevant provisions therein. The same reasoning applies to Section 230.

Other commenters reach beyond statutory text to argue that Section 230’s legislative history and purposes demonstrate that the Commission lacks authority to interpret it. As an initial matter, neither legislative history nor abstract purposes can trump the plain text of a statute, and as

the Supreme Court has twice held, Section 201(b) “means what it says” — the FCC has the authority to interpret each and every provision of the Communications Act, as amended.

In any event, critics of an FCC rulemaking overread the legislative history and statements of purpose on which they rely and fundamentally misunderstand the narrow authority involved in clarifying the scope of the Section 230 immunity shield. For example, commenters note that language in Section 230(b) expresses Congress’s intent to “preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation.” They further point out that Section 230 co-framer and then-Congressman Chris Cox remarked in floor debates prior to passage that “we do not wish to have a Federal Computer Commission with an army of bureaucrats regulating the Internet.” And they observe that the FCC cited these authorities in the *Restoring Internet Freedom Order* as support for its decision to repeal the prior Administration’s onerous “net neutrality” rules in favor of light-touch regulation of Internet service providers.

But none of these observations bear on the central question here: whether the Commission has authority to interpret ambiguous terms in Section 230(c), which contains the immunity shield. Engaging in such interpretation would not involve creating “net neutrality” rules for social media companies, much less (as some critics have claimed) a “Fairness Doctrine” for the Internet. Rather, it would involve clarifying a legal standard that already exists: the statutory immunity shield in Section 230. Even if the FCC were to interpret that shield more narrowly than some courts previously have, that would not result in additional FCC regulation. It would simply allow private parties to bring lawsuits, as appropriate, under *other* sources of federal and state law — the same generally-applicable causes of action that apply to newspapers, broadcasters, and other publishers and speakers not covered by Section 230.

Nor does it matter that the U.S. Court of Appeals for the D.C. Circuit in *Comcast v. FCC*, 600 F.3d 642 (D.C. Cir. 2010), and the FCC itself in the *Restoring Internet Freedom Order*, agreed that Section 230(b) was merely a statement of policy and not an affirmative source of authority. The Commission need not rely on Section 230(b) as the source of its authority in this contemplated rulemaking. Instead, the Commission can comfortably use Section 201(b) to resolve ambiguities in the text of Section 230(c) — which *City of Arlington* and *Iowa Utilities Board* plainly permit.

At the end of the day, the scope of the Section 230 immunity shield must be interpreted by someone. And as the Supreme Court observed in both *Iowa Utilities Board* and *City of Arlington*, the only question is whether the FCC or a federal court will do the interpreting. Under current law, the answer is clear: The FCC receives deference for reasonable interpretations of all ambiguous terms in the Communications Act.

The fact that courts have been interpreting Section 230 for years does not prevent the Commission from construing its ambiguous terms. As the Supreme Court held in *National Cable & Telecomms. Ass’n v. Brand X Internet Servs.*, 545 U.S. 967 (2005), the FCC may act as the “authoritative interpreter” of ambiguous provisions in statutes like the Communications Act that it administers, and nothing “preclude[s] agencies from revising unwise judicial constructions of ambiguous statutes.” Section 230 allows

the FCC to determine whether courts have appropriately interpreted its proper scope. Supreme Court Justice Clarence Thomas, for example, recently expressed the view that courts have “relied on policy and purpose arguments to grant sweeping protection to Internet platforms” under Section 230 that “departed from the most natural reading of the text.” Leaving such constructions unchallenged could, in Justice Thomas’s words, “have serious consequences,” like exempting Internet companies from a broad array of civil claims, even if that is not “what the law demands.” Under *Brand X*, the FCC may review these judicial interpretations to determine whether they reflect the best reading of the statute. Indeed, an agency’s role as “authoritative interpreter” may be particularly useful where, as here, courts have reached divergent interpretations of key provisions of an important statute, thus creating substantial uncertainty and disharmony in the law.

* * *

Ultimately, the five Commissioners of the FCC must decide whether this legal framework should be adopted in any future rulemaking. But in my own judgment, the FCC’s legal authority to interpret Section 230 is straightforward: Congress gave the Commission power to interpret all provisions of the Communications Act of 1934 – including amendments – and Section 230 is an amendment to the Communications Act. The Commission therefore may proceed with a rulemaking to clarify the scope of the Section 230(c) immunity shield.

From: [Anne Veigle](mailto:Anne.Veigle@bloomberg.net)
To: enewcomer@bloomberg.net
Cc: [Will Wiquist](mailto:Will.Wiquist@fcc.gov); [Brian Hart](mailto:Brian.Hart@fcc.gov); [Katie Gorscak](mailto:Katie.Gorscak@fcc.gov)
Subject: RE: Bloomberg re: Section 230
Date: Thursday, October 15, 2020 5:27:23 PM

We have nothing further to add at this time.

From: Sharon Hurd <Sharon.Hurd@fcc.gov>
Sent: Thursday, October 15, 2020 5:08 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: Bloomberg re: Section 230

From: Eric Newcomer (BLOOMBERG/ NEWSROOM:) <enewcomer@bloomberg.net>
Sent: Thursday, October 15, 2020 4:53 PM
To: MediaRelations <MediaRelations@fcc.gov>
Subject: Bloomberg

Hi,

I'm requesting comment for a story about Republican push back on Section 230. Do you have any comment as to what the chairman's proposed reforms would do to crack down on Facebook and Twitter? I'm writing that many believe that a pullback of Section 230 would only make tech platforms more cautious about what content they host on their site.

Best, Eric

From: [Evan Swarztrauber](#)
To: [Ajit Pai](#); [Brian Hart](#); [Nicholas Degani](#); [Anne Veigle](#); [Matthew Berry](#)
Cc: [Montana L. Hyde](#); [Lamar Robertson](#)
Subject: Re: Bloomberg TV
Date: Tuesday, October 13, 2020 10:49:47 PM

(b) (5)

Evan Swarztrauber

Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Tuesday, October 13, 2020 10:48 PM
To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>
Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>
Subject: Re: Bloomberg TV

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Tuesday, October 13, 2020 10:42 PM
To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>
Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>
Subject: Re: Bloomberg TV

Many thanks!!

From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Sent: Tuesday, October 13, 2020 10:41 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>

Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>
Subject: Re: Bloomberg TV

(b) (5)

Evan Swarztrauber
Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Wednesday, October 7, 2020 2:26 PM
To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>
Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>
Subject: Re: Bloomberg TV

(b) (5)

From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Sent: Wednesday, October 7, 2020 2:22 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>
Cc: Montana L. Hyde <Montana.Hyde@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>
Subject: Re: Bloomberg TV

(b) (5)

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

Evan Swarztrauber
Policy Advisor

Office of Chairman Ajit Pai
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(202) 418-2261 (o)
(202) 870-8405 (m)
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From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Wednesday, October 7, 2020 2:10 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Lamar Robertson <Lamar.Robertson@fcc.gov>
Subject: Re: Bloomberg TV

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Wednesday, October 7, 2020 2:07 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Cc: Lamar Robertson <Lamar.Robertson@fcc.gov>
Subject: Re: Bloomberg TV

(b) (5)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Monday, October 5, 2020 5:13 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>
Cc: Lamar Robertson <Lamar.Robertson@fcc.gov>
Subject: RE: Bloomberg TV

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Monday, October 5, 2020 5:11 PM
To: Montana L. Hyde <Montana.Hyde@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Cc: Lamar Robertson <Lamar.Robertson@fcc.gov>
Subject: Re: Bloomberg TV

This it? <https://youtu.be/1FtbMztDtlk>

From: Montana L. Hyde <Montana.Hyde@fcc.gov>
Sent: Monday, October 5, 2020 5:06 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>
Subject: RE: Bloomberg TV

I just went back and looked at the trip tracker from the November 2019 NYC trip – it looks like you did an interview with Sherry Ahn at the Bloomberg studio, but not Emily Chang.

You could have interviewed with Emily Chang in 2018, but that was before my time at the FCC. I also didn't see anything with her on your archived calendar.

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Monday, October 5, 2020 4:47 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>
Subject: Re: Bloomberg TV

I forget, did I do an interview with her in studio in New York last year or year before?

Ajit V. Pai
Chairman, Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
(202)418-1000
Twitter: @AjitPaiFCC

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Monday, October 5, 2020 4:44 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>
Subject: FW: Bloomberg TV

Hi,
Bloomberg TV anchor Emily Chang is requesting an interview with Chairman Pai following his speaking appearance next week at the Milken Institute Global Conference, Oct. 14, 1-2:15pm, which will be discussing digital infrastructure and 5G. Chang is hosting the panel discussion.

From: Allison Weiss (BLOOMBERG/ NEWSROOM:) <abrowne10@bloomberg.net>
Sent: Monday, October 5, 2020 4:23 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Cc: echang68@bloomberg.net; ccheng86@bloomberg.net; Katie Gorscak <Katie.Gorscak@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: Bloomberg TV

ello:

Chairman Pai will be on a panel our anchor, Emily Chang, is moderating at Milken on October 14.

We wanted to see if we can conduct an interview with him right after the panel. We would appreciate his time and insight.

Kind Regards,
Allison Weiss
Sr. Producer, Bloomberg Technology

From: Anne.Veigle@fcc.gov At: 08/03/20 11:10:36
To: [Allison Weiss \(BLOOMBERG/ NEWSROOM: \)](mailto:Allison.Weiss@bloomberg.net)
Cc: Brian.Hart@fcc.gov, Will.Wiquist@fcc.gov, Katie.Gorscak@fcc.gov
Subject: RE: Bloomberg TV

i Allison,
Chairman Pai is not available to do this interview. Please see today's statement on the opening of a public comment in this matter:
<https://www.fcc.gov/document/chairman-pai-seeking-public-comment-nias-sec-20-petition>

Thanks,

Anne Veigle
Deputy Director, Office of Media Relations
Federal Communications Commission

From: Allison Weiss (BLOOMBERG NEWSROOM:)
<abrowne10@bloomberg.net>
Sent: Monday, August 3, 2020 10:26 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Bloomberg TV

ello:

I wanted to see if you are available this week to discuss the latest input

stage regarding the Section 200 petition. We'd like an update to the process, and our audiences would love your perspective.

Kind Regards,
Allison Weiss
Sr. Producer, Bloomberg Technology

Bloomberg TV is the world's most-watched business news network, available in more than 160 million homes worldwide. Watch us live on our website, smartphones, iPad app and the Bloomberg Professional Service.
<http://Bloomberg.com/tv>

From: [Sean Spivey](#)
To: [Will Wiquist](#)
Cc: [Brian Hart](#)
Subject: RE: carrier NALs
Date: Monday, October 26, 2020 2:36:40 PM
Attachments: [image001.png](#)

(b) (5)




From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Monday, October 26, 2020 2:14 PM
To: Sean Spivey <Sean.Spivey@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: carrier NALs

(b) (5)




From: Sean Spivey <Sean.Spivey@fcc.gov>
Sent: Monday, October 26, 2020 2:11 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: carrier NALs

(b) (5)






From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Monday, October 26, 2020 1:50 PM
To: Sean Spivey <Sean.Spivey@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: FW: carrier NALs

Sean – just an FYI re the Commissioner’s statement. (I think this is your item now)

From: Perera, David (LNG-MLEX) <perera@mlex.com>
Sent: Monday, October 26, 2020 1:33 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: carrier NALs

Hi Brian, Hi Will,

Commissioner Starks is on an FCBA webinar now, discussing the February NALs against major carriers for geolocation data.

“Obviously it’s been hanging out there for quite some time, so it’s incumbent on Chairman Pai to continue to move the process forward,” he said.

Do you have an update on the status of the NALs, or a statement on what appears to be a long period of time between the NALs release (February) and any apparent action on them?

On deadline.

Cheers, Dave

David Perera ☐ MLex data security and privacy reporter
perera@mlex.com ☐ o: 202 909 2141 m: 202 2☐0 9949

1776 I (Eye☐Street NW Suite 260 ☐ Washington, D.C. 20006 ☐ United States ☐ www.mlexmarketinsight.com ☐ www.ftcwatch.com



From: [Will Wiquist](#)
To: [Perera, David \(LNG-MLEX\)](#); [Brian Hart](#)
Subject: RE: carrier NALs
Date: Monday, October 26, 2020 1:38:21 PM
Attachments: [image001.png](#)

We have no comment or update. Thanks.

From: Perera, David (LNG-MLEX) <perera@mlex.com>
Sent: Monday, October 26, 2020 1:33 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: carrier NALs

Hi Brian, Hi Will,

Commissioner Starks is on an FCBA webinar now, discussing the February NALs against major carriers for geolocation data.

“Obviously it’s been hanging out there for quite some time, so it’s incumbent on Chairman Pai to continue to move the process forward,” he said.

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On deadline.

Cheers, Dave

David Perera ☐ MLex data security and privacy reporter
perera@mlex.com ☐ o: 202 909 2141 m: 202 2☐0 9949

1776 I (Eye☐Street NW Suite 260 ☐ Washington, D.C. 20006 ☐ United States ☐ www.mlexmarketinsight.com ☐ www.ftcwatch.com



From: [Brian Hart](#)
To: [Nicholas Degani](#); [Matthew Berry](#); [Montana L. Hyde](#); [Evan Swarztrauber](#); [Thomas Johnson](#); [Ajit Pai](#)
Subject: Re: Chairman Pai and a Conversation with actor Chris Evans?
Date: Friday, October 23, 2020 6:15:28 PM
Attachments: [image001.jpg](#)

(b) (5)




From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Friday, October 23, 2020 5:22 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Re: Chairman Pai and a Conversation with actor Chris Evans?

(b) (5)



Best,
-Nick D.

From: "Matthew Berry" <Matthew.Berry@fcc.gov>
Date: Friday, October 23, 2020 at 5:20:28 PM
To: "Montana L. Hyde" <Montana.Hyde@fcc.gov>, "Evan Swarztrauber" <Evan.Swarztrauber@fcc.gov>, "Thomas Johnson" <Thomas.Johnson@fcc.gov>, "Brian Hart" <Brian.Hart@fcc.gov>, "Nicholas Degani" <Nicholas.Degani@fcc.gov>, "Ajit Pai" <Ajit.Pai@fcc.gov>
Subject: Re: Chairman Pai and a Conversation with actor Chris Evans?

(b) (5)



From: Montana L. Hyde <Montana.Hyde@fcc.gov>
Sent: Friday, October 23, 2020 5:13 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Re: Chairman Pai and a Conversation with actor Chris Evans?

(b) (5)



From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Friday, October 23, 2020 4:32 PM

To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Re: Chairman Pai and a Conversation with actor Chris Evans?

(b) (5)

From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Sent: Friday, October 23, 2020 3:06 PM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: Chairman Pai and a Conversation with actor Chris Evans?

(b) (5)

Evan Swarztrauber
Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
[\(202\) 418-2261](tel:2024182261) (o)
[\(202\) 870-8405](tel:2028708405) (m)
Twitter: [@EvanS_FCC](https://twitter.com/EvanS_FCC)

From: "Thomas Johnson" <Thomas.Johnson@fcc.gov>
Date: Friday, October 23, 2020 at 2:52:30 PM
To: "Matthew Berry" <Matthew.Berry@fcc.gov>, "Brian Hart" <Brian.Hart@fcc.gov>, "Nicholas Degani" <Nicholas.Degani@fcc.gov>, "Montana L. Hyde" <Montana.Hyde@fcc.gov>, "Ajit Pai" <Ajit.Pai@fcc.gov>
Cc: "Evan Swarztrauber" <Evan.Swarztrauber@fcc.gov>
Subject: Re: Chairman Pai and a Conversation with actor Chris Evans?

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Friday, October 23, 2020 2:49 PM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: Chairman Pai and a Conversation with actor Chris Evans?

(b) (5)

From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Friday, October 23, 2020 2:47 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: Chairman Pai and a Conversation with actor Chris Evans?

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Friday, October 23, 2020 2:42 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: Chairman Pai and a Conversation with actor Chris Evans?

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Friday, October 23, 2020 1:59 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: Chairman Pai and a Conversation with actor Chris Evans?

(b) (5)

(b) (5)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Friday, October 23, 2020, 1:28 PM
To: Thomas Johnson; Matthew Berry; Montana L. Hyde; Ajit Pai
Cc: Evan Swarztrauber; Brian Hart
Subject: RE: Chairman Pai and a Conversation with actor Chris Evans?

(b) (5)

From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Friday, October 23, 2020 1:10 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Cc: Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Chairman Pai and a Conversation with actor Chris Evans?

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Friday, October 23, 2020 1:08 PM
To: Montana L. Hyde <Montana.Hyde@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Cc: Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>
Subject: Re: Chairman Pai and a Conversation with actor Chris Evans?

Sorry, forgot to add Tom Johnson.

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Friday, October 23, 2020 1:07 PM

To: Montana L. Hyde <Montana.Hyde@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Cc: Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>;
Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Chairman Pai and a Conversation with actor Chris Evans?

Adding Brian . . .

From: Montana L. Hyde <Montana.Hyde@fcc.gov>
Sent: Friday, October 23, 2020 12:49 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Cc: Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: FW: Chairman Pai and a Conversation with actor Chris Evans?

More info about the A Starting Point interview with Chris Evans.

From: Jessica Gail <jessica@astartingpoint.com>
Sent: Friday, October 23, 2020 12:42 PM
To: Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Chairman Pai and a Conversation with actor Chris Evans?

Hi Montana,

Great to talk to you earlier! As I mentioned, I am the Global Media Affairs Manager for [A Starting Point](#), the new civic engagement platform started by actors Chris Evans and Mark Kassen.

We are very interested in doing an ASP chat next week (hopefully before Wednesday) with Chairman Pai and actor Chris Evans.

ASP chats are conversations - typically between 7-8 minutes long around a specific topic. We would like to discuss Section 230. We could give the Chairman the questions ahead of time.

REAC: After the chat, Chris will share the chat to his networks - he has over 15 million followers- it will also be shared on all of A Starting Points platforms including the app, website, Twitter, Instagram and Facebook.

Previous ASP chats have been done between:
Chris Evans and Senator Booker
Chris Evans and Senator Tim Scott
Chris Evans and Senator Chris Coons
Among others.....

Next week we are doing ASP chats around this issue with Senator Wyden and Senator Cantwell. We would love to include Chairman Pai's voice.

Attached are some articles/fact sheets about ASP and our reach.

We are bipartisan and have over 200 contributors on both sides of the aisle. Please reach out if you have any questions!

Best,

Jessica Gail
801-712-3850

--



Jessica Gail | Global Media Affairs Manager
astartingpoint.com | [Twitter: @asp](https://twitter.com/asp) | [Instagram: @astartingpoint](https://www.instagram.com/astartingpoint)

Entertainment

Captain America is trying to... captain America

By Geoff Edgers Oct. 22, 2020

BOSTON — So you're Tim Scott, the Republican senator from South Carolina who opposes *Roe v. Wade* and wants to repeal the Affordable Care Act, and you get a call from Chris Evans, a Hollywood star and lifelong Democrat who has been [blasting President Trump](#) for years. He wants to meet. And film it. And share it on his online platform. Can anybody say "[Borat?](#)"

"I was very skeptical," admits Scott. "You can think of the worst-case scenario."

But then Scott heard from other senators. They vouched for Evans, most famous for playing Captain America in a series of films that have grossed more than \$1 billion worldwide. The actor also got on the phone with Scott's staff to make a personal appeal.

It worked. Sometime in 2018, Scott met on camera with Evans in the nation's capital, and their discussion, which ranged from prison reform to student loans, is one of more than 200 interviews with elected officials published on "[A Starting Point](#)," an online platform the actor helped launch in July. Not long after, Evans appeared on Scott's Instagram Live. They have plans to do more together.

"While he is a liberal, he was looking to have a real dialogue on important issues," says Scott. "For me, it's about wanting to have a conversation with an audience that may not be accustomed to



Chris Evans, a Hollywood star and lifelong Democrat, helped launch "A Starting Point," an online political platform, as a response to America's deeply polarized political climate. (Marvin Joseph/The Washington Post)

hearing from conservatives and Republicans."

Evans, actor-director Mark Kassen and entrepreneur Joe Kiani launched "A Starting Point" as a response to what they see as a deeply polarized political climate. They wanted to offer a place for information about issues without a partisan spin. To do that, they knew they needed both parties to participate.

Evans, 39, sat on the patio outside his Boston-area home on a recent afternoon talking about the platform. He wore a black T-shirt and jeans and spent some of the interview chasing around his brown rescue dog.

Nearly 100 million people didn't vote in the 2016 general election, Evans says. That's more than 40 percent of those who were eligible.

He believes the root of this disinterest is the

nastiness on both sides of the aisle. Many potential voters simply turn off the news, never mind talking about actual policy.

“A Starting Point” is meant to offer a digital home for people to hear from elected officials without having the conversation framed by Tucker Carlson or Rachel Maddow.

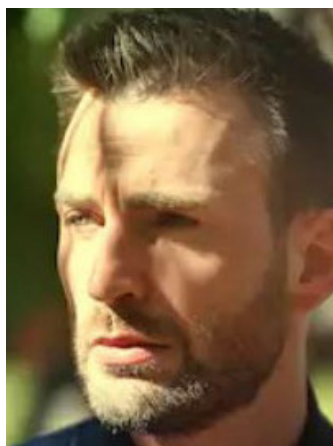
“The idea is ... ‘Listen, you’re in office. I can’t deny the impact you have,’” says Evans. “‘You can vote on things that affect my life.’ Let this be a landscape of competing ideas, and I’ll sit down with you and I’ll talk with you.”



Chris Evans with Sen. Lisa Murkowski (R-Alaska). (Rosa Pineda/U.S. Senate Photo)

Or, as Sen. Lisa Murkowski (R-Alaska), who has appeared on the site, puts it, “Sometimes, boring is okay. You’re being presented two sides. Everything doesn’t have to be sensational. Sometimes, it can just be good facts.”

Evans wasn’t always active in politics. At Lincoln-Sudbury Regional High School, he focused on theater, not student government. And he moved away from home his senior year, working at a casting agency in New York as he pushed for acting gigs. His uncle, Michael E. Capuano, served as a congressman in Massachusetts for 20 years, but other than volunteering on some of his campaign, Evans wasn’t particularly political.



In recent years, Evans has read political philosopher Hannah Arendt and feminist Rebecca Solnit’s “The Mother of All Questions” — ex-girlfriend Jenny Slate gave him the latter — and been increasingly upset by Trump’s policies and behavior. (Marvin Joseph/The Washington Post)

In recent years, he’s read political philosopher Hannah Arendt and feminist Rebecca Solnit’s [“The Mother of All Questions”](#) — ex-girlfriend Jenny Slate gave him the latter — and been increasingly upset by Trump’s policies and behavior. He’s come to believe that he can state his own views without creating a conflict with “A Starting Point.”

When he and Scott spoke on Instagram, the president wasn’t mentioned. In contrast, recently Evans and other members of the Avengers cast took part in a virtual fundraiser with Democratic vice-presidential nominee Kamala D. Harris.

“I don’t want to all of a sudden become a blank slate,” says Evans. “But my biggest issue right now is just getting people to vote. If I start saying, ‘vote Biden; f Trump,’ my base will like that. But they were already voting for Biden.”

(In September, Evans accidentally posted an image of presumably his penis online and, after deleting it, tweeted: “Now the I have your attention ... Vote Nov. 3rd!!!”)

Evans began to contemplate the idea that became “A Starting Point” in 2017. He heard something reported on the news — he can’t remember exactly what — and decided to search out information on the Internet. Instead of finding concrete answers, Evans fell down the rabbit hole of opinions and conflicting claims. He began talking about this with Kassen, a friend since he directed Evans in 2011’s “Puncture.” What if they got the information directly from elected officials and presented it without a spin? Kassen, in turn,

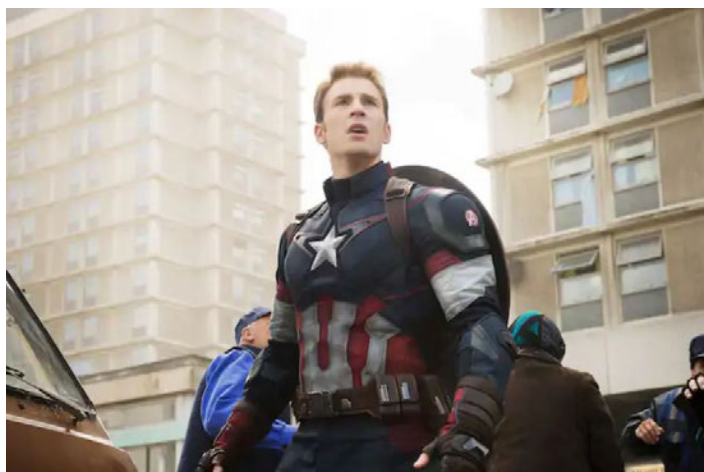
introduced Evans to Kiani, who had made his fortune through a medical technology company he founded and, of the three, was the most politically involved.

Kiani has donated to dozens of Democratic candidates across the country and earlier this year contributed \$750,000 to Unite the Country, a super PAC meant to support Joe Biden. But he appreciated the idea of focusing on something larger than a single race or party initiative. He, Kassen and Evans would fund “A Starting Point,” which has about 18 people on staff.

“There’s no longer ABC, NBC and CBS,” Kiani says. “There’s Fox News and MSNBC. What that means is that we are no longer being censored. We’re self-censoring ourselves. And people go to their own echo chamber and they don’t get any wiser. If you allow both parties to speak, for the same amount of time, without goading them to go on into hyperbole, when people look at both sides’ point of view of both topics, we think most of the time they’ll come to a reasonable conclusion.”

“What people do too often is they get in their silos and they only watch and listen and read what they agree with,” says John Kasich, the former Ohio governor and onetime Republican presidential candidate. “If you go to Chris’s website, you can’t bury yourself in your silo. You get to see the other point of view.”

As much as some like to blame Trump for all the conflicts in Washington, Sen. Christopher A. Coons (D-Del.) says he’s watched the tone shifting for decades. He appreciated sitting down with Evans and making regular submissions to “Daily Points,” a place on the platform for commentary no longer than two minutes. During the Supreme Court confirmation hearings, [Coons recorded a comment](#) on Judge Amy Coney Barrett and the Affordable Care Act.



“We meet interesting and important people but, man, when Captain America was in the Senate, it was all the buzz,” Murkowski says. (Jay Maidment/Walt Disney Studios Motion Pictures/Everett Collection)

“‘A Starting Point’ needs to be a sustained resource,” Coons says. “Chris often talks about it being ‘Schoolhouse Rock’ for adults.”

It’s not by chance that Evans has personally conducted all of the 200-plus interviews on “A Starting Point” during trips to D.C. Celebrities often try to mobilize the public, whether it’s Eva Longoria, Tracee Ellis Ross and Julia Louis-Dreyfus hosting the Democratic National Convention or Jon Voight recording video clips to praise Trump.

But in this case, Evans is using his status in a different way, to entice even the most hesitant Republican to sit down for an even-toned chat. And he’s willing to pose with anyone, even if it means explaining himself on “The Daily Show” after Republican Sen. Ted Cruz of Texas posted a selfie with Evans. (Two attempts to interview Trump brought no response.)

Murkowski remembers when Evans came to Capitol Hill for the first time in 2018. She admits she didn’t actually know who he was — she hadn’t yet seen any Marvel movies. She was in the minority.

“We meet interesting and important people but, man, when Captain America was in the Senate,

it was all the buzz,” she says. “And people were like, ‘Did you get your picture taken?’ I said, ‘Yeah, I sat down and did the interview.’ ‘You did an interview? How did you get an interview with him?’”

What impressed Murkowski wasn’t his star power. It was the way Evans conducted the interview.

“It was relaxing,” she says. “You didn’t feel like you were in front of a reporter who was just waiting for you to say something you would get caught on later. It was a dialogue . . . and we need more dialogue and less gotcha.”

“Starting Points” offers two-minute answers by elected officials in eight topic areas, including education, the environment and the economy. This is where the interviews Evans conducted can be found. “Daily Points” has featured a steady flow of Republicans and Democrats. A third area, “Counterpoints,” hosts short debates between officials on particular subjects. Eric Swalwell, a Democrat from California, debated mail-in voting with Dusty Johnson, the Republican congressman from South Dakota.

“Most Americans can’t name more than five members of the United States House,” says Johnson. “‘A Starting Point’ allows thoughtful members to talk to a broader audience than we would normally have.”

The platform’s social media team pushes out potentially newsworthy clips, whether it’s Sen. Mike Lee (R-Utah) discussing his meeting with Barrett just before he tested positive for the [coronavirus](#), or Angus King, the independent senator from Maine, criticizing Trump for his comments on a potential peaceful transfer of power after November’s election. Kassen notes that the King clip was viewed more than 400,000 times on “A Starting Point’s” Twitter account,



Chris Evans, second from left, with Sen. Cory Booker (D-N.J.). (Rosa Pineda/U.S. Senate Photo)

compared with the 10,000 who caught in on CNN’s social media platform.

“Because it’s short-form media, we’re engineered to be social,” says Kassen. “As a result, when something catches hold, it’s passed around our audience pretty well.”

The key is to use modern tools to push out content that’s tonally different from what you might find on modern cable news. Or on social media. Which is what Evans hopes leads to more engagement. He’s particularly proud that more than 10,000 people have registered to vote through “A Starting Point” since it went online.

“If the downstream impact or the byproduct of this site is some sort of unity between the parties, great,” says Evans. “But if nobody’s still voting, it doesn’t work. We need people involved.”



THREE-MONTH IMPACT

TRENDING ON TWITTER FOR 8+ HOURS



@MARKKASSEN



@CHRISEVANS



@JOEKIANI

1 BILLION+ TWITTER IMPRESSIONS
(IN THREE MONTHS)

340M

CROSS-PLATFORM REACH

160+

SUBJECTS COVERED (GROWING DAILY)

COMMUNITY EXPOSURE

Youth Education

ASP videos are used in high school and middle school educational curriculum in all 50 states, in partnership with the Close Up Foundation.

Constituent Engagement

Millions of Americans already using ASP will soon be able to 'follow' their local elected officials & receive alerts for new video updates.

Local Media

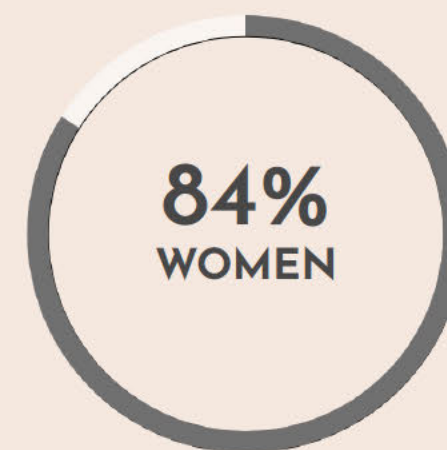
All ASP Daily Point videos shared with local media markets for coverage.

National Media

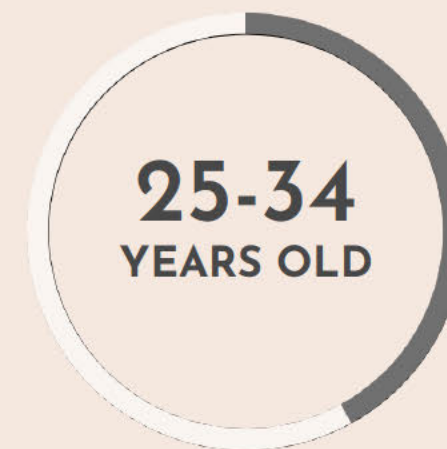
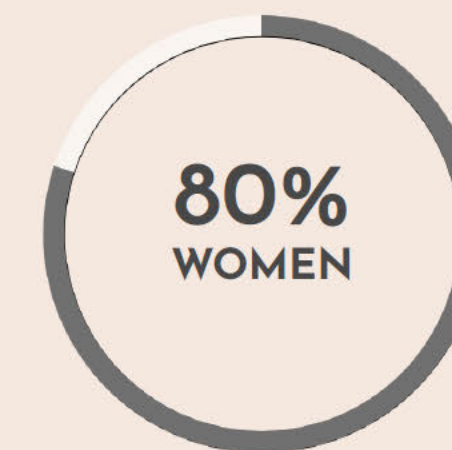
ASP video content shared with leading national media publications for coverage.



MENTIONS



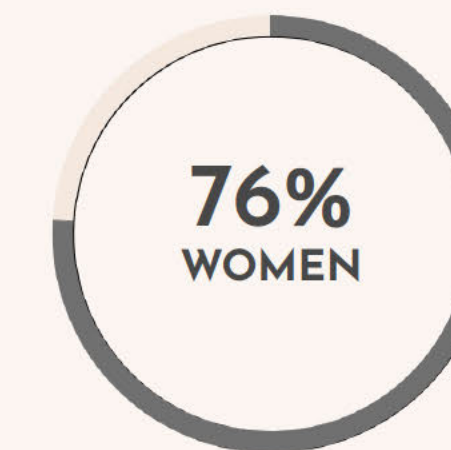
INTERACTIONS



MILLENNIAL



GEN X



GEN Z

ASP VIDEO VIEWS

10M+

SINCE JULY

ELECTED OFFICIALS USING ASP

200+

AND GROWING

From: [Brian Hart](#)
To: [Will Wiquist](#)
Subject: Re: checking for comment ...
Date: Wednesday, November 4, 2020 3:47:25 PM

(b) (5)

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Wednesday, November 4, 2020 3:45 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: FW: checking for comment ...

(b) (5)

From: Buskirk, Howard <hbuskirk@warren-news.com>
Sent: Wednesday, November 4, 2020 3:38 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: checking for comment ...

The still undecided presidential election is likely to create a murky environment for the FCC and Chairman Ajit Pai, at least until all the votes are counted and court cases and recounts resolved, experts said. The situation is reminiscent of 2000, when George W. Bush's election wasn't clear until more than a month after the election. At our deadline Joe Biden was ahead in swing states but President Donald Trump still has a potential path to victory.

In 2000, then Chairman William Kennard did an admirable job of keeping things moving, despite uncertainty, but the FCC was less politically charged at the time and he faced an easier task, FCC veterans said. Chairman Ajit Pai has long been expected to exit early next year regardless of what happens, but hasn't confirmed that.

If Trump wins, "it will be business as usual" and the Senate will vote on Nathan Simington's nomination to replace Mike O'Rielly as commissioner, said Phoenix Center President Lawrence Spiwak, who was an FCC staffer 20 years ago. Spiwak noted that the FCC then was less political than with fewer high-profile public interest groups active in proceeding. Spiwak said regardless of the size of the victory a Biden FCC will likely immediately reengage on net neutrality.

Howard Buskirk

Executive Senior Editor

Communications Daily

703-598-1800

From: [Ajit Pai](#)
To: [Matthew Berry](#); [Brian Hart](#); [Nicholas Degani](#); [Evan Swarztrauber](#)
Subject: Re: checking in
Date: Tuesday, October 27, 2020 1:26:24 PM

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Tuesday, October 27, 2020 1:25 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: checking in

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Tuesday, October 27, 2020 1:24 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Fw: checking in

(b) (5)

From: David McCabe <david.mccabe@nytimes.com>
Sent: Tuesday, October 27, 2020 1:17 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: checking in

Hey Brian —

We're working on a story about Republican efforts to put pressure on the Section 230 issue. I wanted to see if the FCC had comment on a couple of things.

We note the Simington nomination battle, and how it is seen as a proxy fight for 230. We also mention the chairman's recent announcement on considering the Commerce petition. We have been told that he was moved to act by Twitter's decision on Hunter Biden and the recent Justice Thomas opinion. But that he has still looked to push any decision beyond Election Day.

I wanted to know if you had anything to add. We're wrapping this up today.

Thanks, David, (b) (6)

--

David McCabe
Reporter
The New York Times

From: [Brian Hart](#)
To: [David McCabe](#)
Subject: Re: checking in
Date: Tuesday, October 27, 2020 1:40:11 PM

Hey David...nothing to add at this point. Still knee deep in Meeting Items and upcoming circulation this afternoon.

Thanks for checking.

From: David McCabe <david.mccabe@nytimes.com>
Sent: Tuesday, October 27, 2020 1:17:52 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: checking in

Hey Brian —

We're working on a story about Republican efforts to put pressure on the Section 230 issue. I wanted to see if the FCC had comment on a couple of things.

We note the Simington nomination battle, and how it is seen as a proxy fight for 230. We also mention the chairman's recent announcement on considering the Commerce petition. We have been told that he was moved to act by Twitter's decision on Hunter Biden and the recent Justice Thomas opinion. But that he has still looked to push any decision beyond Election Day.

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Thanks, David, (b) (6)

--

David McCabe
Reporter
The New York Times

From: [Rebecca Klar](#)
To: [Anne Veigle](#)
Cc: [Will Wiquist](#); [Katie Gorscak](#); [Brian Hart](#)
Subject: Re: Comment in response to House E and C Democrats
Date: Monday, October 19, 2020 2:32:27 PM

Thanks for sending, I will update our story.

Best,
Rebecca

On Mon, Oct 19, 2020 at 2:28 PM Anne Veigle <Anne.Veigle@fcc.gov> wrote:

Hi Rebecca,

If you're still working on this story, you can attribute this response to an FCC spokesperson regarding the Pallone/Doyle letter:

"Setting aside the now-standard overheated partisan rhetoric, what's most notable about the statement is that Chairmen Pallone and Doyle agree with Chairman Pai on the need for Section 230 reform."

From: Rebecca Klar <rklar@thehill.com>
Sent: Monday, October 19, 2020 11:09 AM
To: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>
Subject: Comment in response to House E and C Democrats

Hello,

I'm reaching out to see if the FCC or specifically Chairman Ajit Pai has a comment in response to a critical statement released today by Democratic members of the House Energy and Commerce Committee criticizing Pai's announcement from last week that the panel will move forward with the Trump administration's petition to clarify Section 230 of the Communications Decency Act. A copy of their statement can be seen [screenshotted here](#).

Thank you,
Rebecca Klar

From: [Anne Veigle](#)
To: [Will Wiquist](#); [Brian Hart](#); [Katie Gorscak](#)
Cc: [Paul Jackson](#)
Subject: Re: Comment in response to House E and C Democrats
Date: Monday, October 19, 2020 2:19:09 PM

yes i pulled the hill out of FCC Office of Media Relations & already responded nc - so now i can update

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Monday, October 19, 2020 2:18 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Cc: Paul Jackson <Paul.Jackson@fcc.gov>
Subject: RE: Comment in response to House E and C Democrats

(b) (5)

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Monday, October 19, 2020 2:16 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Cc: Paul Jackson <Paul.Jackson@fcc.gov>
Subject: Re: Comment in response to House E and C Democrats

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Monday, October 19, 2020 2:06 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Cc: Paul Jackson <Paul.Jackson@fcc.gov>
Subject: Re: Comment in response to House E and C Democrats

Response from a spokesperson to Pallone/Doyle letter:

"Setting aside the now-standard overheated partisan rhetoric, what's most notable about the statement is that Chairmen Pallone and Doyle agree with Chairman Pai on the need for Section 230 reform."

From: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>
Sent: Monday, October 19, 2020, 12:51 PM
To: Brian Hart; Will Wiquist; Katie Gorscak

Subject: FW: Comment in response to House E and C Democrats

(b) (5)

From: Rebecca Klar <rklar@thehill.com>

Sent: Monday, October 19, 2020 11:09 AM

To: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>

Subject: Comment in response to House E and C Democrats

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Thank you,
Rebecca Klar

From: [Matthew Berry](#)
To: [Nicholas Degani](#); [Brian Hart](#); [Ajit Pai](#)
Subject: Re: Comment in response to House E and C Democrats
Date: Monday, October 19, 2020 2:08:44 PM

OK

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Monday, October 19, 2020 2:03 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>
Subject: RE: Comment in response to House E and C Democrats

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Monday, October 19, 2020 2:02 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: Re: Comment in response to House E and C Democrats

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Monday, October 19, 2020, 1:58 PM
To: Matthew Berry; Brian Hart; Nicholas Degani
Subject: Re: Comment in response to House E and C Democrats

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Monday, October 19, 2020 1:57 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: Re: Comment in response to House E and C Democrats

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Monday, October 19, 2020 1:55 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani

<Nicholas.Degani@fcc.gov>

Subject: Re: Comment in response to House E and C Democrats

(b) (5)

[Redacted]

[Redacted]

[Redacted]

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Monday, October 19, 2020 1:54 PM

To: Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>

Subject: Re: Comment in response to House E and C Democrats

(b) (5)

[Redacted]

[Redacted]

From: Brian Hart <Brian.Hart@fcc.gov>

Sent: Monday, October 19, 2020 1:43 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>

Subject: Fwd: Comment in response to House E and C Democrats

(b) (5)

[Redacted]

From: Rebecca Klar <rklar@thehill.com>

Sent: Monday, October 19, 2020 11:09 AM

To: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>

Subject: Comment in response to House E and C Democrats

Hello,

I'm reaching out to see if the FCC or specifically Chairman Ajit Pai has a comment in response to a critical statement released today by Democratic members of the House Energy and Commerce Committee criticizing Pai's announcement from last week that the panel will move forward with the Trump administration's petition to clarify Section 230 of the Communications Decency Act. A copy of their statement can be seen [screenshotted here](#).

Thank you,
Rebecca Klar

From: [Will Wiquist](#)
To: [Anne Veigle](#); [Brian Hart](#); [Katie Gorscak](#)
Subject: RE: Comment in response to House E and C Democrats
Date: Monday, October 19, 2020 12:54:33 PM

(b) (5)

From: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>
Sent: Monday, October 19, 2020 12:51 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: FW: Comment in response to House E and C Democrats

(b) (5)

From: Rebecca Klar <rklar@thehill.com>
Sent: Monday, October 19, 2020 11:09 AM
To: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>
Subject: Comment in response to House E and C Democrats

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Thank you,
Rebecca Klar

From: [Anne Veigle](#)
To: [Herchenroeder, Karl](#)
Cc: [Brian Hart](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: RE: Comment? Online Speech Crackdown Will Choke America's Innovation Economy, CTA Says
Date: Monday, October 19, 2020 3:14:16 PM

Hi Karl,
We don't have a comment.

From: Herchenroeder, Karl <karlh@warren-news.com>
Sent: Monday, October 19, 2020 2:13 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Comment? Online Speech Crackdown Will Choke America's Innovation Economy, CTA Says

Hi, Anne:
CTA Vice President-Government and Regulatory Affairs Michael Petricone said Monday that the FCC doesn't have the authority to "rewrite" Communications Decency Act Section 230.

Does the agency have any comment?

Best Regards,
Karl Herchenroeder
Assistant Editor/tech reporter
Communications Daily
C: 202-704-4738

To view this email as a web page, go [here](#).

FOR IMMEDIATE RELEASE



Online Speech Crackdown Will Choke America's

Innovation Economy, CTA Says

Arlington, VA, October 19, 2020 – The following statement is attributed to Michael Petricone, senior vice president, government and regulatory affairs, Consumer Technology Association (CTA)®, regarding efforts to regulate online providers that host third-party content under Section 230 of the Communications Decency Act.

“We are deeply disappointed in the announcement by Federal Communications Commission (FCC) Chairman Ajit Pai that the agency will begin a rulemaking on Section 230. As CTA emphasized in its comments to the FCC, neither the National Telecommunications and Information Administration nor the FCC has the authority to rewrite the law – in our system, that is the job of Congress. Nor does the FCC have the authority to impose new, heavy-handed disclosure requirements on online platforms – a fact the FCC itself recognized in 2017.

“A better way forward is to embrace policies that encourage – not those that seek to impede – American innovation. Thanks to Section 230, American companies are the world’s top choice for entertainment, communications and commerce—but that all could change. Cracking down on Section 230 and internet speech would deal a severe blow to U.S. competitiveness and innovation. It would hamper our free exchange of ideas and entrepreneurs’ incentives to take risks.

“Importantly, government regulating online free speech is an unconstitutional affront to the First Amendment. It is resonant of systems like China’s, where the ability to speak online depends on government approval and whim. It would lead to the government picking ‘winners’ and ‘losers’—dictating what speech algorithm is too conservative or too liberal. This is not the American way.

“A ‘hands off’ approach to the internet exemplified by Section 230 is precisely what distinguishes the U.S. from other countries and enables our success. We should embrace our approach, not seek to emulate other countries who have much more regulation and fewer successful approaches to innovation.”

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70□907.7694
jdrogus@CTA.tech

Laura Ambrosio
CTA
70□907.7426
lambrosio@CTA.tech

This email was sent by: Consumer Technology Association
1919 S. Eads St., Arlington, VA, 22202 US

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From: [Matthew Berry](#)
To: [Anne Veigle](#); [Ajit Pai](#); [Nicholas Degani](#); [Paul Jackson](#)
Cc: [Brian Hart](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: Re: Comment? Online Speech Crackdown Will Choke America's Innovation Economy, CTA Says
Date: Monday, October 19, 2020 3:02:02 PM

(b) (5)

From: "Anne Veigle" <Anne.Veigle@fcc.gov>
Date: Monday, October 19, 2020 at 2:54:53 PM
To: "Ajit Pai" <Ajit.Pai@fcc.gov>, "Nicholas Degani" <Nicholas.Degani@fcc.gov>, "Matthew Berry" <Matthew.Berry@fcc.gov>, "Paul Jackson" <Paul.Jackson@fcc.gov>
Cc: "Brian Hart" <Brian.Hart@fcc.gov>, "Will Wiquist" <Will.Wiquist@fcc.gov>, "Katie Gorscak" <Katie.Gorscak@fcc.gov>
Subject: RE: Comment? Online Speech Crackdown Will Choke America's Innovation Economy, CTA Says

(b)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Monday, October 19, 2020 2:51 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: Re: Comment? Online Speech Crackdown Will Choke America's Innovation Economy, CTA Says

(b) (5)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Monday, October 19, 2020 2:50 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: RE: Comment? Online Speech Crackdown Will Choke America's Innovation Economy, CTA Says

(b) (5)

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Monday, October 19, 2020 2:49 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>

Cc: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: FW: Comment? Online Speech Crackdown Will Choke America's Innovation Economy, CTA Says

(b) (5)

From: Herchenroeder, Karl <karlh@warren-news.com>
Sent: Monday, October 19, 2020 2:13 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Comment? Online Speech Crackdown Will Choke America's Innovation Economy, CTA Says

Hi, Anne:

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Does the agency have any comment?

Best Regards,
Karl Herchenroeder
Assistant Editor/tech reporter
Communications Daily
C: 202-704-4738

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Innovation Economy, CTA Says

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lambrosio@CTA.tech

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From: [Will Wiquist](#)
To: [Anne Veigle](#); [Brian Hart](#); [Katie Gorscak](#)
Subject: RE: Comment? Online Speech Crackdown Will Choke America's Innovation Economy, CTA Says
Date: Monday, October 19, 2020 2:41:34 PM

(b) (5)

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Monday, October 19, 2020 2:40 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: FW: Comment? Online Speech Crackdown Will Choke America's Innovation Economy, CTA Says

(b) (5)

From: Herchenroeder, Karl <karlh@warren-news.com>
Sent: Monday, October 19, 2020 2:13 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>
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Assistant Editor/tech reporter
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C: 202-704-4738

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lambrosio@CTA.tech

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From: [Jeffers, Bryn](#)
To: [Brian Hart](#)
Subject: RE: COS Matthew Berry - Fox News Booking Inquiry
Date: Wednesday, October 21, 2020 12:15:00 PM

Perfect, thank you!

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Wednesday, October 21, 2020 12:13 PM
To: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Subject: [EXTERNAL] Fwd: COS Matthew Berry - Fox News Booking Inquiry

Below from Matthew:

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Wednesday, October 21, 2020 11:40:26 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: COS Matthew Berry - Fox News Booking Inquiry

A few possible talking points about the tweet:

-- Twitter has a viewpoint and it uses that viewpoint to discriminate against conservatives.

-- It is outrageous that Twitter allows the Supreme Leader of Iran to use his account to spread anti-Semitism and call for the destruction of the State of Israel but has locked a major U.S. newspaper, the New York Post, out of its account.

-- Currently, social media companies like Twitter enjoy broad legal immunity under Section 230 of the Communications Act; the FCC is currently looking at whether Section 230 is being interpreted properly or whether companies are receiving more immunity than they are entitled to.

Sending the blog post would also be fine with me.

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Wednesday, October 21, 2020 11:23 AM
To: Matthew Berry <Matthew.Berry@fcc.gov>
Subject: Fwd: COS Matthew Berry - Fox News Booking Inquiry

Bryn is asking again if you have any talking points you can share with them to get the host a bit smarter. I don't have anything I can think of to provide, although I can send her Tom's blog. Any suggestions?

From: Brian Hart <Brian.Hart@fcc.gov>

Sent: Wednesday, October 21, 2020 9:36:26 AM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Andi Roane <Andi.Roane@fcc.gov>
Subject: Fwd: COS Matthew Berry - Fox News Booking Inquiry

Updated hit time plus pre-interview below.

From: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Sent: Wednesday, October 21, 2020 9:12:05 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: COS Matthew Berry - Fox News Booking Inquiry

Good morning,

Matthew will be hitting at 3:30pm EST. I want to confirm he's hitting via Skype in the DC area?

We have the Skype precheck scheduled for 1:15pm EST, so our team will give him a call then. We'll call him again about 10 minutes prior to the hit time to get him connected with our control room.

Please send over any talking points or commends he'd like to share regarding his Tweet on The Post story.

Thank you!
Bryn

From: Jeffers, Bryn
Sent: Tuesday, October 20, 2020 12:01 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: COS Matthew Berry - Fox News Booking Inquiry

Oh, good! No worries, speak tomorrow!

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Tuesday, October 20, 2020 12:01 PM
To: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Subject: [EXTERNAL] Re: COS Matthew Berry - Fox News Booking Inquiry

Ha! I thought it was today despite you clearly saying Wednesday several times. No worries. Matthew had it right.

From: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Sent: Tuesday, October 20, 2020 11:58 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: COS Matthew Berry - Fox News Booking Inquiry

Looking like the back half of the show, so probably around 3:40pm. I won't have an exact hit time until tomorrow, though.

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Tuesday, October 20, 2020 11:57 AM
To: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Subject: [EXTERNAL] Re: COS Matthew Berry - Fox News Booking Inquiry

Do you have a better sense of the hit time at this point?

From: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Sent: Monday, October 19, 2020 3:04 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: COS Matthew Berry - Fox News Booking Inquiry

Got it – thank you

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Monday, October 19, 2020 3:02 PM
To: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Subject: [EXTERNAL] Re: COS Matthew Berry - Fox News Booking Inquiry

profile live (b) (6)
cell phone number is (o) (o)

He is available at 1:15 on Wednesday.

From: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Sent: Monday, October 19, 2020 1:57 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: COS Matthew Berry - Fox News Booking Inquiry

Great! He's confirmed for Wednesday.

I will reach out the morning of to provide you an exact hit time & focus for the interview. Let's do a Skype test Wednesday, as well. Does 1:15pm work for him to test with our team? Should only take about 5 minutes.

I just need his Skype username and cell phone number to set that up.

Thanks so much,
Bryn

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Monday, October 19, 2020 1:08 PM
To: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Subject: [EXTERNAL] Re: COS Matthew Berry - Fox News Booking Inquiry

That time works, that app works, and he's in.

Please let me know when it's locked in, if there's anything else he needs to know/any questions that he needs to be ready for, and please send me the Skype details that he should call or let us know if you want to call him...and if you prefer a test video session.

Thank you Bryn.

From: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Sent: Monday, October 19, 2020 12:49 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: COS Matthew Berry - Fox News Booking Inquiry

Yes, Skype would be the best option for us. FaceTime also works.

Does Wednesday the 21st in the 3pm hour work?

Thanks!
Bryn

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Monday, October 19, 2020 12:37 PM
To: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Subject: [EXTERNAL] Fwd: COS Matthew Berry - Fox News Booking Inquiry

Bryn: Matthew is available and interested. Can he do remote from home via video app?

From: Jeffers, Bryn <Bryn.Jeffers@FOXNEWS.COM>
Sent: Monday, October 19, 2020 11:18 AM
To: MediaRelations <MediaRelations@fcc.gov>
Subject: COS Matthew Berry - Fox News Booking Inquiry

Good morning,

I left a message earlier and wanted to follow up on email. Is Chief of Staff for the FCC Matthew Berry available to join us on the Fox News Channel this week, specifically tomorrow, during the 3pm hour for *Bill Hemmer Reports*? We would like to discuss his recent tweet regarding Twitter's limits on different accounts.

Please let me know if we can make this happen.

Thank you,
Bryn

Bryn K. Jeffers

Guest Greeter, Booking Unit

Fox News Channel | Washington, D.C. Bureau

(929)271-5166

Bryn.Jeffers@foxnews.com

This message and its attachments may contain legally privileged or confidential information. It is intended solely for the named addressee. If you are not the addressee indicated in this message (or responsible for delivery of the message to the addressee), you may not copy or deliver this message or its attachments to anyone. Rather, you should permanently delete this message and its attachments and kindly notify the sender by reply e-mail. Any content of this message and its attachments that does not relate to the official business of Fox News or Fox Business must not be taken to have been sent or endorsed by either of them. No representation is made that this email or its attachments are without defect.

From: [Ajit Pai](#)
To: [Matthew Berry](#); [Brian Hart](#)
Cc: [Nicholas Degani](#)
Subject: Re: COS Matthew Berry - Fox News Booking Inquiry
Date: Monday, October 19, 2020 12:18:32 PM

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Monday, October 19, 2020 11:44 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Cc: Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: Re: COS Matthew Berry - Fox News Booking Inquiry

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Monday, October 19, 2020 11:37 AM
To: Matthew Berry <Matthew.Berry@fcc.gov>
Cc: Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: Fw: COS Matthew Berry - Fox News Booking Inquiry

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Bryn K. Jeffers

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Bryn.Jeffers@foxnews.com

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From: [Brian Hart](#)
To: [Will Wiquist](#)
Cc: [Katie Gorscak](#); [Anne Veigle](#)
Subject: Re: COS Matthew Berry - Fox News Booking Inquiry
Date: Monday, October 19, 2020 11:37:06 AM

(b) (5)

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Monday, October 19, 2020 11:32 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Cc: Katie Gorscak <Katie.Gorscak@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Subject: FW: COS Matthew Berry - Fox News Booking Inquiry

(b) (5)

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taken to have been sent or endorsed by either of them. No representation is made that this email or its attachments are without defect.

Media Contact:

Brian Hart, (202) 418-0505
brian.hart@fcc.gov

For Immediate Release

CHAIRMAN PAI ANNOUNCES HIS INTENT TO DEPART FCC

WASHINGTON, November 30, 2020—Today, Federal Communications Commission Chairman Ajit Pai announced that he intends to leave the Federal Communications Commission on January 20, 2021. Chairman Pai issued the following statement:

“It has been the honor of a lifetime to serve at the Federal Communications Commission, including as Chairman of the FCC over the past four years. I am grateful to President Trump for giving me the opportunity to lead the agency in 2017, to President Obama for appointing me as a Commissioner in 2012, and to Senate Majority Leader McConnell and the Senate for twice confirming me. To be the first Asian-American to chair the FCC has been a particular privilege. As I often say: only in America.

“I also deeply appreciate the chance to have worked alongside the FCC’s talented staff. They are the agency’s best assets, and they have performed heroically, especially during the pandemic. It’s also been an honor to work with my fellow Commissioners to execute a strong and broad agenda. Together, we’ve delivered for the American people over the past four years: closing the digital divide; promoting innovation and competition, from 5G on the ground to broadband from space; protecting consumers; and advancing public safety. And this FCC has not shied away from making tough choices. As a result, our nation’s communications networks are now faster, stronger, and more widely deployed than ever before.

“I am proud of how productive this Commission has been, from commencing five spectrum auctions and two rural broadband reverse auctions in four years, to opening 1,245 megahertz of mid-band spectrum for unlicensed use, to adopting more than 25 orders through our Modernization of Media Regulation Initiative, to aggressively protecting our communications networks from national security threats at home and abroad, to designating 988 as the three-digit number for the National Suicide Prevention Lifeline, and much, much more. I’m also proud of the reforms we have instituted to make the agency more accountable to the American people. In particular, for the first time ever, we’ve made public drafts of the proposals and orders slated for a vote three weeks before the agency’s monthly meetings, making this the most transparent FCC in history.

“Last but not least, I want to thank my family for all they have done to enable me to serve at the agency. The public service of one generally results from the private sacrifice of many, and I’m grateful for their love and support.”

###

Office of Chairman Pai: (202) 418-1000 / Twitter: @AjitPaiFCC / www.fcc.gov/leadership/ajit-pai

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).

From: [Katie Gorscak](#)
To: [Matthew Berry](#); [Brian Hart](#); [Nicholas Degani](#); [Ajit Pai](#); [Evan Swarztrauber](#); [Paul Jackson](#)
Subject: RE: Draft
Date: Monday, November 30, 2020 10:28:21 AM
Attachments: [2020-11-30-Pai Departure Statement-FINAL.docx](#)

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Monday, November 30, 2020 10:25 AM
To: Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Subject: Re: Draft

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Subject: Re: Draft

(b) (5)

[Redacted]

[Redacted]

From: Katie Gorscak <Katie.Gorscak@fcc.gov>

Sent: Monday, November 30, 2020 10:05 AM

To: Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>

Subject: RE: Draft

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

From: Brian Hart <Brian.Hart@fcc.gov>

Sent: Monday, November 30, 2020 10:04 AM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>

Cc: Katie Gorscak <Katie.Gorscak@fcc.gov>

Subject: Re: Draft

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>

Sent: Monday, November 30, 2020 9:59 AM

To: Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Paul

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Clean draft attached. Adding Katie G.

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Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Subject: RE: Draft

(b) (5) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]

From: [Nicholas Degani](#)
To: [Matthew Berry](#); [Brian Hart](#); [Katie Gorscak](#); [Ajit Pai](#); [Evan Swarztrauber](#); [Paul Jackson](#)
Subject: RE: Draft
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Subject: Re: Draft

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Cc: Katie Gorscak <Katie.Gorscak@fcc.gov>

Subject: Re: Draft

From: Brian Hart <Brian.Hart@fcc.gov>

Sent: Monday, November 30, 2020 9:48 AM

From: [Katie Gorscak](#)
To: [Matthew Berry](#); [Nicholas Degani](#); [Brian Hart](#); [Ajit Pai](#); [Evan Swarztrauber](#); [Paul Jackson](#)
Subject: RE: Draft
Date: Monday, November 30, 2020 10:42:09 AM

This has been e-mailed out to press and should be posted to the web momentarily.

Thanks, all!

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Monday, November 30, 2020 10:37 AM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Subject: Re: Draft

Sounds good. Let's release.

Thanks all!

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Monday, November 30, 2020 10:36 AM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
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From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Monday, November 30, 2020 10:28 AM

To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>

Subject: Re: Draft

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Subject: Re: Draft

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Subject: RE: Draft

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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Subject: RE: Draft

(b) (5)

[Redacted]

From: [Anne Veigle](#)
To: [David Kaut](#)
Cc: [Brian Hart](#); [Will Wiquist](#)
Subject: Re: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results
Date: Wednesday, November 11, 2020 3:57:40 PM

We don't have a comment

From: "David Kaut" <dkaut@thecapitolforum.com>
Date: Wednesday, November 11, 2020 at 1:27:23 PM
To: "Anne Veigle" <Anne.Veigle@fcc.gov>
Cc: "Brian Hart" <Brian.Hart@fcc.gov>, "Will Wiquist" <Will.Wiquist@fcc.gov>
Subject: RE: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

If any sense when a response is coming, in whatever form, let me know.

DAVE
571-276-2933

From: David Kaut
Sent: Tuesday, November 10, 2020 3:24 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: FW: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

Let me know if you all have response to this.

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>
Sent: Tuesday, November 10, 2020 3:18 PM
To: David Kaut <dkaut@thecapitolforum.com>
Subject: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results



FOR IMMEDIATE RELEASE
November 10, 2020

CONTACT
[Elysa Montfort](#) (202) 225-5735

E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

Washington, D.C. – Energy and Commerce Committee leaders today wrote to Federal Communications Commission (FCC) Chairman Ajit Pai and Federal Trade Commission (FTC) Chairman Joseph Simons demanding that the two commissions stop work on all partisan or controversial items currently under consideration in light of the results of last week’s presidential election.

“With the results of the 2020 presidential election now apparent, leadership of the FTC will undoubtedly be changing,” Energy and Commerce Committee Chairman Frank Pallone, Jr. (D-NJ) and Consumer Protection and Commerce Subcommittee Chair Jan Schakowsky (D-IL) wrote in a letter to the FTC. **“As a traditional part of the transfer of power — and as part of our oversight responsibilities — we strongly urge the agency to only pursue consensus and administrative matters that are non-partisan for the remainder of your tenure.”**

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The letter to FTC is available [HERE](#) and the letter to FCC is available [HERE](#).

###

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From: [Anne Veigle](#)
To: [Jon Brodtkin](#)
Cc: [Will Wiquist](#); [Katie Gorscak](#)
Subject: Re: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results
Date: Wednesday, November 11, 2020 12:02:47 PM

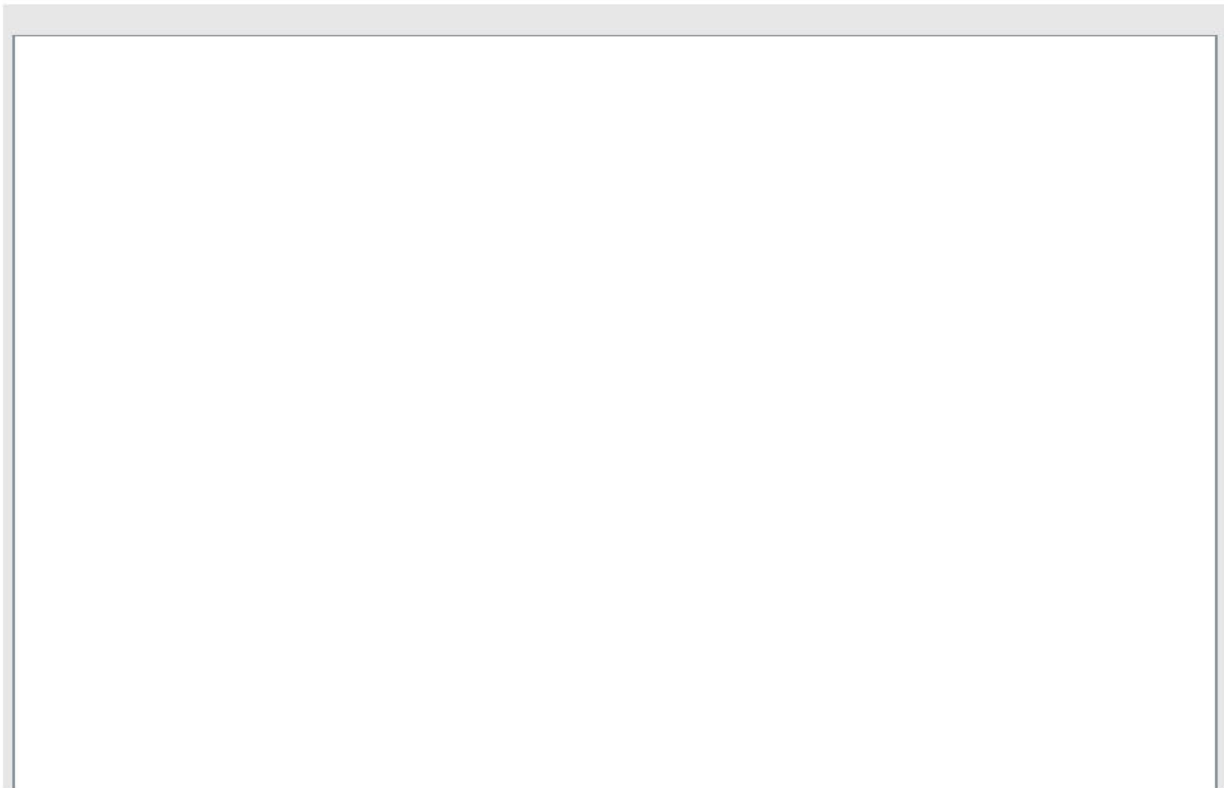
We don't have a comment.

From: "Jon Brodtkin" <jon.brodtkin@arstechnica.com>
Date: Wednesday, November 11, 2020 at 10:05:21 AM
To: "MediaRelations" <MediaRelations@fcc.gov>, "Anne Veigle" <Anne.Veigle@fcc.gov>
Subject: RE: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

Hi, I'm writing a story about this today. Will Chairman Pai agree to the request to stop work on controversial items until Biden is sworn in? And do you expect Pai's announcement on his decision to be made today? Thanks.

Begin forwarded message:

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>
Subject: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results
Date: November 10, 2020 at 3:17:34 PM EST
To: jon.brodtkin@arstechnica.com
Reply-To: ecdemnews@mail.house.gov



FOR IMMEDIATE RELEASE
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From: [Paul Jackson](#)
To: [Brian Hart](#); [Nicholas Degani](#); [Ajit Pai](#); [Matthew Berry](#)
Subject: Re: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results
Date: Tuesday, November 10, 2020 3:39:32 PM

We've officially received the letter from the Pallone staff.

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Tuesday, November 10, 2020 3:38 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Subject: Re: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

(b) (5)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Tuesday, November 10, 2020 3:33 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Subject: RE: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

(b)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Tuesday, November 10, 2020 3:34 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Subject: Re: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

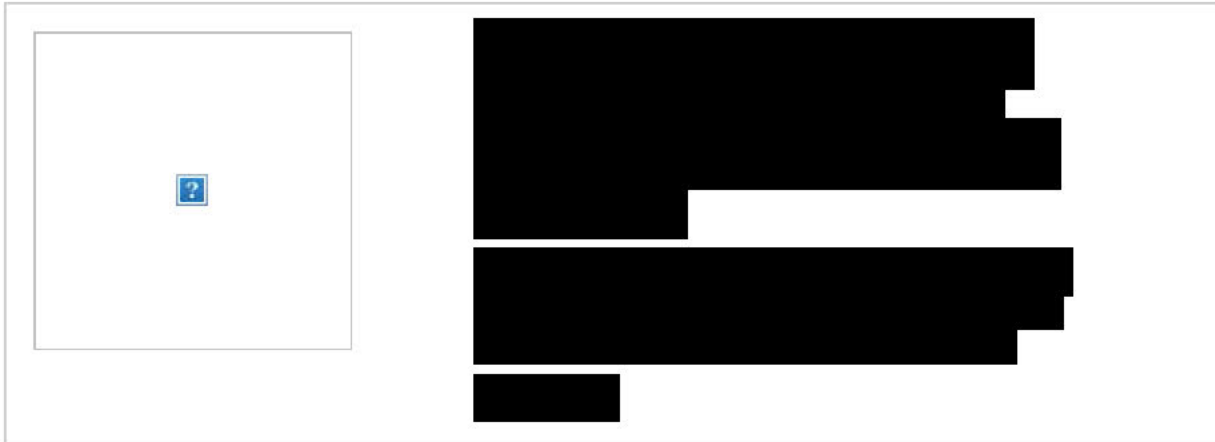
(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Tuesday, November 10, 2020 3:31 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Subject: Re: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Tuesday, November 10, 2020 3:31 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Subject: Re: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

(b) (5)



From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Tuesday, November 10, 2020 3:29 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Subject: Fw: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

We have half a dozen requests for comment on this? Thoughts?

From: Paul Jackson <Paul.Jackson@fcc.gov>
Sent: Tuesday, November 10, 2020 3:21 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: Fw: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>
Sent: Tuesday, November 10, 2020 3:17 PM
To: Paul Jackson <Paul.Jackson@fcc.gov>

Subject: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results



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November 10, 2020

CONTACT
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From: [Will Wiquist](#)
To: [Anne Veigle](#); [Katie Gorscak](#); [Paul Jackson](#); [Brian Hart](#)
Subject: RE: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results
Date: Tuesday, November 10, 2020 3:32:50 PM

(b) (5)

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Tuesday, November 10, 2020 3:32 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

(b) (5)

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Tuesday, November 10, 2020 3:31 PM
To: Katie Gorscak <Katie.Gorscak@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Subject: RE: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

(b) (5)

From: Katie Gorscak <Katie.Gorscak@fcc.gov>
Sent: Tuesday, November 10, 2020 3:26 PM
To: Paul Jackson <Paul.Jackson@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Subject: RE: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

And Bloomberg.

From: Paul Jackson <Paul.Jackson@fcc.gov>
Sent: Tuesday, November 10, 2020 3:26 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: Re: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

(b) (5)

From: Will Wiquist <Will.Wiquist@fcc.gov>

Sent: Tuesday, November 10, 2020 3:25 PM

To: Paul Jackson <Paul.Jackson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>

Subject: RE: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

(b) (5)



From: Paul Jackson <Paul.Jackson@fcc.gov>

Sent: Tuesday, November 10, 2020 3:22 PM

To: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>

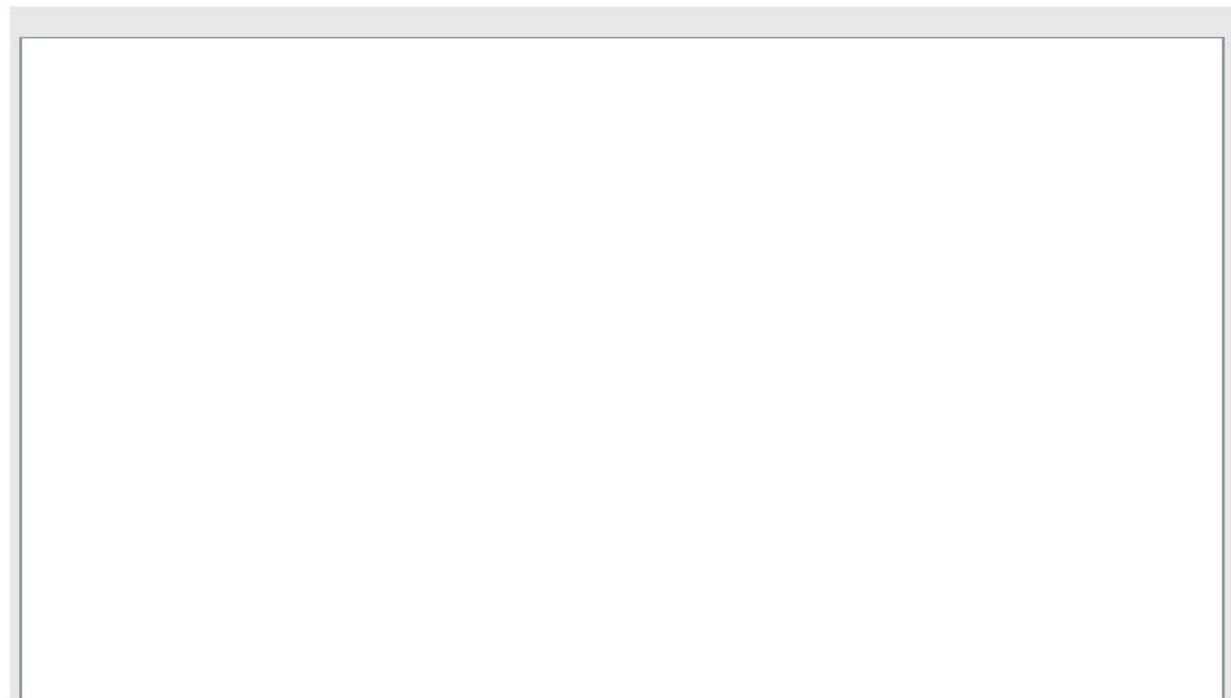
Subject: Fw: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>

Sent: Tuesday, November 10, 2020 3:17 PM

To: Paul Jackson <Paul.Jackson@fcc.gov>

Subject: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results



FOR IMMEDIATE RELEASE

November 10, 2020

CONTACT

[Elysa Montfort](#) (202) 225-5735

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From: ben@agri-pulse.com
To: [Anne Veigle](mailto:Anne.Veigle@fcc.gov)
Cc: [Brian Hart](mailto:Brian.Hart@fcc.gov); [Katie Gorscak](mailto:Katie.Gorscak@fcc.gov); [Will Wiquist](mailto:Will.Wiquist@fcc.gov)
Subject: RE: FCC STATEMENT: Chairman Pai Announces His Intent To Depart FCC
Date: Monday, November 30, 2020 12:13:24 PM
Attachments: [image001.jpg](#)

Thank you. That is what I thought but wanted to double check.

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Monday, November 30, 2020 12:11 PM
To: ben@agri-pulse.com
Cc: [Brian Hart](mailto:Brian.Hart@fcc.gov) <Brian.Hart@fcc.gov>; [Katie Gorscak](mailto:Katie.Gorscak@fcc.gov) <Katie.Gorscak@fcc.gov>; [Will Wiquist](mailto:Will.Wiquist@fcc.gov) <Will.Wiquist@fcc.gov>
Subject: RE: FCC STATEMENT: Chairman Pai Announces His Intent To Depart FCC

Hi Ben,

With respect to question #1, the answer is yes. He could have stayed as a Commissioner until June 30, 2021 at a minimum.

With respect to question #2, the answer is no. There are no limits on how many terms someone can be nominated and confirmed for.

From: ben@agri-pulse.com <ben@agri-pulse.com>
Sent: Monday, November 30, 2020 11:09 AM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Subject: FW: FCC STATEMENT: Chairman Pai Announces His Intent To Depart FCC

Hi Anne,

Hope you are well and had a great Thanksgiving. I just have a few clarification questions here... My deadline is ASAP.

1. Could Chairman Pai could have stayed on the commission if he wanted?
2. Are there term limits to serving as a commissioner? Would he have had to depart eventually?

Thanks,
Ben

From: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>
Sent: Monday, November 30, 2020 10:39 AM
Subject: FCC STATEMENT: Chairman Pai Announces His Intent To Depart FCC



Media Contact:

Brian Hart, (202) 418-0505

brian.hart@fcc.gov

For Immediate Release

CHAIRMAN PAI ANNOUNCES HIS INTENT TO DEPART FCC

WASHINGTON, November 30, 2020—Today, Federal Communications Commission Chairman Ajit Pai announced that he intends to leave the Federal Communications Commission on January 20, 2021. Chairman Pai issued the following statement:

“It has been the honor of a lifetime to serve at the Federal Communications Commission, including as Chairman of the FCC over the past four years. I am grateful to President Trump for giving me the opportunity to lead the agency in 2017, to President Obama for appointing me as a Commissioner in 2012, and to Senate Majority Leader McConnell and the Senate for twice confirming me. To be the first Asian-American to chair the FCC has been a particular privilege. As I often say: only in America.

“I also deeply appreciate the chance to have worked alongside the FCC’s talented staff. They are the agency’s best assets, and they have performed heroically, especially during the pandemic. It’s also been an honor to work with my fellow Commissioners to execute a strong and broad agenda. Together, we’ve delivered for the American people over the past four years: closing the digital divide; promoting innovation and competition, from 5G on the ground to broadband from space; protecting consumers; and advancing public safety. And this FCC has not shied away from making tough choices. As a result, our nation’s communications networks are now faster, stronger, and more widely deployed than ever before.

“I am proud of how productive this Commission has been, from commencing five spectrum auctions and two rural broadband reverse auctions in four years, to opening 1,245 megahertz of mid-band spectrum for unlicensed use, to adopting more than 25 orders through our Modernization of Media Regulation Initiative, to aggressively protecting our communications networks from national security threats at home and abroad, to designating 988 as the three-digit number for the National Suicide Prevention Lifeline, and much, much more. I’m also proud of the reforms we have instituted to make the agency more accountable to the American people. In particular, for the first time ever, we’ve made public drafts of the proposals and orders slated for a vote three weeks before the agency’s monthly meetings, making this the most transparent FCC in history.

“Last but not least, I want to thank my family for all they have done to enable me to serve at the agency. The public service of one generally results from the private sacrifice of many, and I’m grateful for their love and support.”

###

Office of Chairman Pai: (202) 418-1000 / Twitter: @AjitPaiFCC / www.fcc.gov/leadership/ajit-pai

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.

See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).

From: [Anne Veigle](#)
To: [Matthew Berry](#); [Ajit Pai](#); [Nicholas Degani](#)
Cc: [Brian Hart](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: RE: FCC STATEMENT: Chairman Pai Announces His Intent To Depart FCC
Date: Monday, November 30, 2020 12:12:11 PM
Attachments: [image001.jpg](#)

thanks

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Monday, November 30, 2020 12:08 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
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From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Monday, November 30, 2020 12:00 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: FW: FCC STATEMENT: Chairman Pai Announces His Intent To Depart FCC

Do we want to answer these questions? This link seems to answer the second question about commissioner term limits in the leadership section: <https://www.fcc.gov/about-fcc/what-we-do>

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Media Contact:

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brian.hart@fcc.gov

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Office of Chairman Pai: (202) 418-1000 / Twitter: @AjitPaiFCC / www.fcc.gov/leadership/ajit-pai

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From: [Will Wiquist](#)
To: [Anne Veigle](#); [Brian Hart](#); [Katie Gorscak](#)
Subject: RE: FCC STATEMENT: Chairman Pai Announces His Intent To Depart FCC
Date: Monday, November 30, 2020 11:22:45 AM
Attachments: [image001.jpg](#)

(b) (5)

[Redacted content]

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Monday, November 30, 2020 11:14 AM
To: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: FW: FCC STATEMENT: Chairman Pai Announces His Intent To Depart FCC

Can we answer these? His term is a public record. <https://www.fcc.gov/general/commissioners-1934-present>

From: ben@agri-pulse.com <ben@agri-pulse.com>
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For Immediate Release**CHAIRMAN PAI ANNOUNCES HIS INTENT TO DEPART FCC**

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“It has been the honor of a lifetime to serve at the Federal Communications Commission, including as Chairman of the FCC over the past four years. I am grateful to President Trump for giving me the opportunity to lead the agency in 2017, to President Obama for appointing me as a Commissioner in 2012, and to Senate Majority Leader McConnell and the Senate for twice confirming me. To be the first Asian-American to chair the FCC has been a particular privilege. As I often say: only in America.

“I also deeply appreciate the chance to have worked alongside the FCC’s talented staff. They are the agency’s best assets, and they have performed heroically, especially during the pandemic. It’s also been an honor to work with my fellow Commissioners to execute a strong and broad agenda. Together, we’ve delivered for the American people over the past four years: closing the digital divide; promoting innovation and competition, from 5G on the ground to broadband from space; protecting consumers; and advancing public safety. And this FCC has not shied away from making tough choices. As a result, our nation’s communications networks are now faster, stronger, and more widely deployed than ever before.

“I am proud of how productive this Commission has been, from commencing five spectrum auctions and two rural broadband reverse auctions in four years, to opening 1,245 megahertz of mid-band spectrum for unlicensed use, to adopting more than 25 orders through our Modernization of Media Regulation Initiative, to aggressively protecting our communications networks from national security threats at home and abroad, to designating 988 as the three-digit number for the National Suicide Prevention Lifeline, and much, much more. I’m also proud of the reforms we have instituted to make the agency more accountable to the American people. In particular, for the first time ever, we’ve made public drafts of the proposals and orders slated for a vote three weeks before the agency’s monthly meetings, making this the most transparent FCC in history.

“Last but not least, I want to thank my family for all they have done to enable me to serve at the agency. The public service of one generally results from the private sacrifice of many, and I’m grateful for their love and support.”

###

Office of Chairman Pai: (202) 418-1000 / Twitter: @AjitPaiFCC / www.fcc.gov/leadership/ajit-pai

*This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.
See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).*

From: [Make, Jonathan](#)
To: [Brian Hart](#); [Anne Veigle](#); [Katie Gorscak](#); [Will Wiquist](#)
Subject: Re: FCC STATEMENT: Chairman Pai Announces His Intent To Depart FCC
Date: Monday, November 30, 2020 10:44:25 AM
Attachments: [image002.jpg](#)

Hi everyone.

We are writing a little bulletin on this now and then we will have a story in our regular issue.

We have a few questions. Would the chairman like to speak with us in an interview today about his plans following the FCC?

We had a few other questions, but if there will not be any on the record comment or answers, we will hold off on asking them.

Thank you.

On Nov 30, 2020, at 10:37 AM, FCC Office of Media Relations
<FCCOfficeofMediaRelations@fcc.gov> wrote:

<image002.jpg>

Media Contact:
Brian Hart, (202) 418-0505
brian.hart@fcc.gov

For Immediate Release

CHAIRMAN PAI ANNOUNCES HIS INTENT TO DEPART FCC

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“I also deeply appreciate the chance to have worked alongside the FCC’s talented staff. They are the agency’s best assets, and they have performed heroically, especially during the pandemic. It’s also been an honor to work with my fellow

Commissioners to execute a strong and broad agenda. Together, we've delivered for the American people over the past four years: closing the digital divide; promoting innovation and competition, from 5G on the ground to broadband from space; protecting consumers; and advancing public safety. And this FCC has not shied away from making tough choices. As a result, our nation's communications networks are now faster, stronger, and more widely deployed than ever before.

"I am proud of how productive this Commission has been, from commencing five spectrum auctions and two rural broadband reverse auctions in four years, to opening 1,245 megahertz of mid-band spectrum for unlicensed use, to adopting more than 25 orders through our Modernization of Media Regulation Initiative, to aggressively protecting our communications networks from national security threats at home and abroad, to designating 988 as the three-digit number for the National Suicide Prevention Lifeline, and much, much more. I'm also proud of the reforms we have instituted to make the agency more accountable to the American people. In particular, for the first time ever, we've made public drafts of the proposals and orders slated for a vote three weeks before the agency's monthly meetings, making this the most transparent FCC in history.

"Last but not least, I want to thank my family for all they have done to enable me to serve at the agency. The public service of one generally results from the private sacrifice of many, and I'm grateful for their love and support."

###

Office of Chairman Pai: (202) 418-1000 / Twitter: @AjitPaiFCC / www.fcc.gov/leadership/ajit-pai

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From: [Brian Hart](#)
To: [Katie Gorscak](#)
Subject: Re: For your review
Date: Friday, September 25, 2020 12:03:50 PM
Attachments: [2-2020-09 Open Meeting - September Press Prep draft - 0925.docx](#)

(b) (5)



A large black rectangular redaction box covers the majority of the first paragraph. The text "(b) (5)" is written in red at the top left corner of this redacted area.

From: Katie Gorscak <Katie.Gorscak@fcc.gov>
Sent: Friday, September 25, 2020 11:09:50 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: For your review

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [Brian Hart](#)
To: [Matthew Berry](#); [Nicholas Degani](#); [Ajit Pai](#)
Subject: Re: Fox Business digital inquiry
Date: Tuesday, November 10, 2020 1:26:31 PM

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Tuesday, November 10, 2020 1:24:36 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: Fw: Fox Business digital inquiry

From: Conklin, Audrey <Audrey.Conklin@FOXNEWS.COM>
Sent: Tuesday, November 10, 2020 9:32 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Fox Business digital inquiry

Hi, Chairman Pai,

I'm a digital reporter for Fox Business wondering if you might be available for a phone interview regarding President-Elect Biden's prospective plans to regulate Big Tech. His campaign hasn't gotten back to me, so I haven't heard directly from them regarding his plans to regulate Big Tech but have read reports like [this one](#) from the NY Times and wanted to ask your thoughts on the following:

- Is there a chance Biden could pursue antitrust investigations into Facebook, Amazon and Apple?
- Could Biden potentially revoke Section 230? How would his approach be different than Trump's?
- Do you think he could reimplement "net neutrality"?

Please let me know! Thank you for your time.

Audrey Conklin
Digital Reporter
Fox Business
203-721-4193

This message and its attachments may contain legally privileged or confidential information. It is intended solely for the named addressee. If you are not the addressee indicated in this message (or responsible for delivery of the message to the addressee), you may not copy or deliver this message or its attachments to anyone. Rather, you should permanently delete this message and its attachments and kindly notify the sender by reply e-mail. Any content of this message and its attachments that does not relate to the official business of Fox News or Fox Business must not be taken to have been sent or endorsed by either of them. No representation is made that this email or its attachments are without defect.

From: [Brian Hart](#)
To: [Holowka, Kristen](#)
Subject: Re: Fox News Channel- Chairman Pai media request
Date: Thursday, October 15, 2020 4:21:36 PM

Hey Kristen. It looks like he's all booked up tomorrow with speeches and meetings...let me know if you'd like to try for next week.

Brian

From: Holowka, Kristen <kristen.holowka@FOXNEWS.COM>
Sent: Thursday, October 15, 2020 2:49 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Fox News Channel- Chairman Pai media request

Hi Brian,

Reaching out to see if Chairman Pai is available to join our show during the 4pm ET hour tomorrow, 10/16 to discuss clarification over Section 230 of the Communications Act.

Please let me know if we can make something work.

Kind regards,

Kristen Holowka
Fox News Channel
Booker, "Your World with Neil Cavuto"
Office: [\(212\) 301-5946](tel:2123015946)
Cell: [\(917\) 274-9006](tel:9172749006)

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From: [Will Wiquist](#)
To: [Turner, Gillian](#)
Cc: [Brian Hart](#)
Subject: RE: Fox News Request
Date: Friday, October 16, 2020 9:30:34 AM

Thanks. That's good to know.

-----Original Message-----

From: Turner, Gillian <Gillian.Turner@FOXNEWS.COM>
Sent: Thursday, October 15, 2020 6:16 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: RE: Fox News Request

Hi Will -- thanks for the very speedy reply, I appreciate it. If you decide to do an interview at some point I'll be anchoring our weekend news coverage from DC this weekend and would love to have him on one on one anytime Saturday between 12-2pm or Sunday 1-2pm. Thanks!

-----Original Message-----

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Thursday, October 15, 2020 5:41 PM
To: Turner, Gillian <Gillian.Turner@FOXNEWS.COM>
Cc: Richardson, Grace <Grace.Richardson@FOXNEWS.COM>; Anne Veigle <Anne.Veigle@fcc.gov>
Subject: [EXTERNAL] RE: Fox News Request

Gillian - thanks for the invitation. We'll decline at this time but we really appreciate it.

-Will

-----Original Message-----

From: Turner, Gillian <Gillian.Turner@FOXNEWS.COM>
Sent: Thursday, October 15, 2020 5:03 PM
To: MediaRelations <MediaRelations@fcc.gov>
Cc: Richardson, Grace <Grace.Richardson@FOXNEWS.COM>
Subject: Fox News Request

Hi there, Gillian Turner here with Fox News Channel— I'd like to interview Chairman Pai for our prime time show in the 11pm hour this evening— Is he available between now and then for a five minute on camera interview from wherever he is?

I'm covering his statement this evening about Section 230 and would like to ask him about the statute, what it covers, and why there are calls for revision

Please let us know and thanks for your consideration

Best,
Gillian Turner
917.434.6330

Sent from my iPhone

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message to the addressee), you may not copy or deliver this message or its attachments to anyone. Rather, you should permanently delete this message and its attachments and kindly notify the sender by reply e-mail. Any content of this message and its attachments that does not relate to the official business of Fox News or Fox Business must not be taken to have been sent or endorsed by either of them. No representation is made that this email or its attachments are without defect.

From: [Evan Swarztrauber](#)
To: [Brian Hart](#); [Anne Veigle](#)
Subject: Re: Getting Chairman Pad back on
Date: Thursday, November 12, 2020 2:05:58 PM

(b) (5)

Evan Swarztrauber

Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Sent: Thursday, November 12, 2020 10:56 AM
To: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Re: Getting Chairman Pad back on

(b) (5)

Evan Swarztrauber

Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Thursday, November 12, 2020 10:51 AM
To: Anne Veigle <Anne.Veigle@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: RE: Getting Chairman Pad back on

(b) (5)

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Thursday, November 12, 2020 10:42 AM
To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>

Subject: RE: Getting Chairman Pad back on

(b) (5)

From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Sent: Thursday, November 12, 2020 9:28 AM

To: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>

Subject: Fw: Getting Chairman Pad back on

(b) (5)

Evan Swarztrauber

Policy Advisor

Office of Chairman Ajit Pai

Federal Communications Commission

(202) 418-2261 (o)

(202) 870-8405 (m)

Twitter: @EvanS_FCC

From: Daniel Susskind <daniel.a.susskind@gmail.com>

Sent: Wednesday, November 11, 2020 2:33 PM

To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Getting Chairman Pad back on

Hey Evan, how are you?

Would Chairman Pai be able to come back on with Carrie early next week to discuss:

<https://arstechnica.com/tech-policy/2020/11/ajit-pai-urged-to-accept-trump-loss-and-stop-controversial-rulemakings/>

The show is 9-10 am and we can be quite flexible on what day.

Dan Susskind

From: [Brian Hart](#)
To: [Ajit Pai](#)
Subject: Re: Hi Ajit - John Roberts at Fox here
Date: Thursday, October 15, 2020 4:16:03 PM

done

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Thursday, October 15, 2020 3:53 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Fw: Hi Ajit - John Roberts at Fox here

From: Roberts, John <John.roberts@FOXNEWS.COM>
Sent: Thursday, October 15, 2020 3:37 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Hi Ajit - John Roberts at Fox here

I see you are making moves regarding Section 230. Do you have specifics? Thanks - hope you are well..

John Roberts
Chief White House Correspondent
Fox News Channel
+1 202-365-2550
@johnrobertsfox

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From: [Brian Hart](#)
To: [Will Wiquist](#); [Katie Gorscak](#); [Anne Veigle](#)
Subject: Re: Hot Topics/Grab Bag
Date: Wednesday, October 21, 2020 4:58:01 PM
Attachments: [2020-10 Open Meeting - October Press Prep Draft - BH.docx](#)

(b) (5)



From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Wednesday, October 21, 2020 12:04:44 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: Hot Topics/Grab Bag

(b) (5)



From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Wednesday, October 21, 2020 12:04 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: Hot Topics/Grab Bag

(b) (5)




From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Wednesday, October 21, 2020 12:02 PM
To: Katie Gorscak <Katie.Gorscak@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: RE: Hot Topics/Grab Bag

(b) (5)



From: Katie Gorscak <Katie.Gorscak@fcc.gov>
Sent: Wednesday, October 21, 2020 11:16 AM
To: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Hot Topics/Grab Bag

(b) (5)



(b) (5)

[Redacted]

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [Matthew Berry](#)
To: [Brian Hart](#); [Ajit Pai](#); [Nicholas Degani](#); [Evan Swarztrauber](#)
Subject: Re: In case this lands on your plate
Date: Tuesday, November 10, 2020 9:39:00 AM

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Tuesday, November 10, 2020 9:38 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: In case this lands on your plate

Also, Newsweek has asked for comment.

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Tuesday, November 10, 2020 9:37 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Fw: In case this lands on your plate

FYI

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Tuesday, November 10, 2020 9:17 AM
To: Eduard Bartholme <Eduard.Bartholme@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Cc: Michael Snyder <Michael.Snyder@fcc.gov>
Subject: RE: In case this lands on your plate

+Brian
Thanks for the alert.

From: Eduard Bartholme <Eduard.Bartholme@fcc.gov>
Sent: Tuesday, November 10, 2020 9:01 AM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Cc: Michael Snyder <Michael.Snyder@fcc.gov>
Subject: In case this lands on your plate

We received 500 complaints overnight and about 50 more in the last 20 minutes. Almost every call this morning has been to file a complaint on this topic.

<https://www.newsweek.com/trump-supporters-encouraged-send-complaints-fcc-networks-calling-biden-president-elect-1546204>

Let me know if you have any approved language, or if something gets developed.

Ed

From: [Sean Moran](#)
To: [Brian Hart](#)
Subject: Re: Interview request -- Breitbart News
Date: Thursday, October 15, 2020 5:08:59 PM

No worries, Brian, let's touch base when you guys have an idea on how to move forward.

All is well, my girlfriend and I got a yellow lab puppy so that has been a fun distraction from work. How about you?

Sean

Sent from my iPhone

On Oct 15, 2020, at 4:48 PM, Brian Hart <Brian.Hart@fcc.gov> wrote:

Hey Sean. He's not doing interviews immediately while we shake out next steps on our end. But I am sure we'll be back out there again soon. Let's keep in touch.

I hope COVID times are not bothering you and yours too much?

From: Sean Moran <smoran@breitbart.com>
Sent: Thursday, October 15, 2020 3:10 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Interview request -- Breitbart News

Hey Brian, hope all is well. Big news today with the chairman's announcement. What do you think of an interview with the chairman about his decision to move forward with a provision on clarifying Section 230? We can schedule when convenient, either in person, or over the phone. Happy to discuss details on how to make this work if interested.

Best,

Sean Moran
Policy Reporter
Breitbart News

From: [Alicia Hesse](#)
To: [Brian Hart](#)
Subject: RE: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020
Date: Tuesday, October 20, 2020 1:24:46 PM

Thanks for circling back. Any other night this week in the 7p ET live hour or pre-taped at 6:15p ET would be fantastic! Let me know how I can work with your scheduling needs.

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Tuesday, October 20, 2020 1:23 PM
To: Alicia Hesse <AliciaH@newsmax.com>
Subject: Re: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020

Hey Alicia. I haven't yet heard back from commissioner Carr about later this week. And I don't have anybody else in the commission that I can recommend at this point. I'll keep trying, but I don't think I'm going to be able to find anybody for tonight.

From: Alicia Hesse <AliciaH@newsmax.com>
Sent: Tuesday, October 20, 2020 12:30:33 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020

(201) 572-1273

From: Alicia Hesse
Sent: Monday, October 19, 2020 8:06 PM
To: 'Brian Hart' <Brian.Hart@fcc.gov>
Subject: RE: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020

Is there anyone else who might be available tomorrow? Or would Commissioner Carr be available another day this week?

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Monday, October 19, 2020 7:55 PM
To: Alicia Hesse <AliciaH@newsmax.com>
Subject: Re: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020

Apologies Alicia. Commissioner Carr is unavailable as well.

From: Alicia Hesse <AliciaH@newsmax.com>
Sent: Monday, October 19, 2020 7:20 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020

Yes absolutely! Is he available at approx 7:15 or 7:25p ET tomorrow night?

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Monday, October 19, 2020 7:18 PM
To: Alicia Hesse <AliciaH@newsmax.com>
Subject: Fw: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020

Hello Alicia. Unfortunately, the chairman can't make that work tomorrow night. would you be interested in having Commissioner Brendan Carr on to discuss this? He's been really active on this topic.

From: Alicia Hesse <AliciaH@newsmax.com>
Sent: Monday, October 19, 2020 6:43 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020

Dear Commissioner Pai,

My name is Alicia and I'm the booking producer for Greg Kelly Reports on Newsmax. **We would like to invite you to interview with Greg on Newsmax tomorrow night at approx. 7:15p ET** to discuss where you are with the evaluation of Section 230 and the standards for how tech companies choose to censor or allow content. This would be 6-7 minutes, live on TV via Skype, Zoom, or satellite. WE can also accommodate a pre-taped interview at approx. 6:15p ET, or possibly earlier in the day if you let me know a time that best suits your schedule. Feel free to text/call me if you would like to discuss further. My cell is (201) 572-1273

Greg Kelly Reports is the highest rated show on Newsmax and our loyal viewership continues to rapidly grow each week – in fact, our viewership has more than doubled in the past two months alone. Greg, being a lieutenant colonel in the U.S. Marine Corps Reserves and the son of former NYC Police Commissioner Raymond Kelly, finds police and military issues near and dear to his heart. He is a conservative-leaning opinion host, unafraid to call out the mainstream media, and unabashedly pro-Trump. To get a taste of what the show is all about, below are a few clips – *and you'll notice that unlike most cable news shows, Greg actually gives guests a chance to delve into the issues.*

- President Trump (Aired last Wednesday):
<https://twitter.com/newsmax/status/1316522040489324544?s=20>
- Sec. Pompeo <https://www.youtube.com/watch?v=FWowUnxBsps>
- Greg's prayer for President Trump
<https://twitter.com/newsmax/status/1312189958166282242?s=20>

Newsmax TV is drawing in a powerful and unique audience as more Americans grow tired of listening to the same stuffy media giants. We are carried in almost **70 million** U.S. cable/satellite homes, and in over **150 million** OTT devices and platforms (not served by Fox). In fact, Nielsen

reports **6 million** viewers watched Newsmax TV that did not watch Fox News Channel in August 2020. Here is a list of stations you can find us on based on cable providers that includes every state in the country: <https://newsmaxtv.com/findus> You can always catch us live streaming on NewsmaxTV.com as well.

Warmly,

Alicia Hesse

Booking Producer, Newsmax

Cell: (201) 572-1273

From: [Alicia Hesse](#)
To: [Brian Hart](#)
Subject: RE: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020
Date: Tuesday, October 20, 2020 12:30:32 PM

Following up to see how things are looking for tonight. Give me a call if that's easier. Thank you!

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Monday, October 19, 2020 8:19 PM
To: Alicia Hesse <AliciaH@newsmax.com>
Subject: Re: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020

I'll check and get back to you tomorrow.

From: Alicia Hesse <AliciaH@newsmax.com>
Sent: Monday, October 19, 2020 8:05 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020

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Hello Alicia. Unfortunately, the chairman can't make that work tomorrow night. would you be interested in having Commissioner Brendan Carr on to discuss this? He's been really active on this topic.

From: Alicia Hesse <AliciaH@newsmax.com>

Sent: Monday, October 19, 2020 6:43 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>

Subject: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020

Dear Commissioner Pai,

My name is Alicia and I'm the booking producer for Greg Kelly Reports on Newsmax. **We would like to invite you to interview with Greg on Newsmax tomorrow night at approx. 7:15p ET** to discuss where you are with the evaluation of Section 230 and the standards for how tech companies choose to censor or allow content. This would be 6-7 minutes, live on TV via Skype, Zoom, or satellite. WE can also accommodate a pre-taped interview at approx. 6:15p ET, or possibly earlier in the day if you let me know a time that best suits your schedule. Feel free to text/call me if you would like to discuss further. My cell is (201) 572-1273

Greg Kelly Reports is the highest rated show on Newsmax and our loyal viewership continues to rapidly grow each week – in fact, our viewership has more than doubled in the past two months alone. Greg, being a lieutenant colonel in the U.S. Marine Corps Reserves and the son of former NYC Police Commissioner Raymond Kelly, finds police and military issues near and dear to his heart. He is a conservative-leaning opinion host, unafraid to call out the mainstream media, and unabashedly pro-Trump. To get a taste of what the show is all about, below are a few clips – *and you'll notice that unlike most cable news shows, Greg actually gives guests a chance to delve into the issues.*

- President Trump (Aired last Wednesday):
<https://twitter.com/newsmax/status/1316522040489324544?s=20>
- Sec. Pompeo <https://www.youtube.com/watch?v=FWowUnxBsps>
- Greg's prayer for President Trump
<https://twitter.com/newsmax/status/1312189958166282242?s=20>

Newsmax TV is drawing in a powerful and unique audience as more Americans grow tired of listening to the same stuffy media giants. We are carried in almost **70 million** U.S. cable/satellite homes, and in over **150 million** OTT devices and platforms (not served by Fox). In fact, Nielsen reports **6 million** viewers watched Newsmax TV that did not watch Fox News Channel in August 2020. Here is a list of stations you can find us on based on cable providers that includes every state in the country: <https://newsmaxtv.com/findus> You can always catch us live streaming on NewsmaxTV.com as well.

Warmly,

Alicia Hesse

Booking Producer, Newsmax

Cell: (201) 572-1273

From: [Brian Hart](#)
To: [Brendan Carr](#)
Subject: Re: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020
Date: Monday, October 19, 2020 8:20:13 PM

(b) (5)

From: Brendan Carr <Brendan.Carr@fcc.gov>
Sent: Monday, October 19, 2020 7:33 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Monday, October 19, 2020 7:26 PM
To: Brendan Carr <Brendan.Carr@fcc.gov>
Subject: Fw: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020

(b) (5)

From: Alicia Hesse <AliciaH@newsmax.com>
Sent: Monday, October 19, 2020 6:43 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020

Dear Commissioner Pai,

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actually gives guests a chance to delve into the issues.

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<https://twitter.com/newsmax/status/1316522040489324544?s=20>
- Sec. Pompeo <https://www.youtube.com/watch?v=FWowUnxBsps>
- Greg's prayer for President Trump
<https://twitter.com/newsmax/status/1312189958166282242?s=20>

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Warmly,

Alicia Hesse
Booking Producer, Newsmax
Cell: (201) 572-1273

From: [Brian Hart](#)
To: [Nicholas Degani](#); [Ajit Pai](#); [Matthew Berry](#)
Subject: Re: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020
Date: Monday, October 19, 2020 7:15:27 PM

(b) (5)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Monday, October 19, 2020 7:02 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>
Subject: Re: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020

(b) (5)

From: "Ajit Pai" <Ajit.Pai@fcc.gov>
Date: Monday, October 19, 2020 at 6:52:03 PM
To: "Brian Hart" <Brian.Hart@fcc.gov>, "Matthew Berry" <Matthew.Berry@fcc.gov>, "Nicholas Degani" <Nicholas.Degani@fcc.gov>
Subject: Fw: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020

(b) (5)

From: Alicia Hesse <AliciaH@newsmax.com>
Sent: Monday, October 19, 2020 6:43 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Interview with Greg Kelly on Newsmax | Tuesday Oct 20, 2020

Dear Commissioner Pai,

My name is Alicia and I'm the booking producer for Greg Kelly Reports on Newsmax. **We would like to invite you to interview with Greg on Newsmax tomorrow night at approx. 7:15p ET** to discuss where you are with the evaluation of Section 230 and the standards for how tech companies choose to censor or allow content. This would be 6-7 minutes, live on TV via Skype, Zoom, or satellite. WE can also accommodate a pre-taped interview at approx. 6:15p ET, or possibly earlier in the day if you let me know a time that best suits your schedule. Feel free to text/call me if you would like to discuss further. My cell is (201) 572-1273

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actually gives guests a chance to delve into the issues.

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<https://twitter.com/newsmax/status/1316522040489324544?s=20>
- Sec. Pompeo <https://www.youtube.com/watch?v=FWowUnxBsps>
- Greg's prayer for President Trump
<https://twitter.com/newsmax/status/1312189958166282242?s=20>

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Warmly,

Alicia Hesse
Booking Producer, Newsmax
Cell: (201) 572-1273

From: [Paul Jackson](#)
To: [Brian Hart](#)
Subject: Re: Is Tom's 230 blog supposed to go out today?
Date: Wednesday, October 21, 2020 9:59:54 AM

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Wednesday, October 21, 2020 9:59 AM
To: Paul Jackson <Paul.Jackson@fcc.gov>
Subject: Re: Is Tom's 230 blog supposed to go out today?

(b) (5)

From: Paul Jackson <Paul.Jackson@fcc.gov>
Sent: Wednesday, October 21, 2020 9:57:01 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Is Tom's 230 blog supposed to go out today?

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Wednesday, October 21, 2020 9:56 AM
To: Paul Jackson <Paul.Jackson@fcc.gov>
Subject: Re: Is Tom's 230 blog supposed to go out today?

(b) (5)

From: Paul Jackson <Paul.Jackson@fcc.gov>
Sent: Wednesday, October 21, 2020 9:54:34 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Is Tom's 230 blog supposed to go out today?

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Wednesday, October 21, 2020 9:53 AM
To: Paul Jackson <Paul.Jackson@fcc.gov>

Subject: Re: Is Tom's 230 blog supposed to go out today?

(b) (5)

A large black rectangular redaction box covers the majority of the page content below the subject line. The text "(b) (5)" is written in red at the top left of this redacted area.

From: Paul Jackson <Paul.Jackson@fcc.gov>

Sent: Wednesday, October 21, 2020 9:52:18 AM

To: Brian Hart <Brian.Hart@fcc.gov>

Subject: Is Tom's 230 blog supposed to go out today?

From: [Michael J. Carlson](#)
To: [Nicholas Degani](#); [Matthew Berry](#); [Thomas Johnson](#); [Michelle Carey](#)
Cc: [Alexander Sanjenis](#); [Ajit Pai](#); [Brian Hart](#); [Evan Swarztrauber](#); [William Richardson](#)
Subject: RE: Joe Flint of WSJ here
Date: Tuesday, November 3, 2020 12:39:07 PM

(b) (5)

[Redacted]

[Redacted]

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Tuesday, November 3, 2020 10:49 AM
To: Michael J. Carlson <Michael.Carlson@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>
Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; William Richardson <William.Richardson@fcc.gov>
Subject: RE: Joe Flint of WSJ here

(b) (5)

[Redacted]

[Redacted]

From: Michael J. Carlson <Michael.Carlson@fcc.gov>
Sent: Tuesday, November 3, 2020 11:22 AM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart

<Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; William Richardson <William.Richardson@fcc.gov>

Subject: RE: Joe Flint of WSJ here

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Tuesday, November 3, 2020 10:15 AM

To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>

Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; William Richardson <William.Richardson@fcc.gov>

Subject: Re: Joe Flint of WSJ here

(b) (5)

From: Thomas Johnson <Thomas.Johnson@fcc.gov>

Sent: Monday, November 2, 2020 4:12 PM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>

Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; William Richardson <William.Richardson@fcc.gov>

Subject: Re: Joe Flint of WSJ here

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Monday, November 2, 2020 3:39 PM
To: Michelle Carey <Michelle.Carey@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; William Richardson <William.Richardson@fcc.gov>
Subject: Re: Joe Flint of WSJ here

Thanks all!

From: Michelle Carey <Michelle.Carey@fcc.gov>
Sent: Monday, November 2, 2020 3:37 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; William Richardson <William.Richardson@fcc.gov>
Subject: RE: Joe Flint of WSJ here

(b) (5)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Monday, November 2, 2020 3:32 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; William Richardson <William.Richardson@fcc.gov>
Subject: RE: Joe Flint of WSJ here

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Monday, November 2, 2020 3:29 PM
To: Michelle Carey <Michelle.Carey@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani

<Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; William Richardson <William.Richardson@fcc.gov>

Subject: Re: Joe Flint of WSJ here

(b) (5)
[Redacted]

[Redacted]

[Redacted]

From: Michelle Carey <Michelle.Carey@fcc.gov>
Sent: Monday, November 2, 2020 3:24 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; William Richardson <William.Richardson@fcc.gov>
Subject: RE: Joe Flint of WSJ here

(b) (5)
[Redacted]

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Monday, November 2, 2020 3:03 PM
To: Michelle Carey <Michelle.Carey@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; William Richardson <William.Richardson@fcc.gov>
Subject: Re: Joe Flint of WSJ here

(b) (5)
[Redacted]

[Redacted]

Thanks!

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Monday, November 2, 2020 2:51 PM
To: Michelle Carey <Michelle.Carey@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; William Richardson <William.Richardson@fcc.gov>
Subject: Re: Joe Flint of WSJ here

(b) (5)

From: Michelle Carey <Michelle.Carey@fcc.gov>
Sent: Monday, November 2, 2020 2:30 PM
To: Michael J. Carlson <Michael.Carlson@fcc.gov>
Cc: Thomas Johnson <Thomas.Johnson@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; William Richardson <William.Richardson@fcc.gov>
Subject: Re: Joe Flint of WSJ here

(b) (5)

From: Michael J. Carlson
Sent: Monday, November 2, 2020 1:27 PM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: RE: Joe Flint of WSJ here

(b) (5)

(b) (5)

From: Michael J. Carlson

Sent: Monday, November 2, 2020 1:03 PM

To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>

Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: RE: Joe Flint of WSJ here

Thanks Tom. In that case, I'll send something in the next ten minutes. Apologies for the delay.

From: Thomas Johnson <Thomas.Johnson@fcc.gov>

Sent: Monday, November 2, 2020 1:02 PM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>

Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Re: Joe Flint of WSJ here

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Monday, November 2, 2020 1:57 PM

To: Michael J. Carlson <Michael.Carlson@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>

Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Re: Joe Flint of WSJ here

When will that be?

From: Michael J. Carlson <Michael.Carlson@fcc.gov>
Sent: Monday, November 2, 2020 1:56 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: RE: Joe Flint of WSJ here

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Monday, November 2, 2020 12:55 PM
To: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: Joe Flint of WSJ here

(b) (5)

From: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>
Sent: Monday, November 2, 2020 10:06 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Cc: Michael J. Carlson <Michael.Carlson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: Joe Flint of WSJ here

Revised PN attached. I removed the staff's phone numbers and put their emails.

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Friday, October 30, 2020 2:56 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>
Subject: Re: Joe Flint of WSJ here

OK

From: Nicholas Degani <Nicholas.Degani@fcc.gov>

Sent: Friday, October 30, 2020 2:52 PM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>

Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>

Subject: RE: Joe Flint of WSJ here

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Friday, October 30, 2020 2:39 PM

To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>

Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>

Subject: Re: Joe Flint of WSJ here

(b) (5)

[Redacted]

[Redacted]

[Redacted]

From: Thomas Johnson <Thomas.Johnson@fcc.gov>

Sent: Friday, October 30, 2020 12:37 PM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>

Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael J. Carlson <Michael.Carlson@fcc.gov>

Subject: Re: Joe Flint of WSJ here

(b) (5)

(b) (5) [Redacted]

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Friday, October 30, 2020 12:08 PM
To: Michelle Carey <Michelle.Carey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>
Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>
Subject: Re: Joe Flint of WSJ here

(b) (5) [Redacted]

From: Michelle Carey <Michelle.Carey@fcc.gov>
Sent: Friday, October 30, 2020 12:04 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>
Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>
Subject: Fwd: Joe Flint of WSJ here

(b) (5) [Redacted]

Sent from my iPhone

Begin forwarded message:

From: Gary Schonman <Gary.Schonman@fcc.gov>
Date: October 30, 2020 at 10:45:41 AM EDT
To: Michelle Carey <Michelle.Carey@fcc.gov>
Cc: Maria Mullarkey <Maria.Mullarkey@fcc.gov>, Hillary DeNigro <Hillary.DeNigro@fcc.gov>, Robert Baker <Robert.Baker@fcc.gov>, Sima Nilsson <Sima.Nilsson@fcc.gov>, Janice Wise <Janice.Wise@fcc.gov>
Subject: FW: Joe Flint of WSJ here

(b) (5) [Redacted]

[Redacted]

Gary

Gary Schonman
Special Counsel
Political Programming Staff
Policy Division, Media Bureau
Federal Communications Commission
Washington, DC 20554
(Office) 202-418-1795
(Mobile) 202-239-9702

-----Original Message-----

From: Janice Wise <Janice.Wise@fcc.gov>
Sent: Friday, October 30, 2020 10:07 AM
To: Robert Baker <Robert.Baker@fcc.gov>; Gary Schonman <Gary.Schonman@fcc.gov>; Sima Nilsson <Sima.Nilsson@fcc.gov>
Subject: FW: Joe Flint of WSJ here

(b) (5)

A large black rectangular redaction box covers the majority of the text in this section. The text "(b) (5)" is visible at the top left of the redacted area.

-----Original Message-----

From: Flint, Joseph <joe.flint@wsj.com>
Sent: Friday, October 30, 2020 10:00 AM
To: Janice Wise <Janice.Wise@fcc.gov>
Subject: Re: Joe Flint of WSJ here

Admittedly this is a bit of a hypothetical. If one or both candidates contest the results and they and or third party groups want to run ads challenging the election, do those count as political spots. If a Trump or Biden campaign buys a spot saying, keep counting in PA or something like that, is it considered a candidate's ad that can't be censored and must be given air time (at lowest unit rate)? Or since the election is over, it will be up to the broadcaster to decide whether to carry such a spot.

Third party ads as I understand it can be fact checked and rejected.

I know some broadcasters are already asking about this and while we're in uncharted territory, I assume the FCC has an an answer or guideline on this scenario.

Thanks much.

On Fri, Oct 30, 2020 at 6:53 AM Janice Wise <Janice.Wise@fcc.gov> wrote:

It has been a long time, Joe. Send me a list of your questions and I will get back to you.

Stay well.

-----Original Message-----

From: Flint, Joseph <joe.flint@wsj.com>

Sent: Friday, October 30, 2020 9:50 AM

To: Janice Wise <Janice.Wise@fcc.gov>

Subject: Joe Flint of WSJ here

Hi Janice,

Long time no chat. Hope you're well.

Have some political advertising questions that I thought you might be able to help on or hook me up with Bobby Baker.

My phone is 646-232-7260.

--

Joe Flint

STAFF REPORTER

M: 646-232-7260 O: 323-591-6507

E: Joe.Flint@WSJ.com

T: @JBFlint

A: 5900 Wilshire Blvd., Los Angeles, CA 90036

--

Joe Flint

STAFF REPORTER

M: 646-232-7260 O: 323-591-6507

E: Joe.Flint@WSJ.com

T: @JBFlint

A: 5900 Wilshire Blvd., Los Angeles, CA 90036

From: [Brian Hart](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Evan Swarztrauber](#)
Subject: Re: MARK LEVIN RADIO?
Date: Friday, October 16, 2020 5:15:57 PM

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Friday, October 16, 2020 3:53:04 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: MARK LEVIN RADIO?

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Friday, October 16, 2020 3:52 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: MARK LEVIN RADIO?

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Friday, October 16, 2020 3:41 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Fwd: MARK LEVIN RADIO?

(b) (5)

From: "Richard Sementa" <Richard.Sementa@cumulus.com>
Date: Friday, October 16, 2020 at 3:38:22 PM
To: "Matthew Berry" <Matthew.Berry@fcc.gov>, "Brian Hart" <Brian.Hart@fcc.gov>, "Lori Alexiou" <Lori.Alexiou@fcc.gov>
Cc: "Ajit Pai" <Ajit.Pai@fcc.gov>
Subject: MARK LEVIN RADIO?

Good afternoon

Is Ajit Pai available tonight at either 6:30 or 7:30 pm eastern to discuss Section 230, facebook and twitter? It would be by phone for about 10 minutes.

Thanks!

Richard Sementa
Executive Producer, The Mark Levin Show | Westwood One
O: 212-613-3840

2 Penn Plaza, 17th Floor □NY, NY 10121
westwoodone.com □marklevinshow.com

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From: [Brian Hart](#)
To: [Richard Sementa](#)
Subject: Re: MARK LEVIN RADIO?
Date: Friday, October 16, 2020 3:57:16 PM

Hey there Richard. Unfortunately, Chairman Pai can't make those times work. Would you be interested in talking with FCC Commissioner Carr? I'm happy to connect you with him.

From: Richard Sementa <Richard.Sementa@cumulus.com>
Sent: Friday, October 16, 2020 3:38 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Lori Alexiou <Lori.Alexiou@fcc.gov>
Cc: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: MARK LEVIN RADIO?

Good afternoon

Is Ajit Pai available tonight at either 6:30 or 7:30 pm eastern to discuss Section 230, facebook and twitter? It would be by phone for about 10 minutes.

Thanks!

Richard Sementa

Executive Producer, The Mark Levin Show | Westwood One

O: 212-613-3840

2 Penn Plaza, 17th Floor □NY, NY 10121

westwoodone.com □marklevinshow.com

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From: [Brian Hart](#)
To: sara.morrison@recode.net
Subject: Re: media inquiry: Section 230
Date: Thursday, October 15, 2020 5:51:56 PM

Hi Sara:

We don't have anything to add at this point beyond the chairman's statement.

Brian

From: Sara Morrison <sara.morrison@recode.net>
Sent: Thursday, October 15, 2020 5:27 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: media inquiry: Section 230

Hi Brian,

I'm writing about Chairman Pai's statement about Section 230 today. I was wondering how the FCC has the legal authority to interpret Section 230, as the General Counsel claimed -- where is that in the law?

As I'm sure you know, Section 230's co-authors are on record now and back in 1995 saying that the FCC was intentionally not given this authority, and I believe the law has been around for 25 or so years without FCC intervention (until now).

Thanks,
Sara

--

Sara Morrison • Reporter, Open Sourced
Work: (212) 508-0748



Follow Recode on Twitter Facebook

From: [Brian Hart](#)
To: [Thomas Johnson](#)
Subject: Re: media inquiry: Section 230
Date: Saturday, October 17, 2020 11:59:43 AM

(b) (5)

From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Saturday, October 17, 2020 9:52:29 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Fw: media inquiry: Section 230

(b) (5)

From: Sara Morrison <sara.morrison@recode.net>
Sent: Thursday, October 15, 2020 8:05 PM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>
Subject: media inquiry: Section 230

Hi Thomas,

I saw that Chairman Pai said the FCC's general counsel said the FCC has the legal authority to interpret Section 230. I believe you are the General Counsel here, so I was wondering how you came up with this? The co-authors of the law have said -- then and now -- that the law was intentionally written not to give the FCC this authority, and I don't think the agency has ever attempted to claim it in the 25 years Section 230 has been on the books.

Thanks,
Sara

--

Sara Morrison • Reporter, Open Sourced
Work: (212) 508-0748



Follow Recode on Twitter Facebook

From: [Will Wiquist](#)
To: [Make, Jonathan](#); [Anne Veigle](#); [Brian Hart](#); [Katie Gorscak](#)
Cc: hbuskirk@warren-news.com; mdaneman@warren-news.com
Subject: RE: media Q
Date: Tuesday, November 10, 2020 4:35:52 PM

+Howard and Matt as they also asked.

No comment

From: Make, Jonathan <jmake@warren-news.com>
Sent: Tuesday, November 10, 2020 4:23 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: media Q

Hi FCC PR –

Just checking in case there is any on the record comment re the letter below? We are writing a news bulletin with a 4:30P deadline. Our regular story has a 5P deadline.

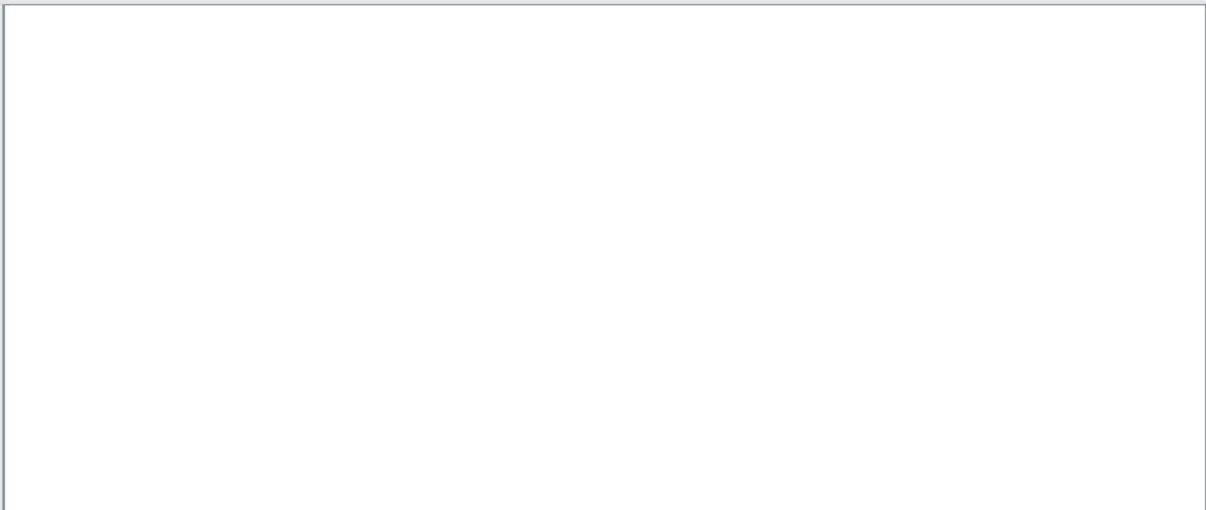
Does the FCC intend to honor this request?

I've also tried a few of you by phone.

Thank you.

Jonathan

From: Energy & Commerce News [<mailto:ecdemnews@ecdem.housecommunications.gov>]
Sent: Tuesday, November 10, 2020 3:18 PM
To: Make, Jonathan
Subject: E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results





FOR IMMEDIATE RELEASE

November 10, 2020

CONTACT

[Elvsa Montfort](#) (202) 225-5735

E&C Leaders Demand Trump FCC and FTC Stop Work on Controversial Items in Light of Election Results

Washington, D.C. – Energy and Commerce Committee leaders today wrote to Federal Communications Commission (FCC) Chairman Ajit Pai and Federal Trade Commission (FTC) Chairman Joseph Simons demanding that the two commissions stop work on all partisan or controversial items currently under consideration in light of the results of last week’s presidential election.

“With the results of the 2020 presidential election now apparent, leadership of the FTC will undoubtedly be changing,” Energy and Commerce Committee Chairman Frank Pallone, Jr. (D-NJ) and Consumer Protection and Commerce Subcommittee Chair Jan Schakowsky (D-IL) wrote in a letter to the FTC. **“As a traditional part of the transfer of power — and as part of our oversight responsibilities**

— we strongly urge the agency to only pursue consensus and administrative matters that are non-partisan for the remainder of your tenure.”

Pallone and Communications and Technology Subcommittee Chairman Mike Doyle (D-PA) expressed the same sentiment in their letter to the FCC, adding: “**We note that you have previously welcomed calls from congressional leaders for the FCC to ‘halt further action on controversial items during the transition period.’ We hope you will respect this time-honored tradition now.**”

In both letters, the Committee leaders acknowledge there are likely a number of consensus matters for the two commissions to carry out and the lawmakers encourage them to do so quickly.

The letter to FTC is available [HERE](#) and the letter to FCC is available [HERE](#).

###

energycommerce.house.gov | [Twitter](#) | [Facebook](#) | [Instagram](#) | [YouTube](#) | [Flickr](#)

Energy & Commerce Democrats | 2125 Rayburn HOB, Washington, DC 20515 | 2125 Rayburn HOB, Washington, DC 20003

[Unsubscribe jmake@warren-news.com](mailto:jmake@warren-news.com)

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Sent by ecdemnews@ecdem.housecommunications.gov powered by



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From: [Brian Hart](#)
To: [Henry Kenyon](#)
Subject: Re: Media Query Re: Chairman Pai's Comment on Section 230
Date: Monday, October 19, 2020 1:26:38 PM

Hey Henry. We don't have anything beyond the Chairman's statement at this point.

From: Henry Kenyon <henry.kenyon@fiscalnote.com>
Sent: Monday, October 19, 2020 1:12 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Media Query Re: Chairman Pai's Comment on Section 230

Mr. Hart:

I've got a few questions about Chairman Pai's statement on Section 230.

First, is the FCC considering investigating Section 230? Exactly what is the FCC's authority in this matter and what can it do from a regulatory perspective?

If the FCC is considering an inquiry of some sort, is there a timetable?

Respectfully,

Henry Kenyon
Data Privacy Reporter/Analyst
Congressional Quarterly/Roll Call
M: 571-338-8500

From: [Todd Shields \(BLOOMBERG/ NEWSROOM:\)](#)
To: [Anne Veigle](#)
Cc: [Will Wiquist](#); [Brian Hart](#); [Katie Gorscak](#)
Subject: RE: Mr. Pai doing White House bidding on Section 230?
Date: Thursday, October 15, 2020 5:36:28 PM

thank you

Todd Shields
Bloomberg News reporter - Washington
(202-807-2075 (office)
-- www.bloomberg.net --
@TShields

From: Anne.Veigle@fcc.gov At: 10/15/20 17:17:34
To: [Todd Shields \(BLOOMBERG/ NEWSROOM: \)](#)
Cc: [Will.Wiquist@fcc.gov](#), [Brian.Hart@fcc.gov](#), [Katie.Gorscak@fcc.gov](#)
Subject: RE: Mr. Pai doing White House bidding on Section 230?

We have nothing further to add at this time.

From: Todd Shields (BLOOMBERG NEWSROOM: @tshields@bloomberg.net)
Sent: Thursday, October 15, 2020 5:10 PM
To: Will Wiquist; Will.Wiquist@fcc.gov; Anne Veigle; Anne.Veigle@fcc.gov; Brian Hart; Brian.Hart@fcc.gov
Subject: Mr. Pai doing White House bidding on Section 230?

that's what folks are saying to me. Any reaction to that? Has the White House reached out regarding Section 230?

thanks/ts

Todd Shields / reporter / Bloomberg News / (202) 807-2075 or cell (443) 223-6008

Todd Shields
Bloomberg News reporter - Washington
(202-807-2075 (office)
-- www.bloomberg.net --
@TShields

@TShields -- Covering voting, USPS, tech, FCC -- (202-807-2075)

<< @TShields3 -- Covering voting, USPS, tech, FCC -- (202) 807-2075 >>

From: [Katie Gorscak](#)
To: [Sean Spivey](#); [Alexander Sanjenis](#); [Michael Carowitz](#); [Allison Baker](#); [Preston Wise](#); [Zenji Nakazawa](#)
Cc: [Brian Hart](#); [Anne Veigle](#); [Will Wiquist](#); [Matthew Berry](#); [Nicholas Degani](#)
Subject: Re: November Press Prep
Date: Monday, November 16, 2020 2:30:05 PM

Thanks, Sean. Appreciate it.

From: Sean Spivey <Sean.Spivey@fcc.gov>
Sent: Monday, November 16, 2020 1:52 PM
To: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: RE: November Press Prep

Edits from me in the attached. I also tried to merge in Allison's edits (since the chain seemed to diverge a bit this AM).

Sean

From: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>
Sent: Monday, November 16, 2020 1:18 PM
To: Michael Carowitz <Michael.Carowitz@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: RE: November Press Prep

Edits attached.

From: Alexander Sanjenis
Sent: Monday, November 16, 2020 1:12 PM
To: Michael Carowitz <Michael.Carowitz@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: RE: November Press Prep

I'm going into the document now.

From: Michael Carowitz <Michael.Carowitz@fcc.gov>
Sent: Monday, November 16, 2020 12:25 PM
To: Allison Baker <Allison.Baker@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: Re: November Press Prep

(b) (5)

From: "Allison Baker" <Allison.Baker@fcc.gov>
Date: Monday, November 16, 2020 at 11:39:55 AM
To: "Katie Gorscak" <Katie.Gorscak@fcc.gov>, "Michael Carowitz" <Michael.Carowitz@fcc.gov>, "Preston Wise" <Preston.Wise@fcc.gov>, "Zenji Nakazawa" <Zenji.Nakazawa@fcc.gov>, "Alexander Sanjenis" <Alexander.Sanjenis@fcc.gov>, "Sean Spivey" <Sean.Spivey@fcc.gov>
Cc: "Brian Hart" <Brian.Hart@fcc.gov>, "Anne Veigle" <Anne.Veigle@fcc.gov>, "Will Wiquist" <Will.Wiquist@fcc.gov>, "Matthew Berry" <Matthew.Berry@fcc.gov>, "Nicholas Degani" <Nicholas.Degani@fcc.gov>
Subject: RE: November Press Prep

(b) (5)

From: Katie Gorscak <Katie.Gorscak@fcc.gov>
Sent: Friday, November 13, 2020 3:58 PM
To: Michael Carowitz <Michael.Carowitz@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: November Press Prep

Advisors – The draft press prep document is attached for your review. Please note that the majority of hot topic Q&A remain in draft form and will be fleshed out early next week.

Please send us your edits by 4 p.m. on Monday, November 16th.

Regards,

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [Katie Gorscak](#)
To: [Zenji Nakazawa](#); [Brian Hart](#)
Subject: Re: November Press Prep
Date: Monday, November 16, 2020 11:51:06 AM

(b) (5)

From: Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>
Sent: Monday, November 16, 2020 11:50 AM
To: Katie Gorscak <Katie.Gorscak@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: November Press Prep

(b) (5)

From: Allison Baker <Allison.Baker@fcc.gov>
Sent: Monday, November 16, 2020 11:39 AM
To: Katie Gorscak <Katie.Gorscak@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: RE: November Press Prep

(b) (5)

From: Katie Gorscak <Katie.Gorscak@fcc.gov>

Sent: Friday, November 13, 2020 3:58 PM

To: Michael Carowitz <Michael.Carowitz@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>

Cc: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>

Subject: November Press Prep

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Regards,

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [Anne Veigle](#)
To: [Brian Hart](#)
Subject: RE: NPR News Request: FCC Chairman Pai
Date: Thursday, October 22, 2020 4:08:13 PM
Attachments: [image001.jpg](#)
[image002.gif](#)

(b)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Thursday, October 22, 2020 4:06 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Re: NPR News Request: FCC Chairman Pai

(b) (5)

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Thursday, October 22, 2020 3:55 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: FW: NPR News Request: FCC Chairman Pai

(b) (5)

From: Shannon Rhoades <SRhoades@npr.org>
Sent: Thursday, October 22, 2020 3:45 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Cc: Carol Klinger <CAKlinger@npr.org>
Subject: NPR News Request: FCC Chairman Pai
Importance: High

Hi Anne,

I know it's another busy week on your end.

I did want to follow up for my colleague Carol and make sure that you had all of my information as well.

Should Chairman Pai reconsider interviews in days ahead – we'd really like to make the case for NPR. The American public will be eager to hear more regarding FCC and section 230 in the wake of next week's Senate hearing.





I'll just flag that NPR is known for thoughtful, civil discourse. Our reach is broad as well – 1000+ stations nationwide and an audience of 60 million weekly via audio and digital platforms.

Thanks so much,
Shannon

 Shannon Rhoades  Senior Editor for Interviews srhoades@npr.org 202-514-072 **310-710-4022 (cell)**
1111 North Capitol St., NE Washington, DC 20002

From: Carol Klinger
Sent: Friday, October 16, 2020 2:44 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Cc: Shannon Rhoades <SRhoades@npr.org>
Subject: RE: NPR interview request for FCC Chair Ajit Pai

Sorry to hear that, Anne. Please let me and my colleague Shannon know if anything changes.

 **Carol Klinger**  Associate Editor, All Things Considered caklinger@npr.org
 202.513.2107
[NPR One](#). 

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Friday, October 16, 2020 2:42 PM
To: Carol Klinger <CAKlinger@npr.org>
Subject: RE: NPR interview request for FCC Chair Ajit Pai

Hi Carol,
Thanks for the outreach but we aren't doing interviews at this time.

Anne Veigle
Deputy Director, Office of Media Relations
Federal Communications Commission

From: [Ajit Pai](#)
To: [Katie Gorscak](#); [Matthew Berry](#); [Brian Hart](#); [Nicholas Degani](#)
Cc: [Evan Swarztrauber](#); [Preston Wise](#); [Michael Carowitz](#); [Zenji Nakazawa](#); [Allison Baker](#); [Alexander Sanjenis](#); [Sean Spivey](#); [Anne Veigle](#); [Will Wiquist](#); [Thomas Johnson](#)
Subject: Re: October Open Meeting press prep
Date: Tuesday, October 27, 2020 1:30:28 PM

Just opened it.

From: Katie Gorscak <Katie.Gorscak@fcc.gov>
Sent: Tuesday, October 27, 2020 1:30 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>
Subject: RE: October Open Meeting press prep

Same.

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Tuesday, October 27, 2020 1:30 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>
Subject: Re: October Open Meeting press prep

OK here. I just called in.

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Tuesday, October 27, 2020 1:26 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>
Subject: Re: October Open Meeting press prep

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Sent: Tuesday, October 27, 2020 1:26 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
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Subject: Re: October Open Meeting press prep

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Subject: Re: October Open Meeting press prep

(b) (5)

[Redacted]

[Redacted]

[Redacted]

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Tuesday, October 27, 2020 12:57 PM
To: Katie Gorscak <Katie.Gorscak@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>
Subject: Re: October Open Meeting press prep

(b) (5)

From: Katie Gorscak <Katie.Gorscak@fcc.gov>

Sent: Monday, October 26, 2020 2:37 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>

Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>

Subject: RE: October Open Meeting press prep

(b) (5)

From: Katie Gorscak

Sent: Friday, October 23, 2020 2:40 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>

Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>

Subject: October Open Meeting press prep

To all:

Attached is press prep for Tuesday's Open Meeting press conference.

Have a wonderful weekend.

Regards,

Katie

From: [Matthew Berry](#)
To: [Ajit Pai](#); [Brian Hart](#); [Katie Gorskak](#); [Nicholas Degani](#)
Cc: [Evan Swarztrauber](#); [Preston Wise](#); [Michael Carowitz](#); [Zenji Nakazawa](#); [Allison Baker](#); [Alexander Sanjenis](#); [Sean Spivey](#); [Anne Veigle](#); [Will Wiquist](#); [Thomas Johnson](#)
Subject: Re: October Open Meeting press prep
Date: Tuesday, October 27, 2020 1:28:33 PM

(b) (5)





From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Tuesday, October 27, 2020 1:26 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Katie Gorskak <Katie.Gorskak@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>
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<Sean.Spivey@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>;
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Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>;
Michael Carowitz <Michael.Carowitz@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Allison
Baker <Allison.Baker@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Sean Spivey
<Sean.Spivey@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will
Wiquist <Will.Wiquist@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>

Subject: Re: October Open Meeting press prep

(b) (5)

From: Katie Gorscak <Katie.Gorscak@fcc.gov>

Sent: Monday, October 26, 2020 2:37 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani
<Nicholas.Degani@fcc.gov>

Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>;
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Subject: RE: October Open Meeting press prep

(b) (5)

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From: Katie Gorscak

Sent: Friday, October 23, 2020 2:40 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>

Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>

Subject: October Open Meeting press prep

To all:

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Have a wonderful weekend.

Regards,

Katie

From: [Nicholas Degani](#)
To: [Brian Hart](#); [Matthew Berry](#); [Katie Gorscak](#); [Ajit Pai](#)
Cc: [Evan Swarztrauber](#); [Preston Wise](#); [Michael Carowitz](#); [Zenji Nakazawa](#); [Allison Baker](#); [Alexander Sanjenis](#); [Sean Spivey](#); [Anne Veigle](#); [Will Wiquist](#); [Thomas Johnson](#)
Subject: Re: October Open Meeting press prep
Date: Tuesday, October 27, 2020 1:25:36 PM

(b) (5)

[REDACTED]

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Tuesday, October 27, 2020 1:02 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>
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Subject: Re: October Open Meeting press prep

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Sent: Monday, October 26, 2020 2:37 PM

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Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>

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Sent: Friday, October 23, 2020 2:40 PM

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From: [Katie Gorscak](#)
To: [Matthew Berry](#); [Ajit Pai](#); [Nicholas Degani](#)
Cc: [Evan Swarztrauber](#); [Preston Wise](#); [Michael Carowitz](#); [Zenji Nakazawa](#); [Allison Baker](#); [Alexander Sanjenis](#); [Sean Spivey](#); [Anne Veigle](#); [Brian Hart](#); [Will Wiquist](#); [Thomas Johnson](#)
Subject: RE: October Open Meeting press prep
Date: Tuesday, October 27, 2020 1:01:39 PM

(b) (5)
[Redacted]

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Tuesday, October 27, 2020 12:58 PM
To: Katie Gorscak <Katie.Gorscak@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>
Subject: Re: October Open Meeting press prep

(b) (5)
[Redacted]

From: Katie Gorscak <Katie.Gorscak@fcc.gov>
Sent: Monday, October 26, 2020 2:37 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: RE: October Open Meeting press prep

(b) (5)
[Redacted]

Regards,

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From: Katie Gorscak

Sent: Friday, October 23, 2020 2:40 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>

Cc: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>

Subject: October Open Meeting press prep

To all:

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Regards,

Katie

From: [Zenji Nakazawa](#)
To: [Preston Wise](#); [Sean Spivey](#); [Allison Baker](#); [Alexander Sanjenis](#); [Katie Gorscak](#); [Michael Carowitz](#)
Cc: [Brian Hart](#); [Anne Veigle](#); [Will Wiquist](#); [Rochelle Cohen](#); [Matthew Berry](#); [Nicholas Degani](#)
Subject: Re: October Press Prep
Date: Friday, October 23, 2020 12:47:15 PM
Attachments: [2020-10 Open Meeting - October Press Prep Draft -ATS-AB-SS-PW-ZN.docx](#)

Got it. (b) (5)

From: Preston Wise <Preston.Wise@fcc.gov>
Sent: Friday, October 23, 2020 12:42 PM
To: Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Rochelle Cohen <Rochelle.Cohen@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: Re: October Press Prep

Zenji, (b) (5)

From: Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>
Sent: Friday, October 23, 2020 12:30 PM
To: Sean Spivey <Sean.Spivey@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Rochelle Cohen <Rochelle.Cohen@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: Re: October Press Prep

(b) (5)

From: Sean Spivey <Sean.Spivey@fcc.gov>
Sent: Thursday, October 22, 2020 9:17 PM
To: Allison Baker <Allison.Baker@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>
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Subject: RE: October Press Prep

(b) (5)

Sean

From: Allison Baker <Allison.Baker@fcc.gov>
Sent: Thursday, October 22, 2020 7:38 PM
To: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Rochelle Cohen <Rochelle.Cohen@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: RE: October Press Prep

Edits on #1 and E-Rate.

From: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>
Sent: Thursday, October 22, 2020 6:35 PM
To: Katie Gorscak <Katie.Gorscak@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>
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Subject: RE: October Press Prep

Edits attached.

From: Katie Gorscak <Katie.Gorscak@fcc.gov>
Sent: Thursday, October 22, 2020 3:04 PM
To: Allison Baker <Allison.Baker@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>
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Subject: October Press Prep

Advisors – The draft press prep document is attached for your review. Please send us your edits by 3 p.m. tomorrow.

Regards,

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations

th

445 12 St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [Perera, David \(LNG-MLEX\)](#)
To: [Brian Hart](#)
Subject: RE: open meeting
Date: Monday, October 26, 2020 10:35:03 AM
Attachments: [image001.png](#)

Thanks, please keep me advised! Cheers, Dave

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Monday, October 26, 2020 10:33 AM
To: Perera, David (LNG-MLEX) <perera@mlex.com>
Subject: Re: open meeting

***** External email: use caution *****

Not yet finalized, but probably.

From: Perera, David (LNG-MLEX) <perera@mlex.com>
Sent: Friday, October 23, 2020 3:43 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: open meeting

Hi Brian,

Will Chairman Pai be available, virtually, after this Tuesday's open commission meeting?

Cheers, Dave

David Perera ☐ MLex data security and privacy reporter
perera@mlex.com ☐ o: 202 909 2141 m: 202 2☐0 9949

1776 I (Eye☐Street NW Suite 260 ☐Washington, D.C. 20006 ☐United States ☐ www.mlexmarketinsight.com ☐ www.ftcwatch.com



From: [Roberts, John](#)
To: [Brian Hart](#)
Subject: RE: Pai - Sec. 230
Date: Thursday, October 15, 2020 4:16:59 PM

Thanks Brian...I hadn't see the statement when I reached out....

Appreciate it..

John Roberts
Chief White House Correspondent
Fox News Channel
john.roberts@foxnews.com
+1-202-365-2550 mobile
@JohnRobertsFox

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Thursday, October 15, 2020 4:16 PM
To: Roberts, John <John.roberts@FOXNEWS.COM>
Subject: [EXTERNAL] Pai - Sec. 230

Hey John. We don't have anything to add to the chairman's statement at this point.

All the best,

Brian

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From: [Todd Shields \(BLOOMBERG/ NEWSROOM:\)](#)
To: [Anne Veigle](#)
Cc: [Brian Hart](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: RE: Pai in 2018: FCC lacks authority - comment?
Date: Friday, October 16, 2020 12:03:18 PM

thanks Anne

Todd Shields
Bloomberg News □ reporter - Washington
(202□807-2075 (office□
-- www.bloomberg.net --
@TShields□

From: Anne.Veigle@fcc.gov At: 10/16/20 12:02:51
To: [Todd Shields \(BLOOMBERG/ NEWSROOM: \)](#)
Cc: [Brian.Hart@fcc.gov](#), [Will.Wiquist@fcc.gov](#), [Katie.Gorscak@fcc.gov](#)
Subject: RE: Pai in 2018: FCC lacks authority - comment?

□i Todd,

We don't have comment beyond the Chairman's statement
<https://www.fcc.gov/document/chairman-pai-statement-section-2>

From: Todd Shields (BLOOMBERG□NEWSROOM:□□tshields□@bloomberg.net□
Sent: Friday, October 16, 2020 11:54 AM
To: Will Wi□uist □Will.Wi□uist@fcc.gov□□Anne Veigle □Anne.Veigle@fcc.gov□□Brian □art
□Brian.□art@fcc.gov□
Subject: Pai in 2018: FCC lacks authority - comment?

hello esteemed FCCers, this is a quote from Mr. Pai in 2018, regarding lack of authority to regulate tech platforms. We probably will write this into our story. Have you a comment? thanks/ts

Ajit Pai August 3 2018

"The FCC does not regulate them. We don't have authority under the laws that have been passed by Congress and the Constitution, of course under the First Amendment. So from that perspective they are not going to be regulated in terms of free speech."

at 38:43 of this C-Span clip:

<https://www.c-span.org/video/?449042-7/fcc-chair-ajit-pai-resurgent-gathering>

thanks/ts

Todd Shields / reporter / Bloomberg News / (202) 807-2075 or cell (443) 223-6008

Todd Shields
Bloomberg News □ reporter - Washington
(202 □ 807-2075 (office □
-- www.bloomberg.net --
@TShields □

□ □ @TShields □ -- Covering voting, USPS, tech, FCC -- (202 □ 807-2075 □ □

<< @TShields3 -- Covering voting, USPS, tech, FCC -- (202) 807-2075 >>

From: [Perera, David \(LNG-MLEX\)](#)
To: [Will Wiquist](#); [Brian Hart](#)
Subject: RE: Pai statement on Section 230
Date: Thursday, October 15, 2020 3:38:25 PM
Attachments: [image001.png](#)

Thanks! For some reason I didn't get the original statement sent out – can you double check that I'm not the press distro for the chairman? Thanks!

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Thursday, October 15, 2020 3:37 PM
To: Perera, David (LNG-MLEX) <perera@mlex.com>; Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: Pai statement on Section 230

***** External email: use caution *****

Just forwarded to you

From: Perera, David (LNG-MLEX) <perera@mlex.com>
Sent: Thursday, October 15, 2020 3:24 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Pai statement on Section 230
Importance: High

Hi Biran,, Hi Will,

Could you send me that Pai statement on Section 230? The website appears to be down. Cheers, Dave

David Perera ☐ MLex data security and privacy reporter
perera@mlex.com ☐ o: 202 909 2141 m: 202 2☐0 9949

1776 I (Eye☐Street NW Suite 260 ☐Washington, D.C. 20006 ☐United States ☐ www.mlexmarketinsight.com ☐ www.ftcwatch.com



From: [Ajit Pai](#)
To: [Matthew Berry](#); [Nicholas Degani](#); [Paul Jackson](#); [Brian Hart](#); [Thomas Johnson](#); [Evan Swarztrauber](#); [Jim Balaguer](#)
Cc: [Will Wiquist](#)
Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking
Date: Thursday, October 29, 2020 1:01:38 PM

(b)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Thursday, October 29, 2020 12:02 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

(b) (5)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Thursday, October 29, 2020 12:02 PM
To: Paul Jackson <Paul.Jackson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: RE: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

(b) (5)

From: Paul Jackson <Paul.Jackson@fcc.gov>
Sent: Thursday, October 29, 2020 11:54 AM
To: Brian Hart <Brian.Hart@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Wednesday, October 28, 2020 4:15 PM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>

Cc: Will Wiquist <Will.Wiquist@fcc.gov>

Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Wednesday, October 28, 2020 4:09 PM

To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>

Cc: Will Wiquist <Will.Wiquist@fcc.gov>

Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

(b) (5)

From: Thomas Johnson <Thomas.Johnson@fcc.gov>

Sent: Wednesday, October 28, 2020 3:58 PM

To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>

Cc: Will Wiquist <Will.Wiquist@fcc.gov>

Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

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From: Nicholas Degani <Nicholas.Degani@fcc.gov>

Sent: Wednesday, October 28, 2020 3:56 PM

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<Evan.Swarztrauber@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>

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Cc: Will Wiquist <Will.Wiquist@fcc.gov>

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[Redacted]

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Sent: Wednesday, October 28, 2020 3:44 PM

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Cc: Will Wiquist <Will.Wiquist@fcc.gov>

Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

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Subject: Fw: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

Letter attached.



FOR IMMEDIATE RELEASE
October 28, 2020

CONTACT
[Elysa Montfort](#) – (202) 225-5735

**Pallone & Doyle Demand Answers from Pai Regarding White House
Involvement in Section 230 Rulemaking**

“It wasn’t until online platforms began fact-checking the President’s content that he and his Administration began an aggressive campaign to persuade the FCC to dictate how online platforms moderate content”

Washington, D.C. – Energy and Commerce Committee Chairman Frank Pallone, Jr. (D-NJ) and Communications and Technology Subcommittee Chairman Mike Doyle (D-PA) [wrote to](#) Federal Communications Commission (FCC) Chairman Ajit Pai today demanding answers for the FCC’s recent and sudden announcement that it is moving forward with a Section 230 rulemaking.

“The fact that this announcement came just weeks before the election, and that President Trump has pushed for this CDA 230 rulemaking, raise serious questions about the independence of the agency. The American people deserve to know what conversations, if any, have transpired between you, your office and the White House to ensure the integrity of the FCC,” Pallone and Doyle wrote. **“Since Congress’ enactment of CDA 230, the FCC has played no role in implementing or interpreting this provision. It wasn’t until online platforms began fact-checking the President’s content that he and his Administration began an aggressive campaign to persuade the FCC to dictate how online platforms moderate content.”**

Section 230 of the Communications Decency Act stipulates that online platforms, such as Twitter and Facebook, are generally not held liable for content posted by third-party users – with a few relevant exceptions. In addition to writing that President Trump’s efforts to change this policy are driven by retaliation, Pallone and Doyle also detail the lengths to which the President has gone to retaliate against those who stand in his way, causing concern that Chairman Pai’s actions may be driven by a White House pressure campaign.

“Not only has the Trump Administration directly pressured the FCC to do its bidding on CDA 230, it appears the Administration is willing to retaliate against those who do not get in line with its agenda,” wrote the two Committee leaders.

Pallone and Doyle pointed to several examples:

- President Trump abruptly pulled his nomination of Commissioner Michael O’Rielly for another FCC term shortly after Commissioner O’Rielly publicly raised concerns over the FCC’s role in interpreting CDA 230.
- Last month, Trump nominated Nathan Simington, who reportedly worked on the National Telecommunications and Information Administration (NTIA) CDA 230 petition, to replace Commissioner O’Rielly.
- This month, Trump tweeted at Senator Roger Wicker (R-MS) urging Republicans to confirm Mr. Simington, and shortly thereafter, a nomination hearing was scheduled for November 10th.

“Now it appears the FCC is working in concert with the Trump Administration to attempt to influence the actions of online platforms by advancing a CDA 230 rulemaking,” the two Committee leaders continued in their letter to Chairman Pai.

Pallone and Doyle wrote that since the FCC is an independent regulatory agency responsible directly to Congress, it should be avoiding even the appearance of acting on behalf of the President. They requested answers to a series of questions, including:

- Has anyone from the White House, Executive Office of the President, the NTIA or Department of Justice contacted FCC regarding this Section 230 rulemaking? If so, what was discussed?
- Has anyone from the Trump campaign contacted FCC regarding Section 230?
- Has Chairman Pai or his staff contacted either the White House or the Trump campaign regarding Section 230, and if so, what was discussed?

The full letter is available [HERE](#).

###

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Energy & Commerce Democrats | 2125 Rayburn HOB, Washington, DC 20515 | 2125 Rayburn HOB,
Washington, DC 20003

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From: [Brian Hart](#)
To: [Thomas Johnson](#); [Nicholas Degani](#); [Matthew Berry](#); [Paul Jackson](#); [Ajit Pai](#); [Evan Swarztrauber](#); [Jim Balaguer](#)
Cc: [Will Wiquist](#)
Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking
Date: Wednesday, October 28, 2020 4:14:06 PM

(b) (5)

From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Wednesday, October 28, 2020 3:58 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

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From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Wednesday, October 28, 2020 3:56 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: RE: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Wednesday, October 28, 2020 3:54 PM

To: Brian Hart <Brian.Hart@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

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Sent: Wednesday, October 28, 2020 3:44 PM
To: Paul Jackson <Paul.Jackson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>
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Subject: Fw: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

Letter attached.





FOR IMMEDIATE RELEASE

October 28, 2020

CONTACT

[Elysa Montfort](#) – (202) 225-5735

Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

“It wasn’t until online platforms began fact-checking the President’s content that he and his Administration began an aggressive campaign to persuade the FCC to dictate how online platforms moderate content”

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“The fact that this announcement came just weeks before the election, and that President Trump has pushed for this CDA 230 rulemaking, raise serious questions about the independence of the agency. The American people deserve to know what conversations, if any, have transpired between you, your office and the White House to ensure the integrity of the FCC,” Pallone and Doyle wrote. **“Since Congress’ enactment of CDA 230, the FCC has played no role in implementing or interpreting this provision. It wasn’t until online platforms began fact-checking the President’s content that he and his Administration began an aggressive campaign to persuade the FCC to dictate how online platforms moderate content.”**

Section 230 of the Communications Decency Act stipulates that online platforms, such as Twitter and Facebook, are generally not held liable for content posted by third-party users – with a few relevant exceptions. In addition to writing that President Trump’s efforts to change this policy are driven by retaliation, Pallone and Doyle also detail the lengths to which the President has gone to retaliate against those who stand in his way, causing concern that Chairman Pai’s actions may be driven by a White House pressure campaign.

“Not only has the Trump Administration directly pressured the FCC to do its bidding on CDA 230, it appears the Administration is willing to retaliate against those who do not get in line with its agenda,” wrote the two Committee leaders.

Pallone and Doyle pointed to several examples:

- President Trump abruptly pulled his nomination of Commissioner Michael O’Rielly for another FCC term shortly after Commissioner O’Rielly publicly raised concerns over the FCC’s role in interpreting CDA 230.
- Last month, Trump nominated Nathan Simington, who reportedly worked on the National Telecommunications and Information Administration (NTIA) CDA 230 petition, to replace Commissioner O’Rielly.
- This month, Trump tweeted at Senator Roger Wicker (R-MS) urging Republicans to confirm Mr. Simington, and shortly thereafter, a nomination hearing was scheduled for November 10th.

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Pallone and Doyle wrote that since the FCC is an independent regulatory agency responsible directly to Congress, it should be avoiding even the appearance of acting on behalf of the President. They requested answers to a series of questions, including:

- Has anyone from the White House, Executive Office of the President, the NTIA or Department of Justice contacted FCC regarding this Section 230 rulemaking? If so, what was discussed?
- Has anyone from the Trump campaign contacted FCC regarding Section 230?
- Has Chairman Pai or his staff contacted either the White House or the Trump campaign regarding Section 230, and if so, what was discussed?

The full letter is available [HERE](#).

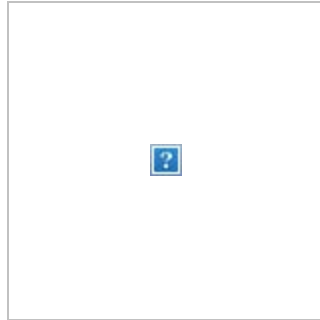
###

Energy & Commerce Democrats | 2125 Rayburn HOB, Washington, DC 20515 | 2125 Rayburn HOB,
Washington, DC 20003

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From: [Paul Jackson](#)
To: [Matthew Berry](#); [Thomas Johnson](#); [Nicholas Degani](#); [Brian Hart](#); [Ajit Pai](#); [Evan Swarztrauber](#); [Jim Balaguer](#)
Cc: [Will Wiquist](#)
Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking
Date: Wednesday, October 28, 2020 4:13:08 PM
Attachments: [201028 Section 230 Letter to FCC.pdf](#)

We also received a 230 letter from FSGG Chairman Quigley and fSGG member Torres.

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Wednesday, October 28, 2020 4:09 PM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

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To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>
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<Jim.Balaguer@fcc.gov>

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Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

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Sent: Wednesday, October 28, 2020 3:44 PM

To: Paul Jackson <Paul.Jackson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>

Cc: Will Wiquist <Will.Wiquist@fcc.gov>

Subject: Re: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in Section 230 Rulemaking

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Sent: Wednesday, October 28, 2020 3:39 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>

Subject: Fw: Pallone & Doyle Demand Answers from Pai Regarding White House Involvement in

Section 230 Rulemaking

Letter attached.



FOR IMMEDIATE RELEASE
October 28, 2020

CONTACT
[Elysa Montfort](#) – (202) 225-5735

**Pallone & Doyle Demand Answers from Pai Regarding White House
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“It wasn’t until online platforms began fact-checking the President’s content that he and his

Administration began an aggressive campaign to persuade the FCC to dictate how online platforms moderate content”

Washington, D.C. – Energy and Commerce Committee Chairman Frank Pallone, Jr. (D-NJ) and Communications and Technology Subcommittee Chairman Mike Doyle (D-PA) [wrote to](#) Federal Communications Commission (FCC) Chairman Ajit Pai today demanding answers for the FCC’s recent and sudden announcement that it is moving forward with a Section 230 rulemaking.

“The fact that this announcement came just weeks before the election, and that President Trump has pushed for this CDA 230 rulemaking, raise serious questions about the independence of the agency. The American people deserve to know what conversations, if any, have transpired between you, your office and the White House to ensure the integrity of the FCC,” Pallone and Doyle wrote. **“Since Congress’ enactment of CDA 230, the FCC has played no role in implementing or interpreting this provision. It wasn’t until online platforms began fact-checking the President’s content that he and his Administration began an aggressive campaign to persuade the FCC to dictate how online platforms moderate content.”**

Section 230 of the Communications Decency Act stipulates that online platforms, such as Twitter and Facebook, are generally not held liable for content posted by third-party users – with a few relevant exceptions. In addition to writing that President Trump’s efforts to change this policy are driven by retaliation, Pallone and Doyle also detail the lengths to which the President has gone to retaliate against those who stand in his way, causing concern that Chairman Pai’s actions may be driven by a White House pressure campaign.

“Not only has the Trump Administration directly pressured the FCC to do its bidding on CDA 230, it appears the Administration is willing to retaliate against those who do not get in line with its agenda,” wrote the two Committee leaders.

Pallone and Doyle pointed to several examples:

- President Trump abruptly pulled his nomination of Commissioner Michael O’Rielly for another FCC term shortly after Commissioner O’Rielly publicly raised concerns over the FCC’s role in interpreting CDA 230.
- Last month, Trump nominated Nathan Simington, who reportedly worked on the National Telecommunications and Information Administration (NTIA) CDA 230 petition, to replace Commissioner O’Rielly.
- This month, Trump tweeted at Senator Roger Wicker (R-MS) urging Republicans to confirm Mr. Simington, and shortly thereafter, a nomination hearing was scheduled for November 10th.

“Now it appears the FCC is working in concert with the Trump Administration to attempt to influence the actions of online platforms by advancing a CDA 230 rulemaking,” the two Committee leaders continued in their letter to Chairman Pai.

Pallone and Doyle wrote that since the FCC is an independent regulatory agency responsible directly to Congress, it should be avoiding even the appearance of acting on behalf of the President. They requested answers to a series of questions, including:

- Has anyone from the White House, Executive Office of the President, the NTIA or Department of Justice contacted FCC regarding this Section 230 rulemaking? If so, what was discussed?
- Has anyone from the Trump campaign contacted FCC regarding Section 230?
- Has Chairman Pai or his staff contacted either the White House or the Trump campaign regarding Section 230, and if so, what was discussed?

The full letter is available [HERE](#).

###

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SHALANDA YOUNG
CLERK AND STAFF DIRECTOR
(202) 225-2771

October 28, 2020

The Honorable Ajit Pai
Chairman, Federal Communications Commission
455 12th Street, SW
Washington, D.C. 20554

Dear Chairman Pai:

We write to express our strong objection to the Federal Communications Commission's (FCC) recent announcement that it will move forward with a rulemaking to "clarify" the meaning of Section 230 of the Communications Decency Act. This announcement, declared less than three weeks before one of the most significant elections in U.S. history, is an act of political theater to help support President's Trump flailing campaign and exacerbates the threats our country faces from foreign adversaries.

President Trump has regularly trafficked in baseless conspiracy theories and outright falsehoods. When social media companies took reasonable steps to curb the spread of such misinformation, he leveraged the full might of the Federal government to intimidate those companies and settle his personal grievances. The FCC's current actions are the direct result of such petty and unpresidential vendettas. On May 28, just days after Twitter fact-checked two of his tweets, President Trump signed Executive Order 13925 (85 Fed. Reg. 34079) directing the National Telecommunications and Information Administration to file a petition for a rulemaking by the FCC to clarify Section 230. The Executive Order was based on the unfounded belief that social media platforms are biased against conservatives and places executive branch agencies in the unacceptable position of trying to administratively constrain First Amendment protections.

Section 230 has allowed U.S. tech companies to develop innovative platforms and technologies to benefit consumers around the world. Congress also recognizes that the technology sector has

undergone massive transformations in the past 25 years and that certain aspects of Section 230 might merit modification. Instead of rushing to act in a way that could harm millions of Americans, Congress has embarked on a deliberate and nuanced examination of such changes. In the meantime, Congress has expressed disapproval for this Administration's overtly political Executive Order and the wasteful burden it places on American taxpayers. For instance, many legal scholars have called into question the legality of E.O. 13925. In fact, the House of Representatives passed a provision in H.R. 7617, the Fiscal Year 2021 Appropriations Minibus, to prohibit the use of taxpayer funds to implement this Executive Order while Congress continues its work.

Given these circumstances, the FCC's announcement on October 15 to pursue a rulemaking to "clarify" Section 230 was inappropriate for an independent agency tasked with protecting America's communications infrastructure. The decision was undoubtedly the result of political pressure from the White House. Just one day prior, President Trump had tweeted "REPEAL SECTION 230!!!" in response to Twitter's removal and Facebook's reduced distribution of a New York Post story discussing hacked materials of Hunter Biden—a story of such dubiousness that the publication's own reporter refused to put their name on it.

Regardless of the ultimate legal verdicts around E.O. 13925 and the FCC's rulemaking, Trump's comments and the FCC's announcement are already having impact. Twitter has responded that due to "feedback" it will change its policies towards hacked materials. And other social media platforms will now also face pressure to permit libelous, false, or dangerous content and conspiracy theories to avoid facetious and self-serving claims of "anti-conservative" bias. The FCC should immediately fulfill its statutory mandate to protect the national defense, the safety of life and property, and the public interest by reconsidering its decision and cease further activity on the Section 230 rulemaking.

Sincerely,



Norma J. Torres
Member of Congress



Mike Quigley
Member of Congress

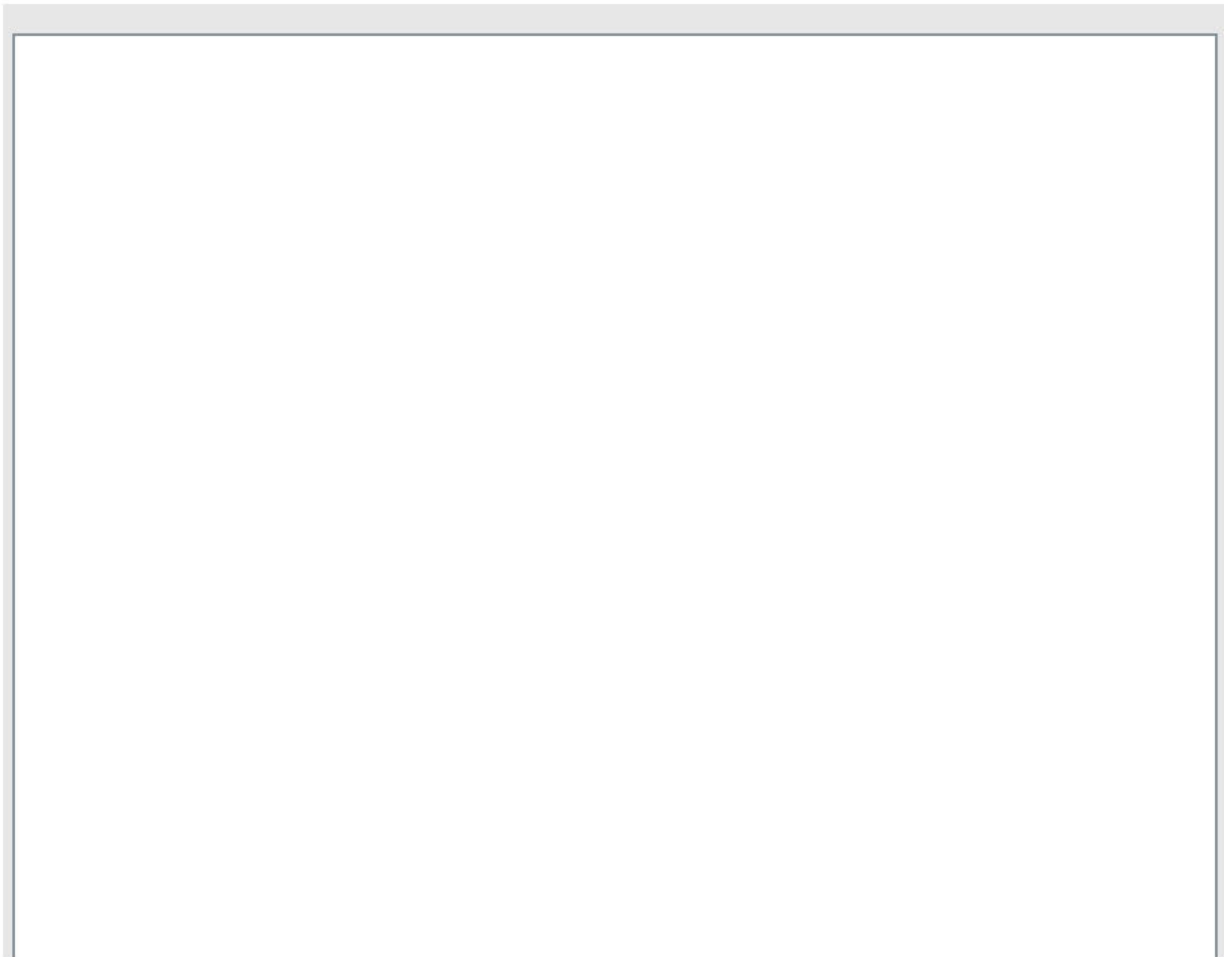
From: [Matthew Berry](#)
To: [Paul Jackson](#); [Ajit Pai](#); [Nicholas Degani](#); [Evan Swarztrauber](#); [Thomas Johnson](#); [Brian Hart](#)
Subject: Re: Pallone & Doyle on FCC Initiating Section 230 Rulemaking
Date: Monday, October 19, 2020 11:29:03 AM

“Section 230 reform that creates a structure for healthier online ecosystems is needed and we are committed to seeing it done . . .”

From: Paul Jackson <Paul.Jackson@fcc.gov>
Sent: Monday, October 19, 2020 10:33 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Subject: Fw: Pallone & Doyle on FCC Initiating Section 230 Rulemaking

This just in. . .

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>
Sent: Monday, October 19, 2020 10:31 AM
To: Paul Jackson <Paul.Jackson@fcc.gov>
Subject: Pallone & Doyle on FCC Initiating Section 230 Rulemaking



FOR IMMEDIATE RELEASE
October 19, 2020

CONTACT
[Elysa Montfort](#) – (202) 225-5735

Pallone & Doyle on FCC Initiating Section 230 Rulemaking

Washington, D.C. – Energy and Commerce Chairman Frank Pallone, Jr. (D-NJ) and Communications and Technology Subcommittee Chairman Mike Doyle (D-PA) released the following statement in response to the Federal Communications Commission (FCC) initiating a Section 230 rulemaking process:

“Chairman Pai’s decision to start a Section 230 rulemaking is a blatant attempt to help a flailing President Trump. The timing and hurried nature of this decision makes clear it’s being done to influence social media companies’ behavior leading up to an election, and it is shocking to watch this supposedly independent regulatory agency jump at the opportunity to become a political appendage of President Trump’s campaign.

“From the start, Republicans have used the Section 230 debate to threaten social media companies when they remove or flag disinformation and extremism on their platforms – all because of some baseless fantasy grievance that the internet is biased against conservative views. Their approach translates into a defense of online extremism and foreign countries’ disinformation campaigns, which is a baffling and dangerous position for lawmakers to take.

“Section 230 reform that creates a structure for healthier online ecosystems is needed and we are committed to seeing it done – but the FCC’s rush to push President Trump’s agenda weeks before Election Day should be seen for the reckless and politically-motivated stunt that it is.”

###

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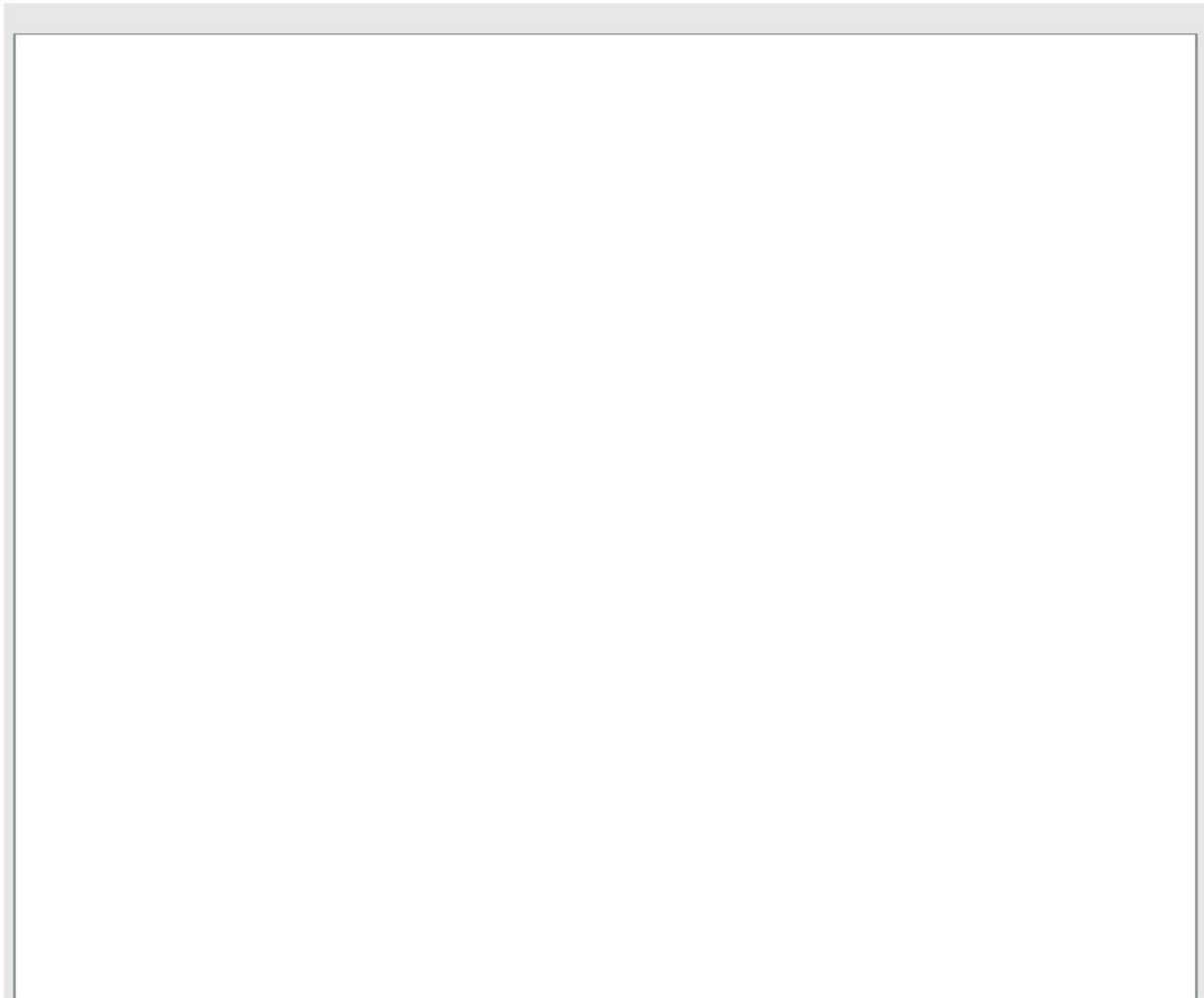
From: [Nicholas Degani](#)
To: [Paul Jackson](#); [Ajit Pai](#); [Matthew Berry](#); [Allison Baker](#); [Preston Wise](#); [Evan Swarztrauber](#); [Brian Hart](#); [Jim Balaguer](#)
Subject: RE: Pallone Releases GAO Report Uncovering Fundamental Flaws in Trump FCC's Handling of Universal Service Fund
Date: Friday, October 30, 2020 4:21:20 PM

(b) (5)



From: Paul Jackson <Paul.Jackson@fcc.gov>
Sent: Friday, October 30, 2020 4:11 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Jim Balaguer <Jim.Balaguer@fcc.gov>
Subject: Fw: Pallone Releases GAO Report Uncovering Fundamental Flaws in Trump FCC's Handling of Universal Service Fund

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FOR IMMEDIATE RELEASE

October 30, 2020

CONTACT

[Elysa Montfort](#) – (202) 225-5735

Pallone Releases GAO Report Uncovering Fundamental Flaws in Trump FCC’s Handling of Universal Service Fund

Washington, D.C. – Energy and Commerce Committee Chairman Frank Pallone, Jr. (D-NJ) released a [new report](#) from the Government Accountability Office (GAO) today that openly acknowledges major flaws in the way the Trump Federal Communications Commission (FCC) has handled the Universal Service Fund’s High-Cost Program. Pallone, who requested the report, released the following statement in response:

“I requested this report because I had profound concerns about the Trump FCC’s handling of the Universal Service Fund, and today’s report validates those fears. GAO has found that the high-cost program has been woefully maintained, with basic governance structures either wholly

missing or outdated, effectively being left to rot under Chairman Pai's leadership.

"This news comes as the FCC pushes out \$16 billion in high-cost broadband funding without adequate or accurate broadband maps to guide them – and is doing so over the express objections of Democratic FCC Commissioners. It is likely that, as a result, funding will be poorly targeted and wasted, when it could and should be going toward communities in desperate need of connectivity. Today's report confirms that Chairman Pai's FCC has failed to be a proper steward of the Universal Service Fund, and future Commissions will be at a serious disadvantage in closing the digital divide as a result."

The full report is available [HERE](#).

###

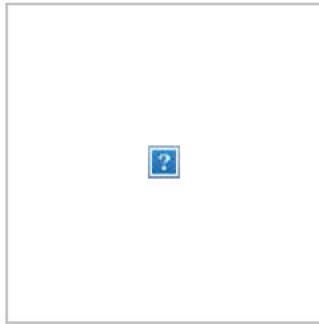
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From: [Anne Veigle](#)
To: michael.kan@ziffmedia.com
Cc: [Brian Hart](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: RE: PC Mag re: question on fcc interpreting section 230
Date: Thursday, October 15, 2020 3:56:10 PM

We have nothing further to add at this time.

From: Michael Kan <michael.kan@ziffmedia.com>
Sent: Thursday, October 15, 2020 2:50 PM
To: MediaRelations <MediaRelations@fcc.gov>
Subject: question on fcc interpreting section 230

Hi, I'm a reporter with PCMag. I saw Ajit Pai's statement on how the FCC will seek to clarify the meaning of Section 230 of the Communications Decency Act. Does the FCC have a timeline on when it'll seek to intercept Section 230, and how the proceedings will occur? Will this occur over a commission vote?

--

Michael Kan
PCMag Reporter
Signal: 415 696 5528

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From: [Will Wiquist](#)
To: [Brian Hart](#); [Anne Veigle](#); [Katie Gorscak](#)
Subject: RE: PC Mag re: question on fcc interpreting section 230
Date: Thursday, October 15, 2020 2:55:05 PM

(b) (5)




From: Sharon Hurd <Sharon.Hurd@fcc.gov>
Sent: Thursday, October 15, 2020 2:53 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: PC Mag re: question on fcc interpreting section 230

From: Michael Kan <michael.kan@ziffmedia.com>
Sent: Thursday, October 15, 2020 2:50 PM
To: MediaRelations <MediaRelations@fcc.gov>
Subject: question on fcc interpreting section 230

Hi, I'm a reporter with PCMag. I saw Ajit Pai's statement on how the FCC will seek to clarify the meaning of Section 230 of the Communications Decency Act. Does the FCC have a timeline on when it'll seek to intercept Section 230, and how the proceedings will occur? Will this occur over a commission vote?

--

Michael Kan
PCMag Reporter
Signal: 415 696 5528

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From: [Brian Hart](#)
To: [Ajit Pai](#)
Subject: Re: Possible appearance on the Daily Briefing tomorrow, Friday, 10/16?
Date: Thursday, October 15, 2020 6:26:50 PM

done

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Thursday, October 15, 2020 6:00 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Fw: Possible appearance on the Daily Briefing tomorrow, Friday, 10/16?

Ajit V. Pai
Chairman, Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554
(202)418-1000
Twitter: @AjitPaiFCC

From: Stephan, Theodore <Theodore.Stephan@FOXNEWS.COM>
Sent: Thursday, October 15, 2020 5:50 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Possible appearance on the Daily Briefing tomorrow, Friday, 10/16?

Chairman Pai:

I was wondering **would you be available to appear on the Daily Briefing with Dana Perino tomorrow, Friday, 10/16 during the 2PM Eastern hour?**

We'd like to discuss Facebook Twitter actions this week (regarding the NYPost article and how they relate to Section 2 of the Communications Act.

Please let me know it would be great to have you on.

Very best,

Ted

Ted Stephan
Booker, The Daily Briefing with Dana Perino
Fox News Channel
1211 Avenue of the Americas, 2nd Floor

New York, NY 10006
Direct: 1 (212) 001 - 5166
Mobile: 1 (646) 960 - 2240

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From: [Perera, David \(LNG-MLEX\)](#)
To: [Brian Hart](#); [Will Wiquist](#)
Subject: RE: post-meeting presser
Date: Wednesday, November 18, 2020 10:20:49 AM
Attachments: [image001.png](#)

Thanks for getting back to me. Cheers, Dave

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Wednesday, November 18, 2020 10:14 AM
To: Perera, David (LNG-MLEX) <perera@mlex.com>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Re: post-meeting presser

***** External email: use caution *****

No press coference today.

From: Perera, David (LNG-MLEX) <perera@mlex.com>
Sent: Wednesday, November 18, 2020 10:08 AM
To: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: post-meeting presser

Hi Brian, Hi Will,

Will Chairman Pai be having a post-meeting press availability? Thanks, Dave

David Perera ☐ MLex data security and privacy reporter
perera@mlex.com ☐ o: 202 909 2141 m: 202 2☐0 9949

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From: [Katie Gorscak](#)
To: [Will Wiquist](#); [Brian Hart](#); [Anne Veigle](#); [Rochelle Cohen](#)
Subject: RE: Press prep
Date: Tuesday, November 10, 2020 2:09:18 PM

Noted.

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Tuesday, November 10, 2020 2:09 PM
To: Katie Gorscak <Katie.Gorscak@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Rochelle Cohen <Rochelle.Cohen@fcc.gov>
Subject: RE: Press prep

(b) (5)

From: Katie Gorscak <Katie.Gorscak@fcc.gov>
Sent: Tuesday, November 10, 2020 2:07 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Rochelle Cohen <Rochelle.Cohen@fcc.gov>
Subject: RE: Press prep

(b) (5)

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Tuesday, November 10, 2020 2:07 PM
To: Katie Gorscak <Katie.Gorscak@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Rochelle Cohen <Rochelle.Cohen@fcc.gov>
Subject: RE: Press prep

(b) (5)

From: Katie Gorscak <Katie.Gorscak@fcc.gov>
Sent: Tuesday, November 10, 2020 2:06 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Rochelle Cohen <Rochelle.Cohen@fcc.gov>
Subject: Press prep

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- [Redacted]
- [Redacted]

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [Katie Gorscak](#)
To: [Anne Veigle](#); [Brian Hart](#)
Cc: [Will Wiquist](#)
Subject: RE: Press Prep
Date: Wednesday, September 23, 2020 9:54:16 AM

(b) (5)



From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Wednesday, September 23, 2020 9:51 AM
To: Katie Gorscak <Katie.Gorscak@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: RE: Press Prep

(b) (5)



From: Katie Gorscak <Katie.Gorscak@fcc.gov>
Sent: Wednesday, September 23, 2020 9:49 AM
To: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: RE: Press Prep

(b) (5)



Katie

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Tuesday, September 22, 2020 6:42 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Re: Press Prep

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Tuesday, September 22, 2020 4:13 PM
To: Katie Gorscak <Katie.Gorscak@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: RE: Press Prep

(b) (5)



From: Katie Gorscak <Katie.Gorscak@fcc.gov>

Sent: Tuesday, September 22, 2020 4:08 PM

To: Brian Hart <Brian.Hart@fcc.gov>

Cc: Will Wiquist <Will.Wiquist@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>

Subject: Press Prep

(b) (5)

A large black rectangular redaction box covers the majority of the page content below the header. The text "(b) (5)" is written in red at the top left of this redacted area.

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [Katie Gorscak](#)
To: [Will Wiquist](#); [Brian Hart](#); [Anne Veigle](#); [Rochelle Cohen](#)
Subject: RE: Press Prep for September meeting
Date: Monday, September 21, 2020 5:10:25 PM

I realize that I forgot to give a timing deadline. Let's plan to add all content to the document by 11 a.m. on Friday. This way I can format, proofread, etc. before sending to advisors by 2 or 3 p.m. on Friday at the latest.

Thanks!

Katie

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Monday, September 21, 2020 4:59 PM
To: Katie Gorscak <Katie.Gorscak@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Rochelle Cohen <Rochelle.Cohen@fcc.gov>
Subject: RE: Press Prep for September meeting

(b) (5)



From: Katie Gorscak <Katie.Gorscak@fcc.gov>
Sent: Monday, September 21, 2020 4:53 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Rochelle Cohen <Rochelle.Cohen@fcc.gov>
Subject: Re: Press Prep for September meeting

(b) (5)



From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Monday, September 21, 2020 4:51 PM
To: Katie Gorscak <Katie.Gorscak@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Rochelle Cohen <Rochelle.Cohen@fcc.gov>
Subject: Re: Press Prep for September meeting

(b) (5)



From: Katie Gorscak <Katie.Gorscak@fcc.gov>
Sent: Monday, September 21, 2020 4:37 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Rochelle Cohen <Rochelle.Cohen@fcc.gov>
Subject: Press Prep for September meeting

It's that time again...

(b) (5)

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- [Redacted list item]
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- [Redacted list item]
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- [Redacted list item]
- [Redacted list item]
- [Redacted list item]
- [Redacted list item]

[Redacted text block]

From: [Katie Gorscak](#)
To: [Brian Hart](#); [Anne Veigle](#); [Will Wiquist](#); [Rochelle Cohen](#)
Subject: RE: Press Prep for September meeting
Date: Monday, September 21, 2020 4:59:16 PM
Attachments: [Hot Topics and Grab Bag toBH.docx](#)

Attached is some of what we pulled together most recently for August.

(b) (5) [Redacted]

[Redacted]

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Monday, September 21, 2020 4:52 PM
To: Katie Gorscak <Katie.Gorscak@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Rochelle Cohen <Rochelle.Cohen@fcc.gov>
Subject: Re: Press Prep for September meeting

(b) (5) [Redacted]

From: Katie Gorscak <Katie.Gorscak@fcc.gov>
Sent: Monday, September 21, 2020 4:37 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Rochelle Cohen <Rochelle.Cohen@fcc.gov>
Subject: Press Prep for September meeting

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

- (b) (5) [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

From: [Brian Hart](#)
To: [Lamar Robertson](#); [Anne Veigle](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: Re: press prep question
Date: Tuesday, October 27, 2020 8:55:22 AM

Thanks. Good catch. I had one question on it. Surprised only one.

From: Lamar Robertson <Lamar.Robertson@fcc.gov>
Sent: Tuesday, October 27, 2020 8:22 AM
To: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: press prep question

GOP
@GOP
· Oct 23

Pres. Trump is fighting for YOU! Here are some of his priorities for a 2nd term: *Establish Permanent Manned Presence on The Moon *Send the 1st Manned Mission to Mars *Build World's Greatest Infrastructure System ***Establish National High-Speed Wireless Internet Network**

There were mentions of this RNC tweet in the Monday clips and I'm guessing we had some incoming questions from the press, so you likely have a Q on this already. Regardless, I thought I'd still flag this since there's a lot going on and Friday afternoon stories can fall through the cracks.

From: [Brian Hart](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#)
Subject: Re: press prep...
Date: Wednesday, November 11, 2020 11:36:13 PM

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Wednesday, November 11, 2020 11:26 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Subject: Re: press prep...

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Wednesday, November 11, 2020 10:26 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Re: press prep...

(b) (5)

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Tuesday, November 10, 2020 5:41 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Subject: press prep...

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b) (5)

[Redacted text block]

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[Redacted text block]

From: [Katie Gorscak](#)
To: [Brian Hart](#)
Subject: RE: Press prep
Date: Tuesday, November 10, 2020 2:56:07 PM
Attachments: [2020-11 Open Meeting - November Press Prep Draft.docx](#)

(b) (5)








From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Tuesday, November 10, 2020 2:10 PM
To: Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: Re: Press prep

(b) (5)



From: Katie Gorscak <Katie.Gorscak@fcc.gov>
Sent: Tuesday, November 10, 2020 2:07 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: Press prep

(b) (5)




From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Tuesday, November 10, 2020 2:07 PM
To: Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: Re: Press prep

Can you please email me the document?

From: Katie Gorscak <Katie.Gorscak@fcc.gov>
Sent: Tuesday, November 10, 2020 2:05 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Rochelle Cohen <Rochelle.Cohen@fcc.gov>
Subject: Press prep

To all:

(b) (5)






(b) (5)

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- [Redacted]

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [Will Wiquist](#)
To: [EDOCSHELP](#); [David Kitzmiller](#); [Sharon Hurd](#)
Cc: [FCCWEB](#); [Brian Hart](#)
Subject: RE: Public Draft not working: Responding to Narrow Remand of Restoring Internet Freedom Order
Date: Tuesday, October 6, 2020 3:27:26 PM

Thank you Jason. I've let the Chairman's office know. Thanks!

From: Jason Lewis <Jason.Lewis@fcc.gov> **On Behalf Of** EDOCSHELP
Sent: Tuesday, October 6, 2020 3:01 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>; EDOCSHELP <EDOCSHELP@fcc.gov>; David Kitzmiller <David.Kitzmiller@fcc.gov>; Sharon Hurd <Sharon.Hurd@fcc.gov>
Cc: FCCWEB <FCCWEB@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: Public Draft not working: Responding to Narrow Remand of Restoring Internet Freedom Order

The attachment has been updated and is working for REC ID 367357.

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Tuesday, October 6, 2020 2:55 PM
To: EDOCSHELP <EDOCSHELP@fcc.gov>; David Kitzmiller <David.Kitzmiller@fcc.gov>; Sharon Hurd <Sharon.Hurd@fcc.gov>
Cc: FCCWEB <FCCWEB@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: Public Draft not working: Responding to Narrow Remand of Restoring Internet Freedom Order

See attached. Please make this the top priority.

From: Jason Lewis <Jason.Lewis@fcc.gov> **On Behalf Of** EDOCSHELP
Sent: Tuesday, October 6, 2020 2:48 PM
To: David Kitzmiller <David.Kitzmiller@fcc.gov>; EDOCSHELP <EDOCSHELP@fcc.gov>; Sharon Hurd <Sharon.Hurd@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Cc: FCCWEB <FCCWEB@fcc.gov>
Subject: RE: Public Draft not working: Responding to Narrow Remand of Restoring Internet Freedom Order

The document did not cleanse properly, please provide a copy so we can update the attachment.

From: David Kitzmiller <David.Kitzmiller@fcc.gov>
Sent: Tuesday, October 6, 2020 2:43 PM
To: EDOCSHELP <EDOCSHELP@fcc.gov>; Sharon Hurd <Sharon.Hurd@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>

Cc: FCCWEB <FCCWEB@fcc.gov>

Subject: Public Draft not working: Responding to Narrow Remand of Restoring Internet Freedom Order

<https://docs.fcc.gov/public/attachments/DOC-367357A1.pdf>

From: [Will Wiquist](#)
To: [Nicholas Degani](#); [Matthew Berry](#); [Paul Jackson](#); [Ajit Pai](#); [Sean Spivey](#)
Cc: [Brian Hart](#); [Anne Veigle](#); [Katie Gorscak](#); [Rebecca Brown](#)
Subject: RE: Queries: CommDaily on Records Letter; TR Daily re 5.9 request from DOT
Date: Tuesday, November 10, 2020 2:37:54 PM

Done. Thanks

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Tuesday, November 10, 2020 2:16 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Rebecca Brown <Rebecca.Brown@fcc.gov>
Subject: RE: Queries: CommDaily on Records Letter; TR Daily re 5.9 request from DOT

(b) (5)

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Tuesday, November 10, 2020 2:06 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Rebecca Brown <Rebecca.Brown@fcc.gov>
Subject: RE: Queries: CommDaily on Records Letter; TR Daily re 5.9 request from DOT

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Tuesday, November 10, 2020 2:02 PM
To: Paul Jackson <Paul.Jackson@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Rebecca Brown <Rebecca.Brown@fcc.gov>
Subject: Re: Queries: CommDaily on Records Letter; TR Daily re 5.9 request from DOT

(b) (5)

From: Paul Jackson <Paul.Jackson@fcc.gov>
Sent: Tuesday, November 10, 2020 1:51 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Sean Spivey

<Sean.Spivey@fcc.gov>

Cc: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Rebecca Brown <Rebecca.Brown@fcc.gov>

Subject: Re: Queries: CommDaily on Records Letter; TR Daily re 5.9 request from DOT

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Tuesday, November 10, 2020 1:43 PM

To: Will Wiquist <Will.Wiquist@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>

Cc: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Rebecca Brown <Rebecca.Brown@fcc.gov>

Subject: Re: Queries: CommDaily on Records Letter; TR Daily re 5.9 request from DOT

(b) (5)

[Redacted]

[Redacted]

From: Will Wiquist <Will.Wiquist@fcc.gov>

Sent: Tuesday, November 10, 2020 1:38 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>

Cc: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Rebecca Brown <Rebecca.Brown@fcc.gov>

Subject: Queries: CommDaily on Records Letter; TR Daily re 5.9 request from DOT

(b) (5)

- [Redacted]

[Redacted]

- [Redacted]

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>

Sent: Tuesday, November 10, 2020 10:57 AM

To: Phillips, Jimm <jphillips@warren-news.com>

Subject: ICYMI: House Committee Chairs Send Dozens of Letters Directing White House and Federal Agencies to Preserve Documents



FOR IMMEDIATE RELEASE
November 10, 2020

CONTACT
[CJ Young](#) (202) 225-5735

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Armed Services Committee Chair Adam Smith
Budget Committee Chair John Yarmuth
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Energy and Commerce Committee Chair Frank Pallone, Jr.
Financial Services Committee Chair Maxine Waters
Foreign Affairs Committee Chair Eliot Engel
Homeland Security Committee Chair Bennie G. Thompson
Permanent Select Committee on Intelligence Chair Adam B. Schiff
Judiciary Committee Chair Jerrold Nadler
Natural Resources Committee Chair Raúl M. Grijalva
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Select Committee on the Climate Crisis Chair Kathy Castor
Small Business Committee Chair Nydia M. Velázquez
Transportation and Infrastructure Committee Chair Peter A. DeFazio
Veterans’ Affairs Committee Chair Mark Takano
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From: [Will Wiquist](#)
To: [Anne Veigle](#); [Brian Hart](#); [Katie Gorscak](#)
Subject: RE: Query Re: ICYMI: House Committee Chairs Send Dozens of Letters Directing White House and Federal Agencies to Preserve Documents
Date: Tuesday, November 10, 2020 1:24:20 PM

(b) (5)

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Tuesday, November 10, 2020 1:19 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: RE: Query Re: ICYMI: House Committee Chairs Send Dozens of Letters Directing White House and Federal Agencies to Preserve Documents

(b) (5)

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Tuesday, November 10, 2020 1:18 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: RE: Query Re: ICYMI: House Committee Chairs Send Dozens of Letters Directing White House and Federal Agencies to Preserve Documents

(b) (5)

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Tuesday, November 10, 2020 1:17 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: RE: Query Re: ICYMI: House Committee Chairs Send Dozens of Letters Directing White House and Federal Agencies to Preserve Documents

(b) (5)

From: Phillips, Jimm <jphillips@warren-news.com>
Sent: Tuesday, November 10, 2020 12:52 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Query Re: ICYMI: House Committee Chairs Send Dozens of Letters Directing White House and Federal Agencies to Preserve Documents

All,

Any FCC comment?

Thanks,
Jimm

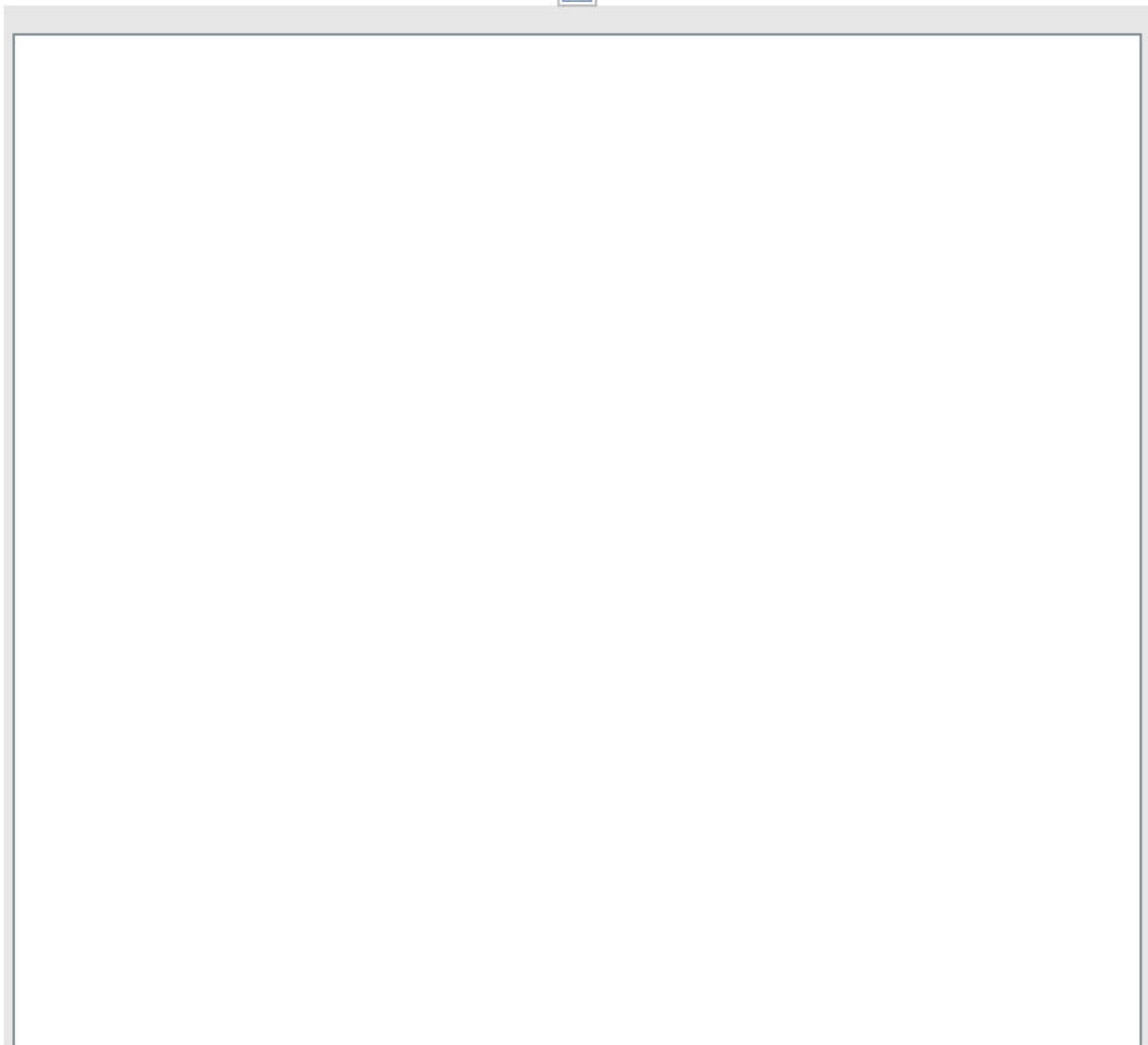
Jimm Phillips
Communications Daily
jphillips@warren-news.com

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>

Sent: Tuesday, November 10, 2020 10:57 AM

To: Phillips, Jimm <jphillips@warren-news.com>

Subject: ICYMI: House Committee Chairs Send Dozens of Letters Directing White House and Federal Agencies to Preserve Documents



FOR IMMEDIATE RELEASE

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CONTACT

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Small Business Committee Chair Nydia M. Velázquez
Transportation and Infrastructure Committee Chair Peter A. DeFazio
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From: [Will Wiquist](#)
To: [Phillips, Jimm](#); [Brian Hart](#); [Anne Veigle](#)
Subject: RE: Query Re: ICYMI: House Committee Chairs Send Dozens of Letters Directing White House and Federal Agencies to Preserve Documents
Date: Tuesday, November 10, 2020 1:56:02 PM

We'll decline comment. Thanks.

From: Phillips, Jimm <jphillips@warren-news.com>
Sent: Tuesday, November 10, 2020 12:52 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Query Re: ICYMI: House Committee Chairs Send Dozens of Letters Directing White House and Federal Agencies to Preserve Documents

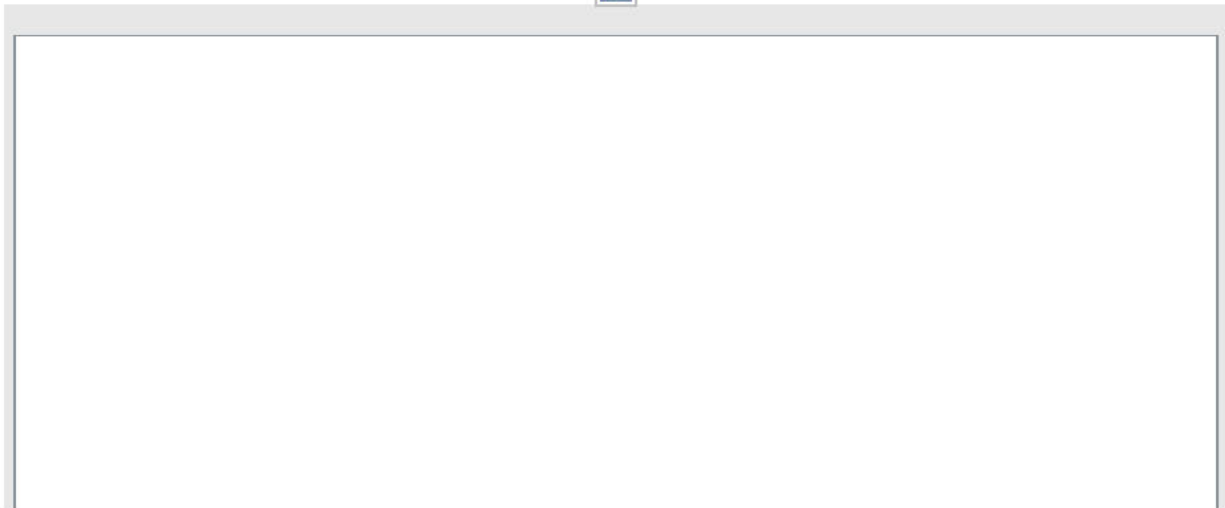
All,

Any FCC comment?

Thanks,
Jimm

Jimm Phillips
Communications Daily
jphillips@warren-news.com

From: Energy & Commerce News <ecdemnews@ecdem.housecommunications.gov>
Sent: Tuesday, November 10, 2020 10:57 AM
To: Phillips, Jimm <jphillips@warren-news.com>
Subject: ICYMI: House Committee Chairs Send Dozens of Letters Directing White House and Federal Agencies to Preserve Documents





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Permanent Select Committee on Intelligence Chair Adam B. Schiff
Judiciary Committee Chair Jerrold Nadler
Natural Resources Committee Chair Raúl M. Grijalva
Rules Committee Chair James P. McGovern
Science, Space, and Technology Committee Chair Eddie Bernice Johnson
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From: [Ajit Pai](#)
To: [Matthew Berry](#); [Lamar Robertson](#); [Nicholas Degani](#); [Evan Swarztrauber](#); [Montana L. Hyde](#)
Cc: [Brian Hart](#)
Subject: Re: Reason Foundation remarks
Date: Thursday, November 19, 2020 5:33:32 PM

Thanks much! That was a lot of fun. Reminds me of 2017--what a blast that was. Great work, everyone!

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Thursday, November 19, 2020 5:19 PM
To: Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Reason Foundation remarks

Great job, Ajit!

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Thursday, November 19, 2020 5:11 PM
To: Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Reason Foundation remarks

Ajit has finished his speech and is now doing Q and A.

From: Lamar Robertson <Lamar.Robertson@fcc.gov>
Sent: Thursday, November 19, 2020 5:10 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Reason Foundation remarks

Let me know when this event is over, and I'll do a final proof and OMR will post.

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Thursday, November 19, 2020 4:20 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: Reason Foundation remarks

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Thursday, November 19, 2020 4:06 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Reason Foundation remarks

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Thursday, November 19, 2020 3:28 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Reason Foundation remarks

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Thursday, November 19, 2020 3:11 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Reason Foundation remarks

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Thursday, November 19, 2020 2:15 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Reason Foundation remarks

Taking a look.

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Thursday, November 19, 2020 12:04 PM
To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Reason Foundation remarks

(b) (5)




From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Thursday, November 19, 2020 11:32 AM
To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Reason Foundation remarks

Jumping in . . .

From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Sent: Thursday, November 19, 2020 11:16 AM
To: Lamar Robertson <Lamar.Robertson@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Reason Foundation remarks

(b) (5)




Evan Swarztrauber
Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: Lamar Robertson <Lamar.Robertson@fcc.gov>
Sent: Thursday, November 19, 2020 9:46 AM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Reason Foundation remarks

From the invite: "Your presentation would be 20-25 minutes and could include remarks on topics such as lessons learned from the repeal of Title II regulations and the importance of a light- touch regulatory framework."

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Thursday, November 19, 2020 9:44 AM
To: Lamar Robertson <Lamar.Robertson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Reason Foundation remarks

I think that the current length works then.

From: Lamar Robertson <Lamar.Robertson@fcc.gov>
Sent: Thursday, November 19, 2020 9:44 AM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Reason Foundation remarks

The invitation asked AP to speak for 20 minutes.

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Thursday, November 19, 2020 9:37 AM
To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Reason Foundation remarks

What time is he delivering the speech?

How long are the remarks supposed to be? Based on word count, this draft should be around 20 minutes.

From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Sent: Thursday, November 19, 2020 9:29 AM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Reason Foundation remarks

Yep.

Evan Swarztrauber

Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Thursday, November 19, 2020 9:03 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: Reason Foundation remarks

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Wednesday, November 18, 2020 11:26 PM
To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: Reason Foundation remarks

(b) (5)

For context, here are the Reason articles referenced in the new section.

<https://reason.com/2018/01/19/barber-cops-bust-high-school-dropouts/>

<https://reason.com/2018/03/20/reason-readers-and-ajit-pai-helped-memph/>

<https://reason.com/2020/08/11/tennessee-supreme-court-snips-high-school-diploma-requirement-from-barber-licensing/>

From: Ajit Pai <Ajit.Pai@fcc.gov>

Sent: Wednesday, November 18, 2020 9:24 PM

To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>

Cc: Brian Hart <Brian.Hart@fcc.gov>

Subject: Re: Reason Foundation remarks

Going through this now.

From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Sent: Wednesday, November 18, 2020 4:44 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>

Cc: Brian Hart <Brian.Hart@fcc.gov>

Subject: Re: Reason Foundation remarks

Looks good! Some minor nits and edits attached.

Evan Swarztrauber

Policy Advisor

Office of Chairman Ajit Pai

Federal Communications Commission

(202) 418-2261 (o)

(202) 870-8405 (m)

Twitter: @EvanS_FCC

From: Ajit Pai <Ajit.Pai@fcc.gov>

Sent: Wednesday, November 18, 2020 2:21 PM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Lamar Robertson <Lamar.Robertson@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>;

Montana L. Hyde <Montana.Hyde@fcc.gov>

Cc: Brian Hart <Brian.Hart@fcc.gov>

Subject: Re: Reason Foundation remarks

(b) (5)

[REDACTED]

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Sent: Wednesday, November 18, 2020 2:10 PM

To: Lamar Robertson <Lamar.Robertson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>

Cc: Brian Hart <Brian.Hart@fcc.gov>

Subject: Re: Reason Foundation remarks

(b) (5)

[REDACTED]

From: Lamar Robertson <Lamar.Robertson@fcc.gov>

Sent: Wednesday, November 18, 2020 2:04 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>

Cc: Brian Hart <Brian.Hart@fcc.gov>

Subject: Reason Foundation remarks

Attached are draft remarks for tomorrow's Reason Foundation event.

From: [Brian Hart](#)
To: [Ajit Pai](#)
Subject: Re: Request for contact
Date: Thursday, October 15, 2020 4:28:03 PM

done

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Thursday, October 15, 2020 3:32 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Fw: Request for contact

From: McFall, Caitlin <Caitlin.McFall@FOXNEWS.COM>
Sent: Thursday, October 15, 2020 3:27 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>
Subject: Request for contact

Good afternoon,

I am covering your recent announcement that the FCC will be looking into "rulemaking" surrounding Section 230, could you go into more detail what you intend to focus on?

How do you intend to increase "rulemaking?"

And do you have a response to the FCC Commissioner's comments saying, "The FCC has no business being the President's speech police."

Any additional information/comment you could provide Fox News would be greatly appreciated.

Thank you,

Caitlin McFall

Reporter
Fox News
caitlin.mcfall@foxnews.com
(760) 579-8853
@ctlnmcfall

This message and its attachments may contain legally privileged or confidential information. It is intended solely for the named addressee. If you are not the addressee indicated in this message (or responsible for delivery of the message to the addressee), you may not copy or deliver this message or its attachments to anyone. Rather, you should permanently delete this message and its attachments and kindly notify the sender by reply e-mail. Any content of this message and its attachments that does not relate to the official business of Fox News or Fox Business must not be taken to have been sent or endorsed by either of them. No representation is made that this email or its attachments are without defect.

From: [Ajit Pai](#)
To: [Evan Swarztrauber](#); [Matthew Berry](#); [Thomas Johnson](#); [Brian Hart](#); [Nicholas Degani](#); [Montana L. Hyde](#)
Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai
Date: Friday, October 16, 2020 5:05:34 PM

OK

From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Sent: Friday, October 16, 2020 4:40 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai

And the interviewer is Brian Sullivan of CNBC.

Evan Swarztrauber

Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Friday, October 16, 2020 4:28 PM
To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai

(b) (5)

From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Sent: Friday, October 16, 2020 1:29 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai

(b) (5)

Evan Swarztrauber

Policy Advisor

Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Friday, October 16, 2020 12:38 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Friday, October 16, 2020 12:36 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>
Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Friday, October 16, 2020 12:35 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai

(b)
(5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Friday, October 16, 2020 12:33 PM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai

(b) (5)

From: Thomas Johnson <Thomas.Johnson@fcc.gov>

Sent: Friday, October 16, 2020 9:21 AM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai

Done.

<https://twitter.com/TomMJohnsonJr/status/1317093121172393987?s=20>



Tom Johnson on Twitter

"Yes! I will soon release a blog post detailing the @FCC's legal authority to interpret #Section230. Stay tuned!
<https://t.co/bkY2OQajlV>"

twitter.com

From: Thomas Johnson <Thomas.Johnson@fcc.gov>

Sent: Friday, October 16, 2020 9:16 AM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

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From: Ajit Pai <Ajit.Pai@fcc.gov>

Sent: Friday, October 16, 2020 9:15 AM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Friday, October 16, 2020 9:14 AM

To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai

(b) (5)

From: Thomas Johnson <Thomas.Johnson@fcc.gov>

Sent: Friday, October 16, 2020 9:13 AM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai

(b) (5)

From: Thomas Johnson <Thomas.Johnson@fcc.gov>

Sent: Friday, October 16, 2020 9:05 AM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Friday, October 16, 2020 9:02 AM

To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai

(b) (5)

From: Thomas Johnson <Thomas.Johnson@fcc.gov>

Sent: Friday, October 16, 2020 8:18 AM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai

(b) (5)

<https://twitter.com/tmarecha/status/1316843285348900865?s=20>



Tejas N. Narechania on Twitter

"@TomMJohnsonJr @AjitPaiFCC @FCC Tom, I remember when Austin Schlick did a blog post elaborating on the Commission's legal theory for new network neutrality rules in the wake of Comcast v. FCC Will you do the same here? It'd be nice to have a preview of the Commission's legal theory, as it has done in the past."

twitter.com

From: Ajit Pai <Ajit.Pai@fcc.gov>

Sent: Thursday, October 15, 2020 10:35 PM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>

Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai

(b) (5)

Also: <https://twitter.com/vijaya/status/1316923549236551680>



Vijaya Gadde on Twitter

"Over the last 24 hours, we've received significant feedback (from critical to supportive) about how we enforced our Hacked Materials Policy yesterday. After reflecting on this feedback, we have decided to make changes to the policy and how we enforce it."

twitter.com

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Thursday, October 15, 2020 10:34 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani

<Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>

Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>

Sent: Thursday, October 15, 2020 10:29 PM

To: Brian Hart <Brian.Hart@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Fw: Request for Interview - Ben Shapiro Show / Ajit Pai

From: Rebecca Doyle <rdoyle@bentkey.com>

Sent: Thursday, October 15, 2020 10:20 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>

Cc: Brian Hart <Brian.Hart@fcc.gov>; Colton Haas <chaas@dailywire.com>

Subject: Request for Interview - Ben Shapiro Show / Ajit Pai

Hello Ajit,

I'm on the producing team of the Ben Shapiro Show podcast and radio program and am reaching out in hopes of having you on the show tomorrow to speak with Ben about your comments on legal immunities.

Might you be available tomorrow Fri. 10/16 at 7:00 AM PT / 10:00 AM ET or 7:20 AM ET / 10:20 AM ET for a video call or phone interview?

Regards,

Rebecca Doyle
Associate Producer
The Ben Shapiro Show
Bentkey Ventures

--

Rebecca Doyle
Associate Producer
The Ben Shapiro Show
Bentkey Ventures

From: [Thomas Johnson](#)
To: [Matthew Berry](#); [Ajit Pai](#); [Brian Hart](#); [Nicholas Degani](#); [Evan Swarztrauber](#)
Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai
Date: Friday, October 16, 2020 9:05:21 AM

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Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai

(b) (5)

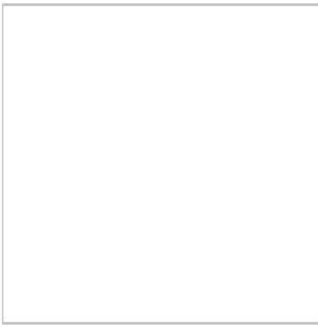
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Sent: Friday, October 16, 2020 8:18 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai

(b) (5)

<https://twitter.com/tnarecha/status/1316843285348900865?s=20>

Tejas N. Narechania on Twitter

"@TomMJohnsonJr @AjitPaiFCC @FCC Tom, I remember when Austin Schlick did a blog post elaborating on the Commission's legal theory for new network neutrality rules in the wake of Comcast v. FCC Will you do the same here? It'd be nice to have a preview of the Commission's legal theory, as it



has done in the past.”

twitter.com

From: Ajit Pai <Ajit.Pai@fcc.gov>

Sent: Thursday, October 15, 2020 10:35 PM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>

Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai

(b) (5)

Also: <https://twitter.com/vijaya/status/1316923549236551680>



Vijaya Gadde on Twitter

“Over the last 24 hours, we’ve received significant feedback (from critical to supportive) about how we enforced our Hacked Materials Policy yesterday. After reflecting on this feedback, we have decided to make changes to the policy and how we enforce it.”

twitter.com

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Thursday, October 15, 2020 10:34 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>

Subject: Re: Request for Interview - Ben Shapiro Show / Ajit Pai

(b) (5)

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>

Sent: Thursday, October 15, 2020 10:29 PM

To: Brian Hart <Brian.Hart@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Fw: Request for Interview - Ben Shapiro Show / Ajit Pai

From: Rebecca Doyle <rdoyle@bentkey.com>

Sent: Thursday, October 15, 2020 10:20 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>

Cc: Brian Hart <Brian.Hart@fcc.gov>; Colton Haas <chaas@dailywire.com>

Subject: Request for Interview - Ben Shapiro Show / Ajit Pai

Hello Ajit,

I'm on the producing team of the Ben Shapiro Show podcast and radio program and am reaching out in hopes of having you on the show tomorrow to speak with Ben about your comments on legal immunities.

Might you be available tomorrow Fri. 10/16 at 7:00 AM PT / 10:00 AM ET or 7:20 AM ET / 10:20 AM ET for a video call or phone interview?

Regards,

Rebecca Doyle
Associate Producer
The Ben Shapiro Show
Bentkey Ventures

--

Rebecca Doyle
Associate Producer
The Ben Shapiro Show
Bentkey Ventures

From: [Matthew Berry](#)
To: [Will Wiquist](#); [Ajit Pai](#); [Nicholas Degani](#)
Cc: [Brian Hart](#); [Anne Veigle](#); [Katie Gorscak](#); [Evan Swarztrauber](#); [Paul Jackson](#)
Subject: Re: Reuters re 230 timeline
Date: Monday, October 5, 2020 4:22:54 PM

(b) (5)

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Monday, October 5, 2020 4:22 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Subject: Reuters re 230 timeline

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

From: [Anne Veigle](#)
To: [Will Wiquist](#); [Katie Gorscak](#); [Brian Hart](#)
Subject: RE: Sec. 230 inquiries
Date: Thursday, October 15, 2020 4:03:02 PM

Fewer than I expected

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Thursday, October 15, 2020 4:02 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Subject: Sec. 230 inquiries

Here's a start of a list of inquiries we can add to.

michael.kan@ziffmedia.com

Perera, David (LNG-MLEX) perera@mlex.com

McKeigue, Lesley (NBCUniversal) <Lesley.McKeigue@nbcuni.com>

Wellons, Mary Catherine (NBCUniversal) MC.Wellons@nbcuni.com

Lawrence, Edward <Edward.Lawrence@FOXBUSINESS.COM>

Make, Jonathan <jmake@warren-news.com>

From: [Brian Hart](#)
To: [Kelcee Griffis](#)
Subject: Re: Sect 230 rulemaking
Date: Thursday, October 15, 2020 4:41:12 PM

Hey Kelcee...sorry for the delay. We don't have any details to share beyond the chairman's statement at this point.

From: Kelcee Griffis <kelcee.griffis@law360.com>
Sent: Thursday, October 15, 2020 3:06 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Sect 230 rulemaking

Hi Brian,

Just tried to reach you on your cell about the Section 230 rulemaking release. Just wanted to see if you have any more details you can share on the timing of the rulemaking. Will it be on the October meeting agenda, passed on circulation, etc?

Thanks!

--

Kelcee Griffis
Senior Telecom Reporter

Law 60
1150 18th St. NW
6th Floor
Washington, DC 20006
Work Cell: 202-508-4066

From: [Matthew Berry](#)
To: [Anne Veigle](#); [Ajit Pai](#); [Nicholas Degani](#)
Cc: [Brian Hart](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: Re: Section 230
Date: Tuesday, November 24, 2020 11:48:03 AM

(b) (5)

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Tuesday, November 24, 2020 11:31 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: FW: Section 230

(b)

(5)

From: Herchenroeder, Karl <karlh@warren-news.com>
Sent: Tuesday, November 24, 2020 11:19 AM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Section 230

Hi, Anne:

I'm working on a story about the Section 230 rulemaking.

Several experts told me they expect the agency not to take action on the item for the rest of Pai's tenure.

Does the agency have any comment?

Best Regards,
Karl Herchenroeder
Assistant Editor/tech reporter
Communications Daily
C: 202-704-4738

From: [Brian Hart](#)
To: [Anne Veigle](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: Re: Section 230
Date: Tuesday, November 24, 2020 11:26:50 AM

(b) (5)

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Tuesday, November 24, 2020 11:23 AM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: FW: Section 230

(b) (5)

From: Herchenroeder, Karl <karlh@warren-news.com>
Sent: Tuesday, November 24, 2020 11:19 AM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Section 230

Hi, Anne:

I'm working on a story about the Section 230 rulemaking.

Several experts told me they expect the agency not to take action on the item for the rest of Pai's tenure.

Does the agency have any comment?

Best Regards,
Karl Herchenroeder
Assistant Editor/tech reporter
Communications Daily
C: 202-704-4738

From: [Lawrence, Edward](#)
To: [Will Wiquist](#)
Cc: [Brian Hart](#)
Subject: RE: Section 230
Date: Thursday, October 15, 2020 3:43:48 PM

Thanks.. Please let me know if anything changes.

From: Will Wiquist [mailto:Will.Wiquist@fcc.gov]
Sent: Thursday, October 15, 2020 3:40 PM
To: Lawrence, Edward <Edward.Lawrence@FOXBUSINESS.COM>
Cc: Brian Hart <Brian.Hart@fcc.gov>
Subject: [EXTERNAL] RE: Section 230

We have nothing further to add beyond the statement at this time

From: Lawrence, Edward <Edward.Lawrence@FOXBUSINESS.COM>
Sent: Thursday, October 15, 2020 3:12 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Section 230

Will,

I saw that the FCC Chairman released some quotes about Section 230 today. In it he says, "Consistent with this advice, I intend to move forward with a rulemaking to clarify its meaning."

What does this mean? Did the FCC get the recommendations from the Dept of Commerce? What is the next steps to changing or striking or revising Section 230?

Thank you!

--

Edward Lawrence
Correspondent
FOX Business Network
Cell: (202) 718-3101
Signal: 3107378211

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From: [Brian Hart](#)
To: [Perera, David \(LNG-MLEX\)](#)
Subject: Re: Section 230 check-in
Date: Wednesday, October 14, 2020 11:26:21 AM
Attachments: [image001.png](#)

Nothing new to share.

From: Perera, David (LNG-MLEX) <perera@mlex.com>
Sent: Wednesday, October 14, 2020 11:06:10 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: Section 230 check-in

Hi Brian,

Sorry to be a pain – anything new on the Section 230 front?

Cheers, Dave

From: Perera, David (LNG-MLEX)
Sent: Tuesday, October 13, 2020 2:04 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Section 230 check-in

Hi Brian,

Happy Tuesday! Checking in regarding the Section 230 docket – has any decision been made on what the next steps are? I see that people are still filing comments, although the 45 days since the docket's opening passed in mid-September. Has the Chairman decided on whether to open a rulemaking? Will he decide soon?

Cheers, Dave

David Perera ☐ MLex data security and privacy reporter

perera@mlex.com ☐ b: 202 909 2141 m: 202 2☐0 9949

1776 I (Eye☐Street NW Suite 260 ☐Washington, D.C. 20006 ☐United States ☐ www.mlexmarketinsight.com ☐ www.ftcwatch.com



From: [Anne Veigle](#)
To: [Herchenroeder, Karl](#)
Cc: [Brian Hart](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: RE: Section 230
Date: Tuesday, November 24, 2020 1:02:15 PM

Hi Karl,
We don't have a comment.

From: Herchenroeder, Karl <karlh@warren-news.com>
Sent: Tuesday, November 24, 2020 11:19 AM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Section 230

Hi, Anne:
I'm working on a story about the Section 230 rulemaking.

Several experts told me they expect the agency not to take action on the item for the rest of Pai's tenure.

Does the agency have any comment?

Best Regards,
Karl Herchenroeder
Assistant Editor/tech reporter
Communications Daily
C: 202-704-4738

From: [Katie Gorscak](#)
To: [Brian Hart](#)
Subject: RE: September Press Prep
Date: Wednesday, October 21, 2020 12:13:47 PM
Attachments: [2020-10 Open Meeting - October Press Prep Draft.docx](#)

And here is October

From: Katie Gorscak
Sent: Wednesday, October 21, 2020 11:38 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: September Press Prep

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [Ajit Pai](#)
To: [Katie Gorscak](#); [Anne Veigle](#); [Nicholas Degani](#); [Matthew Berry](#)
Cc: [Alexander Sanjenis](#); [Michael Carowitz](#); [Allison Baker](#); [Zenji Nakazawa](#); [Preston Wise](#); [Sean Spivey](#); [Brian Hart](#); [Will Wiquist](#); [Paul Jackson](#); [Evan Swarztrauber](#)
Subject: Re: September Press Prep
Date: Tuesday, September 29, 2020 6:40:51 PM

Excellent! Many thanks.

From: Katie Gorscak <Katie.Gorscak@fcc.gov>
Sent: Tuesday, September 29, 2020 5:26 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: RE: September Press Prep

To all:

I've incorporated these questions, additional info, etc. into the press prep document that Matthew provided redline edits on earlier this afternoon. This clean version has also been adjusted to fix some formatting concerns.

Regards,

Katie

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Tuesday, September 29, 2020 3:21 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: RE: September Press Prep

Added to Section 230

(b) (5)



(b) (5)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>

Sent: Tuesday, September 29, 2020 2:24 PM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>

Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: RE: September Press Prep

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>

Sent: Tuesday, September 29, 2020 1:57 PM

To: Katie Gorscak <Katie.Gorscak@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>

Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Re: September Press Prep

(b) (5)

From: Katie Gorscak <Katie.Gorscak@fcc.gov>

Sent: Monday, September 28, 2020 3:55 PM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani

<Nicholas.Degani@fcc.gov>

Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: September Press Prep

To all:

Attached is press prep for Wednesday's Open Meeting.

Have a wonderful evening.

Regards,

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [Evan Swarztrauber](#)
To: [Nicholas Degani](#); [Zenji Nakazawa](#); [Matthew Berry](#); [Katie Gorscak](#); [Ajit Pai](#)
Cc: [Alexander Sanjenis](#); [Michael Carowitz](#); [Allison Baker](#); [Preston Wise](#); [Sean Spivey](#); [Brian Hart](#); [Anne Veigle](#); [Will Wiquist](#); [Paul Jackson](#)
Subject: Re: September Press Prep
Date: Tuesday, September 29, 2020 3:05:07 PM

CARES Act funding with links to your tweets:

These two are specifically from the Governor's Emergency Education Stabilization fund, which is the \$3 billion portion of the \$16 billion:

[Alabama](#) - \$100 million allocation for 250,000 vouchers covering up to 450,000 children, roughly \$400 per family. Can be used for existing service or to connect to new service.

[Connecticut](#) - \$43.5 million allocation for 50,000 laptops, 12 months of at-home Internet for 60,000 students, and creation of 200 public hotspots.

[Washington, DC](#) - \$3.3 million allocation to cover Internet bills for 25,000 families in public and charter schools. Will cover at least 12 months of Internet bills, roughly \$120 per household.

These are things from CARES Act, but not necessarily from the DoE fund:

[Delaware](#) - \$20 million to build out infrastructure across DE, gather data through a statewide speed survey, and acquire equipment and broadband services for families in financial need. (\$556,000 from DoE CARES Act fund did go to the Rural Wireless Broadband Initiative to build 15 towers in Kent and Sussex counties. This was an existing program, but the extra \$\$ will allow them to be completed 4 months ahead of schedule.)

[Tulsa, OK](#) - \$5.6 million to provide Internet access for Tulsa families

- 2.7 million will provide high-speed, reliable Wi-Fi to all Tulsa Housing Authority complexes impacting nearly 2,500 families and more than 8,000 Tulsans. In partnership with Cox Communications, this program will provide free Internet for the next three years.
- 2.4 million will provide high-speed internet coverage for up to 20,000 public school families that currently lack an internet subscription. This funding will provide free Internet to families for the next year.
- 500,000 will fund internet access navigators through Tulsa Responds and Tulsa's powerful network of non-profit organizations, ensuring families know about the subscription opportunities while providing a group of individuals that will help navigate technological challenges for students and families.

Evan Swarztrauber

Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Tuesday, September 29, 2020 2:41 PM
To: Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: RE: September Press Prep

(b) (5)
[Redacted]

From: Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>
Sent: Tuesday, September 29, 2020 2:30 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>
Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: September Press Prep

911 Legislation passed 410-5

Sponsor: [Rep. Engel, Eliot L. \[D-NY-16\]](#) (Introduced 01/10/2019)

AN ACT

To repeal the requirement to reallocate and auction the T-Band spectrum, to amend the Wireless Communications and Public Safety Act of 1999 to clarify acceptable 9–1–1 obligations or expenditures, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Short title.

This Act may be cited as the “Don’t Break Up the T-Band Act of 2020”.

SEC. 2. Repeal of requirement to reallocate and auction T-Band spectrum.

(a) Repeal.—Section 6103 of the Middle Class Tax Relief and Job Creation Act of 2012 ([47 U.S.C. 1413](#)) is repealed.

(b) Clerical amendment.—The table of contents in section 1(b) of such Act is amended by striking the item relating to section 6103.

SEC. 3. Clarifying acceptable 9–1–1 obligations or expenditures.

Section 6 of the Wireless Communications and Public Safety Act of 1999 ([47 U.S.C. 615a–1](#)) is amended—

(1) in subsection (f)—

(A) in paragraph (1), by striking “as specified in the provision of State or local law adopting the fee or charge” and inserting “consistent with the purposes and functions designated in the final rules issued under paragraph (3) as purposes and functions for which the obligation or expenditure of such a fee or charge is acceptable”;

(B) in paragraph (2), by striking “any purpose other than the purpose for which any such fees or charges are specified” and inserting “any purpose or function other than the purposes and functions designated in the final rules issued under paragraph (3) as purposes and functions for which the obligation or expenditure of any such fees or charges is acceptable”; and

(C) by adding at the end the following:

“(3) ACCEPTABLE OBLIGATIONS OR EXPENDITURES.—

“(A) RULES REQUIRED.—In order to prevent diversion of 9–1–1 fees or charges, the Commission shall, not later than 180 days after the date of the enactment of this paragraph, issue final rules designating purposes and functions for which the obligation or expenditure of 9–1–1 fees or charges, by any State or taxing jurisdiction authorized to impose such a fee or charge, is acceptable.

“(B) PURPOSES AND FUNCTIONS.—The purposes and functions designated under subparagraph (A) shall be limited to the support and implementation of 9–1–1 services provided by or in the State or taxing jurisdiction imposing the fee or charge and operational expenses of public safety answering points within such State or taxing jurisdiction. In designating such purposes and functions, the Commission shall consider the purposes and functions that States and taxing jurisdictions specify as the intended purposes and functions for the 9–1–1 fees or charges of such States and taxing jurisdictions, and determine whether such purposes and functions directly support providing 9–1–1 services.

“(C) CONSULTATION REQUIRED.—The Commission shall consult with public safety organizations and States and taxing jurisdictions as part of any proceeding under this paragraph.

“(D) DEFINITIONS.—In this paragraph:

“(i) 9–1–1 FEE OR CHARGE.—The term ‘9–1–1 fee or charge’ means a fee or charge applicable to commercial mobile services or IP-enabled voice services specifically designated by a State or taxing jurisdiction for the support or implementation of 9–1–1 services.

“(ii) 9–1–1 SERVICES.—The term ‘9–1–1 services’ has the meaning given such term in section 158(e) of the National Telecommunications and Information Administration Organization Act ([47 U.S.C. 942\(e\)](#)).

“(iii) STATE OR TAXING JURISDICTION.—The term ‘State or taxing jurisdiction’ means a State, political subdivision thereof, Indian Tribe, or village or regional corporation serving a region established pursuant to the Alaska Native Claims Settlement Act ([43 U.S.C. 1601](#) et seq.).

“(4) PARTICIPATION.—If a State or taxing jurisdiction (as defined in paragraph (3)(D)) receives a grant under section 158 of the National Telecommunications and Information Administration Organization Act ([47 U.S.C. 942](#)) after the date of the enactment of this paragraph, such State or taxing jurisdiction shall, as a condition of receiving such grant, provide the information requested by the Commission to prepare the report required by paragraph (2).

“(5) PETITION REGARDING ADDITIONAL PURPOSES AND FUNCTIONS.—

“(A) IN GENERAL.—A State or taxing jurisdiction (as defined in paragraph (3)(D)) may submit to the Commission a petition for a determination that an obligation or expenditure of a 9–1–1 fee or charge (as defined in such paragraph) by such State or taxing jurisdiction for a purpose or function other than a purpose or function designated under paragraph (3)(A) should be treated as such a purpose or function. If the Commission finds that the State or taxing jurisdiction has provided sufficient documentation to make the demonstration described in subparagraph (B), the Commission shall grant such petition.

“(B) DEMONSTRATION DESCRIBED.—The demonstration described in this subparagraph is a demonstration that the purpose or function—

“(i) supports public safety answering point functions or operations; or

“(ii) has a direct impact on the ability of a public safety answering point to—

“(I) receive or respond to 9–1–1 calls; or

“(II) dispatch emergency responders.”; and

(2) by adding at the end the following:

“(j) Severability clause.—If any provision of this section or the application thereof to any person or circumstance is held invalid, the remainder of this section and the application of such provision to other persons or circumstances shall not be affected thereby.”.

SEC. 4. Prohibition on 9–1–1 fee or charge diversion.

(a) In general.—If the Commission obtains evidence that suggests the diversion by a State or taxing jurisdiction of 9–1–1 fees or charges, the Commission shall submit such information, including any information regarding the impact of any underfunding of 9–1–1 services in the State or taxing jurisdiction, to the interagency strike force established under subsection (c).

(b) Report to Congress.—Beginning with the first report under section 6(f)(2) of the Wireless Communications and Public Safety Act of 1999 ([47 U.S.C. 615a–1\(f\)\(2\)](#)) that is required to be submitted after the date that is 1 year after the date of the enactment of this Act, the Commission shall include in each report required under such section all evidence that suggests the diversion by a State or taxing jurisdiction of 9–1–1 fees or charges, including any information regarding the impact of any underfunding of 9–1–1 services in the State or taxing jurisdiction.

(c) Interagency strike force to end 9–1–1 fee or charge diversion.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Commission shall establish an interagency strike force to study how the Federal Government can most expeditiously end diversion by a State or taxing jurisdiction of 9–1–1 fees or charges. Such interagency strike force shall be known as the “Ending 9–1–1 Fee Diversion Now Strike Force” (in this section referred to as the “Strike Force”).

(2) DUTIES.—In carrying out the study under paragraph (1), the Strike Force shall—

(A) determine the effectiveness of any Federal laws, including regulations, policies, and practices, or budgetary or jurisdictional constraints regarding how the Federal Government can most expeditiously end diversion by a State or taxing jurisdiction of 9–1–1 fees or charges;

(B) consider whether criminal penalties would further prevent diversion by a State or taxing jurisdiction of 9–1–1 fees or charges; and

(C) determine the impacts of diversion by a State or taxing jurisdiction of 9–1–1 fees or charges.

(3) MEMBERS.—The Strike Force shall be composed of such representatives of Federal departments and agencies as the Commission considers appropriate, in addition to—

(A) State attorneys general;

(B) States or taxing jurisdictions found not to be engaging in diversion of 9–1–1 fees or charges;

(C) States or taxing jurisdictions trying to stop the diversion of 9–1–1 fees or charges;

(D) State 9–1–1 administrators;

(E) public safety organizations;

(F) groups representing the public and consumers; and

(G) groups representing public safety answering point professionals.

(4) REPORT TO CONGRESS.—Not later than 270 days after the date of the enactment of this Act, the Strike Force shall publish on the website of the Commission and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the findings of the study under this subsection, including—

(A) any recommendations regarding how to most expeditiously end the diversion by a State or taxing jurisdiction of 9–1–1 fees or charges, including actions that can be taken by Federal departments and agencies and appropriate changes to law or regulations; and

(B) a description of what progress, if any, relevant Federal departments and agencies have made in implementing the recommendations under subparagraph (A).

(d) Failure to comply.—Notwithstanding any other provision of law, any State or taxing jurisdiction identified by the Commission in the report required under section 6(f)(2) of the Wireless Communications and Public Safety Act of 1999 ([47 U.S.C. 615a–1\(f\)\(2\)](#)) as engaging in diversion of 9–1–1 fees or charges shall be ineligible to participate or send a representative to serve on any committee, panel, or council established under section 6205(a) of the Middle Class Tax Relief and Job Creation Act of 2012 ([47 U.S.C. 1425\(a\)](#)) or any advisory committee established by the Commission.

SEC. 5. Rule of construction.

From: Nicholas Degani <Nicholas.Degani@fcc.gov>

Sent: Tuesday, September 29, 2020 2:23 PM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>

Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael Carowitz

<Michael.Carowitz@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: RE: September Press Prep

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Tuesday, September 29, 2020 1:57 PM
To: Katie Gorscak <Katie.Gorscak@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: September Press Prep

(b) (5)

From: Katie Gorscak <Katie.Gorscak@fcc.gov>
Sent: Monday, September 28, 2020 3:55 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>
Cc: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: September Press Prep

To all:

Attached is press prep for Wednesday's Open Meeting.

Have a wonderful evening.

Regards,

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [Preston Wise](#)
To: [Sean Spivey](#); [Allison Baker](#); [Alexander Sanjenis](#); [Michael Carowitz](#); [Zenji Nakazawa](#); [Katie Gorscak](#)
Cc: [Matthew Berry](#); [Nicholas Degani](#); [Anne Veigle](#); [Brian Hart](#); [Evan Swarztrauber](#)
Subject: Re: September Press Prep
Date: Monday, September 28, 2020 11:34:55 AM
Attachments: [2-2020-09 Open Meeting - September Press Prep draft - to Advisors-ZN-ATS-AB-SS-pw.docx](#)

A few edits, attached.

(b) (5)

From: Sean Spivey <Sean.Spivey@fcc.gov>
Sent: Friday, September 25, 2020 7:50 PM
To: Allison Baker <Allison.Baker@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>
Cc: Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: RE: September Press Prep

Edits to 1-3 attached.

Sean

From: Allison Baker <Allison.Baker@fcc.gov>
Sent: Friday, September 25, 2020 6:23 PM
To: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>
Cc: Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: RE: September Press Prep

(b) (5)

From: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>
Sent: Friday, September 25, 2020 6:03 PM
To: Michael Carowitz <Michael.Carowitz@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>
Cc: Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber

<Evan.Swarztrauber@fcc.gov>

Subject: RE: September Press Prep

(b) (5)

From: Michael Carowitz <Michael.Carowitz@fcc.gov>

Sent: Friday, September 25, 2020 5:59 PM

To: Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>

Cc: Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Re: September Press Prep

(b) (5)

From: "Zenji Nakazawa" <Zenji.Nakazawa@fcc.gov>

Date: Friday, September 25, 2020 at 5:42:14 PM

To: "Katie Gorscak" <Katie.Gorscak@fcc.gov>, "Alexander Sanjenis" <Alexander.Sanjenis@fcc.gov>, "Michael Carowitz" <Michael.Carowitz@fcc.gov>, "Sean Spivey" <Sean.Spivey@fcc.gov>, "Preston Wise" <Preston.Wise@fcc.gov>, "Allison Baker" <Allison.Baker@fcc.gov>

Cc: "Matthew Berry" <Matthew.Berry@fcc.gov>, "Nicholas Degani" <Nicholas.Degani@fcc.gov>, "Anne Veigle" <Anne.Veigle@fcc.gov>, "Brian Hart" <Brian.Hart@fcc.gov>, "Evan Swarztrauber" <Evan.Swarztrauber@fcc.gov>

Subject: Re: September Press Prep

Katie,

My edits are attached in the redline.

Thanks, Zenji

From: Katie Gorscak <Katie.Gorscak@fcc.gov>

Sent: Friday, September 25, 2020 3:16 PM

To: Alexander Sanjenis <Alexander.Sanjenis@fcc.gov>; Michael Carowitz <Michael.Carowitz@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Zenji Nakazawa <Zenji.Nakazawa@fcc.gov>; Preston Wise <Preston.Wise@fcc.gov>; Allison Baker <Allison.Baker@fcc.gov>

Cc: Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: September Press Prep

Advisors – The draft press prep document is attached for your review. Please send us your edits by 4

p.m. on Monday, September 28th.

Regards,

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [David Kaut](#)
To: [Anne Veigle](#)
Cc: [Will Wiquist](#); [Brian Hart](#); [Katie Gorscak](#)
Subject: RE: STATEMENT: Chairman Pai on Section 230
Date: Friday, October 16, 2020 11:01:26 AM
Attachments: [image001.jpg](#)

OK, thanks. You too.

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Friday, October 16, 2020 10:40 AM
To: David Kaut <dkaut@thecapitolforum.com>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: RE: STATEMENT: Chairman Pai on Section 230

Hi David,
We don't have a comment on this. Hope you have a nice weekend.

From: David Kaut <dkaut@thecapitolforum.com>
Sent: Friday, October 16, 2020 10:23 AM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: RE: STATEMENT: Chairman Pai on Section 230

Thanks for the response. If at all possible, can you see if this fundamental point can be nailed down. Of the people I've talked to, everybody assumes it will be an NPRM because Pai used the word "rulemaking." In FCC parlance, to the best of my understanding, "rulemaking" has always meant a proceeding where the FCC does an NPRM that leads to an order, and in this case, there has been no NPRM yet. Obviously, the chairman is as familiar with FCC protocols as anybody, and further, you all are perfectly free to not go beyond the chairman's statement at this time, as you noted below.

But, all things considered, I think it would be good to verify or clarify, sooner rather than later, especially so if everybody's understanding of the chairman's intent is incorrect.

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Thursday, October 15, 2020 5:17 PM
To: David Kaut <dkaut@thecapitolforum.com>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: RE: STATEMENT: Chairman Pai on Section 230

We have nothing further to add at this time.

From: David Kaut <dkaut@thecapitolforum.com>

Sent: Thursday, October 15, 2020 5:14 PM

To: Brian Hart <Brian.Hart@fcc.gov>

Cc: Will Wiquist <Will.Wiquist@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>

Subject: FW: STATEMENT: Chairman Pai on Section 230

The chairman said he plans to move forward with a rulemaking. I assume that means he plans to put out an NPRM, and seek comment on possible rules, and not some sort of declaratory ruling. Is that correct?

From: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>

Sent: Thursday, October 15, 2020 2:31 PM

Subject: STATEMENT: Chairman Pai on Section 230



Media Contact:

Brian Hart, (202) 418-0505

brian.hart@fcc.gov

For Immediate Release

STATEMENT OF CHAIRMAN PAI ON SECTION 230

WASHINGTON, October 15, 2020—Federal Communications Commission Chairman Ajit Pai issued the following statement today on Section 230 of the Communications Act:

“Members of all three branches of the federal government have expressed serious concerns about the prevailing interpretation of the immunity set forth in Section 230 of the Communications Act. There is bipartisan support in Congress to reform the law. The U.S. Department of Commerce has petitioned the Commission to ‘clarify ambiguities in section 230.’ And earlier this week, U.S. Supreme Court Justice Clarence Thomas pointed out that courts have relied upon ‘policy and purpose arguments to grant sweeping protections to Internet platforms’ that appear to go far beyond the actual text of the provision.

“As elected officials consider whether to change the law, the question remains: What does Section 230 currently mean? Many advance an overly broad interpretation that in some cases shields social media companies from consumer protection laws in a way that has no basis in the text of Section 230. The Commission’s General Counsel has informed me that the FCC has the legal authority to interpret Section 230. Consistent with this advice, I intend to move forward with a rulemaking to clarify its meaning.

“Throughout my tenure at the Federal Communications Commission, I have favored regulatory parity, transparency, and free expression. Social media companies have a First Amendment right to free speech. But they do not have a First Amendment right to a special immunity denied to other media outlets, such as newspapers and broadcasters.”

###

Office of Chairman Pai: (202) 418-1000 / Twitter: @AjitPaiFCC / www.fcc.gov/leadership/ajit-pai

*This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.
See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).*

From: [Anne Veigle](#)
To: [Will Wiquist](#)
Cc: [Brian Hart](#); [Katie Gorscak](#)
Subject: RE: STATEMENT: Chairman Pai on Section 230
Date: Friday, October 16, 2020 10:36:40 AM
Attachments: [image001.jpg](#)

(b) (5)

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Friday, October 16, 2020 10:26 AM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Cc: Brian Hart <Brian.Hart@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: RE: STATEMENT: Chairman Pai on Section 230

(b) (5)

From: David Kaut <dkaut@thecapitolforum.com>
Sent: Friday, October 16, 2020 10:23 AM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: RE: STATEMENT: Chairman Pai on Section 230

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From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Thursday, October 15, 2020 5:17 PM
To: David Kaut <dkaut@thecapitolforum.com>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: RE: STATEMENT: Chairman Pai on Section 230

We have nothing further to add at this time.

From: David Kaut <dkaut@thecapitolforum.com>
Sent: Thursday, October 15, 2020 5:14 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Cc: Will Wiquist <Will.Wiquist@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>
Subject: FW: STATEMENT: Chairman Pai on Section 230

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From: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>
Sent: Thursday, October 15, 2020 2:31 PM
Subject: STATEMENT: Chairman Pai on Section 230



Media Contact:
Brian Hart, (202) 418-0505
brian.hart@fcc.gov

For Immediate Release

STATEMENT OF CHAIRMAN PAI ON SECTION 230

WASHINGTON, October 15, 2020—Federal Communications Commission Chairman Ajit Pai issued the following statement today on Section 230 of the Communications Act:

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“Throughout my tenure at the Federal Communications Commission, I have favored regulatory parity, transparency, and free expression. Social media companies have a First Amendment right to free speech. But they do not have a First Amendment right to a special immunity denied to other media outlets, such as newspapers and broadcasters.”

###

Office of Chairman Pai: (202) 418-1000 / Twitter: @AjitPaiFCC / www.fcc.gov/leadership/ajit-pai

*This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.
See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).*

From: [Matthew Berry](#)
To: [Evan Swarztrauber](#); [Ajit Pai](#); [Nicholas Degani](#); [Brian Hart](#)
Subject: Re: STATEMENT: Chairman Pai on Section 230
Date: Thursday, October 15, 2020 6:16:39 PM
Attachments: [pastedImagebase640.png](#)

(b) (5)

From: "Evan Swarztrauber" <Evan.Swarztrauber@fcc.gov>
Date: Thursday, October 15, 2020 at 6:14:20 PM
To: "Matthew Berry" <Matthew.Berry@fcc.gov>, "Ajit Pai" <Ajit.Pai@fcc.gov>, "Nicholas Degani" <Nicholas.Degani@fcc.gov>, "Brian Hart" <Brian.Hart@fcc.gov>
Subject: Re: STATEMENT: Chairman Pai on Section 230

I think Daily Caller.

Evan Swarztrauber

Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Thursday, October 15, 2020 6:12 PM
To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: STATEMENT: Chairman Pai on Section 230

What outlet is this?

From: "Evan Swarztrauber" <Evan.Swarztrauber@fcc.gov>
Date: Thursday, October 15, 2020 at 6:08:07 PM
To: "Ajit Pai" <Ajit.Pai@fcc.gov>, "Matthew Berry" <Matthew.Berry@fcc.gov>, "Nicholas Degani" <Nicholas.Degani@fcc.gov>, "Brian Hart" <Brian.Hart@fcc.gov>
Subject: Fw: STATEMENT: Chairman Pai on Section 230

(b) (5)

Evan Swarztrauber

Policy Advisor

Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: Jordan Bloom <bloom.jordan@gmail.com>
Sent: Thursday, October 15, 2020 5:28 PM
To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: STATEMENT: Chairman Pai on Section 230

Any chance we could get an op-ed on this?

On Thu, Oct 15, 2020 at 3:30 PM Evan Swarztrauber <Evan.Swarztrauber@fcc.gov> wrote:

Good afternoon,

Today, Chairman Pai announced that he intends to move forward with a rulemaking to clarify the meaning of Section 230 of the Communications Act. You can read his full statement below, and see [his tweet here](#).

Evan Swarztrauber

Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>
Sent: Thursday, October 15, 2020 2:31 PM
Subject: STATEMENT: Chairman Pai on Section 230



Media Contact:

Brian Hart, (202) 418-0505
brian.hart@fcc.gov

For Immediate Release

STATEMENT OF CHAIRMAN PAI ON SECTION 230

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“As elected officials consider whether to change the law, the question remains: What does Section 230 currently mean? Many advance an overly broad interpretation that in some cases shields social media companies from consumer protection laws in a way that has no basis in the text of Section 230. The Commission’s General Counsel has informed me that the FCC has the legal authority to interpret Section 230. Consistent with this advice, I intend to move forward with a rulemaking to clarify its meaning.

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###

Office of Chairman Pai: (202) 418-1000 / Twitter: @AjitPaiFCC / www.fcc.gov/leadership/ajit-pai

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).

--

Jordan A. Bloom
bloom.jordan@gmail.com
703-725-4262

From: [Will Wiquist](#)
To: [Make, Jonathan](#); [Brian Hart](#); [Anne Veigle](#); [Katie Gorscak](#)
Subject: RE: STATEMENT: Chairman Pai on Section 230
Date: Thursday, October 15, 2020 3:42:09 PM

We have nothing further to add at this time.

From: Make, Jonathan <jmake@warren-news.com>
Sent: Thursday, October 15, 2020 2:43 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Re: STATEMENT: Chairman Pai on Section 230

Good afternoon, FCC PR folks.

Will there be any further information about the NPRM substance and timing?

We are currently writing a news bulletin about this, and then we will also have some thing longer in tonight's regular issue.

Thanks.

On Oct 15, 2020, at 2:31 PM, FCC Office of Media Relations
<FCCOfficeofMediaRelations@fcc.gov> wrote:

<image002.jpg>

Media Contact:
Brian Hart, (202) 418-0505
brian.hart@fcc.gov

For Immediate Release

STATEMENT OF CHAIRMAN PAI ON SECTION 230

WASHINGTON, October 15, 2020—Federal Communications Commission Chairman Ajit Pai issued the following statement today on Section 230 of the Communications Act:

“Members of all three branches of the federal government have expressed serious concerns about the prevailing interpretation of the immunity set forth in Section 230 of the Communications Act. There is bipartisan support in Congress to reform the law. The U.S. Department of Commerce has petitioned the Commission to ‘clarify ambiguities in section 230.’ And earlier this week, U.S. Supreme Court Justice Clarence Thomas pointed out that courts have relied upon ‘policy and purpose arguments to grant sweeping protections to Internet platforms’ that appear to go far beyond the actual text of the provision.

“As elected officials consider whether to change the law, the question remains: What does Section 230 currently mean? Many advance an overly broad interpretation that in some cases shields social media companies from consumer protection laws in a way that has no basis in the text of Section 230. The Commission’s General Counsel has informed me that the FCC has the legal authority to interpret Section 230. Consistent with this advice, I intend to move forward with a rulemaking to clarify its meaning.

“Throughout my tenure at the Federal Communications Commission, I have favored regulatory parity, transparency, and free expression. Social media companies have a First Amendment right to free speech. But they do not have a First Amendment right to a special immunity denied to other media outlets, such as newspapers and broadcasters.”

###

Office of Chairman Pai: (202) 418-1000 / Twitter: @AjitPaiFCC / www.fcc.gov/leadership/ajit-pai

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).

From: [Brian Hart](#)
To: [Ajit Pai](#); [Nicholas Degani](#); [Matthew Berry](#); [Thomas Sullivan](#); [Evan Swarztrauber](#); [Paul Jackson](#)
Subject: Re: STATEMENT: Chairman Pai on Section 230
Date: Thursday, October 15, 2020 2:54:17 PM

This just happened as I verified the statement was on the front page a few minutes ago...my guess is the statement peaked traffic.

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Thursday, October 15, 2020 2:53 PM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Subject: Re: STATEMENT: Chairman Pai on Section 230

What?!?!?

From: Nicholas Degani <Nicholas.Degani@fcc.gov>
Sent: Thursday, October 15, 2020 2:52 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Subject: RE: STATEMENT: Chairman Pai on Section 230

Our website is now down.

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Thursday, October 15, 2020 2:49 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Thomas Sullivan <Thomas.Sullivan@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Paul Jackson <Paul.Jackson@fcc.gov>
Subject: Fw: STATEMENT: Chairman Pai on Section 230

(b) (5)





From: Make, Jonathan <jmake@warren-news.com>
Sent: Thursday, October 15, 2020 2:43 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Anne Veigle <Anne.Veigle@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>
Subject: Re: STATEMENT: Chairman Pai on Section 230

Good afternoon, FCC PR folks.

Will there be any further information about the NPRM substance and timing?

We are currently writing a news bulletin about this, and then we will also have some thing longer in tonight's regular issue.

Thanks.

On Oct 15, 2020, at 2:31 PM, FCC Office of Media Relations
<FCCOfficeofMediaRelations@fcc.gov> wrote:

<image002.jpg>

Media Contact:
Brian Hart, (202) 418-0505
brian.hart@fcc.gov

For Immediate Release

STATEMENT OF CHAIRMAN PAI ON SECTION 230

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“Members of all three branches of the federal government have expressed serious concerns about the prevailing interpretation of the immunity set forth in Section 230 of the Communications Act. There is bipartisan support in Congress to reform the law. The U.S. Department of Commerce has petitioned the Commission to ‘clarify ambiguities in section 230.’ And earlier this week, U.S. Supreme Court Justice Clarence Thomas pointed out that courts have relied upon ‘policy and purpose arguments to grant sweeping protections to Internet platforms’ that appear to go far beyond the actual text of the provision.

“As elected officials consider whether to change the law, the question remains: What does Section 230 currently mean? Many advance an overly broad interpretation that in some cases shields social media companies from consumer protection laws in a way that has no basis in the text of Section 230. The Commission’s General Counsel has informed me that the FCC has the legal authority to interpret Section 230. Consistent with this advice, I intend to move forward with a rulemaking to clarify its meaning.

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Office of Chairman Pai: (202) 418-1000 / Twitter: @AjitPaiFCC / www.fcc.gov/leadership/ajit-pai

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).

From: [Anne Veigle](#)
To: [Brian Hart](#); [Will Wiquist](#); [Katie Gorscak](#)
Subject: Re: Tom Johnson blog
Date: Friday, October 16, 2020 1:03:07 PM

OK

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Friday, October 16, 2020 12:47 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: Re: Tom Johnson blog

(b) (5)

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Friday, October 16, 2020 12:18 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: FW: Tom Johnson blog

(b) (5)

-----Original Message-----
From: Herchenroeder, Karl <karlh@warren-news.com>
Sent: Friday, October 16, 2020 12:17 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Tom Johnson blog

Hi, Anne:

Do you have any idea when Tom Johnson plans to post this blog post on the legal basis for the Section 230 rulemaking?

Just trying to plan accordingly.

Karl Herchenroeder
Assistant Editor
Communications Daily
202-704-4738

From: [Will Wiquist](#)
To: [Anne Veigle](#); [Brian Hart](#); [Katie Gorscak](#)
Subject: RE: Tom Johnson blog
Date: Friday, October 16, 2020 12:19:09 PM

(b) (5)

-----Original Message-----

From: Anne Veigle <Anne.Veigle@fcc.gov>
Sent: Friday, October 16, 2020 12:18 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Will Wiquist <Will.Wiquist@fcc.gov>; Katie Gorscak <Katie.Gorscak@fcc.gov>
Subject: FW: Tom Johnson blog

(b) (5)

-----Original Message-----

From: Herchenroeder, Karl <karlh@warren-news.com>
Sent: Friday, October 16, 2020 12:17 PM
To: Anne Veigle <Anne.Veigle@fcc.gov>
Subject: Tom Johnson blog

Hi, Anne:

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Karl Herchenroeder
Assistant Editor
Communications Daily
202-704-4738

From: [Evan Swarztrauber](#)
To: [Thomas Johnson](#); [Ajit Pai](#); [Matthew Berry](#); [Brian Hart](#); [Nicholas Degani](#); [Sean Spivey](#)
Subject: Re: TPI feedback
Date: Monday, October 26, 2020 2:59:30 PM

Here's the link: https://www.youtube.com/watch?v=gHiQccq9zzA&feature=youtu.be&ab_channel=TechnologyPolicyInstitute

Evan Swarztrauber

Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Sent: Thursday, October 22, 2020 4:27 PM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>
Subject: Re: TPI feedback

(b) (5)

Evan Swarztrauber

Policy Advisor
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Federal Communications Commission
(202) 418-2261 (o)
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From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Thursday, October 22, 2020 4:27 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>
Subject: Re: TPI feedback

(b) (5)

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From: Ajit Pai <Ajit.Pai@fcc.gov>

Sent: Thursday, October 22, 2020 4:16 PM

To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>

Subject: Re: TPI feedback

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Sent: Thursday, October 22, 2020 4:14 PM

To: Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>

Subject: Re: TPI feedback

(b) (5)

Evan Swarztrauber

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Twitter: @EvanS_FCC

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To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>

Subject: Re: TPI feedback

(b) (5)

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Sent: Thursday, October 22, 2020 3:15 PM
To: Brian Hart <Brian.Hart@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Sean Spivey <Sean.Spivey@fcc.gov>
Subject: Re: TPI feedback

(b) (5)

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Subject: TPI feedback

A reporter who asked to be kept off the record called to give some feedback on the TPI event.

They said it was one of the best interviews they've ever seen and they've been covering our beat for 25 years.

They said several times that it was professional, serious, and a great job.

...brilliant job explaining things and answering Sullivan's questions and follow-up questions.

"Very impressed."

They said they reached out to TPI and suggested they release the stream publicly, and encouraged us to do the same.

They went on and one for five minutes.

Me: Great job boss!

From: [Brian Hart](#)
To: [Ajit Pai](#); [Montana L. Hyde](#); [Matthew Berry](#); [Nicholas Degani](#); [Thomas Johnson](#); [Evan Swarztrauber](#)
Subject: Re: TPI Prep Session
Date: Wednesday, October 21, 2020 2:40:51 PM

FYI for both Ajit and Matthew:

<https://www.breitbart.com/politics/2020/10/21/exclusive-kelly-loeffler-introduces-bill-to-stop-un-american-big-tech-censorship-of-free-speech/>

From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Sent: Wednesday, October 21, 2020 2:35:06 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: TPI Prep Session

(b) (5) [Redacted]

[Redacted]

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

Evan Swarztrauber
Policy Advisor
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From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Sent: Wednesday, October 21, 2020 2:12 PM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>; Matthew Berry

<Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>

Subject: Re: TPI Prep Session

Updated.

Evan Swarztrauber

Policy Advisor

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Federal Communications Commission

(202) 418-2261 (o)

(202) 870-8405 (m)

Twitter: @EvanS_FCC

From: Ajit Pai <Ajit.Pai@fcc.gov>

Sent: Wednesday, October 21, 2020 1:55 PM

To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>

Subject: Re: TPI Prep Session

<https://medium.com/@AjitPaiFCC/what-i-hope-to-learn-from-the-tech-giants-6f35ce69dcd9>

What I Hope to Learn from the Tech Giants | by Ajit Pai |
Medium

This coming week, elected officials will have a chance to question those who run Silicon Valley tech giants — including a hearing on September 5 before the House Energy and Commerce Committee ...

medium.com

From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Sent: Wednesday, October 21, 2020 1:24 PM

To: Montana L. Hyde <Montana.Hyde@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>

Subject: Re: TPI Prep Session

I worked with Brian on these.

Evan Swarztrauber

Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
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Twitter: @EvanS_FCC

From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Sent: Wednesday, October 21, 2020 12:52 PM

To: Montana L. Hyde <Montana.Hyde@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>

Subject: Re: TPI Prep Session

I have not been able to reach Brian Sullivan yet to discuss topics. Scott sent me his info last night. Tried calling, emailing, and left a vm.

Evan Swarztrauber

Policy Advisor
Office of Chairman Ajit Pai
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From: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Sent: Tuesday, October 20, 2020 12:27 PM

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Subject: Re: TPI Prep Session

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Subject: RE: TPI Prep Session

Of course. I'll send around a scheduler shortly.

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Subject: TPI Prep Session

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

From: [Ajit Pai](#)
To: [Evan Swarztrauber](#); [Montana L. Hyde](#); [Matthew Berry](#); [Nicholas Degani](#); [Thomas Johnson](#); [Brian Hart](#)
Subject: Re: TPI Prep Session
Date: Wednesday, October 21, 2020 1:58:05 PM

"More broadly: Are these tech giants running impartial digital platforms over which they don't exercise editorial judgment when it comes to content? Or do they in fact **decide** what speech is allowed and what is not and discriminate based on ideology and/or political affiliation? And again, going back to the first point: where is the transparency?"

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Wednesday, October 21, 2020 1:55 PM
To: Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>; Montana L. Hyde <Montana.Hyde@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>
Subject: Re: TPI Prep Session

<https://medium.com/@AjitPaiFCC/what-i-hope-to-learn-from-the-tech-giants-6f35ce69dcd9>

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medium.com

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Of course. I'll send around a scheduler shortly.

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Sent: Tuesday, October 20, 2020 12:09 PM
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Subject: TPI Prep Session

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

From: [Brian Hart](#)
To: [Gilman, Chelsea](#)
Subject: Re: Tucker Carlson Tonight
Date: Friday, October 16, 2020 10:16:04 AM

Howdy Chelsea. It looks like he is giving a speech to Native Nations Monday evening. His scheduler is out on vaca today...I'll touch base with her Monday about the rest of the week.

Have a great weekend.

From: Gilman, Chelsea <chelsea.gilman@FOXNEWS.COM>
Sent: Friday, October 16, 2020 10:12 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: Tucker Carlson Tonight

Hi there,
Just wanted to circle back on this.

Thank you!
Chelsea Gilman

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Thursday, October 15, 2020 3:39 PM
To: Gilman, Chelsea <chelsea.gilman@FOXNEWS.COM>
Subject: [EXTERNAL] Re: Tucker Carlson Tonight

Let me check.

From: Gilman, Chelsea <chelsea.gilman@FOXNEWS.COM>
Sent: Thursday, October 15, 2020 3:36 PM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: RE: Tucker Carlson Tonight

Ok, totally understand.

We would love to have him join us next week. Would Monday work?

Best,
Chelsea Gilman

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Thursday, October 15, 2020 3:36 PM
To: Gilman, Chelsea <chelsea.gilman@FOXNEWS.COM>
Subject: [EXTERNAL] Re: Tucker Carlson Tonight

Hello Chelsea.

I know he'd love to join you tonight, but he's all jammed up tonight and tomorrow speaking to various groups and FCC meetings (4 speeches today/tonight!). Please let me know if Tucker is interested in talking about it next week.

From: Gilman, Chelsea <chelsea.gilman@FOXNEWS.COM>

Sent: Thursday, October 15, 2020 3:28 PM

To: Brian Hart <Brian.Hart@fcc.gov>

Subject: Tucker Carlson Tonight

Hello,

My name is Chelsea Gilman and I am a booker on Tucker Carlson Tonight on Fox News. I was reaching out to see if Chairman Pai would be available to join us tonight live in the 8 pm ET hour.

This would be an interview with just Tucker and would be about 5 minutes. We would like to discuss his recent announcement regarding Section 230. Thank you very much for your time and I look forward to hearing from you.

Best,

Chelsea Gilman

This message and its attachments may contain legally privileged or confidential information. It is intended solely for the named addressee. If you are not the addressee indicated in this message (or responsible for delivery of the message to the addressee), you may not copy or deliver this message or its attachments to anyone. Rather, you should permanently delete this message and its attachments and kindly notify the sender by reply e-mail. Any content of this message and its attachments that does not relate to the official business of Fox News or Fox Business must not be taken to have been sent or endorsed by either of them. No representation is made that this email or its attachments are without defect.

From: [Thomas Johnson](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Brian Hart](#); [Evan Swarztrauber](#)
Subject: Re: Tweet
Date: Wednesday, October 21, 2020 9:32:55 AM

(b) (5)

From: Ajit Pai <Ajit.Pai@fcc.gov>
Sent: Tuesday, October 20, 2020 9:20 PM
To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: Tweet

(b) (5)

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Sent: Tuesday, October 20, 2020 7:38 PM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: Tweet

(b) (5)

[Redacted]

[Redacted]

From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Tuesday, October 20, 2020 10:30 AM
To: Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Re: Tweet

(b) (5)

From: Matthew Berry <Matthew.Berry@fcc.gov>
Sent: Tuesday, October 20, 2020 10:29 AM
To: Nicholas Degani <Nicholas.Degani@fcc.gov>; Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit

Pai <Ajit.Pai@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Re: Tweet

(b) (5)

From: Nicholas Degani <Nicholas.Degani@fcc.gov>

Sent: Tuesday, October 20, 2020 10:28 AM

To: Thomas Johnson <Thomas.Johnson@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: RE: Tweet

(b) (5)

[Redacted]

From: Thomas Johnson <Thomas.Johnson@fcc.gov>

Sent: Tuesday, October 20, 2020 10:26 AM

To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>

Subject: Tweet

(b) (5)

[Redacted]

[Redacted]

[Redacted]

From: [Evan Swarztrauber](#)
To: [Thomas Johnson](#); [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Brian Hart](#)
Subject: Re: Tweet
Date: Tuesday, October 20, 2020 10:28:04 AM

(b) (5)







Evan Swarztrauber

Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: Thomas Johnson <Thomas.Johnson@fcc.gov>
Sent: Tuesday, October 20, 2020 10:25 AM
To: Ajit Pai <Ajit.Pai@fcc.gov>; Matthew Berry <Matthew.Berry@fcc.gov>; Nicholas Degani <Nicholas.Degani@fcc.gov>; Brian Hart <Brian.Hart@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Tweet

(b) (5)









From: [Evan Swarztrauber](#)
To: [Brian Hart](#); [Matthew Berry](#)
Cc: [Nicholas Degani](#); [Ajit Pai](#)
Subject: Re: Twitter CEO: Iranian leader's 'saber rattling' doesn't violate our policies
Date: Wednesday, October 28, 2020 11:58:15 AM

"Saber rattling." Truly incredible.

Evan Swarztrauber

Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: Brian Hart <Brian.Hart@fcc.gov>
Sent: Wednesday, October 28, 2020 11:55 AM
To: Matthew Berry <Matthew.Berry@fcc.gov>
Cc: Nicholas Degani <Nicholas.Degani@fcc.gov>; Ajit Pai <Ajit.Pai@fcc.gov>; Evan Swarztrauber <Evan.Swarztrauber@fcc.gov>
Subject: Fw: Twitter CEO: Iranian leader's 'saber rattling' doesn't violate our policies

FYI

From: POLITICO Pro Technology <alert@email.politicopro.com>
Sent: Wednesday, October 28, 2020 11:48 AM
To: Brian Hart <Brian.Hart@fcc.gov>
Subject: Twitter CEO: Iranian leader's 'saber rattling' doesn't violate our policies

Twitter CEO: Iranian leader's 'saber rattling' doesn't violate our policies

By John Hendel

10/28/2020 11:46 AM EDT

Twitter CEO Jack Dorsey on Wednesday defended the company's decision to leave up tweets from Iran's leader threatening armed attacks against Israel while putting fact-checking and violence labels on tweets from President Donald Trump.

"We did not find those to violate our terms of service because we considered them 'saber rattling,' which is part of the speech of world leaders in concert with other countries," Dorsey told Senate Commerce Chair [Roger Wicker](#) (R-Miss.), who had asked about the tweets from Iranian Ayatollah Ali Khamenei.

"Speech against our own people or a country's own citizens we believe is different and can cause more immediate harm," Dorsey added during Wednesday's hearing with other tech CEOs.

The Iranian tweets in question included one from May in which Khamenei described the state of Israel as "[a deadly, cancerous growth](#)," and [another in which he wrote](#): "We will support and assist any nation or any group anywhere who opposes and fights the Zionist regime, and

we do not hesitate to say this."

Around the same time, Twitter placed labels on tweets in which Trump made evidence-free assertions about widespread fraud in voting by mail, as well as other tweets by the president that it said [threatened violence against protesters](#).

Wicker also questioned why Twitter waited two months to label baseless claims by Chinese officials about the origins of the coronavirus.

"You routinely restrict the president of the United States," Wicker said. "How does a claim by Chinese communists that the U.S. military is to blame for Covid stay up for two months without a fact check and the president's tweet about the security of mail-in ballots get labeled instantly?"

Dorsey said Twitter's decision-making revolves around the "severity of potential offline harm" and noted the social media company has dealt with content from leaders around the world. The company tries to act as quickly as it can, he said.

"We saw the confusion, we saw the confusion it might encourage and we labeled it accordingly," Dorsey said, explaining the decision to label Trump's claims about mail-in ballots. "The goal of our labeling is to provide more context, to connect the dots so people can have more information so they can make decisions for themselves."

To view online:

<https://subscriber.politicopro.com/technology/article/2020/10/twitter-ceo-iranian-leaders-saber-rattling-doesnt-violate-our-policies-2014757>

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This email was sent to brian.hart@fcc.gov by:
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1000 Wilson Blvd.
Arlington, VA 22209
USA

From: [Lamar Robertson](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Evan Swarztrauber](#); [Montana L. Hyde](#)
Cc: [Brian Hart](#)
Subject: Reason Foundation remarks
Date: Wednesday, November 18, 2020 2:04:41 PM
Attachments: [reason foundation.docx](#)

Attached are draft remarks for tomorrow's Reason Foundation event.

From: [DeJarnette, Alexis \(Commerce\)](#)
To: [DeJarnette, Alexis \(Commerce\)](#); [Taylor, Emily \(Commerce\)](#)
Subject: RELEASE: Committee Unanimously Approves Authorizations to Subpoena Big Tech CEOs
Date: Thursday, October 1, 2020 11:18:59 AM
Attachments: [image001.png](#),
[image002.png](#),
[image003.png](#),
[image004.png](#),
[image005.png](#),
[image006.png](#)

cid:image007.png@01D572DB.277C00A0



FOR IMMEDIATE RELEASE
October 1, 2020

Contact: Emily Taylor
Alexis DeJarnette, 202-224-6965
bit.ly/3ioNg26

Committee Unanimously Approves Authorizations to Subpoena Big Tech CEOs

WASHINGTON – U.S. Sen. Roger Wicker, R-Miss., chairman of the Senate Committee on Commerce, Science, and Transportation, today released the following statement after the Committee unanimously approved authorizations to issue subpoenas to compel the testimony of Jack Dorsey, Chief Executive Officer, Twitter; Sundar Pichai, Chief Executive Officer, Alphabet Inc., Google; and Mark Zuckerberg, Chief Executive Officer, Facebook. The CEOs have not agreed to repeated requests to testify before the Committee on Section 230 of the Communications Decency Act, which governs how online platforms moderate and display user generated content.

“Technology companies argue that their broad liability shield should remain in place,” said **Wicker**. “However, they disproportionately suppress and censor conservative views online. Public testimony from these CEOs is critical as the Committee considers several proposals to reform the Communications Decency Act.”

The authorizations to subpoena the witnesses were approved unanimously by voice votes.

Per Committee rules, an executive session was held today in order to authorize the issuance of subpoenas after the Ranking Member of the Senate Commerce Committee objected last week.

###



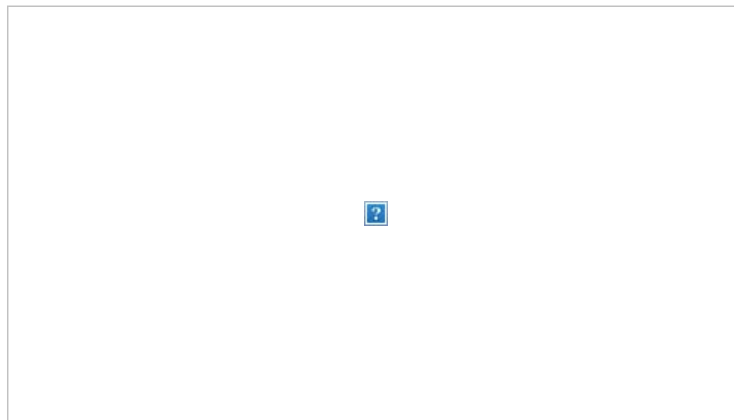
From: [Thune Press Office](#)
To: [Thune Press Office](#)
Subject: RELEASE: Thune Statement on Commerce Committee's Decision to Authorize Subpoenas to Tech CEOs
Date: Thursday, October 1, 2020 1 06:18 PM
Attachments: [image001.png](#)
[image002.png](#)



FOR IMMEDIATE RELEASE
October 1, 2020

CONTACT: [Ryan Wrasse](#)
[Katie Lingle](#)

Thune Statement on Commerce Committee's Decision to Authorize Subpoenas to Tech CEOs
"I think that the social media platforms' content moderation processes remain largely a black box, to both the user and to Congress.... that's why I support the efforts today to hear firsthand from Google, Facebook, and Twitter."



Click [here](#) or on the image above to watch Thune's full remarks.

WASHINGTON – U.S. Sen. John Thune (R-S.D.), chairman of the Subcommittee on Communications, Technology, Innovation, and the Internet, today issued the following statement after the committee authorized subpoenas to hear testimony on Section 230 of the Communications Decency Act from the Chief Executive Officers of Google, Facebook, and Twitter.

"I'm very interested, and I think that the social media platforms' content moderation processes remain largely a black box, to both the user and to Congress," said Thune. "The lack of transparency has led to this concern that we have about bias and discrimination online, and I think it is a bipartisan concern. And that's why I support the efforts today to hear firsthand from Google, Facebook, and Twitter."

Earlier this year, Thune [introduced](#) the Platform Accountability and Consumer Transparency (PACT) Act, bipartisan legislation with Sen. Brian Schatz (D-Hawaii) to address some of the issues surrounding Section 230 with respect to platforms like Google, Facebook, and Twitter. In July, Thune led a [subcommittee hearing](#) to examine online platforms' content moderation practices and to discuss what legislative measures can be taken to ensure consumers are protected and empowered while on the internet.

###

From: [Taylor, Emily \(Commerce\)](#)
To: [Taylor, Emily \(Commerce\)](#); [DeJarnette, Alexis \(Commerce\)](#)
Subject: RELEASE: Wicker Requests Facebook, Twitter Disclose Political Interactions Ahead of 10/28 Big Tech Hearing
Date: Wednesday, October 21, 2020 3:04:48 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

cid:image007.png@01D572DB.277C00A0



FOR IMMEDIATE RELEASE
October 21, 2020

CONTACT:
[Emily Taylor](#)
[Alexis DeJarnette](#)
bit.ly/3odq7Uy

Wicker Requests Facebook, Twitter Disclose Political Interactions Ahead of 10/28 Big Tech Hearing

WASHINGTON – U.S. Sen. Roger Wicker, R-Miss., chairman of the Senate Committee on Commerce, Science, and Transportation, today sent letters to Mark Zuckerberg, Chief Executive Officer of Facebook, Inc., and Jack Dorsey, Chief Executive Officer of Twitter, requesting the companies to disclose any interactions they have had with presidential candidates and their campaigns ahead of the Committee’s [Big Tech hearing](#) on October 28.

Excerpt from letter to Zuckerberg and Dorsey:

In the interest of fully disclosing any interactions with the candidates and their campaigns, I request that you provide the Committee with specific information regarding whether and how [Facebook/Twitter] has provided access to any data, analytics, or other information to either major political party, candidate, or affiliates thereof. This includes information related to post or page performance, engagement, or other data that might shape or influence decision-making by the candidate or campaign. In addition, please indicate whether this information is provided equitably to all candidates, and how decisions are made regarding what information is provided and to whom.

Given the time-sensitive nature of this request and the approaching election, I would ask that you please provide the requested information to Committee staff as soon as possible, but no later than October 26, 2020.

Click [here](#) for the letter to Zuckerberg and [here](#) for the letter to Dorsey.

###



From: [Energy & Commerce Republicans](#)
To: [Brian Hart](#)
Subject: Republicans Push for U.S. to Lead in Critical and Emerging Technologies
Date: Monday, November 2, 2020 10:49:55 AM



FOR IMMEDIATE RELEASE
November 2, 2020

CONTACT: Press Office
(202) 226-4972

Republicans Push for U.S. to Lead in Critical and Emerging Technologies

President Trump recently [unveiled](#) his “National Strategy for Critical and Emerging Technologies” to outline how the United States will continue to lead in fields like artificial intelligence, quantum computing, autonomous systems, and more.

This strategy falls in line with many of the initiatives put forth by E&C Republicans this Congress to lead in emerging technologies, autonomous vehicles, communications networks, energy innovation, and more.

Here are the highlights:

- **Emerging Technologies**
 - In May, Walden and Rodgers [announced](#) E&C Republicans' emerging tech agenda. Last month, the House passed the bipartisan [American COMPETE Act](#) unanimously. The bipartisan bill, led by Rodgers and Rep. Bobby Rush (D-IL), included many measures included in the emerging tech agenda. Read more about E&C Republicans' work to ensure American leadership in emerging technologies [here](#).
- **Autonomous vehicles**
 - The [SELF DRIVE Act \(H.R. 8350\)](#), led by Communications and Technology Subcommittee Republican Leader Bob Latta (R-OH), would ensure America leads the world in the development and deployment of autonomous vehicles by creating a much-needed federal framework to promote innovation and provide certainty for manufacturers. Latta also introduced the SELF DRIVE Act in the 115th Congress. It passed out of the Energy and Commerce Committee [unanimously](#) on July 27, 2017 and out of the House [unanimously](#) on September 6, 2017.
- **Communications networks**
 - E&C Republicans' broadband infrastructure [agenda](#), unveiled earlier this year, includes 26 bills to help deploy broadband infrastructure, streamline permitting processes, and alleviate other barriers hindering communities from being connected and accessing broadband services.
 - The Secure and Trusted Communications Networks Act was signed into law this year so that our nation's communications networks can be more secure. This bipartisan E&C [effort](#) will help small, rural providers rip and replace Huawei and other suspect communications equipment.
 - The [USA Telecommunications Act of 2020](#) is a bipartisan E&C-led bill to help promote and accelerate the deployment and use of open interfaced, standards-based, and interoperable 5G networks throughout the United States. This bill is led by Energy and Commerce Committee Congressman Brett Guthrie (R-KY), Committee Chairman Frank Pallone, Jr. (D-NJ), Rep. Walden, and Congresswoman Doris Matsui (D-CA).
- **Energy innovation**
 - E&C Republicans energy infrastructure [agenda](#) announced in June includes several initiatives to strengthen U.S. energy security, promote clean energy, and cut red tape hindering innovation.
 - Communications and Technology Subcommittee Republican Leader Bob Latta (R-OH) and Rep. Jeff Duncan also introduced two bills to strengthen domestic nuclear fuel supply and accelerate nuclear reactor licensing.

E&C Republicans will continue to put forth policies that promote U.S. leadership in these technologies that will define our future economy, national security, and way of life as we know it. Sign up to receive the latest updates from E&C Republicans, [here](#).

###

[PERMALINK](#)



House Energy & Commerce Committee Republicans | 2322 Rayburn HOB, Washington, DC 20003

[Unsubscribe brian.hart@fcc.gov](mailto:brian.hart@fcc.gov)

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Sent by energycommercegopnews@ecrep.housecommunications.gov powered by

From: [Rebecca Doyle](#)
To: [Ajit Pai](#)
Cc: [Brian Hart](#); [Colton Haas](#)
Subject: Request for Interview - Ben Shapiro Show / Ajit Pai
Date: Thursday, October 15, 2020 10:20:17 PM

Hello Ajit,

I'm on the producing team of the Ben Shapiro Show podcast and radio program and am reaching out in hopes of having you on the show tomorrow to speak with Ben about your comments on legal immunities.

Might you be available tomorrow Fri. 10/16 at 7:00 AM PT / 10:00 AM ET or 7:20 AM ET / 10:20 AM ET for a video call or phone interview?

Regards,

Rebecca Doyle
Associate Producer
The Ben Shapiro Show
Bentkey Ventures

--

Rebecca Doyle
Associate Producer
The Ben Shapiro Show
Bentkey Ventures

From: [Will Wiquist](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#)
Cc: [Brian Hart](#); [Anne Veigle](#); [Katie Gorscak](#); [Evan Swarztrauber](#); [Paul Jackson](#)
Subject: Reuters re 230 timeline
Date: Monday, October 5, 2020 4:22:20 PM

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

.

From: [DeJarnette, Alexis \(Commerce\)](#)
To: [DeJarnette, Alexis \(Commerce\)](#); [Taylor, Emily \(Commerce\)](#)
Subject: ROOM CHANGE // ADVISORY: Committee to Hold Hearing with Big Tech CEOs on Section 230
Date: Tuesday, October 27, 2020 12:28:46 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)

cid:image007.png@01D572DB.277C00A0



FOR IMMEDIATE RELEASE
October 27, 2020

Contact: [Emily Taylor](#)
[Alexis DeJarnette](#)
bit.ly/31aXFZI

*****ROOM CHANGE*****

Committee to Hold Hearing with Big Tech CEOs on Section 230

WASHINGTON – U.S. Sen. Roger Wicker, R-Miss., chairman of the Committee on Commerce, Science, and Transportation, will convene a hearing titled, “Does Section 230’s Sweeping Immunity Enable Big Tech Bad Behavior?,” at 10:00 a.m. on Wednesday, October 28. The hearing will examine whether Section 230 of the Communications Decency Act has outlived its usefulness in today’s digital age. It will also examine legislative proposals to modernize the decades-old law, increase transparency and accountability among big technology companies for their content moderation practices, and explore the impact of large ad-tech platforms on local journalism and consumer privacy. The hearing will provide an opportunity to discuss the unintended consequences of Section 230’s liability shield and how best to preserve the internet as a forum for open discourse.

Witnesses:

- Mr. Jack Dorsey, Chief Executive Officer, Twitter
- Mr. Sundar Pichai, Chief Executive Officer, Alphabet Inc., Google
- Mr. Mark Zuckerberg, Chief Executive Officer, Facebook

Hearing Details:

Wednesday, October 28, 2020
10:00 a.m.
Full Committee Hearing

This hearing will take place in the **Russell Senate Office Building 253**. Witness testimony, opening statements, and a live video of the hearing will be available on www.commerce.senate.gov.

In order to maintain physical distancing as advised by the Office of the Attending Physician, seating for credentialed press will be limited throughout the course of the hearing. Due to current limited access to the Capitol complex, the general public is encouraged to view this hearing via the live stream.

*Note: All witnesses will participate remotely.

###



From: [Katie Gorscak](#)
To: [Brian Hart](#)
Subject: Sec 230
Date: Tuesday, September 22, 2020 4:55:05 PM
Attachments: [sec230_BH.docx](#)

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [Will Wiquist](#)
To: [Anne Veigle](#); [Katie Gorscak](#); [Brian Hart](#)
Subject: Sec. 230 inquiries
Date: Thursday, October 15, 2020 4:01:56 PM

Here's a start of a list of inquiries we can add to.

michael.kan@ziffmedia.com

Perera, David (LNG-MLEX) perera@mlex.com

McKeigue, Lesley (NBCUniversal) <Lesley.McKeigue@nbcuni.com>

Wellons, Mary Catherine (NBCUniversal) MC.Wellons@nbcuni.com

Lawrence, Edward <Edward.Lawrence@FOXBUSINESS.COM>

Make, Jonathan <jmake@warren-news.com>

From: [Kelcee Griffis](#)
To: [Brian Hart](#)
Subject: Sect 230 rulemaking
Date: Thursday, October 15, 2020 3:07:03 PM

Hi Brian,

Just tried to reach you on your cell about the Section 230 rulemaking release. Just wanted to see if you have any more details you can share on the timing of the rulemaking. Will it be on the October meeting agenda, passed on circulation, etc?

Thanks!

--

Kelcee Griffis
Senior Telecom Reporter

Law 60
1150 18th St. NW
6th Floor
Washington, DC 20006
Work Cell: 202-508-4066

From: [Perera, David \(LNG-MLEX\)](#)
To: [Brian Hart](#)
Subject: Section 230 check-in
Date: Tuesday, October 13, 2020 2:04:07 PM
Attachments: [image001.png](#)

Hi Brian,

Happy Tuesday! Checking in regarding the Section 230 docket – has any decision been made on what the next steps are? I see that people are still filing comments, although the 45 days since the docket’s opening passed in mid-September. Has the Chairman decided on whether to open a rulemaking? Will he decide soon?

Cheers, Dave

David Perera ☐ MLex data security and privacy reporter
perera@mlex.com ☐ o: 202 909 2141 m: 202 2☐0 9949

1776 I (Eye☐Street NW Suite 260 ☐Washington, D.C. 20006 ☐United States ☐ www.mlexmarketinsight.com ☐ www.ftcwatch.com



From: [Feiner, Lauren \(NBCUniversal\)](#)
To: [Brian Hart](#)
Subject: Section 230 Statement
Date: Thursday, October 15, 2020 2:47:07 PM

Hi Brian,

I just received the press release of Chairman Pai's Section 230 statement saying he intends to move forward with rulemaking. I was wondering if you could provide any further context on what the rulemaking would look like and what the timeframe for such a move could be.

Any clarity you can provide would be appreciated – and looking forward to following this further. Thank you!

Best,
Lauren

--

Lauren Feiner
Tech Policy Reporter | [CNBC](#)
Work Cell: 201-214-8319

From: [Katie Gorscak](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#)
Cc: [Alexander Sanjenis](#); [Michael Carowitz](#); [Allison Baker](#); [Zenji Nakazawa](#); [Preston Wise](#); [Sean Spivey](#); [Brian Hart](#); [Anne Veigle](#); [Will Wiquist](#); [Paul Jackson](#); [Evan Swarztrauber](#)
Subject: September Press Prep
Date: Monday, September 28, 2020 3:55:27 PM
Attachments: [2-2020-09 Open Meeting - September Press Prep Final-to OCH.docx](#)

To all:

Attached is press prep for Wednesday's Open Meeting.

Have a wonderful evening.

Regards,

Katie L. Gorscak
Federal Communications Commission
Office of Media Relations
445 12th St. SW, Room 4-C735
Washington, DC 20554
Phone: 202-418-2156
Cell: 202-380-8116

From: [Evan Swarztrauber](#)
Subject: STATEMENT: Chairman Pai Announces His Intent To Depart FCC
Date: Monday, November 30, 2020 11:09:14 AM
Attachments: [Outlook-mp3ttepz.png](#)

Good morning,

Today, Federal Communications Commission Chairman Ajit Pai announced that he intends to leave the Federal Communications Commission on January 20, 2021. See his [statement](#) below.

Evan Swarztrauber

Policy Advisor
Office of Chairman Ajit Pai
Federal Communications Commission
(202) 418-2261 (o)
(202) 870-8405 (m)
Twitter: @EvanS_FCC

From: FCC Office of Media Relations <FCCOfficeofMediaRelations@fcc.gov>
Sent: Monday, November 30, 2020 10:39 AM
Subject: FCC STATEMENT: Chairman Pai Announces His Intent To Depart FCC



Media Contact:

Brian Hart, (202) 418-0505
brian.hart@fcc.gov

For Immediate Release

CHAIRMAN PAI ANNOUNCES HIS INTENT TO DEPART FCC

WASHINGTON, November 30, 2020—Today, Federal Communications Commission Chairman Ajit Pai announced that he intends to leave the Federal Communications Commission on January 20, 2021. Chairman Pai issued the following statement:

“It has been the honor of a lifetime to serve at the Federal Communications Commission, including as Chairman of the FCC over the past four years. I am grateful to President Trump for giving me the opportunity to lead the agency in 2017, to President Obama for appointing me as a Commissioner in 2012, and to Senate Majority Leader McConnell and the Senate for twice confirming me. To be the first Asian-American to chair the FCC has been a particular privilege. As I often say: only in America.

“I also deeply appreciate the chance to have worked alongside the FCC’s talented staff. They are the agency’s best assets, and they have performed heroically, especially during the pandemic. It’s also been an honor to work with my fellow Commissioners to execute a strong and broad agenda. Together, we’ve delivered for the American people over the past four years: closing the digital divide; promoting innovation and competition, from 5G on the ground to broadband from space; protecting consumers; and advancing public safety. And this FCC has not shied away from making tough choices. As a result, our nation’s communications networks are now faster, stronger, and more widely deployed than ever before.

“I am proud of how productive this Commission has been, from commencing five spectrum auctions and two rural broadband reverse auctions in four years, to opening 1,245 megahertz of mid-band spectrum for unlicensed use, to adopting more than 25 orders through our Modernization of Media Regulation Initiative, to aggressively protecting our communications networks from national security threats at home and abroad, to designating 988 as the three-digit number for the National Suicide Prevention Lifeline, and much, much more. I’m also proud of the reforms we have instituted to make the agency more accountable to the American people. In particular, for the first time ever, we’ve made public drafts of the proposals and orders slated for a vote three weeks before the agency’s monthly meetings, making this the most transparent FCC in history.

“Last but not least, I want to thank my family for all they have done to enable me to serve at the agency. The public service of one generally results from the private sacrifice of many, and I’m grateful for their love and support.”

###

Office of Chairman Pai: (202) 418-1000 / Twitter: @AjitPaiFCC / www.fcc.gov/leadership/ajit-pai

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).

From: [FCC Office of Media Relations](#)
Subject: STATEMENT: Chairman Pai on Section 230
Date: Thursday, October 15, 2020 2:31:30 PM
Attachments: [image001.jpg](#)



Media Contact:

Brian Hart, (202) 418-0505
brian.hart@fcc.gov

For Immediate Release

STATEMENT OF CHAIRMAN PAI ON SECTION 230

WASHINGTON, October 15, 2020—Federal Communications Commission Chairman Ajit Pai issued the following statement today on Section 230 of the Communications Act:

“Members of all three branches of the federal government have expressed serious concerns about the prevailing interpretation of the immunity set forth in Section 230 of the Communications Act. There is bipartisan support in Congress to reform the law. The U.S. Department of Commerce has petitioned the Commission to ‘clarify ambiguities in section 230.’ And earlier this week, U.S. Supreme Court Justice Clarence Thomas pointed out that courts have relied upon ‘policy and purpose arguments to grant sweeping protections to Internet platforms’ that appear to go far beyond the actual text of the provision.

“As elected officials consider whether to change the law, the question remains: What does Section 230 currently mean? Many advance an overly broad interpretation that in some cases shields social media companies from consumer protection laws in a way that has no basis in the text of Section 230. The Commission’s General Counsel has informed me that the FCC has the legal authority to interpret Section 230. Consistent with this advice, I intend to move forward with a rulemaking to clarify its meaning.

“Throughout my tenure at the Federal Communications Commission, I have favored regulatory parity, transparency, and free expression. Social media companies have a First Amendment right to free speech. But they do not have a First Amendment right to a special immunity denied to other media outlets, such as newspapers and broadcasters.”

###

Office of Chairman Pai: (202) 418-1000 / Twitter: @AjitPaiFCC / www.fcc.gov/leadership/ajit-pai

*This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.
See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).*

From: [Evan Swarztrauber](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Sean Spivey](#); [Preston Wise](#); [Zenji Nakazawa](#); [Brian Hart](#); [Anne Veigle](#)
Subject: Talking points for Nat Sec event w/ George Mason
Date: Wednesday, November 18, 2020 9:06:01 PM
Attachments: [Draft Chairman Pai Network Security TP for GM interview 11-18-2020.docx](#)

(b) (5) [Redacted]
[Redacted]
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[Redacted]
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George Mason Law School National Security Institute
Preserving U.S. Leadership: Protecting America While Promoting Innovation
November 19, 2020

1. Why is it important for the U.S. to be first to 5G?
2. What steps have you taken to ensure the supply chain?
3. What challenges lie ahead on rip and replace?
4. How have you helped get the message out internationally?
5. How does ORAN fit into the overarching strategy?
6. What has FCC done to promote Open RAN?
7. What are your thoughts on the security of ORAN?
8. In a Tweet last year, you called out China's behavior to censoring a Tweet from the NBA in support of Hong Kong as well as its removal of emojis and efforts to stifle Apple. Why did you think that was important?
9. Why do you see these Chinese companies as threats to national security? What exactly is the threat?
10. Henry Kissinger recently remarked on the U.S.'s relationship with China, saying that, "unless there is some basis for some cooperative action, the world will slide into a catastrophe comparable to World War I. What are your thoughts on this statement?

➤ **Q: Why is it important for the U.S. to be first to 5G?**

These next-generation wireless networks will be embedded in almost every aspect of our society and economy—from businesses to homes, hospitals to transportation networks, manufacturing to the power grid. Leading in deployment of such technologies would enable our society and our economy to lead in innovation, strengthening the competition, and creating a stronger, healthier ecosystem to benefit us all.

- The FCC's first mission is to help ensure that every American can access advanced communications. Digital opportunity can open up new possibilities for everyone. And second, the FCC aims to promote innovation and investment across the communications sector. With each new breakthrough, we increase the value of being connected and unlock opportunities to improve the lives of our citizens.

Q: What steps have you taken to ensure the supply chain?

- For the United States, addressing the national security threats posed by certain foreign communications equipment providers is a whole-of-government effort. In March of this year, President Trump signed two supply chain-related bills. First the broad-ranging National Strategy to Secure 5G. This reflects the U.S. Government's multifaceted approach to 5G supply chain security, and it highlights the need for close collaboration with international partners and industry to advance 5G security and promote 5G vendor diversity. Second, the Secure and Trusted Communications Networks Act, which, among other things, prohibits the use of federal subsidies to support equipment and services in communications networks that pose a national security risk, similar to the FCC's own supply chain rule adopted in 2019. It also tasks the FCC with creating the Secure and Trusted Communications Networks Reimbursement Program to support the removal, replacement, and destruction of insecure equipment and services from communications networks.
- At the FCC, we are doing our own part to promote 5G security. As the telecommunications regulator for the United States, our focus has been on protecting the security and integrity of the communications supply chain, and we have taken several actions to do just that.
- We have prohibited the use of money from our Universal Service Fund, or USF, to purchase or obtain any equipment or services produced or provided by companies that the Commission determines pose a national security threat. And we specifically designated Huawei and ZTE as companies that pose a national security threat.

- Earlier this year, the Commission conducted an information collection to identify whether USF-funded communications providers own or have deployed in their networks equipment or services from entities posing a risk to national security or a threat to the integrity of communications networks or the communications supply chain. We also collected information on the estimated costs to remove and replace the insecure equipment.
- And, earlier today[[on Wednesday]], I circulated for a vote at our December open meeting, a Second Report and Order that would take additional steps to ensure a secure supply chain. The item, if adopted, would task the Commission with publishing on its website a list of insecure equipment and services provided by entities posing an unacceptable risk to the national security of the United States or the security and safety of United States persons to help inform carriers as they make future deployment decisions.
- Additionally, the item would require entities that accept universal service funding to remove, replace, and destroy insecure equipment and services identified on that list.
- Per the Secure Networks Act, the item would establish a voluntary reimbursement program to reimburse providers of advanced communications services that remove, replace, and destroy covered equipment with fewer than two million subscribers. The Reimbursement Program would allow reimbursement to a larger group of carriers beyond those receiving USF funding. We are still awaiting a Congressional appropriation to fund the reimbursement program. The FCC has done its part to be ready once Congress does appropriate the funding, which we hope will be soon.
- The item would also create a new information collection, as required in the Secure and Trusted Communications Networks Act, requiring all providers of advanced communications service would report whether their networks use covered communications equipment or services acquired after August 14, 2018
- In addition to these broader regulatory initiatives, we have focused specifically on participation in the U.S. market by Chinese mobile companies. This past May, we denied China Mobile's application to enter the U.S. market. This decision came after a lengthy review of the application by Executive Branch agencies and consultation with the U.S. intelligence community. We concluded that China Mobile's application posed substantial national security and law enforcement concerns that could not be adequately mitigated.

- Following our decision to deny China Mobile’s application, we issued orders to four other Chinese state-owned companies—China Telecom, China Unicom, Pacific Networks, and ComNet—that already hold such FCC authorizations. The orders – called “Show Cause Orders” - require these companies to demonstrate why the FCC should not revoke and terminate their authorizations to operate in the United States based on similar national security concerns.

Q: What challenges lie ahead on rip and replace?

- The biggest challenge is the lack of a Congressional appropriation to fund rip and replace. The Commission has moved ahead to establish the Reimbursement Program well before our statutory deadline, but we cannot move and further to remove and replace insecure equipment without funding. I have asked Congress for \$2 billion dollars to fund the removal, replacement, and destruction of equipment posing a threat to our communications networks and continue to work with Congress on that point.
- Another challenge that providers of advanced communications services will face is a tight timeframe to complete the removal, replacement, and destruction of insecure equipment. Per the Secure Networks Act, carriers will only have one year after they begin the drawdown of their reimbursement funds to complete the removal. So, it is very important that carriers begin to plan now. The item I circulated today would allow reimbursement for costs reasonably incurred for the timely removal, replacement, and disposal of covered equipment and services obtained prior to the creation of the Reimbursement Program, or prior to an appropriation, as long as the covered equipment and services were obtained before the statutory cutoff of August 14, 2018. So I hope that carriers will be proactive.

Q: How have you helped get the message out internationally?

- As we have pursued our own actions to address security threats, the United States has been working closely with our international partners.
- The more that we can work together and make security decisions based on shared principles, the safer that our 5G networks will be. When I meet with my foreign counterparts, I stress the importance of 5G security. And I have done that personally and extensively over the past two years. Both as part of a cross-Administration team and solely on behalf of the FCC, I’ve visited and have

spoken with senior leadership in Bahrain, Germany, Portugal, Saudi Arabia, Israel, the United Arab Emirates, Vietnam, Malaysia, Japan, and Singapore, and have met with decision-makers from many other countries, such as Brazil, India, Chile and Australia.

- I was honored to be part of the U.S. delegation at the inaugural 5G security forum in Prague in May 2019, where more than 140 representatives from 32 countries came together to build a consensus approach for protecting next-generation networks. We developed a set of recommendations called the “Prague Proposals.” This security framework is based on the principles of competition, transparency, and the rule of law. We followed that inaugural conference with a virtual event to discuss progress in September of this year.
- These efforts have paid dividends, as many countries have taken steps to secure 5G networks:

In July (2020), the United Kingdom announced that it will remove Huawei equipment from its 5G networks.

The United Kingdom decision comes as a number of countries across Europe—including the Czech Republic, Poland, Romania, Denmark, Estonia, Latvia, Sweden, and Greece—have taken steps prohibiting these high-risk vendors from their networks.

And we observe how telecommunications operators are also taking actions to make their networks secure. Telefonica in Spain, Orange in France, Jio in India, Telstra in Australia, SK and KT in South Korea, NTT in Japan, and the telecom operators in Canada and Singapore, as well as many others, have made the decision to only use trusted vendors in their 5G deployments.

Q: How does ORAN fit into the overarching strategy?

- The regulatory steps we have taken are critical to protect the integrity of our 5G networks. But they are not the only forces at play. Companies building 5G networks have an economic incentive to address security concerns and to find alternatives to untrusted vendors.
- Unfortunately, much of the equipment at the heart of 5G networks currently comes from just a few global suppliers, with Huawei being the largest. This lack of vendor diversity can make it challenging for some carriers to find cost-effective

alternatives. ORAN technology provides a new path to address these concerns. By enabling a diversity of suppliers, Open Radio Access Networks, or Open RANs, could transform 5G network architecture, costs, and security.

- We are also intrigued by the efforts of the open software community to produce products for O-RAN that can also undergo the same level of scrutiny as the community of developers at large.
- Current discussions on the deployment of O-RAN center on the use of virtualization, which helps isolate vendor products by placing them in their own “sandbox”.
- Traditionally, wireless networks rely on a closed architecture in which a single vendor supplies many or all the components between network base stations and the core. But Open RANs can fundamentally disrupt this marketplace. We could see an exponential growth in the number and diversity of suppliers. We could see more cost-effective solutions. And critically, we could see the keys to security in the hands of network operators, as opposed to a Chinese vendor. All this may explain why some telecom companies are beginning to develop and deploy open, interoperable, standards-based, and virtualized radio access networks.
- As an added bonus, many of the leading firms in the Open RAN space are based in the United States or in countries generally aligned with our vision of 5G security. For example, DISH recently selected U.S.-based AltioStar to deliver a cloud-based, ORAN-compliant solution for its nationwide 5G network buildout. And just a few months ago, U.S.-based Mavenir helped Vodafone become the first mobile operator in the UK to turn on an ORAN 4G site.

Q: What has FCC done to promote Open RAN?

- A few months ago (In September), the FCC held a forum on 5G open, interoperable, standards-based, and virtualized radio access networks. It featured top experts from the United States and around the world to encourage research and development of these systems, which can enable a diversity in suppliers, improve network security, and lower costs.
- How this marketplace will evolve is hard to predict with certainty. But here’s what I can say with confidence: innovation and competition make for a stronger, healthier telecom ecosystem. That’s why so many are excited about Open RAN’s potential.

- And that's why we held the forum. We want to encourage research and development into innovative network solutions. One way to do that is by convening the top experts in the field to discuss the benefits of Open RAN, the challenges of implementing it, and the lessons learned from deployments thus far.
- A consensus emerged from the forum that Open RAN technologies are already showing great promise in the U.S. and around the world, and that the public and private sectors should continue to collaborate to help encourage their deployment.
- Last, the supply chain item I circulated today [[Wednesday]] for a vote at the December meeting would encourage Open RAN Deployment by specifically finding that the reimbursement program replacement list should include equipment and services equipped, or upgradable to, be used in Open RAN, or in virtualized networks. This will help carriers that want to deploy Open RAN do so with confidence that their equipment choice will be reimbursable.

Q: What are your thoughts on the security of ORAN?

- ORAN offers significant advantages over traditional closed-architecture systems. For example, ORAN moves security into the hands of network operators, giving them more control over their networks' security designs and implementation. Open architectures have the advantage of being examined by a large and diverse community that can provide feedback in large numbers and from diverse backgrounds (research, vendors, customers), which helps reveal any potential problems in O-RAN's security. In addition, the greater number and diversity of suppliers ORAN allows may allow networks to adapt more quickly to evolving security threats. That said, this is an area that is still developing. We have plenty of work left to do.
- Both the Senate and the House introduced legislation this year that could help providers address security concerns by subsidizing the deployment and use of ORAN networks. On November 17, the House voted to approve a bill that would provide \$750 of federal funding to ORAN development.
- The O-RAN ALLIANCE's Security Task Group also is actively working to identify and recommend security solutions. The group includes both network operators and vendors and uses threat modeling and risk analysis to develop requirements and best practices.

Q: In a Tweet last year, you called out China's behavior to censoring a Tweet from the NBA in support of Hong Kong as well as its removal of emojis and efforts to stifle Apple. Why did you think that was important?

- These cases reflect a disturbing and growing pattern of behavior by the Chinese government. They also raise a broader concern about the security of the United States. If China is willing to use its leverage over basketball, e-sports, and emojis, imagine what could happen if we let Chinese companies' equipment into tomorrow's 5G wireless networks? This would open the door to surveillance, espionage, and other harms—stakes much higher than sports and entertainment.

Q: Why do you see these Chinese companies as threats to national security? What exactly is the threat?

- For years, U.S. government officials have expressed concern about the national security threats posed by certain foreign communications equipment providers. Hidden “backdoors” to our networks in routers, switches, and other network equipment can allow hostile foreign powers to inject viruses and other malware, steal Americans' private data, spy on U.S. companies, and more.
- The equipment at the heart of 5G networks currently comes from just a few global suppliers. And the largest right now is the Chinese company Huawei. This is a major concern.
- Huawei positions itself as a private company. But it has significant ties to the Chinese government, namely, the Communist Party, and China's military. Moreover, Chinese law requires all companies subject to its jurisdiction to comply with requests from the country's intelligence services. These requests cannot be disclosed to any third parties, such as Huawei's customers in China or abroad. That means China could compel Huawei to spy on foreign individuals and businesses and prevent Huawei from disclosing such surveillance requests.
- There is no shortage of red flags about Huawei and evidence that the Chinese government is willing and able to use its growing influence over global commerce to advance its own interests.
- Last year, Chinese officials pressured the National Basketball Association to stamp out criticism from anyone within the NBA of the country's policies in Hong Kong. Gaming company Blizzard Entertainment, which is partially owned by Chinese tech giant Tencent, suspended a professional gamer for speaking out in support of Hong Kong protestors. And Apple, which has extensive business operations in China, removed the Taiwanese flag emoji for iPhone users in Hong Kong and Macau.
- The Justice Department charged Huawei officials with fraud and theft of trade secrets from T-Mobile in 2019. The indictment stated that Huawei offered bonuses to employees who succeeded in stealing confidential information from

other companies. In announcing the charges, FBI Director Christopher Wray described Huawei's transgressions as "brazen and persistent."

- Independent technical experts have similarly raised concerns. A report issued by the cybersecurity firm Finite State in 2019 found that a majority of the Huawei firmware images they analyzed had at least one potential backdoor.
- The United Kingdom's Huawei Cyber Security Evaluation Centre Oversight Board issued a damning assessment of the company in a 2019 report. It found that a lack of "basic engineering competence and cyber security hygiene" makes Huawei equipment vulnerable to just about anyone, "bringing significantly increased risk to UK operators."
- On top of all that, the Chinese government subsidizes Huawei, enabling it to undercut its competitors on price when bidding on contracts, even if the quality is lacking. Whether this violates World Trade Organization rules and other laws I'll leave to the trade lawyers, but this practice demonstrates the Chinese government's strategic determination: choose Huawei as a national champion, make it a key component in its Belt and Road Initiative, and crush foreign competitors by any means necessary.

Q: Henry Kissinger recently remarked on the U.S.'s relationship with China, saying that, "unless there is some basis for some cooperative action, the world will slide into a catastrophe comparable to World War I. What are your thoughts on this statement?"

- The FCC aims to ensure we have a secure and resilient deployment of 5G. When 5G is embedded in almost every aspect of our society and economy securing our networks will become much more important and much more difficult and we cannot afford to make risky choices and just hope for the best.
- Working with other expert government agencies, we must identify the threats to the security of our networks and act to address them. For years, U.S. government officials have expressed concern about the national security threats posed by certain foreign communications equipment providers. Given these concerns, the United States and other like-minded countries have placed an increased emphasis on ensuring the security and integrity of 5G technology.
- This is not about the U.S.'s relationship with China, it is about making our critical network infrastructure secure and resilient and safeguarding consumer confidence, our national security, economic security, and other national and global interests. As 5G connectivity becomes a reality, there is the potential for

an increase in untrusted vendors, equipment, and devices. Whether vulnerabilities are malicious or inadvertent, there will remain a need to maintain strong relationships with international partners to communicate risks and safeguard the flow of information. Our goal is to ensure that malicious or inadvertent vulnerabilities within the 5G supply chain are successfully prevented or mitigated.

From: [Thomas Johnson](#)
To: [Ajit Pai](#); [Matthew Berry](#); [Nicholas Degani](#); [Brian Hart](#); [Evan Swarztrauber](#)
Subject: Tweet
Date: Tuesday, October 20, 2020 10:25:49 AM

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

From: [David McCabe](#)
To: [Brian Hart](#)
Date: Wednesday, September 23, 2020 1:42:30 PM

Hey Brian — Hope you're holding up ok. We're writing about DOJ's Section 230 proposal today, and we note it's unclear what the FCC will do with the DOC petition on the issue. Do you have any update on that?

Thanks, David, (b) (6)

--

David McCabe
Reporter
The New York Times

From: [David McCabe](#)
To: [Brian Hart](#)
Date: Monday, October 19, 2020 12:04:52 PM

Hey Brian — We're digging into a 230 story that touches on your announcement last week.
Can we talk later?

Thanks, David, (b) (6)

--

David McCabe
Reporter
The New York Times

From: [Thune Press Office](#)
To: [Thune Press Office](#)
Subject: VIDEO: Thune Presses Big Tech Leaders on Consumer Transparency and Accountability, Perceived Political Bias
Date: Wednesday, October 28, 2020 2:58:29 PM
Attachments: [image001.png](#)
[image002.png](#)

cid:image001.png@01D63E57.F19BE150



FOR IMMEDIATE RELEASE
October 28, 2020

CONTACT: [Ryan Wrasse](#)
[Katie Lingle](#)

Thune Presses Big Tech Leaders on Consumer Transparency and Accountability, Perceived Political Bias

“Many of us here today—and many of those we represent—are deeply concerned about the possibility of political bias and discrimination by large internet and social media platforms.”



Click [here](#) or on the picture above to watch Thune’s speech.

WASHINGTON — U.S. Sen. John Thune (R-S.D.), chairman of the Subcommittee on Communications, Technology, Innovation, and the Internet, today participated in a full Commerce Committee hearing, titled “Does Section 230’s Sweeping Immunity Enable Big Tech Bad Behavior?,” to examine Section 230 of the Communications Decency Act and discuss the need for potential reform in response to social media growth and advancement over the last few decades. During the hearing, Thune [questioned](#) CEOs from Google, Facebook, and Twitter on consumer transparency and accountability and the perceived political bias that exists on social media platforms.

Thune has introduced two bipartisan bills, the [Platform Accountability and Consumer Transparency](#) (PACT) Act and the [Filter Bubble Transparency Act](#), that would help increase online transparency and accountability.

Earlier today, Thune [joined](#) CNBC’s “Squawk Box” to preview the hearing.

Thune’s opening remarks (as prepared for delivery):

“Mr. Chairman, I appreciate you convening this hearing today, which is an important follow-up to the subcommittee hearing we convened in July on Section 230.

“Many of us here today – and many of those we represent – are deeply concerned about the possibility of political bias and discrimination by large internet and social media platforms. Others are concerned that – even if your actions aren’t skewed – they are hugely consequential for our public debate, yet you operate with limited accountability.

“Such distrust is intensified by the fact that the moderation practices used to suppress or amplify content remain largely a black box to the public.

“Moreover, the public explanations given by the platforms for taking down or suppressing content too often seem like excuses that have to be walked back after scrutiny.

“And due to exceptional secrecy with which platforms protect their algorithms and content moderation practices, it’s been impossible to prove one way or another whether political bias exists, so users are stuck with anecdotal information that frequently seems to confirm their worst fears.

“That is why I’ve introduced two bipartisan bills – the Platform Accountability and Consumer Transparency (PACT) Act and the Filter Bubble Transparency Act – to give users, regulators, and the general public meaningful insight into online content moderation decisions and how algorithms may be amplifying or suppressing information.

“I look forward to continuing this important discussion today.”

###

From: [Energy & Commerce Republicans](#)
To: [Brian Hart](#)
Subject: Walden on Spicer & Co: Social Media in Many Cases Have Facilitated a Cancer on Civility
Date: Wednesday, October 28, 2020 3:38:13 PM



FOR IMMEDIATE RELEASE
October 28, 2020

CONTACT: Press Office
(202) 226-4972

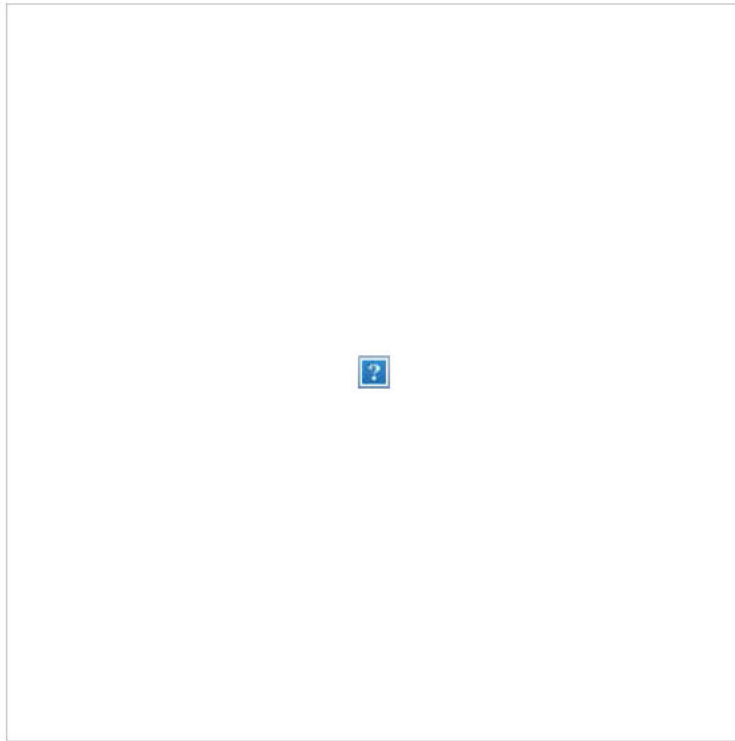
Walden on Spicer & Co: Social Media in Many Cases Have Facilitated a Cancer on Civility

Washington, D.C. – Energy and Commerce Committee Republican Leader Greg Walden (R-OR) joined *Spicer & Co.* to discuss online censorship by big tech companies and the need to change Section 230 of the Communications Decency Act, a 25-year-old law that provides these giants tremendous liability protections.

Twitter CEO Jack Dorsey, Facebook CEO Mark Zuckerberg, and Google CEO Sundar Pichai are

testifying before the Senate Commerce Committee today and before the Senate Judiciary Committee in November. Despite [numerous calls](#) by E&C Republicans to hold these big tech companies accountable, E&C Democrats continue to sit on the sidelines and refuse to protect our democracy.

Watch the full interview [here](#) and catch the highlights below.



What does the Senate want out of this hearing?

"I think the most important question they should get an answer to is **'Are these big platforms now publishers?'** Because if they are publishers, then the **twenty-five-year-old law called Section 230 that gives them exemption from liability shouldn't apply to them anymore.** When you're making editorial decisions, when you blame it on your algorithms, you blame it on whatever, but when you're actually censoring content, when you're preventing information from coming up or being shared, then you're taking on the role of a publisher. If you're a publisher then we're way away from how that law was written."

Do you think Republicans and Democrats differ in their objectives?

"Well here's what's going to happen. Democrats kind of like the bias that's going on right now, so they don't want to cut them loose. After the elections, they share some of the same frustrations with the platforms, and I think there will be a vigorous debate and I hope an adjustment of this statute. It was never intended to be used for this purpose and grant this blanket immunity for publishers. You don't get it on air. I didn't get it as a radio broadcaster. Newspapers don't get this kind of protection. And if these companies have now gotten to the point where they're editing, they're blocking, they're censoring, and it sure appears that it happens a lot on the right. I don't hear many stories about things getting blocked on the left. **When I was chairman of the Energy and Commerce Committee we had Mark Zuckerberg for five hours before the committee. We went through a lot of these things. We had Jack Dorsey before the committee. Unfortunately, the Democrats haven't stepped up in the House to have a similar hearing and then move legislation. I think it's overdue.**"

What is the evidence there? How do you work across the aisle to make them see this is not just a one-sided issue and it benefits everyone?

"You look at what they did to John James, a Senate candidate in Michigan. *The Detroit News* endorsed him, and I think it was Twitter that flagged that [...] and said headlines don't tell the full story. I don't see them doing that for any other publication. [...] You know what the headline of that endorsement was? It was "Editorial: Our Pick for U.S. Senate." [...] And guess what? Twitter treats WinRed differently – you

have to go through more steps – than they do ActBlue. Now, they blamed it on their algorithm and they probably fixed it. But every time during the hearing when someone on the Republican side raised an issue about something that's censored, the response was "Oh, that was a mistake." Or "Oh, that was the algorithm." And you know what? **These algorithms, they bias in really bad ways for the country. Social media platforms in many cases have facilitated a cancer on civility.** And you've been a target of that. I've been a target of that. I don't see them blocking the stuff that comes my way on my accounts, but it's pretty vicious at times over the years. But boy they sure get sensitive when it's on the other side."

###

[PERMALINK](#)



House Energy & Commerce Committee Republicans | 2322 Rayburn HOB, Washington, DC 20003

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From: [Energy & Commerce Republicans](#)
To: [Brian Hart](#)
Subject: Walden, Latta, Rodgers Statement on Big Tech Censorship
Date: Thursday, October 15, 2020 4:16:36 PM



FOR IMMEDIATE RELEASE
October 15, 2020

CONTACT: Press Office
(202) 226-4972

Walden, Latta, Rodgers Statement on Big Tech Censorship

Washington, D.C. – Energy and Commerce Republican Leader Greg Walden (R-OR), Communications and Technology Subcommittee Republican Leader Bob Latta (R-OH), and Consumer Protection and Commerce Subcommittee Republican Leader Cathy McMorris Rodgers (R-WA) released the following statement after tech giants Twitter and Facebook censored a story published by the [New York Post](#) documenting alleged correspondence between Hunter Biden, son of Democrat Presidential nominee and former Vice President Joe Biden, with representatives from the Ukrainian company Burisma. The emails

referenced in the story, if authentic, contradict previous statements made by Biden about his engagement and awareness of his son's foreign business endeavors.

This afternoon, the Federal Communications Commission (FCC) announced they would, at the request of the Department of Commerce's National Telecommunications and Information Administration (NTIA), propose rules to clarify the intent of Section 230 of the Communications Decency Act.

"Time and time again we've seen big tech companies refuse to be transparent about their practices and too often unfairly censor right of center voices. This must stop. Twitter, Facebook, and others should take a long, hard look at the policies that determine what they suppress on their platforms. Why is the *New York Post* story problematic, but stories from other outlets containing leaked, hacked, or classified information okay? At what point do these platforms take on the responsibility of publishers, and should they be treated as such? Should Section 230 protections apply to platforms who act as publishers? We're encouraged to see these questions being raised and look forward to working with key stakeholders, including the FCC, to clarify the intent of a law enacted nearly 25 years ago," said **Walden, Latta, and Rodgers**.

###

[PERMALINK](#)



House Energy & Commerce Committee Republicans | 2322 Rayburn HOB, Washington, DC 20003

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From: [O'Connor, James \(Commerce\)](#)
To: [Mike O'Rielly](#)
Subject: 6.16.2020 Hearing Transcript
Date: Wednesday, July 8, 2020 9:23:08 AM
Attachments: [92755.pdf](#)
[92755.doc](#)

Commissioner O'Rielly,

Please see attached PDF and Word versions of the transcript for the Committee's 6.16.2020 nominations hearing. You or your team can use track changes to correct any errors in your testimony or responses to member questions. Please let me know if you have any questions.

Thanks,

James O'Connor
Committee on Commerce, Science, and Transportation
512 Dirksen Senate Office Building
Washington, D.C. 20510
(202)-308-5111

Stenographic Transcript
Before the

COMMITTEE ON
COMMERCE, SCIENCE AND TRANSPORTATION

UNITED STATES SENATE

NOMINATIONS HEARING

Tuesday, June 16, 2020

Washington, D.C.

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1 NOMINATIONS HEARING

2
3 Tuesday, June 16, 20204
5 U.S. Senate

6 Committee on Commerce,

7 Science, and Transportation

8 Washington, D.C.
9

10 The committee met, pursuant to notice, at 2:30 p.m. in
11 Room SD-G50, Dirksen Senate Office Building, Hon. Roger
12 Wicker, chairman of the committee, presiding.

13 Present: Senators Wicker [presiding], Thune, Blunt,
14 Cruz, Fischer, Moran, Sullivan, Blackburn, Capito, Lee,
15 Young, Scott, Cantwell, Blumenthal, Udall, Peters, Baldwin,
16 Duckworth, Tester, Sinema, and Rosen.

17 Index: Senators Wicker, Cantwell, Blunt, Moran, Udall,
18 Blumenthal, Lee, Baldwin, Thune, Tester, Rosen, Capito, and
19 Sullivan.
20
21
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1 OPENING STATEMENT OF HON. ROGER WICKER, U.S. SENATOR
2 FROM MISSISSIPPI

3 The Chairman: The hearing will come to order.

4 Today the committee will consider five nominations to
5 important positions across the jurisdiction of the
6 committee. The nominees before us today are: Joel Szabat,
7 to be Under Secretary of Transportation Policy; Michael
8 O'Rielly, who has been nominated for a new term as
9 Commissioner at the Federal Communications Commission; Nancy
10 Beck, who has been nominated to be a Commissioner and
11 Chairman of the Consumer Product Safety Commission; Michael
12 Walsh, nominated to be General Counsel of the Department of
13 Commerce; and Mary Toman, the nominee to be Under Secretary
14 of Commerce for Economic Affairs.

15 Mr. Szabat has been known and respected by the members
16 of this committee for many years. He has held key positions
17 in the transportation sector, including his service as
18 Deputy Assistant Secretary for Transportation Policy, Deputy
19 Assistant Secretary for Management and Budget, and Executive
20 Director of the Maritime Administration.

21 Mr. Szabat was previously considered by this committee
22 and unanimously confirmed by the full Senate in January 2019
23 to the position of Assistant Secretary for Aviation and
24 International Affairs. In recent months, he has also served
25 as the Acting Under Secretary of Transportation for Policy

1 and has performed the duties of this position, giving him
2 valuable experience for future continued service in this
3 role for which he has been nominated.

4 Commissioner Michael O'Rielly has served as a member of
5 the FCC since 2013, having been unanimously confirmed twice
6 by the full Senate. He has now been nominated to serve a
7 new term at this agency. During his tenure, he has been a
8 leader on spectrum and video policy issues and has made
9 other important contributions to the work of the commission.
10 Prior to his service at the FCC, Commissioner O'Rielly held
11 a number of staff positions in the U.S. Congress, including
12 service with the House Committee on Energy and Commerce and
13 on the staffs of a number of Senators, including former and
14 current members of this committee.

15 Dr. Nancy Beck has been nominated to serve as
16 Commissioner and as Chairman of the Consumer Product Safety
17 Commission. She has an accomplished academic record,
18 demonstrated by her bachelor's degree in microbiology from
19 Cornell University and her master's and doctorate degrees in
20 environmental health from the University of Washington. Dr.
21 Beck has gained broad career experience in the private
22 sector with the Washington State Department of Health, the
23 Office of Management and Budget, the American Chemistry
24 Council, and her current position as Principal Deputy
25 Assistant Administrator for the Office of Chemical Safety

1 and Pollution Prevention with the U.S. Environmental
2 Protection Agency. Recently she completed a detail as a
3 policy advisor with the National Economic Council.

4 Michael Walsh has built an impressive legal career,
5 beginning with his law degree from Columbia Law School and
6 continuing through associate, counsel, and partner positions
7 at respected firms. Mr. Walsh began his service at the
8 Department of Commerce as Deputy General Counsel before
9 becoming Chief of Staff. Additionally, he has been
10 performing the delegated duties of the General Counsel for
11 almost a year, and he appears before this committee today as
12 the nominee for this role.

13 And then appearing remotely by video is Mary Toman.
14 Her educational and career background are part of her strong
15 record of achievement, which has resulted in her nomination
16 to serve as Under Secretary of Commerce for Economic
17 Affairs. She holds a degree in economics from Stanford
18 University and an M.B.A. from Harvard Business School.
19 Earlier in her career, she was a Deputy Assistant Secretary
20 of Commerce, and she also was the Deputy Treasurer of the
21 State of California. Her current private sector position
22 focuses on the creation and management of a successful stock
23 and real estate portfolio.

24 I would like to thank all the nominees for testifying
25 today and for your willingness to serve in these key roles

1 in our government.

2 And I will now turn to Ranking Member Cantwell for her
3 opening remarks. Senator Cantwell?

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1 STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM
2 WASHINGTON

3 Senator Cantwell: Thank you, Mr. Chairman.

4 Today we have five nominees for key positions at
5 several agencies. Let me start first with the nominee for
6 Chairman and Commissioner of the U.S. Consumer Product
7 Safety Commission.

8 The Consumer Product Safety Commission has jurisdiction
9 over thousands of consumer products, including toys and many
10 other products used by infants and small children. The
11 agency is literally the last line of defense against defects
12 and toxic hazards in consumer products that can kill and
13 cause serious injuries.

14 Unfortunately, Dr. Beck's record is clear. She has
15 repeatedly sided with an industry to represent the American
16 Chemistry Council over the safety of American families. I
17 believe that she has a glaring failure in the lack of
18 meaningful address to the health risk posed by a class of
19 highly persistent chemicals referred to, PFAS.

20 PFAS are a class of toxic chemicals that have been
21 linked to cancers, thyroid disease, decreased response to
22 vaccines, birth defects, and immune system disorders. These
23 chemicals are found in many consumer products like carpets,
24 clothing, paint, nonstick cookware, as well as fire fighting
25 foam that is used at military bases. In fact, they have

1 contaminated over 300 military installations across the
2 country, including several in the State of Washington.

3 Just last week, the Agency for Toxic Substances and
4 Disease Registry, which is part of the Centers for Disease
5 Control and Prevention, released PFAS exposure assessments
6 for 333 people living near Fairchild Air Force Base in
7 Spokane. The assessment showed that almost all the people
8 studied had PFAS levels higher than the national average.

9 Washington has been a leader in the nation in dealing
10 with PFAS. It was the first State to ban the use of the
11 fire fighting foam containing PFAS, as well as PFAS in food
12 packaging, but it will cost billions of dollars to clean up
13 the mess, much of that federal dollars, and millions of
14 people will continue to be harmed from the exposures for
15 years to come.

16 Dr. Beck has repeatedly stood in the way of progress on
17 this issue. At EPA, Dr. Beck assisted in delaying the
18 release of a government study which found that the EPA's
19 current health advisory for PFAS in drinking water was too
20 weak to protect the public. The propose health advisory
21 would show that PFAS is dangerous at a much lower level than
22 previously thought.

23 And as a White House official in an email to the Office
24 of Management and Budget, deemed the report a public
25 relations nightmare, impervious to the public health

1 nightmare that was unfolding around the country with PFAS.
2 In fact, the final report is still stuck at the White House
3 where Dr. Beck was detailed to work on environmental
4 regulations for the National Economic Council.

5 This is one of the reasons why the Secretary of the
6 Washington State Department of Health where Dr. Beck has
7 worked sent me a letter yesterday strongly opposing her
8 nomination. The International Association of Fire Fighters
9 also strongly oppose her nomination, stating, quote, her
10 record promoting the interests of the chemical industry at
11 the expense of workers' health and safety makes her ill-
12 suited for this position. I will put these two letters, Mr.
13 Chairman, in the record.

14 The Chairman: Without objection, they will be placed
15 in at this point.

16 [The information follows:]

17 [COMMITTEE INSERT]

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1 Senator Cantwell: Thank you, Mr. Chairman.

2 We cannot afford to go backwards on regulation of toxic
3 chemicals like PFAS which are often found in consumer
4 products. And PFAS is not the only safety issue that I am
5 concerned about.

6 Dr. Beck's efforts to implement overwhelming -- efforts
7 to implement the overwhelming bipartisan reform of the Toxic
8 Substances Control Act led to the Ninth Circuit saying that
9 the Trump administration was ignoring clear requirements of
10 the law. And rather than addressing the science evidence
11 showing that a toxic chemical, TCE, caused birth defects,
12 Dr. Beck simply directed the Trump EPA to delete that
13 evidence from the risk evaluation in the first place.

14 The Associated Press reported that at OMB, Dr. Beck was
15 involved in a push to block the release of Covid-19 safety
16 guidance to States and localities from the Centers of
17 Disease Control.

18 Now, last December, we released a report about the
19 serious recall process at the Consumer Product Safety
20 Commission, including issues about strollers and serious
21 injuries from infant sleepers. So I want to see someone at
22 the leadership of the Consumer Product Safety Commission
23 that will help us in protecting the public.

24 So, Mr. Chairman, I know we will hear from the witness,
25 and I look forward to hearing what comments and having a

1 chance to ask questions about these very important issues.

2 In addition, Michael Walsh is here to serve as the
3 General Counsel at the Department of Commerce. He has
4 previously served as the Department Deputy General Counsel
5 and the Chief of Staff and has now moved to Acting General
6 Counsel.

7 Mr. Walsh appears to have been involved in efforts last
8 summer to stifle career National Weather Service staff who
9 attempted to correct President Trump's erroneous statements
10 about Hurricane Dorian.

11 Just yesterday, NOAA released the findings of an
12 independent review of allegations of misconduct related to
13 Dorian, and two officials were found to have knowingly and
14 willfully or with reckless disregard violate NOAA's own
15 scientific integrity policy, and unnamed officials at the
16 Department of Commerce were also implicated.

17 So, Mr. Chairman, I ask that the assessment and that
18 NOAA's responses of the IG be listed in the record.

19 The Chairman: Without objection.

20 [The information follows:]

21 [COMMITTEE INSERT]

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1 The Chairman: I know the Department of Commerce
2 Inspector General is currently also looking into this
3 matter, so we will get the additions.

4 Mr. Walsh was apparently involved in efforts to obscure
5 the origins of the ill-fated citizenship question on the
6 2020 Census from Secretary Ross and the White House, and so
7 I look forward to asking questions about that.

8 Next, Mr. Chairman, we have Mary Toman, who was
9 nominated to serve as Under Secretary of Commerce for
10 Economic Affairs. This position oversees both the U.S.
11 Census Bureau and the Bureau of Economic Analysis, which
12 puts critical information like the Gross Domestic Product
13 report.

14 And as you mentioned, Joel Szabat to serve as the Under
15 Secretary of Policy for the Department of Transportation.
16 If confirmed, he would have a key position in dealing with
17 matters like ensuring the safety of our transportation
18 networks in the wake of Covid-19 and working on the surface
19 transportation reauthorization bill.

20 And finally, Mr. O'Rielly, to serve as Commissioner of
21 the FCC. Welcome back. We have a lot to talk about,
22 everything from the Ligado decision to your views on the 5.9
23 megahertz to media ownership and many, many other issues.
24 So we will look forward to a chance to ask you questions.

25 Again, Mr. Chairman, thank you for the time. I look

1 forward to hearing from the witnesses.

2 The Chairman: Thank you, Senator Cantwell.

3 To our witnesses, your full written statements will be
4 admitted into the record, and we ask each of you to
5 summarize your testimony at this point in 5 minutes or less.
6 So we will begin down at this end of the table with Mr.
7 Szabat. You are recognized, sir, for 5 minutes.

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1 STATEMENT OF JOEL SZABAT, OF MARYLAND, TO BE UNDER
2 SECRETARY OF TRANSPORTATION FOR POLICY, U.S. DEPARTMENT OF
3 TRANSPORTATION

4 Mr. Szabat: Chairman Wicker, Ranking Member Cantwell,
5 members of the committee, thank you for the opportunity to
6 appear before you today and thanks to President Trump and
7 Secretary Chao for their continuing confidence in me. I am
8 grateful that this committee and your Senate colleagues saw
9 fit to confirm me in my current position as Assistant
10 Secretary for Aviation and International Affairs. I look
11 forward to continuing to work with each of you and your
12 staff to strengthen our nation's transportation system.

13 Since June of 2019, I have additionally been performing
14 the duties and responsibilities of the Under Secretary of
15 Transportation for Policy, for which position I have been
16 nominated. If confirmed, I will be the seventh Under
17 Secretary of Transportation for Policy since the post was
18 created in 2002.

19 As a measure of my tenure in the Department of
20 Transportation, specifically in the Policy Office, I have
21 served under four of the six prior Under Secretaries. My
22 experience runs across each of the last three
23 administrations, including the first Under Secretary and the
24 most recent. At various times, I have run three of the four
25 components that comprise the Office of the Under Secretary:

1 the Office of Aviation and International Affairs; the Office
2 of Policy; and the first multimodal discretionary grant
3 program, TIGER, which has since morphed into the Build
4 America Bureau.

5 Over the course of the last 12 months, I have tried
6 leading the Office of the Under Secretary on a path
7 consistent with Secretary Chao's vision and our statutory
8 mandate. The Department of Transportation is, first and
9 foremost, a transportation safety agency.

10 The release of the President's budget on February 10th
11 previewed the administration's upcoming surface
12 transportation reauthorization proposal. Longer
13 authorizations provide more certainty to local governments
14 and drive down construction costs. The President's budget
15 announced a \$1 trillion 10-year plan. The primary theme
16 will be improvements that benefit safety.

17 Since the coronavirus arrived in America earlier this
18 year, the Department's major focus has been battling the
19 disease and ensuring that our transportation systems support
20 the ongoing economic rebound. That has also become my
21 primary concern as one of the original members of the White
22 House Coronavirus Task Force.

23 Following the advice of our nation's health
24 professionals, the Department coordinated flight
25 restrictions to slow the spread of the virus. We adjusted

1 hazardous material regulations to allow the seamless
2 delivery of testing kits and supplies.

3 As the Centers for Disease Control publishes guidelines
4 for safely reopening the economy, we are securing tens of
5 millions of face coverings for transportation passengers and
6 workers, truck and bus drivers, transit and train operators,
7 pilots and flight attendants, air traffic controllers, and
8 many more. These critical transportation workers are unsung
9 heroes in the front lines of fighting the disease. It is an
10 ongoing honor to be able to support them.

11 Prior to the coronavirus, we were already grappling
12 with the impact of the accelerating rate of technological
13 change across all modes of transportation. As technology
14 rapidly alters the face of transportation, it is our duty to
15 keep pace as a transportation safety agency. A priority of
16 mine, in support of Secretary Chao's vision, is to continue
17 to work to safely integrate emerging technologies, including
18 drones and other autonomous vehicles, into our existing and
19 national aviation and surface transportation networks.

20 Nobody yet knows what the new normal will be when the
21 immediate threat of the coronavirus recedes. Changes in how
22 we live and work will also drive changes in transportation.
23 The Office of the Under Secretary oversees or coordinates
24 the work of hundreds of outstanding research scientists,
25 engineers, statisticians, and economists. Some of them are

1 already looking into what changes might emerge, so we are
2 better prepared for them if they do.

3 Because of necessary social-distancing requirements, I
4 cannot be joined today by family, mentors, or colleagues.
5 Since she cannot join me, I would like to acknowledge my
6 wife, Chiling Tong, in absentia. A prominent Asian Pacific
7 American activist, she worked with a group of mostly Chinese
8 American organizations that have collectively purchased and
9 distributed over 10 million masks and other protective gear
10 for hospitals and emergency services in the greater New York
11 City and Washington, D.C. areas. This kind of citizen
12 activism makes Americans and America great.

13 Nearly 40 years ago, I began my public service as a
14 United States Army cavalry scout and tanker, patrolling the
15 East-West German border. All of us who have worn our
16 country's uniform well remember the camaraderie of being in
17 a close-knit group sharing a common mission. That spirit
18 still animates us today. When I tried to thank our
19 transportation coronavirus team in early March for working
20 their 21st straight day, a senior career executive would
21 have none of it. "Most of us chose public service because
22 we wanted to help people," he said. "Now is our time." I
23 try to live up to that ethos daily.

24 Thank you again for the opportunity to appear before
25 you today. I am happy to take your questions.

[The prepared statement of Mr. Szabat follows:]

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1 The Chairman: Thank you, Mr. Szabat.
2 Commissioner O’Rielly?

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1 STATEMENT OF MICHAEL P. O'RIELLY, OF NEW YORK, TO BE A
2 MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION

3 Mr. O'Rielly: Chairman Wicker, Ranking Member
4 Cantwell, and members of the committee, I sincerely
5 appreciate the opportunity to appear before you to discuss
6 my nomination for a new term at the Federal Communications
7 Commission.

8 During my tenure, I have absolutely loved serving the
9 American people and will be honored to continue in my
10 position at the commission, if you deem it appropriate. FCC
11 work is both challenging and rewarding, and I believe that
12 there is so much more that I can accomplish to improve the
13 communication landscapes in the years to come.

14 Nearly 7 years ago during my original confirmation
15 hearing, I promised the committee that I would seek to work
16 with my fellow colleagues, to the extent possible, to find
17 common ground. I think my record since suggests that I have
18 kept my word. In sum, my commitment has been to find and
19 support good ideas and sound policy outcomes no matter where
20 or from whom they originate.

21 Throughout, I have tried to stay true to my original
22 commitments in approaching my role as a commissioner. My
23 principles are used as an important prism that guides me in
24 my review of the issues, and I have focused on limiting the
25 costs and burdens on the American people from new

1 regulations and eliminating existing regulations that are no
2 longer necessary. Regardless of my personal views on a
3 particular matter, however, I am always beholden to the will
4 of Congress.

5 Substantively, one area on which I have spent
6 considerable attention and energy is FCC process reform,
7 which gets few headlines and little attention from
8 practitioners. I firmly believe that transparency,
9 accountability, and responsiveness of the commission can be
10 improved for the betterment of our decision-making and the
11 American people.

12 On policy matters, there is much work ahead. The
13 biggest issue facing the commission is how to bring
14 broadband to those Americans without service. I am
15 painfully aware of this demographic despite our poor mapping
16 and related data. It is indisputable that broadband brings
17 many benefits to those who are able to obtain it. Having
18 traveled the nation and heard from American families and
19 businesses that do not have access, I am committed as ever
20 to shrinking this population as fast as possible in a
21 thoughtful way.

22 Secondly and on a related note, since wireless
23 broadband is a key part of solving this problem, the
24 commission must identify and reallocated additional spectrum
25 bands for new wireless services, including 5G, 6G, and

1 beyond. It is essential that the mid-band pipeline, which
2 lies mostly empty, be replenished in the very near term.
3 Absent this, we face the real risk that the U.S. will lose
4 its preeminent position in global wireless leadership.

5 Finally, there has been considerable debate in Congress
6 and elsewhere about the regulatory treatment of the U.S.
7 high technology community. Recently, the conversation has
8 focused on the legal liability protections provided to high-
9 tech companies and others offering applications or platforms
10 for third party content. If asked to intervene, I intend to
11 fully explore all of the extremely complex and relevant
12 issues involved. Like my practice of reading every item on
13 which I am asked to vote, you can be assured that I will do
14 my homework on this important subject as well.

15 I thank the committee for its consideration of my
16 nomination and stand ready to answer any questions you may
17 have.

18 [The prepared statement of Mr. O'Rielly follows:]
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1 The Chairman: Thank you, Commissioner O’Rielly.

2 And now, Ms. Beck, you are recognized.

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1 STATEMENT OF DR. NANCY B. BECK, OF NEW YORK, TO BE A
2 COMMISSIONER AND CHAIRMAN OF THE CONSUMER PRODUCT SAFETY
3 COMMISSION

4 Dr. Beck: Good afternoon, Chairman Wicker, Ranking
5 Member Cantwell, and members of the committee. Thank you
6 for the opportunity to appear before you today as you
7 consider my nominations to the Consumer Product Safety
8 Commission. I would also like to thank the President for
9 nominating me. I am humbled by this opportunity, and if
10 confirmed, I will look forward to working with all of you to
11 advance public health and safety and engaging on any issue
12 of particular interest to you.

13 While my family is not here with me today due to the
14 Covid pandemic, I would like to acknowledge all the love and
15 support they have provided to me. They are watching from
16 their homes in New York. I have six unique and wonderful
17 nieces and nephews and they are with me in spirit as they
18 always are.

19 Now more than ever, it is imperative that we ensure
20 that the American public is protected from the myriad of
21 consumer risks encountered on a daily basis. Our homes and
22 our recreational environments must be safe spaces where we
23 can relax and not have to worry about encountering harmful
24 risks.

25 If confirmed to work at the CPSC, I would continue to

1 pursue my lifelong commitment to promoting public safety
2 through policies supported by objective and transparent
3 science. My career, which has spanned State government,
4 federal government, and the private sector, has been driven
5 by my commitment to public health.

6 My career in public health started when I worked at a
7 cosmetics company as a microbiologist, ensuring that
8 cosmetics were safe for our daily use. While in graduate
9 school at the University of Washington, I volunteered for a
10 program run through the American Lung Association that
11 helped the residents of Seattle identify and address
12 contaminants such as lead, mold, and other indoor pollutants
13 in the household. The satisfaction that came from working
14 to keep consumers and homeowners safe inspired me to devote
15 my career to furthering public protection.

16 My interest in public health was solidified while I was
17 working for the Washington State Department of Health.
18 There, I conducted the risk evaluation that led to the
19 closure of a paint shop in a low-income residential
20 community. The growth of this facility had put the
21 community at risk. This experience demonstrated to me the
22 important role that data and analysis can play in improving
23 communities throughout our country. Additionally, engaging
24 at the community level, protecting children and the elderly,
25 was highly motivating.

1 I moved to Washington, D.C. to pursue opportunities
2 that advanced my interests, knowledge, and experience. I
3 participated in a respected science policy fellowship
4 program, and through this fellowship program working at the
5 EPA, I advanced my knowledge regarding how science informs
6 policy and focused on health issues related to protecting
7 those most at risk.

8 My fellowship was followed by almost a decade at the
9 OMB, working under both President Bush and President Obama.
10 As a career civil servant, I worked to establish science as
11 a pillar of good regulation. At OMB, I honed my experience
12 in risk assessment and regulatory policy, and I advanced
13 public health by ensuring that regulations were grounded in
14 objective science.

15 I have also had the privilege of serving in a
16 leadership role at EPA in the Office of Chemical Safety and
17 Pollution Prevention overseeing the pesticides and chemicals
18 program. While there, I worked to implement the bipartisan
19 Frank R. Lautenberg Chemical Safety Act as EPA put in place
20 a framework to ensure that future chemical assessments are
21 grounded in science, accountability, and transparency.

22 The mission of the CPSC is to protect the public
23 against unreasonable risks of injury and death associated
24 with consumer products. This mission continues to be of
25 utmost importance. Having dedicated my career to protecting

1 and improving public health, I am well equipped to help the
2 CPSC advance its essential mission.

3 If confirmed, my priorities will include ensuring three
4 things.

5 One, we must ensure that the CPSC takes appropriate and
6 timely action to protect the public from risks, consistent
7 with the CPSC statutory mandates.

8 Two, we must ensure that CPSC has effective
9 communication and outreach tools. In particular, we must
10 address the changing ways through which consumers purchase
11 products and receive important information.

12 And three, it is important that we ensure that the CPSC
13 has the full confidence of the American public. This means
14 that the CPSC programs must be run as effectively as
15 possible to provide the highest level of protection to
16 consumers and families. This includes hiring a chief
17 technologist, as recommended by this committee, to make
18 certain that CPSC decisions are informed by the best
19 available data and information.

20 If confirmed, I will look forward to working with each
21 of you, as well as CPSC's dedicated staff, to fulfill the
22 commission's essential mission.

23 I will be happy to answer any questions you have for me
24 today. Thank you.

25 [The prepared statement of Dr. Beck follows:]

1 The Chairman: Thank you very much, Dr. Beck.

2 And now Mr. Walsh.

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1 STATEMENT OF MICHAEL J. WALSH, JR., OF VIRGINIA, TO BE
2 GENERAL COUNSEL OF THE U.S. DEPARTMENT OF COMMERCE

3 Mr. Walsh: Chairman Wicker, Ranking Member Cantwell,
4 and members of the Commerce, Science, and Transportation
5 Committee, thank you for considering my nomination to be
6 General Counsel at the U.S. Department of Commerce.

7 It is a privilege to appear before you today.

8 Thank you too to the staff of the committee for all the
9 work that you have done in preparing for this hearing.

10 I am especially grateful to President Trump for
11 nominating me to this position and for the continued support
12 of Commerce Secretary Wilbur Ross.

13 And though they are not able to be here, I must also
14 thank my wife Emily and my children, Charlotte, Michael,
15 Francis Xavier, and Nicholas, who are watching on the Web
16 stream right now, for all the sacrifices that they have made
17 during my tenure in public service.

18 I also want to thank my parents, my sister, her family,
19 and all of my family members and friends who are watching
20 from Connecticut, Massachusetts, New York, and Virginia.

21 Finally, I would like to thank my wonderful colleagues
22 at the Department of Commerce with whom I have enjoyed
23 working over the past 2 and a half years.

24 Prior to joining the Commerce Department as Deputy
25 General Counsel in early 2018, I was a partner at an

1 international law firm where I litigated complex class
2 action cases.

3 Since my arrival at the Department, I have been
4 involved in many of the issues that encompass our agency's
5 broad mission, including those associated with NIST, NOAA,
6 trade enforcement, the protection of intellectual property,
7 patents, and trademarks, and economic and minority business
8 development and the Census Bureau, which announced this
9 morning that retail sales were up 17.7 percent.

10 I have also supported the Bureau of Industry and
11 Security's initiative to secure our nation's defense
12 industrial base and to carefully and thoughtfully administer
13 our nation's export control laws.

14 I understand the importance of compliance with the laws
15 that dictate every aspect of the Commerce Department's
16 operations. If confirmed, I will ensure that these laws are
17 upheld and are being applied with the greatest programmatic
18 integrity and transparency.

19 I also look forward to working with all of the members
20 of this committee on your ideas for new programs and
21 policies aimed at rebuilding our industrial base, reshoring
22 essential industries, protecting American intellectual
23 property from foreign predation, and creating millions of
24 great jobs that will provide every American with the
25 opportunity to pursue the American dream.

1 I look forward to answering any questions and, again, I
2 sincerely thank you for your consideration.

3 [The prepared statement of Mr. Walsh follows:]

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1 The Chairman: Thank you very, very much, Mr. Walsh.

2 And now remotely by video, the chair recognizes Mary

3 Toman.

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1 STATEMENT OF MARY A. TOMAN, OF CALIFORNIA, TO BE UNDER
2 SECRETARY OF COMMERCE FOR ECONOMIC AFFAIRS, U.S. DEPARTMENT
3 OF COMMERCE

4 Ms. Toman: Good afternoon. Mr. Chairman, Ranking
5 Member Cantwell, and distinguished members of the committee,
6 thank you for inviting me today.

7 What a great country that someone like me, the first in
8 my family to speak English as a native language, could be at
9 a hearing in front of such a distinguished Senate committee.
10 I am grateful to President Donald Trump, Secretary of
11 Commerce Wilbur Ross, and many others for having the
12 confidence in me to nominate me for Under Secretary for
13 Economic Affairs at the Department of Commerce. I am deeply
14 humbled and honored.

15 I am grateful to my family and friends: my very
16 supportive husband of 31 years, Milt Miller; my daughter
17 Mary Ann, whom I respect for balancing law school and child
18 care for her young daughter; and my mother, energetic at 96.

19 One reason for my interest in returning to public
20 service is my strong desire to give others the opportunities
21 I have had. New prospects for economic growth must be
22 identified and communicated to all.

23 If confirmed, I would oversee an important
24 constitutional responsibility, the 2020 Decennial Census. I
25 will do everything in my power to ensure that everyone is

1 counted. I would work with Congress and your staffs to
2 ensure that the Census is completed fully and accurately.
3 Data security, privacy, and confidentiality are paramount.

4 The Bureau of Economic Analysis calculates our
5 country's GDP and other key economic indicators. This
6 treasure trove of data must become increasingly accessible
7 to all users to identify new jobs. That is how to expand
8 our manufacturing services and exports.

9 The Under Secretary is also responsible for
10 macroeconomic and fiscal policy analyses. Regaining the
11 momentum that prevailed in our economy as recently as
12 February is key. We must use our resilient economic engine
13 to restore employment through the innovation that drives
14 America's growth.

15 The digital data world is upon us and can boost
16 productivity. We must reflect innovation in our analyses
17 and communications. The Commerce Department is at the
18 forefront of these government-wide efforts, serving as a
19 lead for the federal data strategy and the implementation of
20 the Foundations for Evidence-Based Policymaking Act. The
21 Under Secretary's office drives this for the Department,
22 using data to do its decision-making and increase data
23 access for American businesses and households.

24 In my previous position as Deputy Assistant Secretary
25 of the Commerce Department, we produced key industrial

1 statistics for over 120 industries. Much of this directly
2 complemented the data produced by Commerce's Bureau of
3 Economic Analysis. I led trade negotiations with the
4 Government of Japan that significantly increased U.S.
5 exports and brought more jobs to America. Encouraging job
6 growth is a key goal for the Commerce Department. If
7 confirmed, I will take that objective to heart daily to
8 produce incisive economic information as data opens doors.

9 In my time as Deputy Treasurer of the State of
10 California, we used Commerce data extensively. We managed
11 about \$200 billion, including the CalPERS and CalSTRS
12 pension funds. That experience would be relevant as the
13 Under Secretary advises the Secretary of Commerce in his
14 role as a member of the Pension Benefit Guarantee
15 Corporation board.

16 My career has been balanced between government public
17 service and the private sector. At Procter & Gamble, we
18 used Commerce statistics daily for forecasts and new product
19 markets. As a commissioner of the City of Los Angeles, we
20 relied on Commerce data too. So I understand the practical
21 side of how Commerce data is used.

22 If reported favorably by this committee and confirmed
23 by the full Senate, I look forward to working with you and
24 your staffs. I will always be interested in hearing about
25 your priorities and working with you cooperatively. Working

1 together, anything is possible in America.

2 Thank you for this opportunity and I look forward to
3 answering any questions.

4 [The prepared statement of Ms. Toman follows:]

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1 The Chairman: Well, thank you very, very much. And
2 the remote testimony went very nicely.

3 We now begin questions under the 5-minute rule.

4 Mr. Szabat, the U.S. Department of Transportation is
5 expected to release a detailed reauthorization plan in the
6 near future. Do you have an update on the reauthorization
7 of the surface transportation programs? We need to act on
8 this, and I am hoping that the Department's plan will be
9 released soon. What can you tell us about that?

10 Mr. Szabat: Thank you, Senator. I believe if not for
11 Covid-19, I believe the administration's plan, the entire \$1
12 billion 10-year plan, would have been released in full by
13 now. Currently my hope is that we will have the plan out
14 before the members of this committee have an opportunity to
15 ask me questions for the record, and I am confident that we
16 will have the plan out before I have an opportunity to
17 answer those questions for the record.

18 The Chairman: Okay, all right. So, well, thank you
19 very much.

20 Let me move on then to the Consumer Product Safety
21 Commission. Dr. Beck, thank you for being with us.

22 Let me ask about an investigation last June. The
23 committee conducted an investigation into unauthorized
24 disclosure of the confidential manufacturer information in
25 violation of section 6(b) of the Consumer Product Safety

1 Act. The investigation found that a lack of formal
2 training, ineffective management, and poor information
3 technology implementation at the CPSC contributed to the
4 disclosures. If confirmed, how will you work to address
5 these issues to improve the functioning of the commission
6 and ensure that incidents like the unauthorized disclosures
7 do not happen again?

8 Dr. Beck: Senator, thank you for that question.

9 I am aware of the report and the investigation from
10 this committee.

11 First and foremost, it is important that CPSC follow
12 all the statutory requirements, and one of those includes
13 protecting important confidential business information. If
14 confirmed to the CPSC, I will make it a priority to ensure
15 that that part of the statute is followed to make sure that
16 everyone at the CPSC, including myself, is appropriately
17 trained on a regular basis so that releases such as this
18 will not happen again.

19 The Chairman: Okay. Well, let us see. But they also
20 found that lack of formal training was a problem and
21 ineffective management. Could you comment on those
22 findings, since you are familiar with the report? What
23 about the ineffective management aspect of it?

24 Dr. Beck: So not being at the CPSC, it is hard for me
25 to comment on that aspect. I believe it was related to the

1 managers and the training and the oversight of the training
2 and the processes and procedures. So it is really important
3 that every manager, including the commissioners, be trained
4 on the appropriate statutory requirements, be trained on the
5 processes and procedures throughout the organization.
6 Everyone needs to be aware of the appropriate practices.

7 The Chairman: All right. Thank you very much.

8 Senator Cantwell?

9 Senator Cantwell: Thank you, Mr. Chairman.

10 And I thank the witnesses. I have a lot of questions
11 and not probably enough time to go through all of them. So
12 if you could be succinct on your answers, I would certainly
13 appreciate it.

14 I want to start with you, Dr. Beck. Obviously, the
15 Consumer Product Safety Commission and its important
16 responsibility is to protect the public. I mean, literally
17 these rules are about life and death.

18 And overwhelming bipartisan 2016 Toxic Substances
19 Control Act reform, TSCA, requires the EPA to study the risk
20 of chemicals and then step up to protect people against
21 those risks. One of those chemicals being studied is TCE, a
22 chemical used for decades as a grease remover and dry
23 cleaning solvent. It was found at hundreds of Super Fund
24 sites in every single State and drinking water all across
25 America. It was poisonous.

1 Documents and other Trump reports show that the Trump
2 administration EPA rejected industry science designed to
3 downplay the risk of birth defects and those chemical causes
4 and the White House overruled EPA's own scientists.

5 So, Dr. Beck, yes or no. Were you involved or
6 responsible for the direction of the White House that it
7 gave EPA to edit the risks of TCE to remove the cardiac
8 birth defects from those documents?

9 Dr. Beck: Senator Cantwell, I think you are referring
10 to an interagency review process, which is standard
11 practice. During that process, the lead agency has the
12 authority and they have the pen. They decide which comments
13 are accepted, which comments are rejected, and whether or
14 not any changes are made to the assessment. So the draft
15 assessment that was released is a reflection of the EPA.

16 Senator Cantwell: So did you advocate for removal of
17 cardiac birth defect risk from those documents? Did you
18 advocate for that?

19 Dr. Beck: So the interagency review process, which I
20 participated in for many years, 15 years now, is a very
21 important process that allows for frank and candid and
22 deliberative discussion within an agency and across an
23 agency.

24 Senator Cantwell: Yes or no. Did you advocate? Yes
25 or no. That is all I am asking.

1 Dr. Beck: Senator, what you are asking for is
2 deliberative information.

3 Senator Cantwell: So you are saying at this point you
4 do not know whether you believe that TCE information about
5 cardiac birth defects is important?

6 Dr. Beck: Information about cardiac birth defects with
7 TCE or with any chemical is very, very important.

8 Senator Cantwell: And so did you participate, you
9 personally, in asking for that to be removed?

10 Dr. Beck: So the interagency process is designed to
11 protect deliberative information --

12 Senator Cantwell: Okay. We are going to go on to the
13 next question.

14 Senator Carper has been a lead obviously in his EPA
15 role. In 2015, the Obama administration proposed a rule
16 that was designed to restrict the use of the most dangerous
17 PFAS chemicals in consumer products. And Senator Carper has
18 indicated that you personally tried to delay and weaken a
19 proposed rule. Senator Carper -- as part of the White House
20 review, when you left EPA, you tried repeatedly to weaken
21 the rule by allowing companies that continued to include
22 PFAS chemicals in consumer products have a safe harbor from
23 enforcement if they said they did not know they were
24 supposed to have ensured that PFAS was removed. So yes or
25 no. Did you participate in that process?

1 Dr. Beck: Senator, I can assure you that I did not
2 weaken or delay any PFAS rules. The PFAS -- I think it is
3 the SNUR that you are referring to, is a draft document that
4 was released by EPA. EPA has the pen on that document, and
5 EPA decides what is in and what is not in that draft
6 document.

7 Senator Cantwell: So do you believe that the company
8 should have a safe harbor?

9 Dr. Beck: I am not prepared to answer that question.

10 Senator Cantwell: Okay. Well, here is what my
11 constituents are prepared for, this report, this report that
12 basically is from the Agency for Toxic Substances and
13 Disease Registry. And it is about the assessment in the
14 Spokane community about the unacceptable levels of PFAS.
15 That is what is beyond acceptable. I cannot support your
16 nomination when you cannot answer these questions. When I
17 go to this report and I look on page 4 of the report and it
18 says PFAS levels in tap water, collected and tested water
19 samples from participating households, the PFAS levels for
20 all 19 tap water samples were below all federal and
21 applicable State guidelines for PFAS in drinking water. I
22 cannot tell my constituents that I supported you because you
23 cannot tell me about this important thing did not have a
24 safe harbor for these people. So, listen, this issue is
25 well known in Spokane. It is well known at Fairchild Air

1 Force Base. I know our colleagues have tried to deal with
2 this issue.

3 But I have to just bring up the Ligado issue, if I
4 could, really quickly because it is such an important issue.
5 And we have three people here that also could say something
6 about it.

7 Obviously, the Ligado issue -- you know, with the FCC's
8 recent approval, you are putting into competition in my mind
9 this GPS system which threatens the safety and security from
10 civil aviation and military operations to weather
11 forecasting. And I just want to know what the witnesses,
12 Mr. Szabat, Walsh, and Toman, whether you have any comments
13 about that, and Mr. O'Rielly, if I have a minute left or
14 have a few comments. I guess I could wait another round.

15 Mr. Szabat: Thank you, Senator, for the question.

16 The Ligado issue and its predecessor, the LightSquared
17 issue, was in fact a very difficult issue to grasp with.

18 The Department of Transportation -- I think we have an
19 easier way forward than our colleagues do at the FCC. Our
20 mandate is to look out for the interests of the GPS system,
21 as you have pointed out. Our testing has indicated that the
22 Ligado system, if deployed, would interfere with GPS, and
23 therefore we have been remaining opposed to its deployment.

24 Senator Cantwell: Okay. My time has run out, Mr.
25 Chairman. So I will put in for the record, if I could, to

1 let the rest of the witnesses answer that question.

2 But I am also going to put into the record a question
3 to Ms. Beck about Covid-19 guidelines for the White House.
4 There are also questions about your role in basically trying
5 to deny the release of information that would have been
6 helpful in a horrific accident in Washington as people
7 conveyed in Skagit County to sing in a choir, and so many
8 people from that event got Covid. So I want to understand
9 whether you participated in anything and suppressing
10 information that would have been helpful in that.

11 So thank you, Mr. Chairman.

12 Senator Blunt [presiding]: Thank you, Senator
13 Cantwell.

14 Senator Moran?

15 Senator Moran: Let me turn my attention first to Ms.
16 Beck. Ms. Beck, I chair the Subcommittee on Consumer
17 Protection with jurisdiction over the CPSC, and I want to
18 see that agency is managed in a way and that there is
19 camaraderie and good will among the members. And I would
20 love to hear your assurance that as we have hearings in our
21 subcommittee that deal with the commissioners, that you move
22 the commission in the direction of transparency, fair
23 process, bipartisanship in every way possible. Can you
24 assure me of that?

25 Dr. Beck: Yes, Senator, I can. There is no place for

1 bipartisanship when it comes to public health and consumer
2 protection.

3 I have already spoken with all the sitting
4 commissioners, both Democratic and Republican, and if
5 confirmed, I would look forward to working with all of them.
6 Each one brings a unique background and experience to the
7 commission, and we can only really truly be effective if we
8 work together towards a common goal.

9 Senator Moran: Do you see impediments towards that
10 happening?

11 Dr. Beck: I certainly hope not, no.

12 Senator Moran: Ms. Beck, Chairman Wicker asked you
13 about this topic, about the release of information that was
14 inappropriately released. He asked you about management. I
15 just want to also reiterate the importance of that issue.
16 Senator Wicker and I wrote inquiring about this topic. I
17 want to make sure you will use your chairmanship to address
18 those concerns and make certain that the individuals are
19 educated, trained, and have the right approach and attitude
20 toward protecting the privacy as required by law. Is that
21 something you can assure me of?

22 Dr. Beck: Yes, Senator. I would be happy to make that
23 a priority, and if confirmed, I will look into it and I
24 would be happy to report back to you.

25 Senator Moran: Thank you very much.

1 Let me turn to Commissioner O'Rielly. Commissioner, it
2 is nice to see you again. This morning I was with Chairman
3 Pai in an Appropriations subcommittee hearing.

4 You wrote an interesting blog, a post on an issue
5 related to prohibiting presale or conditional sale radio
6 frequency devices that caught my attention. And are there
7 other similar consumer good marketing prohibitions that you
8 are aware of outside this issue of radio frequency devices
9 that we ought to be paying attention to?

10 Mr. O'Rielly: None off the top of my head that come to
11 mind. I spent a good deal of time working on the presale
12 issue and the importation issue that I both wrote about.
13 But I am happy to review to make sure that we have not
14 missed anything.

15 Senator Moran: Do you think that the FCC has the
16 ability to change what you find flawed?

17 Mr. O'Rielly: I do, yes. We do have within our rights
18 to change our process. We always look to Congress, to your
19 leadership if you so would choose.

20 Senator Moran: Let me ask you a question that I asked
21 Chairman Pai this morning. Keep America Connected Pledge.
22 The result of that pledge, abiding by that pledge would have
23 caused a number of companies, providers, to lose income
24 related to those who are unable and have not paid their
25 bills or unable to pay late charges. So as we try to make

1 certain that those companies remain in existence to provide
2 broadband services to Americans, particularly rural
3 Americans, what is in the works to see that there is the
4 actual capability of doing so, sufficient revenue in light
5 of the fact that people are not or cannot pay bills? I
6 asked the Chairman this morning if the FCC has any numbers
7 about lost revenue, which I was informed does not exist.
8 But do you have any understanding of what the magnitude of
9 this problem is?

10 Mr. O'Rielly: I do not have any better data. I would
11 have to defer to the Chairman on his program in terms of its
12 establishment.

13 But your point is well taken. I am concerned about the
14 lost revenue and the potential -- it would not just be the
15 late fees but also the underlying revenue from the service.
16 And it is a one thing to pledge if it is a month or 2
17 months, but now we are talking 6 months or 9 months. And
18 that is going to be problematic for a lot of small
19 providers.

20 Now, when I talk to providers and representatives of
21 them, their interest is to keep people connected and do
22 everything they need to make sure. Whether it be deferral
23 payments or to try and work out payment plans, I would
24 certainly appreciate that. And then Congress itself has a
25 number of programs that may be applicable, already in the

1 CARES Act depending on the size of the company. But I
2 certainly would look to the guidance of the committee or the
3 Congress in terms of if it decides to allocate additional
4 resources or funding for this purpose.

5 Senator Moran: If you have suggestions in that regard,
6 please let me know.

7 Mr. Szabat, I have 22 seconds in my allocation. I
8 appreciate the time you spent with me by phone considering
9 essential air service and the response under the CARES Act.
10 I would ask you for airports, the EAS and non-essential air
11 service airports -- they continue to feel the impact of
12 Covid-19 -- what else can we be doing to support them?

13 Mr. Szabat: Senator, thank you for the question and
14 for your interest and concern for essential air service
15 because they are, in fact, essential for the rural
16 communities that they serve.

17 Right now, the single most important thing you have
18 already done, which is through the CARES Act, that you have
19 ensured funding to keep all of those services operating
20 through the end of this fiscal year, well into next fiscal
21 year. I would ask only that we are able to continue to have
22 contact with you, your staff, the other members of this
23 committee as we identify going into next year what the
24 overall effects of the coronavirus will be and what
25 alterations and changes we have to make in policy and

1 funding to keep EAS performing.

2 Senator Moran: Mr. Szabat, thank you for your answer
3 and thank you for working with me earlier this year in this
4 regard. Thank you.

5 Senator Blunt: Thank you, Senator Moran.

6 Senator Udall?

7 Senator Udall: Thank you, Mr. Chairman.

8 Dr. Beck, I think members of this committee should
9 oppose your nomination. You have taken actions that
10 demonstrate a real disregard for public health and safety.
11 And we are talking about a position that is supposed to be
12 one of our nation's preeminent consumer watchdogs.

13 Why should members of this committee place their trust
14 in you when your record has been one of constantly blocking,
15 weakening, and delaying public health protections proposed
16 by our nation's top scientists and regulators? I think if
17 they hear from people like Wendy Hartley, they will have
18 trouble putting their trust in you. Wendy's son Kevin lost
19 his life using a dangerous chemical in paint strippers,
20 methylene chloride, while you stalled the effort to remove
21 this chemical from store shelves. Drew Wynne lost his life
22 as well and many others that we know of.

23 As you know, I was the lead author of the chemical
24 safety reform effort in the Senate. We worked very hard to
25 move forward with a very protective law. But your

1 implementation of the law has been anything but protective.
2 Shortly before your arrival at the EPA, the agency proposed
3 regulating methylene chloride in paint strippers. EPA had
4 been reviewing this chemical for many years, and our
5 legislation explicitly protected that work. But after your
6 arrival, we saw nothing but blocking, weakening, and
7 delaying, and that resulted in the loss of Kevin's life,
8 Drew's life and several others.

9 According to the "New York Times," you questioned the
10 proposed ban on methylene chloride, suggesting that only a
11 small number of users are harmed by it. It is 1 percent.
12 You purportedly asked an EPA colleague, is that report true
13 or false, and is the 1 percent an acceptable rate of injury
14 when those injuries include a risk of death?

15 Dr. Beck: Senator Udall, thank you for your question.

16 My heart goes out to the Hartley family and the Wynne
17 family. The acute fatalities were tragic that we saw with
18 methylene chloride. This is why there is now a ban in place
19 so that methylene chloride can no longer be manufactured,
20 processed, distributed to retailers or by retailers to
21 consumers. It is effectively removed from the big box
22 stores and from the local hardware stores, and I am
23 confident that we have effectively blocked any further acute
24 fatalities. Protection of public health is first and
25 foremost.

1 Senator Udall: You are not answering my question. I
2 asked you specifically is the report true and is this 1
3 percent figure an acceptable rate of injury. What is the
4 answer to those two questions?

5 Dr. Beck: Senator, before answering a specific
6 question like that, I would like to see the report that you
7 are referring to. But I do not believe that we can put a
8 number or a percentage on the value of a life.

9 Senator Udall: This was an esteemed EPA Deputy
10 Administrator, longtime career employee, that says that you
11 made that quote. And I think Wendy Hartley and Brian Wynne
12 would strongly object if their loved ones are just a minor
13 statistic. It is unacceptable that it took 2 years and a
14 lawsuit for you to finalize this regulation, and you still
15 managed to put out a less protective rule which allows the
16 use of methylene chloride in paint strippers for commercial
17 use by workers. This is despite the EPA's own conclusions
18 that workers are at much greater risk from exposure than
19 consumers. And in fact, its use by workers also endangers
20 bystanders. EPA had already considered and rejected the
21 extra training as insufficient to protect workers and
22 bystanders from the unreasonable risk, including a quick
23 death posed by methylene chloride.

24 Did you know that Kevin Hartley was professionally
25 trained to use this product and he wore gloves and a

1 ventilator mask and still this chemical infiltrated his mask
2 and the heavy fumes killed him? Did you know those facts?
3 It is a yes or no question.

4 Dr. Beck: Senator, I was aware of the tragic
5 circumstances that surrounded his death. I was not aware of
6 the particular type of respirator that he was wearing.

7 But the evaluation that was done --

8 Senator Udall: Okay.

9 Had you and the EPA not delayed banning methylene
10 chloride, Kevin would be alive today. Drew would be alive
11 today, and others would still be alive. For a scientist
12 charged with protecting public health, we should expect
13 better. Your training gave you the tools to fully assess
14 risk and exposure to toxic chemicals. Instead, you go
15 against peer-reviewed science and consistently favor
16 industry without a solid scientific basis. Your entire
17 career has been less like a toxicologist conducting
18 rigorous, unbiased science and more like a defense attorney
19 zealously defending guilty chemical clients.

20 Mr. Chairman, in my work to reform the chemical safety
21 law, I spent years working hard to reform a badly broken
22 law, but with Nancy Beck at the EPA, we have seen chemical
23 safety reform fail us time and time again. In the 4 years
24 since it passed, Nancy Beck and the EPA have blocked,
25 weakened, and delayed protections from PFAS, from lead, from

1 TCE, and so many other dangerous chemicals. In these 4
2 years, the only ones who have been protected by her
3 leadership have been chemical companies, not workers exposed
4 to dangerous toxins at work, not the public who purchases
5 dangerous products at the store.

6 That is why I am so concerned to see her nomination to
7 chair the very organization charged with protecting
8 consumers. The American consumer is entitled to leadership
9 at the Consumer Product Safety Commission that will protect
10 their health, safety, and lives. This nominee fails this
11 test, and I urge this committee to oppose.

12 Mr. Chairman, I would ask to enter into the record a
13 list of dangerous and unprotected measures that Nancy Beck
14 has taken during her tenure at EPA, along with a letter from
15 over 100 national and State organizations that have joined
16 to oppose this nomination, and a statement from Brian Wynne,
17 Chairman of the Drew Wynne Foundation. In his statement, it
18 starts, this nominee delayed a ban on the toxic chemical
19 that killed my brother.

20 I yield back, Mr. Chairman.

21 Senator Blunt: Thank you, Senator Udall. Without
22 objection, those will be entered into the record.

23 [The information follows:]

24 [COMMITTEE INSERT]

25

1 Senator Blunt: I want to recognize myself for two
2 questions before we go to Senator Blumenthal.

3 Mr. Szabat, in the FAST Act, I was able to secure a
4 provision in the FAST Act where existing railroad right-of-
5 way would be treated like we had decided in a previous law
6 to treat existing interstate right-of-way as it related to
7 historic preservation and the impact an existing railroad
8 would have had if you made changes in that existing railroad
9 bed.

10 I think the Federal Railroad Administration and the
11 Advisory Council on Historic Preservation have been working
12 together to implement this provision. It has not been
13 implemented yet, though I think most of them have done what
14 they needed to do. I understand there remains a concern
15 about a property-based approach included in program
16 guidance.

17 So I have written a letter on this issue to both the
18 FRA and the Advisory Council on Historic Preservation in
19 November. I recently received a response.

20 I want to use this opportunity to raise this issue with
21 you since you will be overseeing the Federal Railroad
22 Administration. I hear that some of the railroads -- there
23 remain concerns about the direction you are headed here.
24 Would you talk to me a little bit about that? So what we
25 are asking is you need to do the historic preservation

1 effort you would need to do in an entirely new place if you
2 are working where the railroad has always been. We made
3 that decision on interstate highways. The Congress made the
4 same decision for railroads, but it has not been implemented
5 yet. And I would like to ask what you are going to do about
6 that.

7 Mr. Szabat: Senator Thune, thank you for the question
8 and for your interest in this issue that is important both
9 for historic preservation --

10 Senator Blunt: It is actually Senator Blunt. I got
11 out of the line here when Senator Thune was not here.

12 Mr. Szabat: My apologies, Senator. Thank you, Senator
13 Blunt.

14 This is an issue that is important, both to historical
15 preservationists and, as you point out, also to our railroad
16 stakeholders.

17 My understanding of the challenge is, as you mentioned,
18 on the highway side the statutory provisions that were put
19 in the regulations make it clear that the historical
20 preservation, the section 160, provisions do not apply
21 except for those instances that are explicitly spelled out.
22 And the draft proposal that we have right now that we are
23 working with the preservationist community and with the FRA
24 flips that and says that on the railroad side, all the grade
25 crossings would be affected by the 160's unless they are

1 explicitly exempted.

2 So there is clearly some work to do, as you point out,
3 for us to square the circle to ensure that we are not doing
4 this inconsistently. You have my commitment that I work
5 with the stakeholders, also with you, your staff, and the
6 members of this committee to hopefully get us to a happy
7 place where the interests of all of the stakeholders will be
8 addressed.

9 Senator Blunt: Well, that would be good, and I would
10 be glad to help with that as I could.

11 Commissioner O'Rielly, you have been a vocal and
12 vigorous member of the commission. I admire what you have
13 done there.

14 There are a lot of consumers who are looking at the
15 choices they have for content now, the competition that is
16 out there. Would you share with me some of your goals for
17 working to update how the FCC views what competition means
18 in our current media marketplace from an antitrust
19 perspective?

20 Mr. O'Rielly: Well, I believe that our current rules
21 and those of the Department of Justice are problematic to
22 reflect what is happening in the marketplace today. There
23 are a number of video providers offering services to
24 consumers that are regulated by no entity beyond there are
25 just general practices, but they are not governed by the

1 FCC. The legacy providers are, whether they are
2 broadcasters or cable for riders. And the dichotomy between
3 the two is incredibly problematic.

4 We have done good work at the FCC in my opinion to
5 modify our rules to reflect that situation. I have run into
6 a roadblock in my interpretation with the Department of
7 Justice who refuses to change its perspective on how
8 broadcasters and who they compete with. It is very
9 problematic from my viewpoint that they believe that
10 broadcasters only compete with broadcasters in a select
11 market at a select time for select advertising. And I have
12 tried to figure out how best to change that. We have done
13 good work at the FCC. As the circumstance may be, I was
14 hoping to work with the Department of Justice, but we ran
15 into this -- the pandemic has certainly changed the dynamic.

16 Senator Blunt: Well, I think, Commissioner, on
17 ownership issues and other issues, not recognizing how big
18 the competitive field is, it makes a big mistake as we move
19 into the future. And I hope you continue to vigorously
20 pursue that discussion.

21 Senator Blumenthal?

22 Senator Blumenthal: Thanks, Mr. Chairman.

23 To Nancy Beck, you have been nominated for one of the
24 most significant positions in our Federal Government. Fewer
25 people have heard of the Consumer Product Safety Commission

1 than maybe the Department of Defense or Veterans Affairs or
2 some of the others, but this agency makes a life or death
3 difference in the lives of literally hundreds of millions,
4 maybe all Americans. And there is no better illustration of
5 it than two letters that I have here, one from Crystal
6 Ellis, the other from Janet McGee who lost children as a
7 result of furniture tipping over on them. I ask that they
8 be made part of the record, Mr. Chairman.

9 Senator Blunt: Without objection.

10 [The information follows:]

11 [COMMITTEE INSERT]

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1 Senator Blumenthal: So let me just ask you right from
2 the start. All four current CPSC commissioners have said
3 that the furniture stability standard is inadequate. Do you
4 agree? Yes or no.

5 Dr. Beck: Senator, thank you for your question.

6 I agree with you about the essential and important
7 mission of the CPSC.

8 Regarding the tip over standard, I believe that is
9 something that needs to be a priority. I am aware that CPSC
10 is doing essential and important research on this now. Not
11 being at the CPSC, I do not have access to all the data that
12 the other commissioners have. If confirmed, I would be
13 happy to get back to you.

14 Senator Blumenthal: You know, I am giving you a
15 chance, in effect, to show us that you are on the side of
16 consumers. I believe that your record to date is
17 disqualifying for this position. And I am really giving you
18 a chance to show that you would take vigorous and aggressive
19 action to protect the consumers like Ms. McGee and Ms. Ellis
20 and their families and children. And that answer is simply
21 inadequate. I am not a member of the commission either.

22 Dr. Beck: Senator, my heart goes out to those
23 families.

24 Senator Blumenthal: Well, I know your heart goes out
25 to them, and I believe you.

1 My time is limited, so I am going to move on. Tell me
2 about your role at the CDC in blocking the scientific
3 guidance that it wanted to issue regarding Covid-19
4 standards.

5 Dr. Beck: Thank you for that question.

6 I can assure I did not block any CDC guidance. At the
7 OMB, OMB plays an essential and important role in
8 coordinating interagency review of thousands of regulations
9 and guidance documents every year. I was helping to
10 coordinate the review of the CDC guidance document, and my
11 role was to make sure that all the decision-makers have an
12 opportunity to comment on the document --

13 Senator Blumenthal: Is it a fact that you blocked the
14 issuance of the guidance?

15 Dr. Beck: Senator, I coordinated the interagency
16 review to ensure that all the comments were received and
17 considered by the CDC. That was essentially my only role.

18 Senator Blumenthal: Well, in coordinating it, you
19 prevented it from being released. Correct?

20 Dr. Beck: The OMB process requires that all the
21 decision-makers have an opportunity to review and comment on
22 the document.

23 Senator Blumenthal: Let me ask you about a separate
24 issue, PFAS. As you know I am sure, a review from the
25 United States Centers for Disease Control and Prevention,

1 CDC, outlined a host of hazardous health effects associated
2 with PFAS exposure, including cancer, liver damage,
3 decreased fertility, increased risk of asthma, and thyroid
4 disease. Connecticut had a major pollutant release of PFAS
5 recently. These chemicals do not break down over time.
6 They are forever chemicals. Do you agree that PFAS poses a
7 significant health threat and should be removed from all
8 household items?

9 Dr. Beck: Senator, the Federal Government is working
10 very hard to understand the science and to take appropriate
11 regulatory action to address PFAS.

12 My understanding is that the companies that used the
13 long chain PFAS compounds, which were the ones that were
14 going in consumer products, have essentially been phased out
15 since, I think, 2008 or 2009. The problem is that we have
16 these older rugs and carpets that were made before that
17 period of time.

18 Senator Blumenthal: Well, would you support removing
19 PFAS from fire fighting chemicals that endanger the lives of
20 those fire fighters?

21 Dr. Beck: Senator, I believe the National Defense
22 Authorization Act requires the DOD to remove PFAS
23 chemistries --

24 Senator Blumenthal: The DOD, yes. And by the way --

25 Dr. Beck: And they are working hard.

1 Senator Blumenthal: -- I was one of the principal
2 supporters --

3 Dr. Beck: Great.

4 Senator Blumenthal: -- of that amendment, as you may
5 know. But I am talking about the countless fire service
6 departments around the nation, including Connecticut, where
7 PFAS flame retardants and chemicals are still in use. Would
8 you support removing them and substituting other kinds of
9 materials?

10 Dr. Beck: Senator, I am sure that once there is an
11 appropriate -- there is plenty of research going on, FAA,
12 DOE, DOD, to help find an effective replacement to the PFAS
13 chemistries for fire fighting foam, and I am confident that
14 once that replacement is found, there will be a broad
15 transition in the marketplace.

16 Senator Blumenthal: And you would support a ban.

17 Dr. Beck: I support a transition away from the PFAS
18 foams. Absolutely.

19 Senator Blumenthal: I have no further questions right
20 now because my time has expired. Thanks, Mr. Chairman.

21 Senator Blunt: Thank you, Senator Blumenthal.

22 Senator Lee?

23 Senator Lee: Thank you very much, Mr. Chairman.

24 Mr. Szabat, I would like to start with you, if that is
25 okay.

1 Navigable airspace is defined as the minimum altitude
2 at which safe flight is possible. I understand that to be
3 generally 500 feet. Does that sound about right to you?

4 Mr. Szabat: Yes, Senator.

5 Senator Lee: Drones, of course, create a special set
6 of circumstances because they really fall into a different
7 category. A drone, if it goes to your house, can hover just
8 inches above the blades of grass on your front yard, and
9 that is a feature, not a bug. That is considered the safe,
10 effective zone for a drone to operate, whereas with an
11 aircraft, that would be unsafe. That is not a safe place to
12 operate that. You are at that altitude only for a
13 millisecond as you are taking off and as you are landing.

14 But the FAA believes that because drones can hover
15 inches above the blades of grass in the front yard, the
16 agency can, therefore, control that airspace in front of
17 your front yard.

18 Now, do you agree with the FAA's current legal
19 interpretation on that point?

20 Mr. Szabat: Well, Senator, what I would agree with is
21 to say that the Federal Government has authority over the
22 national airspace for obvious reasons. You have to have one
23 overriding standard. There are a lot of issues that are
24 playing out right now regulatorily over who has what say for
25 drones in that lower airspace, and we know that there is an

1 awful lot of room for local law enforcement, State and local
2 governments, emergency services, for example, to have their
3 say as well.

4 So I would say for the higher airspace, yes. The FAA
5 has -- after a plane has taken off, after you are into the
6 national airspace, the overriding consideration, except for
7 the security agencies, is FAA. In the lower airspace, we
8 are still frankly working out some of those issues.

9 Senator Lee: So what would you say to those property
10 owners who are struggling to understand where their rights
11 end and where they begin and what that means?

12 Mr. Szabat: So, Senator, I would say the obvious.
13 This is a complicated, difficult issue. This is a new
14 emerging technology. And one of the reasons that we have
15 been so hesitant to step in with new regulations right off
16 the bat is because it is complicated and we want to get it
17 right.

18 Senator Lee: Mr. O'Rielly, let us go to you for a
19 moment.

20 Spectrum is a finite resource and it is one that is
21 extremely valuable. Spectrum access both in the licensed
22 realm and in the unlicensed realm is essential for any
23 future U.S. efforts there might be to develop IOT devices
24 and lead in the race toward 5G and eventually 6G networks or
25 whatever comes after that.

1 Now, the FCC with your support has taken a number of
2 very admirable efforts to find inefficiencies in commercial
3 bands. What is the current state of our commercial spectrum
4 pipeline?

5 Mr. O'Rielly: So we have a number of auctions that are
6 coming up for mid-band spectrum that will be key for 5G
7 services. But post those, in both the C band and CBRS, with
8 the premier being C band and CBRS, and then 3.1 to 3.55 has
9 been identified as a possibility. Beyond that, the pipeline
10 in my opinion is fairly bare.

11 Senator Lee: Do we have enough commercial spectrum
12 being made available to meet the future needs of the United
13 States, and if not, how much time do you think we have?

14 Mr. O'Rielly: I would say no.

15 Senator Lee: So you described the cupboard as being
16 bare, meaning there is just nothing in there.

17 Mr. O'Rielly: Well, we have not identified new bands
18 that we should be trying to reallocate for commercial
19 services, whether they be from commercial services today or
20 from Federal Government agencies. That needs to be done
21 immediately because it takes quite a number of years to
22 clear a band. Even C band where providers are willing to
23 change, it is still a number of years to make that happen.

24 Senator Lee: And we talk a lot, of course, about
25 reallocating commercial spectrum, which is a good thing. We

1 also cannot forget that there are large swaths of spectrum,
2 really valuable beachfront spectrum that are in the
3 possession of various government agencies. And everything
4 affects everything else, and those agencies sitting on that
5 spectrum to whatever degree they might not need it has a
6 significant cost attached to it.

7 Would you agree that part of keeping the United States
8 competitive in the tech space is going to require an all-of-
9 the-above approach, one that will objectively consider both
10 federal and commercial spectrum allocation for future needs?

11 Mr. O'Rielly: Oh, absolutely. I think in terms of
12 acquiring or making available new mid-band spectrum for
13 commercial services, 5G, 6G, et cetera, we are going to need
14 an all-of-the-above strategy, but that certainly means the
15 federal agencies are going to need to shrink their
16 footprint. That is, they hold the most ideal bands in mid-
17 band. And it is a very difficult challenge, I admit, but
18 that is part of our job.

19 Senator Lee: Thank you very much.

20 Senator Blunt: Thank you, Senator.

21 Senator Baldwin?

22 Senator Baldwin: I want to direct my question first to
23 Mr. Szabat.

24 In 2018, the Trump administration released an
25 infrastructure plan that did not mention Buy America once

1 despite the President's executive order to buy American and
2 hire American which, by the way, he announced and signed in
3 Kenosha, Wisconsin.

4 With 21 million people currently unemployed, it is
5 really more important than ever that we use taxpayer dollars
6 spent on infrastructure to support the American workforce.
7 Will you commit that any infrastructure proposal that comes
8 out of the Trump administration in your jurisdiction
9 contains strong Buy America language?

10 Mr. Szabat: Yes, Senator. I can go beyond that to say
11 that all of the proposals that have come out of the
12 Department, at least since I have had the honor of serving
13 as the Acting Under Secretary, have reinforced the
14 importance of Buy America or Buy American.

15 Senator Baldwin: And then President Trump also
16 promised bold new steps on Buy America when he was in
17 Kenosha 3 years ago. If confirmed as Under Secretary for
18 Transportation Policy, what bold, new steps would you be
19 recommending for Buy America at the Department of
20 Transportation?

21 Mr. Szabat: Thank you, Senator, for the question. I
22 will always continue to support strong efforts for Buy
23 America as I did in my previous job as Executive Director of
24 the Maritime Administration where those Buy America
25 provisions are so important for the maritime industry. I am

1 not in a position to say specifically what I will be able to
2 offer in the future because, of course, whatever I offer in
3 the future has to be supported by my superiors in the
4 administration.

5 Senator Baldwin: I appreciated the chance to speak
6 with you by telephone last week, and one of the things we
7 discussed was the increasing frequency of flooding and
8 extreme weather events. And certainly these events are not
9 going to stop because Congress and our State and local
10 partners are focused on the Covid-19 pandemic. They are
11 still going to continue.

12 So as Congress works on surface transportation
13 reauthorization, in my view it is imperative that we invest
14 in climate-resilient infrastructure and ensure that State
15 and local governments have the resources they need to do the
16 same.

17 For example, my bipartisan Rebuilding Stronger
18 Infrastructure Act was included in the EPW Committee's
19 reauthorization legislation, and that bill requires the
20 Federal Highway Administration to provide States and
21 localities with the tools that they need to rebuild
22 infrastructure that can withstand the next storm or flood.
23 So I am looking forward to working with this committee to
24 ensure that our reauthorization legislation similarly
25 includes strong resiliency measures.

1 Now, I understand that the administration is working to
2 release its own reauthorization proposal, and I will be
3 looking closely at how that proposal prioritizes
4 infrastructure resilience.

5 If confirmed, what would you do to ensure
6 transportation infrastructure across DOT is more resilient
7 to climate change and extreme weather events?

8 Mr. Szabat: Again, Senator, thank you for your
9 question but also for your focus on this important issue.

10 We will, as you say, be rolling out very shortly the
11 administration's surface transportation reauthorization
12 bill.

13 My commitment to you is if you find that it falls short
14 in the resiliency aspect, that we look forward to working
15 with you, the other interested members of this committee,
16 and the staff to make sure it reflects those priorities.

17 In a different context, General Darren McDew, the
18 former, now retired, head of the U.S. Department of
19 Defense's Transportation Command, testified that his concern
20 was the nation was sacrificing too much resiliency for the
21 sake of efficiency.

22 I think the same thing can be said for transportation,
23 and to your point, the standards that we have for the next
24 round of infrastructure that we build have to be something
25 that can deal with the challenges 40 and 50 years from now,

1 not just the standards that we had a decade ago.

2 Senator Baldwin: And on a closely related topic, what
3 more could you do, would you do to ensure that our State and
4 local partners receive the technical support and funding
5 that they need to build and rebuild more resilient
6 infrastructure?

7 Mr. Szabat: Senator, thank you. That is always an
8 issue that we have to grapple with anytime that we are
9 posing new programs or funding for our current programs is
10 what is that right local-federal match. Certainly right now
11 we are seeing this as we go through the Covid-19 period.
12 There are stress points for local governments where we
13 cannot expect them to pitch in as much as they would have
14 when the economy is in a better spot. And that is going to
15 be one of the issues we are going to have to work through in
16 consultation with the Congress as we discuss the various
17 surface transportation reauthorization proposals.

18 Senator Baldwin: Thank you, Mr. Chairman.

19 Senator Blunt: Thank you, Senator Baldwin.

20 Senator Thune?

21 Senator Thune: Thank you, Mr. Chairman.

22 Commissioner O'Rielly, welcome back to the committee.
23 We look forward to confirming you to another term of the
24 FCC.

25 As we have discussed before in this committee in the

1 past, mid-band spectrum is crucial to 5G deployment. My
2 question is how important is it that the FCC meet its
3 planned auction in December to make C band spectrum
4 available for commercial use?

5 Mr. O'Rielly: I think it is critical. It is the only
6 band identified that will make such a block available for 5G
7 services in mid-band. The 280 megahertz is critically
8 needed. The CBRS spectrum, which we are going to auction
9 off in, give or take, 6 weeks, is not comparable because of
10 some of the power limits and other things to it. This is
11 the only band we have in the pipeline that is ready to go,
12 and anything that delays that in my opinion would be
13 extremely harmful.

14 Senator Thune: I agree, and I hope you guys can
15 expedite that process.

16 The coronavirus pandemic has highlighted the need for
17 reliable broadband networks, particularly in the most rural
18 areas of the country. If nothing else, what this pandemic
19 has taught us is how important the investments we make in
20 that infrastructure -- how much they pay off particularly at
21 a time like this.

22 Would you support setting aside a portion of the
23 auction proceeds for the build-out of broadband networks in
24 unserved areas?

25 Mr. O'Rielly: I appreciate anytime Congress dedicates

1 additional funding for this purpose. This idea has been out
2 there for a little bit and I think it is very favorable.

3 The only caveat I would say is sometimes our spectrum
4 auctions can be a little -- we have some ups and downs in
5 terms of when we hold our auctions. So we can flush this
6 year with some auctions held, but then we have a dearth.
7 When I got there in 2013, it had been awhile. So it is a
8 little bit unpredictable, and maybe there is a way to figure
9 out how to resolve that issue.

10 But in terms of additional funding for building out
11 broadband services to the millions of Americans who need it,
12 absolutely.

13 Senator Thune: Mr. Szabat, I have consistently asked
14 the Department to thoroughly consider comments from rural
15 States to ensure that these regions are adequately
16 represented in the final national multimodal freight
17 network. Can you provide an update on the Department's
18 efforts to finalize the national multimodal freight network,
19 specifically the evaluation of comments from States?

20 Mr. Szabat: Senator, I can, and thank you for your
21 interest in this issue.

22 So we got through a big hurdle at the end of last
23 summer when finally we received all 51 of the State plans,
24 which were a precursor before we went out for public
25 comment. Those comments are now in, and the Department is

1 in the process of evaluating and assessing and responding to
2 each of those comments. And we are confident that we will,
3 in fact, have the plan out this year.

4 Senator Thune: Good.

5 Another question for you. The Department of
6 Transportation has already made important strides toward
7 safely testing and deploying automated vehicles, including
8 granting exemption petitions and working with other federal
9 agencies to develop the AV 4.0 guidance document.

10 Could you speak more to the department's current
11 efforts to safely test and deploy automated vehicles,
12 particularly the testing partnership announced by NHTSA
13 yesterday?

14 Mr. Szabat: Yes, Senator.

15 So as I said in my opening statement, safety, both for
16 drivers and pedestrians, remains the Department's number one
17 priority. The automated driving systems offer significant
18 safety enhancement opportunities.

19 You mentioned AV 4.0. We did. We rolled that out in
20 January. This is consistent with our government-wide
21 approach for AV technologies that we want to support U.S.
22 leadership in AV technology research, deployment, and
23 integration. So this follows the release of our 2018 AV
24 3.0, which establishes voluntary guidance and outlines our
25 multimodal approach towards tackling these issues.

1 And also, as you have mentioned, Senator, yesterday we
2 rolled out the automatic vehicle transparency and
3 engagements for safe testing, which is a mouthful, so we
4 call it AV TEST. And this, again, is a voluntary, non-
5 regulatory partnership to provide an online public-facing
6 platform for sharing automated systems information. So
7 eight States and nine companies are participating in this
8 initiative, including some of the largest automotive
9 companies and some of the most innovative companies that are
10 working in this space.

11 Senator Thune: Well, and I thank you for the work you
12 are doing. We had hoped, I think as you know, to have
13 legislative direction originating in this committee, working
14 with other committees and through Congress, that would help
15 advance the cause of automated vehicles. But it is, as
16 always, much harder to thread that needle than it should be.
17 But I am pleased that you and your team are moving forward
18 with that because it is critically important. It is a
19 technology that I think will offer enormous benefits to
20 people across this country, and we want to make sure that it
21 proceeds in a safe way.

22 I guess I am out of time, Mr. Chairman. I will submit
23 maybe another one for the record.

24 The Chairman [presiding]: Thank you very much, Senator
25 Thune.

1 Senator Tester?

2 Senator Tester: Thank you, Mr. Chairman, and thank
3 you, Ranking Member Cantwell.

4 I am going to start with you, Dr. Beck.

5 The Chairman: Senator Tester, could you move just a
6 little closer to the microphone?

7 Senator Tester: Okay. I can holler a little louder.
8 I will start with you, Dr. Beck.

9 Asbestos is a known carcinogen and it was one of the
10 drivers behind TSCA. And quite frankly, the people of
11 Libby, Montana know just how dangerous asbestos is and what
12 kind of legacy it can leave behind.

13 Can you shed some light as to why the EPA has not
14 completed its evaluation yet of asbestos?

15 Dr. Beck: Senator, thank you for that question.

16 When the Lautenberg Act was passed, the EPA had to
17 prioritize 10 chemicals that would move first through the
18 process. Asbestos was one of those chemistries.

19 EPA has met all the deadlines so far and has released a
20 draft risk evaluation for asbestos. My understanding is
21 that it has undergone peer review. I think that was last
22 week, and I believe EPA intends to finalize that risk
23 evaluation by the end of the year.

24 Senator Tester: Okay. So, you know, it has been 4
25 years I think since we passed -- I mean, Frank has been dead

1 a long time, quite frankly. So it has been a number of
2 years since we passed it. It takes that long to do a review
3 on a known carcinogen?

4 Dr. Beck: The Lautenberg amendments required that EPA
5 do the robust risk evaluation before taking risk management
6 action, and they gave us very rigorous deadlines considering
7 the complexity of the science and the extent of the
8 evaluation that EPA is conducting.

9 But I will say that EPA has also taken other action
10 under this administration to strengthen protections on
11 asbestos. Last year, EPA finalized a significant new use
12 rule which essentially blocks new uses of asbestos that had
13 not been banned in 1989. So the agency is trying to move
14 aggressively.

15 Senator Tester: Let me ask you this. Is asbestos
16 banned today?

17 Dr. Beck: I am sorry. I could not hear your question.
18 Would you mind repeating it?

19 Senator Tester: Is asbestos banned today?

20 The Chairman: He is asking if asbestos is banned
21 today.

22 Senator Tester: Thank you.

23 Dr. Beck: Certain uses of asbestos are banned today,
24 but in 1989 when the ban was passed, there were ongoing
25 uses.

1 Senator Tester: But stop.

2 Dr. Beck: Those ongoing uses are what EPA is
3 evaluating now.

4 Senator Tester: Ma'am, just for a second. In 1989,
5 they were supposed to evaluate on basic cost. The TSCA that
6 we passed that Lautenberg pushed out and that Udall had such
7 a big role on was supposed to deal with evaluating from
8 health and safety standpoints. So the question is, 4 years
9 later, if my math is right -- and it could be off 6 months
10 -- is asbestos banned today?

11 Dr. Beck: There are still existing uses of asbestos
12 today, and EPA is working aggressively under the Lautenberg
13 requirements to conduct the risk evaluation that are
14 required.

15 Senator Tester: I would say this. I do not know what
16 your definition of "aggressive" is, but with a known
17 carcinogen such as asbestos is, it would appear to me that
18 it has not been very aggressive from my perspective.

19 Dr. Beck, you were given a lot of opportunities, as I
20 have been watching this entire hearing, to answer questions
21 when people asked you direct questions. Senator Cantwell
22 did on a chemical that causes birth defects. I listened to
23 your opening statement and I listened to it very carefully
24 because you talked about your whole career has been
25 advancing public health and safety. You talked about the

1 myriad of consumer risks that are out there. You talked
2 about science informing policy. You talked about science as
3 a pillar of good regulation.

4 I am going to tell you I have studied your record, and
5 it does not bear out what you said in your opening statement
6 unfortunately. And what is curious to me is not only why
7 anyone on this committee would vote for your confirmation,
8 but why you would want the job as Chairman of the Consumer
9 Product Safety Commission when your career does not bear out
10 anything about safety for consumers. And the truth is you
11 could get a great job with a corporation doing what you have
12 done your whole career, which is protecting those
13 corporations.

14 I have one last question. And, by the way, O'Rielly,
15 you get off easy this time because I will put some in the
16 record for you. This is for Mary Toman.

17 Mary, my question deals with the 2020 Census and Covid-
18 19. How do you plan to overcome those challenges that
19 Covid-19 has presented for an accurate Census, particularly
20 in Indian Country, particularly in the areas that are
21 impacted by poverty?

22 Ms. Toman: Thank you, Senator Tester, for this very
23 important question.

24 As I said in my opening statement, that is my first
25 priority to count everywhere everyone. And I know that this

1 is going to be very difficult with Covid in certain areas
2 that you have just discussed. When I had some meetings last
3 week with some staff, they asked me what the first thing I
4 would do in this position. I said the first thing I would
5 do is to go to people of consensus and say what can we do to
6 make sure more people are counted. That is my first
7 priority and my second priority and my third priority.

8 There have got to be more creative ways that we can
9 always think about if we all put our heads together. I also
10 would look forward to talking to your staff and staff for
11 any States that face these issues because if there are
12 community organizations that we can work with to learn from
13 and work with immediately, we would very much like to work
14 with you if you think that anything is being missed. This
15 is a very, very serious question, very, very important.

16 Senator Tester: I am way over time. I just want to
17 say that I never heard the plan. And so if you can get that
18 to me in writing, I would really appreciate it. Either my
19 staff or I would be more than happy to talk with you about
20 what needs to be done from our perspective. But we really
21 need to have plan or this thing is going to be a fiasco.

22 Thank you.

23 The Chairman: Thank you, Senator Tester.

24 Senator Rosen?

25 Senator Rosen: Can everyone hear me? Yes.

1 Thank you, Ranking Member Cantwell, of course, to our
2 nominees here today.

3 I want to talk about consumer confidence in air travel.
4 So, Mr. Szabat, I am going to direct my questions to you
5 because in Nevada, our economy depends on travel and tourism
6 for motels, casinos, restaurants on the Las Vegas strip to
7 outdoor recreation businesses near Lake Tahoe and everywhere
8 in between. As a State where travel and tourism supports
9 one in every three jobs, is \$20 billion in wages and
10 salaries annually, and generates \$75 billion in annual
11 economic output, Nevada now, unfortunately, has the highest
12 unemployment rate in the nation, 28 percent, as a result of
13 Covid-related slowdown in travel.

14 So the pandemic has been especially challenging for our
15 aviation industry. In 2019, Las Vegas McCarran Airport saw
16 over 50 million passengers, and in the wake of the pandemic,
17 passenger totals have dropped precipitously down to about
18 only 150,000 people in April, a 96.4 percent drop from last
19 year.

20 It is clear that reinstilling confidence in air travel,
21 that it is safe, is going to be key to bringing back the
22 industries that support Nevada. We have to bring back
23 travel and tourism to revive our economy.

24 So, Mr. Szabat, in your current position as Assistant
25 Secretary for Aviation and International Affairs, you are

1 very familiar with the devastating impact Covid-19 has had
2 on aviation. So if you are confirmed as Under Secretary,
3 you would be responsible for developing policies across all
4 modes of transportation, including aviation, and I have to
5 imagine that mitigating impacts of Covid-19, well, if it is
6 not, it should be a top priority.

7 So let me ask you this. Is the Department working
8 closely with the Centers for Disease Control and Prevention
9 on science-based steps that you can take to protect the
10 health of passengers and employees at the airports and in
11 the air? And how else might these agencies work together to
12 collaborate to protect public health as our travelers
13 venture out again? They are not going to go out if they do
14 not have confidence.

15 Mr. Szabat: Senator, thank you for the question.

16 And this is, indeed, an issue of our time. You are
17 exactly correct. If we are going to reinstall a sense of
18 confidence in the public for flying, the very first thing
19 that we have to do is to demonstrate that it is safe to fly,
20 not to make claims but to actually show that.

21 But to your specific question, yes. We are working
22 very closely with the CDC and with the other public health
23 agencies in the administration to develop the guidelines and
24 requirements for the air carriers, for the airports, for the
25 traveling public, and also in several levels to come up with

1 common international standards for the resumption of
2 international travel between the United States and other
3 countries.

4 Senator Rosen: Well, thank you.

5 I am going to also ask you, if you are confirmed, what
6 other policies, what ideas do you have, what might you
7 recommend based on the advice that you have received from
8 medical and transportation efforts, particularly because
9 many Covid-19 patients are asymptomatic. So what would you
10 do in that regard? I think people are worried about the
11 asymptomatic carriers.

12 Mr. Szabat: Senator, again a great question.

13 The first and foremost thing in the transportation
14 sphere is wherever you cannot social distance, people should
15 be wearing face coverings. Secretary Chao has kind of made
16 this a tenet of what we are doing in the Department in our
17 discussions with other federal agencies and also in our
18 public-facing comments as well.

19 Just yesterday, you saw the association covering the
20 largest air carriers in the United States carrying the bulk
21 of the passengers. They have all agreed that they will set
22 a common industry standard to require all passengers to wear
23 face coverings. We encourage that. We encourage all other
24 air carriers to follow that. And we will have the back of
25 the air carriers, and, of course, their frontline employees,

1 the flight attendants, will deliver that message to the
2 passengers and are delivering that message both for the
3 safety of the passengers and also for the safety of the
4 crew.

5 Senator Rosen: Thank you. I appreciate that.

6 I think I am just about done with my time, so I will
7 yield back. Thank you.

8 The Chairman: Thank you very much, Senator Rosen.

9 Let me check with staff just a moment.

10 [Pause.]

11 The Chairman: Commissioner O'Rielly, this committee on
12 a bipartisan basis sent to the Senate and to the House and
13 to the President the Broadband Data Act. It has been signed
14 into law by President Trump. This law requires the FCC to
15 collect more precise, granular data from broadband providers
16 so it can develop more accurate broadband availability maps.
17 Those maps are, of course, not developed yet since the law
18 is so new on the statute. But the FCC's notice of proposed
19 rulemaking for the new 5G fund raises the possibility that
20 it may begin distributing money to support the 5G deployment
21 before the new maps are completed.

22 Commissioner O'Rielly, if confirmed, will you commit
23 not to support moving forward the 5G fund until the FCC
24 completes the new maps as required by statute?

25 Mr. O'Rielly: I looked at the statute closely. I have

1 serious concerns and have raised them regarding moving
2 forward without new maps and would certainly want to listen
3 to this committee and its views on the matter. And I
4 certainly would be hesitant to move forward in any capacity
5 without addressing the issue of mapping.

6 The Chairman: But you stop short of an absolute
7 commitment?

8 Mr. O'Rielly: Well, if you are saying that that was
9 what your position is, since you were an author, then I
10 would agree with you.

11 The Chairman: Well, okay.

12 Mr. O'Rielly: Then yes.

13 The Chairman: All right. So we have moved from
14 serious reservations to you would commit not to support
15 moving forward until we get the maps.

16 Mr. O'Rielly: Yes.

17 The Chairman: And when do you think we are going to be
18 able to see those maps? When do you think this might be
19 completed? And is there anything this committee or this
20 Congress can do to assist that, Mr. Commissioner?

21 Mr. O'Rielly: It is my understanding the Chairman has
22 been advocating for additional funding for the issue, some
23 amount of money that would help implement the mapping
24 program needed. That would certainly be supportive from my
25 viewpoint. I think we certainly could do some things in the

1 meantime. We have staff that could certainly start work.
2 So we should not be at zero right now. But I have to defer
3 to the Chairman exactly where we are on the bigger picture.

4 The Chairman: Okay. Well, it is a concern. I wish
5 the Congress could move instantaneously. But we are
6 fulfilling the Founders' desires for lawmaking to be slow
7 and cumbersome, and we got it done and got it signed by the
8 President. So I guess it is unfair for us having taken as
9 long as the Congress takes to want to speed up the
10 implementation. But we really do think the money should be
11 distributed according to accurate maps, and that is why it
12 passed on a bipartisan basis.

13 Let us talk about RDOF, Rural Digital Opportunity Fund,
14 auction. Phase one of the auction is scheduled for October.
15 There are some folks around the country, including in my
16 home State of Mississippi, who would certainly like to move
17 that auction earlier than October. We have received
18 information from Chairman Pai that as much as we might like
19 to do that, it is simply unworkable to do so.

20 Why is that the case, Commissioner O'Rielly?

21 Mr. O'Rielly: I do not know what the Chairman provided
22 you, but I would argue that we have difficulty running -- I
23 have made this case in this committee before. We cannot run
24 two auctions at the same time. And so we have a full summer
25 and fall already scheduled, CBRS for July. The RDOF is in

1 October, and then we have C band for December. And so they
2 are planned out, and there is a timing in terms of the short
3 forms and the long forms and everything that goes into
4 schedulings.

5 I would say part of the difficulty with -- and I
6 appreciate that people would like to bypass the timing that
7 we are talking about and expedite things. But what it does
8 do is put some of these companies that would like to do this
9 at the forefront and say we would like our money up front,
10 and in doing so, they bypass the benefits of the auction
11 process and the efficiencies that we get from that.

12 And then two, it potentially allows those entities to
13 go into areas where there is already an existing competitor.
14 And then to me overbuilding would be incredibly problematic
15 given that we have such finite resources in this program.

16 The Chairman: Does an important part of this RDOF
17 begin next month, July 2020?

18 Mr. O'Rielly: There are pieces. We just did one in
19 our last meeting. There are pieces coming up in terms of
20 the -- next week I think is the timing of some of the
21 bidding -- the final payments or payments are due -- excuse
22 me -- next week. And so we will see where that stands.

23 The Chairman: If I could snap my fingers and pass a
24 law today trying to speed up the auction, would there be
25 notice and comment requirements that we would still have to

1 fulfill?

2 Mr. O'Rielly: Yes, and there are just so many steps to
3 our auction process. If you want to throw the auction
4 process away, which I would not recommend at all, that can
5 help do some of those things. And that is the thing. There
6 are so many things that we go through that are intentionally
7 beneficial to our programs that take time. And getting to
8 October -- and the Chairman rushed really hard to get the
9 timing right on this. So I appreciate what he has done.

10 Could it be expedited with the right incentives? Maybe
11 you could pick up some time here, but I do not know. It
12 might be more to expedite on the building side versus in
13 terms of the auction side.

14 The Chairman: Okay. Now you have really -- I think
15 you have hit on something there. Senator Capito has been
16 patient, but I am going to come back to this after she and
17 other members who have not been recognized take their round.
18 But this point I will reserve for round three and recognize
19 my friend from West Virginia.

20 Senator Capito: Thank you, Mr. Chairman, and thank all
21 of you for being here today and for your willingness to
22 serve.

23 Dr. Beck, we had a telephone conversation last week,
24 and I found I did not get the clarity really in your answers
25 that I was hoping we could get to. So I wanted to talk

1 about your role in possible bureaucratic delays when it
2 comes to PFAS. We talked about that. As I mentioned to
3 you, this is a priority to me both out of respect for my
4 State but also because we face challenges both in our
5 industry but also in our military installations and for our
6 future generations.

7 So I had received assurances -- and I mentioned this to
8 you -- from then-EPA Administrator Scott Pruitt and then
9 acting and now Administrator Andrew Wheeler that EPA would
10 be advancing its PFAS action plan, and that would include an
11 MCL, or maximum containment level, for PFAS in drinking
12 water. The day of Mr. Wheeler's confirmation hearing, a
13 politically timed press report stated that EPA and the
14 administration actually had no plans to regulate PFAS in
15 drinking water, which came as quite a shock to me.

16 The EPA has belatedly advanced its PFAS action plan and
17 the regulatory process to examine MCL for PFOA and PFAS in
18 no small part due to my and others' insistence that we get
19 this done. But valuable time has been lost, almost a year,
20 due to this interagency dithering. At every turn, your name
21 has been implicated in the media in the slow walking of the
22 federal response.

23 So in the interest of time -- and I know you have been
24 asked some yes/no questions to this point. I have not been
25 able to see the whole hearing, but I did see part of this.

1 I would like to ask you some yes or no questions to outline
2 your involvement in this area.

3 So, yes or no. During your time at the EPA's Office of
4 Chemical Safety, were you consulted on the EPA's draft PFAS
5 action plan?

6 Dr. Beck: Yes, but the Office of Chemical Safety and
7 Pollution Prevention had a section in the PFAS action plan.

8 Senator Capito: Okay. So was it your view then that
9 PFAS should be examined for potential regulation when you
10 were in that office?

11 Dr. Beck: Yes.

12 Senator Capito: Yes.

13 Dr. Beck: -- chemistry across many offices.

14 Senator Capito: Okay. So in that capacity, were you
15 consulted on the promulgation of an MCL for PFAS, including
16 PFOA and PFAS?

17 Dr. Beck: No. That was the Office of Water. That was
18 not something from the Office of Chemical Safety and
19 Pollution Prevention.

20 Senator Capito: So those are two separate offices that
21 were dealing with the same substance, but Water was dealing
22 with the --

23 Dr. Beck: MCL.

24 Senator Capito: MCL.

25 Once you moved over to the NEC, did you handle

1 oversight of interagency coordination on any PFAS policies?
2 Yes or no.

3 Dr. Beck: No, I did not handle oversight. I assisted
4 with some coordination of information across agencies.

5 Senator Capito: So did you work with the PFAS action
6 plan in that capacity?

7 Dr. Beck: Only in the sense that if EPA had
8 information they wanted to share with the interagency, we
9 facilitated those discussions.

10 Senator Capito: And did that include setting an MCL
11 for drinking water out of the Office of Water? Are you
12 familiar with that?

13 Dr. Beck: Yes. The MCL, since it is a regulatory
14 determination, was handled by OMB in the Office of OIRA. So
15 I did not coordinate that.

16 Senator Capito: So basically kind of what you are
17 telling me on the answers to the two questions on MCL is you
18 have not had any involvement on setting an MCL for PFAS at
19 all?

20 Dr. Beck: I am not a decision-maker in the Office of
21 Water, and that is where those decisions are being made.

22 Senator Capito: Did you advocate for slowing or
23 halting the interagency review of the EPA's action plan in
24 your role at the NEC?

25 Dr. Beck: No.

1 Senator Capito: Did you oppose setting an MCL for PFAS
2 while at the NEC?

3 Dr. Beck: I was not a decision-maker at the NEC. So
4 that was not something I commented on.

5 Senator Capito: So if you have had no role in this
6 slow policy response, which has been your response to this
7 point, why do you think your name is continually implicated
8 in this slowing of the regulatory agenda even well before
9 your consideration before this nomination became public?

10 Dr. Beck: I could only speculate. My speculation is
11 that because I spent some time in industry, in addition to
12 my time in government, they want to -- I do not know. I
13 think there is a concern that I spent time in industry so
14 they want to say that industry is holding things up. But in
15 my case, that has not been the case because I am not, for
16 instance, a decision-maker on the MCL. I am not a decision-
17 maker on the Super Fund standard.

18 Senator Capito: But you were in a position at your
19 Office of Chemical Safety to, obviously, have PFAS directly
20 in your portfolio. Correct?

21 Dr. Beck: Through the new chemical program, yes.

22 Senator Capito: And what was your involvement in that?

23 Dr. Beck: Making sure that the new chemicals program
24 runs effectively to review and evaluate new chemicals before
25 they come to the market.

1 Senator Capito: So were you reviewing at that point
2 the legacy chemicals of these original chemicals?

3 Dr. Beck: So currently the new chemicals program
4 reviews new chemicals when they come in. So the legacy PFAS
5 are not part of the new chemicals review.

6 Senator Capito: They are not.

7 Dr. Beck: I am sorry. It is confusing.

8 Senator Capito: Yes, that is confusing.

9 Dr. Beck: There is a new chemicals program and an
10 existing chemicals program.

11 Senator Capito: So if you have a new chemical that
12 comes from a legacy chemical that possibly caused damage,
13 which we know these have, they would come in under the
14 existing chemical protocol?

15 Dr. Beck: Yes, because it would be a breakdown product
16 of an existing chemical. Yes.

17 Senator Capito: All right. Thank you.

18 The Chairman: Thank you, Senator Capito.

19 Senator Sullivan?

20 Senator Sullivan: Thank you, Mr. Chairman.

21 And there are so many nominees who have so many
22 important issues before them that deal with my State that I
23 could take 50 minutes here, but I am going to try and be
24 succinct, which is not one of my strong suits, but I will
25 try anyway.

1 Mr. Walsh, I really appreciated the issues that you and
2 I talked about yesterday and just want to get your
3 commitment on the record here. I pretty much got it
4 yesterday, but I just want to do it for the official record.
5 The NOAA hiring issue, the migration of people, scientists
6 who work for NOAA, a great agency, but who have Alaska-
7 oriented missions almost exclusively and are in other
8 States. Can you work with me on that issue and also the
9 issue of 100 vacancies that we have in Alaska and we need to
10 get those filled soon?

11 Mr. Walsh: Yes. Thank you, Senator. I can make that
12 commitment. I look forward to working with you and your
13 staff on those issues.

14 Senator Sullivan: Excellent.

15 And then the fish surveys, as we talked about
16 yesterday, a huge issue in my State. I am very disappointed
17 that -- you know, look, we all got to be careful with regard
18 to the pandemic and Covid-19, but it cannot be used by
19 federal agencies to say we are not going to do the work.
20 The surveys are super important to my State. I think they
21 are important to most Americans. Can I get your commitment
22 to work with me on making sure that we have robust surveys
23 for our fishing fleet next year?

24 Mr. Walsh: Yes, Senator. I appreciated our
25 conversation yesterday. I have already begun making some

1 inquiries, and I look forward to getting back to you in the
2 near term.

3 Senator Sullivan: Excellent. Thank you.

4 And then the home-porting of the NOAA vessel
5 Fairweather in Ketchikan. I think my State, my legislature,
6 the people of Alaska have bent over backwards on that one.
7 We would like to close the deal on that finally, working
8 together with NOAA and contributing our own resources as a
9 State. Can I get your commitment to work with me on that
10 one as well?

11 Mr. Walsh: Yes, Senator. I look forward to working
12 with you.

13 Senator Sullivan: And then finally, the very illegal
14 Russian embargo of seafood for not just Alaskan exporters
15 but all Americans. The Russians have embargoed any seafood
16 exports from America into Russia since 2014, and we let
17 their seafood in and it is dominating. It is ridiculous.
18 We got to change it. As the President has been focused on
19 promoting and Secretary Ross has been promoting American
20 seafood exports, can I get your commitment to work with my
21 office and this committee to take a hard look at this very
22 unfair, non-reciprocal approach that is really hurting the
23 fishermen of the great State of Alaska, but really
24 Mississippi, everywhere?

25 Mr. Walsh: Yes, Senator.

1 Senator Sullivan: Great. Thank you. I really
2 appreciate that. I look forward to strongly supporting your
3 nomination.

4 Mr. Szabat, I appreciated our discussion on the phone
5 as well. I am also a strong supporter of yours. I do want
6 to get your commitment again in this hearing to work with my
7 office and this committee on the issue of Alaska aviation
8 safety and maybe even looking at the establishment of a
9 safety office or an Alaska FAA czar. You saw the NTSB
10 report where, once again, it says that the fatality rates in
11 the great State of Alaska are much too high and we need a
12 strategy with the FAA to address that.

13 Can I get your commitment to work with this committee,
14 the FAA, and the Department of Transportation on addressing,
15 which is really a matter of life and death issue for my
16 State?

17 Mr. Szabat: Senator, yes, you have my commitment.

18 Senator Sullivan: Great. I appreciate that very much
19 and I look forward to working with you not only on that but
20 on roads. You know, every now and then, you have one of my
21 Senate colleagues, unfortunately usually from the other side
22 of the aisle, who cares all about roads in my State and
23 essentially wants to stop building roads in my State because
24 radical extreme environmental groups do not like roads in
25 Alaska. It is ridiculous. I wish my Senate colleague could

1 focus more on Massachusetts and New Mexico and other places
2 like that, take care of their own States, not my State.

3 But I need you to help me build roads. Can you help me
4 build roads in the great State of Alaska? Every other State
5 gets to build roads, but my State, for some reason, does
6 not. You got radical guys on the other side saying do not
7 build roads in Alaska. Can you help my State build roads?

8 Mr. Szabat: Senator, yes, we can help your State build
9 roads.

10 Senator Sullivan: A strong commitment on that, please.

11 Mr. Szabat: Yes, Senator.

12 Senator Sullivan: Thanks.

13 And then finally, Mr. O'Rielly, I am very strongly
14 supportive of your re-nomination to be the Commissioner.
15 And again, I appreciated our discussion yesterday.

16 I would like to just get your honest assessment of what
17 has happened, unfortunately, with the current Chairman of
18 the FCC where they clawed back, no transparency, opaqueness
19 with regard to the Universal Services Fund, telehealth
20 programs in my State. Our State was the State that invented
21 that. And yet, we have a Chairman of the FCC that seems
22 hell-bent on collapsing that system in Alaska.

23 Can I get your views on whether you think that has been
24 fair, whether you think that has been transparent, whether
25 you think that has actually helped the people of my State,

1 but also ways in which we can improve that going forward
2 perhaps with a new Chairman?

3 Mr. O'Rielly: So you got a lot there about my good
4 friend, the Chairman.

5 But to your point, I was not exactly fully supportive
6 of the actions the commission took. I did not have all
7 the --

8 Senator Sullivan: Do you think they were fair? Do you
9 think they were transparent? Do you think the rules are
10 even still understood by industry?

11 Mr. O'Rielly: No.

12 Senator Sullivan: It is unbelievable.

13 Mr. O'Rielly: Yes.

14 Senator Sullivan: Unbelievable. We have 2 years going
15 the Chairman made commitments to me on expediting appellate
16 reviews. That has been ignored. They have made stuff up as
17 they have gone along. It is really harming not just the
18 people who deliver but some of the most needy people in
19 America from some of the most, you know, economically
20 disadvantaged communities in the country, and they do not
21 seem to get it. But I would like you to comment, what we
22 can do about it.

23 Mr. O'Rielly: Well, I have seen personally the
24 benefits of telehealth in your State, and they should be the
25 model. I have written a blog about this particular topic.

1 It should be the model for the rest of the United States and
2 how efficiently they were able to offer the services. I
3 think there should be an opportunity to resolve any past
4 disputes with the providers in Alaska.

5 Senator Sullivan: In an expeditious manner. Correct?

6 Mr. O'Rielly: Absolutely.

7 Senator Sullivan: Not 2 and a half years of opaqueness
8 and rope-a-doping my State.

9 Mr. O'Rielly: Those words are yours, not mine, but I
10 understand the point you are making. It should be done
11 expeditiously.

12 Senator Sullivan: Well, I look forward to working with
13 you and all of you.

14 And thank you very much, Mr. Chairman.

15 The Chairman: Thank you.

16 Mr. O'Rielly, those questions were coming so rapid fire
17 from my friend from Alaska. You may want to supplement
18 those on the record.

19 Senator Sullivan: We welcome that too.

20 The Chairman: Thank you so much, Senator.

21 Let us get back to where I think you were getting to on
22 the RDOF fund, the Rural Digital Opportunity Fund.

23 Mr. O'Rielly: And can I correct one thing I said
24 before? I apologize to the timing. I said we are getting
25 close to a deadline. I have the CBRS deadline of June 19th

1 on my head. The short form for RDOF phase one is July 1st.
2 It opens up the short window, and that runs 2 weeks to July
3 15th. So I apologize confusing the two issues. We are 2
4 weeks away. The short form does have financial information.

5 The Chairman: So the process with regard to the forms
6 really begins next month.

7 Mr. O'Rielly: July 1st we will open up the window.
8 Right.

9 The Chairman: Okay. So I think the point you were
10 trying to get to, though, Mr. Commissioner, is that it is
11 not so much when the auction is but when the deployment of
12 high-speed fixed broadband networks in rural America occurs.
13 And so I am going to pick up where we left off there.

14 Once the auction is done -- this is phase one of the
15 auction, and there are other phases. But I was disappointed
16 to learn recently how time-consuming the build-out of the
17 actual networks would be once the auction is over. Can you
18 discuss that?

19 Mr. O'Rielly: Well, the build-outs -- you know, we
have milestones in our rules in terms of how much and how
quickly you are to build out to be able to continue to
receive funding or if there are penalty obligations. We
have tried to match them up with what we think that a
provider can actually do. There are certainly some that are
able to move faster and get their build-out done quicker.

1 The Chairman: Okay. Well, just give us an idea,
2 though, Commissioner O'Rielly, about the time frame because
3 I do not want to raise the expectations of the consumer,
4 raise the expectations of the public.

5 Mr. O'Rielly: The program, as I remember -- it is a
6 6-year total build-out. You have time to get to all the
7 areas within the winning portions in 6 years. You have
8 milestones to meet in terms of percentages along the way to
9 get there. It is a 10-year funding. I will be corrected, I
10 am sure, by my good staff, but I believe it is a 6-year
11 build-out. There may be a mechanism and a way to expedite
12 some of that build-out time, and that would be something I
13 would be happy to work with you on.

14 The Chairman: You know, I think there is, but I think
15 you have answered correctly under what we have now and how
16 much we have now. I think members of the public are going
17 to be disappointed at the 10-year period and the 6-year
18 build-out.

19 Mr. O'Rielly: Let me give you an example of an issue.
20 So I was reading -- Mississippi -- the neighbor gentleman,
21 Mr. Prissley, was talking about a pilot program from the co-
22 op in Mississippi that they are going to try. And then his
23 point was that if they found that it was beneficial, their
24 build-out would be 4 to 6 years to get fiber. So it does
25 take a while physically to get out the broadband to

1 consumers, but there may be a way to shorten that window.

2 The Chairman: Okay. Well, I think there is.

3 Mr. O'Rielly: Okay.

4 The Chairman: And I may have a proposal. I think this
5 is going to require more resources. But frankly, this is
6 the important aspect of it. The auction in October, the
7 process of which has already sort of begun, is apparently
8 what we are saddled with. But once the phase one auction
9 occurs, I think we can help you with some extra funds and
10 some incentive from the administration on a bipartisan basis
11 to move this ahead. So I hope you will work with us there
12 and the rest of the commission on a bipartisan basis. I
13 think you will be interested in some ideas that we have.

14 Go ahead and say what you would like to say about that,
15 and then we will move on to one other topic.

16 Mr. O'Rielly: I would say I certainly commit to you.
17 Absolutely.

18 The Chairman: Good, good, because we need to move it
19 faster once the auction is over. The build-out is the key.

20 But Senator Cantwell I think realized she was about to
21 get into a lengthy process on asking about Ligado, and so I
22 think that is probably worth talking about. And perhaps Mr.
23 Szabat had made a comment, but Commissioner O'Rielly and Mr.
24 Walsh had not. So I am going to let both of you comment on
25 this, and this may be an opportunity to do what we have had

1 a frustration about in other forums and that is hear both
2 sides sitting at the same table.

3 Bands like 24 gigahertz and spectrum assigned to Ligado
4 have generated high profile disputes within the
5 administration at the highest levels, you know, cabinet
6 secretaries on different sides of this issue.

7 In order to achieve widespread 5G deployment, the FCC
8 will likely have to continue to seek ways to increase
9 spectrum efficiency and reallocate spectrum to federal and
10 non-spectrum uses.

11 So let us begin with you, Commissioner O'Rielly. Talk
12 about what you have done on a 5 to 0 vote with regard to
13 Ligado. And what assurance can you give us that this is not
14 going to interfere with GPS? And that those entities that
15 have had to change their equipment and undergo an
16 expenditure there will be made whole by the amended use of
17 the spectrum by Ligado.

18 Mr. O'Rielly: Well, I appreciate the views of my good
19 friend, Mr. Szabat. We actually -- the commission -- have
20 to balance all those points, which I think he said. We have
21 to balance all of the record and all of the different
22 concerns. We do not advocate on behalf of one equity.

23 And I think what the commission did in Ligado -- and
24 though I was not the lead voice or the lead supporter of the
25 issue -- I think the commission put forward a license

1 modification that is well defended by the record that is
2 presented of a 17-year legal battle. And I think -- I
3 believe by reading the document, it provides sufficient
4 protections on the front end, in the middle, and at the end
5 to address the concerns that have been raised.

6 I was concerned about the hearing that I watched on
7 this issue in a different committee when they started
8 talking about what bands or what protections were needed for
9 what pieces, and they were far outside of the GPS licenses
10 where they thought the protection was needed. And that is a
11 concern for me because that is not what the licenses provide
12 for. And so what Ligado was trying to do was defended by
13 the record and supported by the information that we made a
14 vote on. We have difficulty finding commonality on a lot of
15 issues, but here we were able to do so.

16 The Chairman: Okay. Is this going to interfere with
17 GPS or not?

18 Mr. O'Rielly: I do not believe, based on the
19 recommendations that have been provided in the material that
20 it will lead to interference with GPS to the degree that it
21 would cause a harmful interference. I do think that the
22 mitigation tools that we put in the item will be helpful if
23 absolutely necessary. So I think it is a situation where we
24 addressed it up front and in the middle and at the end. And
25 so the end has a number of mechanisms, including Ligado

1 doing street drives to make sure, to do sensing to see if it
2 causes interference.

3 The Chairman: And at that point then, would we know
4 who would be entitled to compensation from Ligado for any
5 expenditures that would need to be made?

6 Mr. O'Rielly: The item does go through that issue in
7 terms of who would be eligible, and we would have to see
8 exactly who -- if it were to come to case, which I hope not
9 to be the case -- if it were to come to that case, we would
10 have to see who -- for lack of a better word, whose ox is
11 being gored. I do not think that is going to be a
12 circumstance that is going to happen, but we would have to
13 see when the information and data is presented.

14 The Chairman: Mr. Walsh, would you like to comment on
15 this issue?

16 Mr. Walsh: Certainly. Our NTIA has long expressed the
17 widely held view across the executive branch that Ligado's
18 proposed terrestrial operations in historically satellite
19 spectrum bands pose an unacceptable risk to the critical GPS
20 service that is relied upon for our national defense,
21 homeland security, aviation safety, public safety, and
22 economic growth.

23 NTIA in May did file two petitions with the FCC
24 requesting a stay and reconsideration of the decision to
25 conditionally grant Ligado's applications. NTIA's positions

1 at a high level contend on behalf of the executive branch
2 that Ligado's prospective operations threaten to harm
3 Federal Government users of GPS, along with a variety of
4 other public and private stakeholders.

5 The Chairman: How will that harm manifest itself?

6 Mr. Walsh: I am sorry. I missed that, Senator.

7 The Chairman: How will the harm occur? What will the
8 harm be?

9 Mr. Walsh: Interference, Senator.

10 The Chairman: Okay.

11 Well, let me ask you both. I am sitting here in this
12 room today and I hear the air conditioning whirring a little
13 bit. I think all of you can do that. I am told that is
14 interference, but according to the FCC, we are still able to
15 have this hearing and it is not harmful interference. Mr.
16 Walsh, am I getting somewhere in the distinction between
17 interference and harmful interference? I will let you go
18 first and then the commissioner after that.

19 Mr. Walsh: Certainly, Senator, there is a distinction
20 between interference and harmful interference. It is NTIA's
21 -- on behalf of the executive branch, NTIA has filed their
22 petition stating that there is harmful interference.

23 The Chairman: Okay. So in practical terms so the
24 listening public can know what we are talking about, what
25 would that be? Who would be a user and what would be the

1 harmful interference, and how would that affect the user and
2 the American public?

3 Mr. Walsh: Senator, most of that is set forth in the
4 petition. I would be happy to take that question for the
5 record and give you a detailed, technical answer.

6 The Chairman: Oh, dear. Okay. And I realize I did
7 not notice both of you that we would get into a back and
8 forth on that.

9 Commissioner O'Rielly, what response would you have to
10 that?

11 Mr. O'Rielly: Two parts.

12 One, you are absolutely right on the harmful
13 interference.

14 Two, I am not sure that my fellow colleague at the
15 table is right to say that NTIA has been uniformly opposed
16 to the situation. My conversations with multiple people
17 suggest that NTIA has had a different viewpoint over the
18 time period, and it was not until the dismissal of an
19 administrator that the position was as it is now.

20 But to your point, I would say if harmful interference
21 is demonstrated, then the item has a requirement actually a
22 kill switch, that the Ligado system be turned off.

23 The Chairman: How would that occur? Let us let the
24 public know what we are talking about. This may be the
25 first time some of our listeners have even heard this.

1 Mr. O'Rielly: Sure.

2 The Chairman: You have got somebody using GPS and it
3 is a very important part of our economy.

4 Mr. O'Rielly: And it is likely the device itself will
5 likely either have data missing, you know, not receptive, or
6 the information will be inaccurate.

7 The Chairman: At what point will we know this?

8 Mr. O'Rielly: We should know -- you know, assuming
9 that Ligado actually does develop into something, which is
10 something for the markets to determine, but if it does
11 develop into what their plans say they would like to do, we
12 should know fairly soon the practical implications. We
13 believe that the data represented and presented does not
14 lead to that situation, but when it gets to sort of the
15 real-world circumstances, we will know pretty quickly given
16 all of the user community who has been so outraged by this
17 issue. There is not one of them that is not going to put
18 their hands up and say I have got a problem.

19 The Chairman: Would this be done in a test run at the
20 outset there, or could someone be using GPS and be in a
21 life-threatening situation and the harmful interference
22 occur at that point and risk life or limb?

23 Mr. O'Rielly: Well, I think coming operational will be
24 part of the last phase, which I talked about, all of the
25 different mitigation tools that we have, including the kill

1 switch.

2 The Chairman: So that is part of the rollout before it
3 is ever --

4 Mr. O'Rielly: The rollout is going to be the turning
5 on the system, and you will know. You should know fairly
6 quickly whether there is an ongoing issue.

7 The Chairman: Well, I am going to let all three of you
8 -- okay, Mr. Szabat, do you want to weigh in? Because I was
9 not here when Senator Cantwell asked the question. So I
10 will let you respond if you would care to join in.

11 Mr. Szabat: Thank you, Senator Wicker.

12 The Chairman: And, Dr. Beck, I am going to leave you
13 off the hook on this one.

14 Dr. Beck: Thank you very much.

15 The Chairman: Mr. Szabat?

16 Mr. Szabat: Thank you, Senator, and I will try to be
17 brief.

18 From our testing, we see certainly that there is
19 harmful interference in at least three sub-categories of GPS
20 use: hyper vision surveying, anything space-based, and the
21 timing sector. So banks, locks and dams, a whole subsector
22 of the economy depends on accurate timing. These things are
23 most sensitive and would be most interfered with most often
24 and at the most harmful level from Ligado's proposed
25 deployment strategy.

1 At a middle level are what I call the general
2 navigation, you know, GPS in cars, general aviation. There
3 would be interference, and that may or may not be harmful
4 interference depending on how close they get to a
5 transmitter, which again by plan could be 433 meters apart,
6 and how close and how often they are in conjunction with
7 these transmitters.

8 And then finally, there are the areas that Ligado, to
9 their credit, has protected in their plan. So we believe
10 that cellular services and certified commercial aviation
11 services by our testing would not receive harmful
12 interference.

13 The Chairman: Okay. Well, what about, though, these
14 first things you mentioned? What about this guard band that
15 is part of the unanimous proposal of the FCC? Does that not
16 help in those three situations that you mentioned initially?

17 Mr. Szabat: Senator, thank you.

18 We believe it helps but not enough. The challenge, as
19 Mr. O'Rielly has pointed out, is when GPS was deployed, it
20 took advantage of the adjacent quiet sector, which was used
21 for satellite communications. And so the most sensitive,
22 the most accurate GPS receivers receive signals from all
23 over that adjacent sector, which is now proposed to be sold
24 to Ligado for them to use for broadband. So even with the
25 guard band, those -- and ironically it is the most

1 expensive, most accurate of our GPS systems would, we
2 believe, not be able to operate.

3 The Chairman: So give me then of these first instances
4 you mentioned -- give us an example in practical terms that
5 even I could understand what might happen that you are
6 objecting to.

7 Mr. Szabat: So on the most sensitive side -- I will
8 just use a common example. On the most sensitive side, you
9 have surveying equipment that are used by companies, by
10 government agencies, and in the best case, they would be
11 jammed so you would get no signal. In the worst case, there
12 would be interference. And so they would be coming back to
13 say, you know, this pipeline is located here or this road
14 curve should be built here, and instead it would be giving a
15 false signal. It would be off by some number of meters or
16 hundreds of meters.

17 The Chairman: Now, would we be able to determine that
18 fairly early in the process?

19 Mr. Szabat: That I do not know, and I would defer back
20 to the engineers and technical experts.

21 The Chairman: Well, Commissioner O'Rielly, what about
22 that example? We finally got a real concrete example here,
23 surveying equipment.

24 Mr. O'Rielly: Right. If harmful interference is
25 causing the issues to surveying, that is what I mentioned

1 the mitigation techniques are intended to resolve fairly
2 instantaneous to turning on the system. I think the
3 difficulty is that our experts did not agree with the
4 Department of Transportation's testing methodology, and they
5 think that they have properly set both the power limits and
6 the guard band to preserve the surrounding GPS.

7 I think my colleague at this table anyway makes the
8 point that they have taken advantage of neighboring spectrum
9 bands --

10 The Chairman: Yes. I did pick up on that.

11 Mr. O'Rielly: -- that are not part of their license.
12 And that is a problem. And we are trying to address
13 spectrum efficiency with what is our responsibility.

14 The Chairman: Mr. Walsh and Mr. Szabat, is there a way
15 to work this out? Is there a way for the experts -- as you
16 said, Mr. Szabat, the technical expertise -- to get together
17 and work this out? Because we need the 5G. And I will let
18 you go first, Mr. Walsh. Is there a way for people of good
19 will on both sides to sit down and resolve this?

20 Mr. Walsh: I would hope so, Senator, but I will say
21 that the position of the executive branch on this, as
22 articulated by NTIA in its petition, was uniform. There are
23 critical military applications in GPS. So there is a lot to
24 be done, but we are always willing to work with our
25 colleagues.

1 The Chairman: Mr. Szabat?

2 Mr. Szabat: And, Senator, I would add I am an
3 optimist, but I regret to say in this case I believe that
4 physics stand between the people of good will. I do not see
5 a way in which anything approaching the Ligado proposal can
6 succeed without interference with GPS. So in this case,
7 again, I mentioned at the very beginning to Senator
8 Cantwell's question I do not envy the position that FCC is
9 in because at the end of the day, there is going to be a
10 winner or a loser. We are either going to have more
11 broadband at the expense of GPS, or we are going to protect
12 GPS at the expense of a fourth broadband system.

13 The Chairman: Mr. Walsh, what would the military
14 implications be? What would be an example?

15 Mr. Walsh: I would be hesitant to speak about that
16 here at this --

17 The Chairman: And, again, I have sprung this on you.
18 Somebody has got to wind this up. Mr. O'Rielly, it is
19 2 to 1. So I will give you the last word.

20 Mr. O'Rielly: And they are still outmatched. Right?

21 [Laughter.]

22 Mr. O'Rielly: But to your point, look it, I cannot
23 commit the commission's resources. I am merely a
24 commissioner. But if there is a way to resolve this issue,
25 if necessary, then I would think that would be advantageous.

1 After 17 years of working on this matter, I think the
2 commission came to a reasonable outcome that is highly
3 defensible.

4 I look forward to reading NTIA's petition, which I have
5 not done so yet. I will read the petition to see if it
6 presents new data or evidence that the commission should
7 consider as required under our rules for a recon petition.

8 I would like to believe that we can move forward, and
9 we have done so in a very thoughtful manner. The Office of
10 Engineering and Technology is highly regarded at the FCC.
11 There are many times that I would like to turn them in a
12 direction and go further, and they will stop me as well. So
13 their recommendation on a landing spot for this item comes
14 with heavy weight in my opinion.

15 The Chairman: Well, thanks to all five of you.

16 And I am required by the committee to ask one final
17 question. To all of our nominees -- and I will need a yes
18 or no answer -- if confirmed, will you pledge to work
19 collaboratively with this committee and provide thorough and
20 timely responses to our requests for information as we work
21 together to address important policy issues.

22 Mr. Szabat?

23 Mr. Szabat: Yes.

24 The Chairman: Commissioner O'Rielly?

25 Mr. O'Rielly: Yes.

1 The Chairman: Dr. Beck?

2 Dr. Beck: Yes.

3 The Chairman: Mr. Walsh?

4 Mr. Walsh: Yes.

5 The Chairman: And Ms. Toman?

6 Ms. Toman: Yes.

7 The Chairman: Thank you very much.

8 And let me consult with staff.

9 [Pause.]

10 The Chairman: Let me also state that the hearing
11 record will remain open for 2 weeks. And you three
12 gentlemen who have commented on Ligado may very much want to
13 supplement your answers. The hearing record will remain
14 open for 2 weeks. During this time, Senators are asked to
15 submit any questions for the record with the final
16 submission deadline being close of business on Tuesday, June
17 30, 2020. The committee asks the witnesses that upon your
18 receipt of any questions for the record, you submit your
19 written answers to the committee as soon as possible, but no
20 later than close of business on Tuesday, July 14, 2020.

21 And with that and with the thanks of the entire
22 committee, this hearing is adjourned.

23 [Whereupon, at 4:50 p.m., the hearing was adjourned.]

24

25

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From: [Shepardson, David \(Reuters\)](#)
To: [Mike O'Rielly](#)
Subject: Also there are some people who say this may be tied to the Section 230 EO
Date: Monday, August 3, 2020 5:04:09 PM

Do you want to comment on that?

David Shepardson

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From: [Robert Rutkowski](#)
To: [Ajit Pai](#); [Mike O'Rielly](#); [Brendan Carr](#); [Geoffrey Starks](#); [Jessica Rosenworcel](#)
Cc: (b) (6); keith.abouchar@mail.house.gov
Subject: Amend Section 230? Not Trump's call
Date: Thursday, September 3, 2020 3:28:10 PM

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Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Amend Section 230? Not Trump's call

Dear Chairman and Commissioners:

Access Now submitted comments yesterday condemning Trump's National Telecommunications and Information Administration petition that asks the FCC to reinterpret Section 230 of the Communications Decency Act. Section 230 protects internet platforms from liability for user-generated content, while empowering them to moderate the content they host.

Trump's petty interference with the FCC comes after an ongoing tug-of-war with Twitter, that included the social media giant adding fact-check language alongside one of his dubious tweets — leaving the original message untouched — that spread false information about mail-in ballots.

The FCC should not humor Donald Trump. The agency should dismiss the petition outright because it is unconstitutional and the FCC lacks authority. The FCC is not the right forum to decide whether and how to amend Section 230. That debate belongs in Congress, where reforms to the law are currently under consideration.

Do not allow Donald Trump to turn Section 230 — the 'legal backbone of the internet' — into his personal tool for silencing dissent and for advancing voter suppression, disinformation, and hate. Everything from our public health to the very foundations of our democracy depend on it.

The FCC lacks authority here, full stop. But this sideshow was never about whether the FCC had authority, it was about bullying social media

companies into silence and about playing to the president's base. The FCC should simply not engage in this exercise any more than it already has. I fear even putting this petition out for comment has already caused irreparable damage to the internet ecosystem.

Yours sincerely,
Robert E. Rutkowski

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From: [Arielle Roth](#)
To: [Mike O'Rielly](#)
Subject: Answers so far
Date: Thursday, July 2, 2020 5:23:08 PM
Attachments: [Renom QFRs.docx](#)

Haven't gotten to every question yet, but here are my answers so far. I did Blumenthal and half of Schatz.

Arielle Roth
Wireline Legal Advisor
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Questions Submitted by the Hon. Richard Blumenthal to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Blumenthal: On May 28, after being fact-checked for false tweets about mail-in voting, President Trump issued an executive order that directs Federal agencies to investigate and retaliate against online platforms over imagined political bias. The FCC is not an arm of the Presidency – it is an independent agency – it cannot be pressed into service to retaliate against Donald Trump's political rivals or to stifle critical speech.

Question 1. Will you commit to stand up to unconstitutional and bullying use of power by this President?

Answer. (b) (5) [Redacted]

Question 2. Do you believe that the FCC has the currently authority to write rules for tech platforms and to revise CDA 230 as the President has insisted?

Answer. (b) (5) [Redacted]

Question 3. What do you believe the FCC should do with the President’s E.O. and an anticipated NTIA petition to rewrite CDA 230?

Answer. (b) (5) [Redacted]

Blumenthal: The Coronavirus pandemic and social distancing are a resounding demonstration of the importance of Lifeline. In normal times, Lifeline is underfunded. During a pandemic – when schools are shut down and businesses are shuttered – it is more essential than ever. There are now tens of millions of people that are newly unemployed as a result of the Coronavirus. They need the internet to get back to normal, to find new employment, and to find help.

Question 1. Do you agree Lifeline needs more funding during this crisis?

Answer. (b) (5) [Redacted]

Question 2. Do you have an estimate about how much money it will take to support Lifeline? What considerations do we need to take into account in determining the amount of funds required?

Answer. (b) (5) [Redacted]

Question 3. What changes would you recommend to improve the services offered under Lifeline to meet the public's needs?

Answer. (b) (5) [Redacted]

Questions Submitted by the Hon. Brian Schatz to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Question 1. The COVID-19 pandemic has demonstrated important role broadband plays in our lives today. Whether it is used to engage in distance learning or consult with a doctor via telehealth, this pandemic has shown that broadband has become essential to participate in today’s society. Unfortunately, the pandemic has shown that previous efforts to deploy universal broadband have not worked, as the digital divide continues to exist. As an FCC Commissioner, what will you do differently over the next five years to ensure that all Americans have access to high capacity broadband?

Answer. (b) (5) [Redacted]

Question 2. The COVID-19 pandemic has shown that we, as a nation, have much work to do close the digital divide in our country. The universal service fund is a critical tool to support this work. However, for years the FCC has neglected to fix the current contribution methodology so that there are more funding sources available for broadband buildout in unserved areas. Instead, the Commission has proposed capping programs to depress demand and lower the contribution factor. You have been the Chair of the Federal State Joint Board on Contributions for the last three years. Do you have any updates on the status of contribution reform? Do you support any proposals to update the current contribution methodology? If not, why not? Outside of capping the universal service programs, how can the Commission ensure that the funding needs of all of our universal service programs are met?

Answer. (b) (5) [Redacted]

Question 3. Last year the FCC sought comment on a proposal to combine the Rural Health Care and E-Rate programs into a single program with a unified spending cap. If the Commission goes forward with this plan to combine the caps of these programs, increased demand in one program could lead to both programs becoming underfunded, which would pit schools and libraries and healthcare providers against each other in an unnecessary competition for funding. How would

having programs compete against each other for funding ensure that our health care providers and schools have the connectivity they need to provide telehealth and distance learning? Wouldn't the uncertainty caused by these programs competing for funding conflict with the Commission's duty under the law to provide "specific, predictable, and sufficient" support for universal service participants?

Answer.

Question 4. During a FCC press conference in March 2016, when discussing the outcome of an FCC decision on Lifeline, you stated "Never trust a democrat." In 2018, the Office of Special Counsel concluded that you violated the Hatch Act when you urged the election of conservatives at the Conservative Political Action Conference that year. Two months ago you sent a letter to President Trump praising his "extraordinary leadership ... on all communications policy matters, especially regarding 5G advanced wireless services..." This record of partisanship is disconcerting, particularly since your job is to work on important telecom issues that impact our country in a bi-partisan way. How can we ensure that you will be able to work with your fellow Commissioners on telecom policy who may have different political viewpoints than you?

Answer.

Questions Submitted by the Hon. Jon Tester to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Question 1. The 5G Fund proposal, which you supported, lays out a false choice between speed and accuracy, and suggests waiting for new maps would delay awards until at least 2023. How would “Option A” in the 5G Fund proposal, which moves ahead with awards based on inaccurate maps, avoid the pitfalls that doomed the Mobility Fund?

Answer.

Question 2. Even if accurate maps are not available in 2021, why should we consider spending the entire 10-year Fund based on maps that we know to be inaccurate, and which will soon be replaced?

Answer.

Question 3. I understand the FCC is considering a proposal that would establish a cap on the overall USF budget and combine the E-rate and Rural Health Care programs under a single sub-cap. I hear from educators and health care providers in my state that worry this proposal will force them to compete against each other for funding. What is the status of this proposal?

Answer.

From: [Arielle Roth](#)
To: [Mike Orielly](#)
Cc: [Joel G. Miller](#); [Erin McGrath](#)
Subject: Approaching the s. 230 question
Date: Wednesday, June 10, 2020 12:27:09 PM

(b) (5) [Redacted]

[Redacted]

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From: [Bob Hendon](#)
To: [Ajit Pai](#); [Mike Orielly](#); [Brendan Carr](#); [Jessica Rosenworcel](#); [Geoffrey Starks](#)
Subject: Big Tech & Section 230
Date: Monday, May 4, 2020 11:56:19 PM

Commissioners,

Authoritarian Big-Tech firms like Twitter, Facebook, and Google have special protections from the Federal Communications Commission for being an outlet of free speech. They have gotten away with snubbing, demonetizing, and silencing ANYONE who disagrees with their radical, far-Left agenda for too long. Time has long past for FCC intervention.

For years there has been warnings that the public forums on the internet were crushing 1st Amendment rights for some Americans. They have been picking and choosing which voices they want on their platforms. The recent Candace Owens incident on Twitter is the last straw. While Democrat politicians are allowed to freely tell Illegal aliens to disobey our immigration laws on Twitter, Candace Owens can't tell Americans to exercise their right to make a living & feed their families. She tells people to work and gets cancelled, but AOC can tell people "not" to work without penalty.

These companies have section 230 protection because they claim to be a platform. Therefore, they must allow all ideas on their platforms. But they don't. Instead, they pick and choose who gets to say what. The FCC needs to revoke their 230 protections so they can be sued as publishers. As long as they know they're protected by the FCC from any lawsuits, they will continue to silence voices they disagree with. So, what are you going to do about this attack on our 1st Amendment rights?

Bob and Lynne Hendon
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From: [Bernard Zamostny](#)
To: [Ajit Pai](#)
Cc: [Mike ORielly](#); [Brendan Carr](#); [Jessica Rosenworcel](#); [Geoffrey Starks](#)
Subject: Big Tech
Date: Friday, July 31, 2020 2:33:07 PM

I urge you to hold Google, Facebook, Twitter, Squarespace and other tech companies accountable. Google's CEO, Sundar Pichai, lied to Congress when he stated his company did not "manually intervene" on search results. Evidence now shows this to be false. These companies are only allowing their personal viewpoints to be expressed and censoring and silencing the free speech of Americans all across our nation.

These Big Tech companies are claiming they are "private companies" and can censor the viewpoints of other citizens, while they also claim to be a "public utility" and immune to lawsuits for the messages they do distribute. They cannot be both if our First Amendment freedoms are to be protected.

Our First Amendment freedom of speech must be protected in the 21st century. We ask Congress to repeal Section 230, which gives legal immunity to private Internet corporations, which should be reserved only for public utility companies like phone providers. In addition, we ask the FCC to regulate and protect First Amendment freedoms.

My First Amendment freedom cannot be dependent on the whims and wishes of a tech geek and whether he/she agrees with me. We respectfully urge you to act now to secure our constitutional freedoms in the face of unrestrained bias in tech corporations.

'If liberty means anything at all it means the right to tell people what they do not want to hear.' - George Orwell

Thank you,
Bernard- Philip: Zamostny

From: debrakbenoit@aol.com
To: Ajit.Pai@fcc.gov; [Mike O'Rielly](mailto:Mike.O'Rielly); [Brendan Carr](mailto:Brendan.Carr); Campaignlaw; FCCOIGHotline@aol.com
Subject: Blatant Political Bias in Publicly Funded Broadcaster - NPR
Date: Friday, July 10, 2020 7:43:13 AM

How is this legal?

I am a legal citizen of the USA and HIGHLY object to paying for this kind of blatant partisanship. Stop it NOW. I expect a response to this notification.

Trump has maintained a tenuous relationship with much of the Hispanic community since his first campaign speech for the presidency, in which he described Mexican immigrants as "rapists" and "criminals."

Unanue, a third-generation Spanish American, enraged many with his remarks at the White House, including some high-profile Democrats, who also signaled that they would no longer support Goya's products.

"Oh look, it's the sound of me Googling 'how to make your own Adobo,'"
" Rep. Alexandria Ocasio-Cortez wrote in a tweet on Thursday evening, referencing the popular seasoning.

Julián Castro, a fellow Democrat, also said Americans should "think twice" before buying Goya products:

By Thursday evening, "Goya," #BoycottGoya, and #Goyaway were trending topics on Twitter.

From: [Scott Wallsten](#)
To: [Mike ORIelly](#)
Subject: blog post
Date: Tuesday, August 11, 2020 5:56:26 PM

Hi Mike,

I wrote a piece about your renomination. The whole thing is a travesty. You can read it here <https://medium.com/@techpolicyinstitute/president-trump-vs-integrity-and-independence-856feef54c5e>

Hope all is well, all things considered.

best,

Scott

Scott Wallsten

President and Senior Fellow, Technology Policy Institute

202.700.9441 swallsten@techpolicyinstitute.org

409 12th Street SW, Suite 700, Washington, DC 20024

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2020 TPI VirtualAspen Forum October 19-20 SAVE THE DATES

[Sign up](#) for TPI's mailing list.



From: [Nancy Jones](#)
To: [Ajit Pai](#); [Mike Orielly](#); [Brendan Carr](#); [Jessica Rosenworcel](#); [Geoffrey Starks](#)
Subject: Broadcasting false information
Date: Friday, September 4, 2020 3:24:45 PM

You are allowing the following list to report false information about President Trump and the Republican Party.

According to YOUR rules, it is against the law to broadcast false information and distort the news.

Let me start:

CNN, ABC News, CBS News, NBC news, The New York Times, The Washington post, etc.

Allowing this is considered a most heinous crime against our country.

Do something to stop this!

Nancy Jones

Sent from my iPhone

From: [Arielle Roth](#)
To: [Mike O'Rielly](#); [Erin McGrath](#); [Joel G. Miller](#)
Subject: CDT lawsuit against the EO
Date: Tuesday, June 9, 2020 12:39:44 PM

(b) (5)

A large section of the email body is redacted with black bars. The redaction covers approximately 10 lines of text.

(<https://cdt.org/wp-content/uploads/2020/06/1-2020-cv-01456-0001-COMPLAINT-against-DONALD-J-TRUMP-filed-by-CENTER-FO-et-seq.pdf>)

Arielle Roth
Wireline Legal Advisor
Office of Commissioner Mike O'Rielly
(202) 418-2859

From: [John Diamond](#)
To: [Ajit Pai](#); [Mike ORIelly](#); [Brendan Carr](#); [Jessica Rosenworcel](#); [Geoffrey Starks](#)
Subject: Censorship
Date: Saturday, September 5, 2020 4:26:01 PM

Social media companies are in violation of Section 230 & 18 US Code 241 by using their "public" platforms for political purposes by censoring conservatives 1st amendment! I have had Youtube delete my videos and Facebook has had me banned for over a month for my conservative views.

Dr. John Diamond

From: [Robert Rutowski](#)
To: [Ajit Pai](#); [Mike O'Rielly](#); [Brendan Carr](#); [Jessica Rosenworcel](#); [Geoffrey Starks](#)
Cc: [Keith Abouchar](#); (b) (6)
Subject: Chairman Pai's Claimed Authority to Rewrite Section 230
Date: Thursday, October 15, 2020 6:01:52 PM

Ajit Pai, Chairman
Ajit.Pai@fcc.gov

Michael O'Rielly, Commissioner
Mike.O'Rielly@fcc.gov

Brendan Carr, Commissioner
Brendan.Carr@fcc.gov

Jessica Rosenworcel, Commissioner
Jessica.Rosenworcel@fcc.gov

Geoffrey Starks, Commissioner
Geoffrey.Starks@fcc.gov

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Chairman Pai's Claimed Authority to Rewrite Section 230

Dear Chairman and Commissioners:

Today, Federal Communications Commission Chairman Ajit Pai announced his intent to interpret Section 230 of the Communications Act through a rulemaking. The FCC's announcement follows a petition by the National Telecommunications and Information Administration for the agency to move forward on such a rulemaking, as well as the Justice Department's recent recommendations for amending Section 230.

The FCC does not have authority to "clarify" Section 230 — it is not a statute that Congress gave the agency any authority over whatsoever. Additionally, if Chairman Pai's planned rulemaking is at all informed by the NTIA petition, it is likely to be fatally flawed in other ways, as the NTIA insists on an interpretation of the statute that is contradicted by the plain meaning of the words that Congress enacted, and, in fact, that contradicts itself.

There is room for a good-faith debate on how to reform Section 230 to ensure that platforms take more responsibility for the content they host, and the harms they magnify. Like the DOJ's recent proposal, however, the NTIA's petition to the FCC is not designed to address those harms, but to further the spread of harmful content and to limit the ability of platforms to exercise editorial discretion.

It is particularly ironic that the Chairman would initiate this rulemaking while simultaneously affirming his Restoring Internet Freedom Order, which repealed net neutrality protections for consumers under the theory that the FCC lacks jurisdiction over entities the Chairman now claims the Commission can regulate. Section 200, to be clear, applies not only to major social media platforms, but also any site that hosts user content such as news publications with comment sections, infrastructure providers like broadband providers, and users of these services. While the details of Chairman Pai's thinking on this issue are unclear, the FCC, an independent agency, should not follow the administration's direction in this matter.

Yours sincerely,
Robert E. Rutkowski

cc:
Legislative Correspondence Team
1705 Longworth House Office Building
Washington DC 20515
Office: (202)225-4101
Fax: (202)225-4000
keith.abouchar@mail.house.gov

Mignon Clyburn

(b) (6)

2527 Faxon Court
Topeka, Kansas 66605-2086
P: 785 79-9671
E-mail: robert.rutkowski@att.net

From: [Robert Rutowski](#)
To: [Ajit Pai](#); [Mike O'Rielly](#); [Brendan Carr](#); [Jessica Rosenworcel](#); [Geoffrey Starks](#)
Cc: [Keith Abouchar](#); (b) (6)
Subject: Comment on Chairman's Plan to Rewrite Section 230
Date: Friday, October 16, 2020 2:59:45 PM

Ajit Pai, Chairman
Ajit.Pai@fcc.gov

Michael O'Rielly, Commissioner
Mike.O'Rielly@fcc.gov

Brendan Carr, Commissioner
Brendan.Carr@fcc.gov

Jessica Rosenworcel, Commissioner
Jessica.Rosenworcel@fcc.gov

Geoffrey Starks, Commissioner
Geoffrey.Starks@fcc.gov

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Comment on Chairman's Plan to Rewrite Section 230

Dear Chairman and Commissioners:

A additional comment on Chairman's Pai announced plans to move forward with a rulemaking regarding the scope of Section 230 of the Communications Decency Act — an important legal liability shield that ensures online platforms generally can't be held liable for the content their users post on their platforms: The FCC cannot rewrite acts of Congress to suit its whims. Section 230 is critical to protecting free speech online and the FCC has no authority to change it, especially not in ways that will undermine free expression. Also, the FCC can't and shouldn't dictate content moderation practices. The First Amendment protects us from government control over what we can tweet, post, and say online — this includes respecting the editorial decisions of the platforms themselves.

Yours sincerely,
Robert E. Rutkowski

cc:
Legislative Correspondence Team
1705 Longworth House Office Building
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Office: (202)225-4111

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From: [Robert Rutkowski](#)
To: [Ajit Pai](#); [Mike O'Rielly](#); secretary@ftc.gov; [Brendan Carr](#); [Geoffrey Starks](#); [Jessica Rosenworcel](#)
Cc: (b) (6); keith.abouchar@mail.house.gov; [Elizabeth Strimer@mccconnell.senate.gov](mailto:Elizabeth.Strimer@mccconnell.senate.gov); dan.meyer@mail.house.gov; rocint@schumer.senate.gov
Subject: Comment on Trump Social Media Executive Order
Date: Friday, May 29, 2020 11:23:01 AM

Ajit Pai, Chairman
Ajit.Pai@fcc.gov

Michael O'Rielly, Commissioner
Mike.O'Rielly@fcc.gov

Brendan Carr, Commissioner
Brendan.Carr@fcc.gov

Jessica Rosenworcel, Commissioner
Jessica.Rosenworcel@fcc.gov

Geoffrey Starks, Commissioner
Geoffrey.Starks@fcc.gov
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Joseph J. Simons, Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Telephone: (202) 326-2222
secretary@ftc.gov

Re: Comment on Trump Social Media Executive Order

Dear Chairmen and Commissioners:

Donald Trump yesterday issued an executive order targeting social media companies after Twitter fact-checked his tweet about voting by mail. This order is a direct threat at Twitter, Facebook, and other platforms that if they engage in speech that displeases the president, he will unleash the power and resources of the federal government against them. The First Amendment forbids such blatant, thin-skinned efforts to stifle expression. President Trump has it backwards: The First Amendment protects us from the government, not the government from us.

Congress and the administration would do well to remember that Section 230 is critical to protecting free speech online. The law allows platforms to publish all sorts of content without fear of being held liable for it. That includes, as Donald Trump appears to have forgotten, his own tweets — even when they include lies. It also includes the videos, photos, and tutorials each of us is relying on to stay connected today.

Federal agencies should not enforce this order.

Yours sincerely,

Robert E. Rutkowski

cc:

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Mignon Clyburn

(b) (6)

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From: [Joel G. Miller](#)
To: [Mike ORielly](#); [Mikeorielly1](#)
Subject: draft qfrs
Date: Wednesday, July 1, 2020 11:18:56 PM
Attachments: [JM v1 - Minority QFRs for Mr. Michael O"Rielly.docx](#)

(b) (5)

A large black rectangular redaction box covers the majority of the page content below the header. The text "(b) (5)" is visible at the top left of this redacted area.

**Questions for the Record for the Honorable Michael O’Rielly
U.S. Senate Committee on Commerce, Science, and Transportation
“Nominations Hearing”
June 16, 2020**

Questions Submitted by the Hon. Maria Cantwell to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Executive Branch Concerns with FCC’s Ligado Decision. The Departments of Commerce and Transportation (along with the entirety of the executive branch) believe that the Federal Communications Commission’s (“FCC’s”) recent approval of Ligado’s terrestrial wireless plans threatens the nation’s global positioning system (“GPS”) on which the safety and security of everything from civil aviation to military operations to weather forecasting rely. The FCC rejected the executive branch’s concerns and related technical studies both from the government and the private sector showing that the precision and effectiveness of GPS could be impaired. Instead, the FCC relied on competing technical studies (some of which were funded by Ligado), and its own conclusion that the government studies measured the wrong things, to allow Ligado to move forward with its plans. Yet in its decision to allow Ligado to move forward, the FCC acknowledged that its “analysis [in the order] should not be construed to say there is no potential for harmful interference to any GPS device currently in operation in the marketplace.”

Question 1. Did the FCC quantify the number of receivers that would be negatively impacted by its decision, or analyze the impact of its decision on the risk this interference could cause to safety of life or property?

Answer.

Question 2. Did the Department of Transportation or Commerce provide data in its study on the percentage of GPS receivers that would suffer interference from Ligado’s terrestrial operations at the power levels recently authorized by the FCC? Did the FCC ask for such information?

Answer.

Question 3. Do you agree that in high-profile spectrum decisions, particularly ones which create potential risk to safety of life, that it is in the greater public interest to reach consensus among and between the FCC and the expert federal agencies on aviation, transportation safety, and national defense?

Answer.

Question 4. Given the potential risks to safety; the unprecedented and unified opposition of executive branch agencies to the FCC’s decision; and the fact that a third of the U.S Senate, on a

bipartisan basis, has asked you and your colleagues to take a step back and reexamine the decision, would you be willing to support a stay of the Ligado decision until the FCC can work with the federal expert agencies to reach a sustainable consensus that serves the greater public interest in terms of protecting aviation and transportation safety, national security and our 5G future?

Answer.

Sustaining Local Media Outlets. Local newspapers, radio, and television stations provide important local content that keeps their communities informed. People rely on local newspapers and broadcasters to cover school and business closures, communicate public health guidance, and to combat life-threatening misinformation. It is for these reasons that journalism, as an industry, is considered critical infrastructure. The Department of Homeland Security and state governors have deemed journalists essential workers. The current COVID-19 related economic crisis has exacerbated and accelerated the decline in local news advertising while at the same time underscoring the unprecedented need for local news outlets to give consumers access to accurate and timely information about local community business and government operation and information to promote public health, safety and protect consumers from fraud and abuse. Some local broadcasters have reported as much as a 90 percent loss in advertising revenues due to the effects of the coronavirus. Nationwide, advertising losses for local TV and radio broadcasters are estimated to reach at least \$3 billion as a result of the current health crisis. From 2000-2018, local TV stations' advertising revenue fell by 40 percent. From 2003-2018, the ad revenues of FM stations dropped by 43.8 percent. In contrast, large online platforms have used their dominant market power to take a massive share of digital advertising revenue. Facebook and Google currently account for 58 percent of national digital advertising revenue, and 77 percent of local digital advertising revenue respectively. In the last several months, almost half of newspapers have had to lay-off or furlough employees according to the News Media Alliance. Industry analysts predict these trends to continue, with digital capturing 59.5 percent of overall U.S. advertising revenue by 2029. The total estimated local ad revenues for a single digital advertising competitor—Google—will roughly equal the total over-the-air ad revenues for all TV stations in the U.S. and will soon exceed total TV station ad revenues.

Question 1. Given the revenue trends for local news organizations, it is likely that when we emerge from this crisis we will have many fewer local news organizations. In this context, what is your view of the FCC's statutory obligations to promote localism? What regulatory levers can the FCC now use to address the current precipitous decline in localism that I have just outlined?

Answer.

(b) (5)



(b) (5)



**Questions Submitted by the Hon. Amy Klobuchar to the Hon. Michael O’Rielly,
Nominated to be a Commissioner of the Federal Communications Commission.**

Question 1. Last year, you voted to approve the proposed merger of T-Mobile and Sprint. As Ranking Member of the Antitrust Subcommittee, I repeatedly raised concerns about the harmful effects of eliminating one of the four largest wireless carriers, and I remain skeptical of the argument that the merger is necessary to maintain America’s leadership in deploying 5G.

Do you believe that it was in the public interest to approve a transaction that risks significant consumer harm for the promise of speculative benefits on 5G and rural wireless deployment that may not materialize?

Answer

**Questions Submitted by the Hon. Richard Blumenthal to the Hon. Michael O’Rielly,
Nominated to be a Commissioner of the Federal Communications Commission.**

Blumenthal: On May 28, after being fact-checked for false tweets about mail-in voting, President Trump issued an executive order that directs Federal agencies to investigate and retaliate against online platforms over imagined political bias. The FCC is not an arm of the Presidency – it is an independent agency – it cannot be pressed into service to retaliate against Donald Trump's political rivals or to stifle critical speech.

Question 1. Will you commit to stand up to unconstitutional and bullying use of power by this President?

Answer.

Question 2. Do you believe that the FCC has the currently authority to write rules for tech platforms and to revise CDA 230 as the President has insisted?

Answer.

Question 3. What do you believe the FCC should do with the President’s E.O. and an anticipated NTIA petition to rewrite CDA 230?

Answer.

Blumenthal: The Coronavirus pandemic and social distancing are a resounding demonstration of the importance of Lifeline. In normal times, Lifeline is underfunded. During a pandemic – when schools are shut down and businesses are shuttered – it is more essential than ever. There are now tens of millions of people that are newly unemployed as a result of the Coronavirus. They need the internet to get back to normal, to find new employment, and to find help.

Question 1. Do you agree Lifeline needs more funding during this crisis?

Answer.

Question 2. Do you have an estimate about how much money it will take to support Lifeline? What considerations do we need to take into account in determining the amount of funds required?

Answer.

Question 3. What changes would you recommend to improve the services offered under Lifeline to meet the public's needs?

Answer.

Questions Submitted by the Hon. Brian Schatz to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Question 1. The COVID-19 pandemic has demonstrated important role broadband plays in our lives today. Whether it is used to engage in distance learning or consult with a doctor via telehealth, this pandemic has shown that broadband has become essential to participate in today’s society. Unfortunately, the pandemic has shown that previous efforts to deploy universal broadband have not worked, as the digital divide continues to exist. As an FCC Commissioner, what will you do differently over the next five years to ensure that all Americans have access to high capacity broadband?

Answer.

Question 2. The COVID-19 pandemic has shown that we, as a nation, have much work to do close the digital divide in our country. The universal service fund is a critical tool to support this work. However, for years the FCC has neglected to fix the current contribution methodology so that there are more funding sources available for broadband buildout in unserved areas. Instead, the Commission has proposed capping programs to depress demand and lower the contribution factor. You have been the Chair of the Federal State Joint Board on Contributions for the last three years. Do you have any updates on the status of contribution reform? Do you support any proposals to update the current contribution methodology? If not, why not? Outside of capping the universal service programs, how can the Commission ensure that the funding needs of all of our universal service programs are met?

Answer.

Question 3. Last year the FCC sought comment on a proposal to combine the Rural Health Care and E-Rate programs into a single program with a unified spending cap. If the Commission goes forward with this plan to combine the caps of these programs, increased demand in one program could lead to both programs becoming underfunded, which would pit schools and libraries and healthcare providers against each other in an unnecessary competition for funding. How would having programs compete against each other for funding ensure that our health care providers and schools have the connectivity they need to provide telehealth and distance learning? Wouldn’t the uncertainty caused by these programs competing for funding conflict with the Commission’s duty under the law to provide “specific, predictable, and sufficient” support for universal service participants?

Answer.

Question 4. During a FCC press conference in March 2016, when discussing the outcome of an FCC decision on Lifeline, you stated “Never trust a democrat.” In 2018, the Office of Special Counsel concluded that you violated the Hatch Act when you urged the election of conservatives at the Conservative Political Action Conference that year. Two months ago you sent a letter to

President Trump praising his “extraordinary leadership ... on all communications policy matters, especially regarding 5G advanced wireless services...” This record of partisanship is disconcerting, particularly since your job is to work on important telecom issues that impact our country in a bi-partisan way. How can we ensure that you will be able to work with your fellow Commissioners on telecom policy who may have different political viewpoints than you?

Answer.

(b) (5)



Questions Submitted by the Hon. Jon Tester to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Question 1. The 5G Fund proposal, which you supported, lays out a false choice between speed and accuracy, and suggests waiting for new maps would delay awards until at least 2023. How would “Option A” in the 5G Fund proposal, which moves ahead with awards based on inaccurate maps, avoid the pitfalls that doomed the Mobility Fund?

Answer.

Question 2. Even if accurate maps are not available in 2021, why should we consider spending the entire 10-year Fund based on maps that we know to be inaccurate, and which will soon be replaced?

Answer.

Question 3. I understand the FCC is considering a proposal that would establish a cap on the overall USF budget and combine the E-rate and Rural Health Care programs under a single sub-cap. I hear from educators and health care providers in my state that worry this proposal will force them to compete against each other for funding. What is the status of this proposal?

Answer.

Question 4. Given the connectivity issues highlighted by COVID-19, do you still support capping these programs?

Answer.

From: [Joel G. Miller](#)
To: [Mike](#); [Mike O'Reilly](#)
Subject: draft v2
Date: Wednesday, August 5, 2020 10:58:22 PM
Attachments: [08.04.2020 O'Reilly Stmt on Nomination V2.docx](#)

Couple small suggestions. Can keep in back pocket.

From: [Robert Rutkowski](#)
To: [Ajit Pai](#); [Mike O'Rielly](#); secretary@ftc.gov; [Brendan Carr](#); [Geoffrey Starks](#); [Jessica Rosenworcel](#)
Cc: [\(b\) \(6\)](#); keith.abouchar@mail.house.gov; [Elizabeth Strimer@mccconnell.senate.gov](mailto:Elizabeth.Strimer@mccconnell.senate.gov); [Dan George](#); rocint@schumer.senate.gov
Subject: Executive Order Misreads Key Law Promoting Free Expression Online and Violates the First Amendment
Date: Thursday, May 28, 2020 6:36:08 PM

Ajit Pai, Chairman
Ajit.Pai@fcc.gov

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Mike.O'Rielly@fcc.gov

Brendan Carr, Commissioner
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Jessica Rosenworcel, Commissioner
Jessica.Rosenworcel@fcc.gov

Geoffrey Starks, Commissioner
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445 12th Street, SW
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Joseph J. Simons, Chair
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Telephone: (202) 326-2222
secretary@ftc.gov

Re: Executive Order Misreads Key Law Promoting Free Expression Online
and Violates the First Amendment
Dear Chairmen and Commissioners:

Trump's Executive Order targeting social media companies is an assault on free expression online and a transparent attempt to retaliate against Twitter for its decision to curate his posts and deter everyone else from taking similar steps. The good news is that it won't survive judicial scrutiny. To see why, take a deeper look at its incorrect reading of Section 230 (47 U.S.C. § 230) and how the order violates the First Amendment.

The Executive Order's Error-Filled Reading of Section 230

The main thrust of the order is to attack Section 230, the law that underlies the structure of our modern Internet and allows online services to host diverse forums for users' speech. These platforms are currently the primary way that the majority of people express themselves online. To ensure that companies remain able to let other people express themselves online, Section 230 grants online intermediaries broad immunity from liability arising from publishing another's speech. It contains two separate and independent protections.

Subsection (c)(1) shields from liability all traditional publication

decisions related to content created by others, including editing, and decisions to publish or not publish. It protects online platforms from liability for hosting user-generated content that others claim is unlawful. For example, if Alice has a blog on WordPress, and Bob accuses Clyde of having said something terrible in the blog's comments, Section 230(c)(1) ensures that neither Alice nor WordPress are liable for Bob's statements about Clyde. The subsection also would also protect Alice and WordPress from claims from Bob in the event that Clyde demanded Alice remove the terrible things said about him and she did so.

Subsection (c)(2) is an additional and independent protection from legal challenges brought by users when platforms decide to edit or to not publish material they deem to be obscene or otherwise objectionable. Unlike (c)(1), (c)(2) requires that the decision be in "good faith." In the context of the above example, (c)(2) would protect Alice and WordPress when Alice decides to remove a term within the comment from Bob that she considers to be offensive. Bob cannot successfully sue Alice for that editorial action as long as Alice acted in good faith.

The legal protections in subsections (c)(1) and (c)(2) are completely independent of one another. There is no basis in the language of Section 230 to qualify (c)(1)'s immunity on platforms obtaining immunity under (c)(2). And courts, including the U.S. Court of Appeals for the Ninth Circuit, have correctly interpreted the provisions as distinct and independent liability shields:

Subsection (c)(1), by itself, shields from liability all publication decisions, whether to edit, to remove, or to post, with respect to content generated entirely by third parties. Subsection (c)(2), for its part, provides an additional shield from liability, but only for "any action voluntarily taken in good faith to restrict access to or availability of material that the provider ... considers to be obscene ... or otherwise objectionable."

Even though neither the statute nor court opinions that interpret it mush these two Section 230 provisions together, the order asks the Federal Communications Commission to start a rulemaking and consider linking the two provision's liability shields. The order asks the FCC to consider whether a finding that a platform failed to act in "good faith" under subsection (c)(2) also disqualifies the platform from claiming immunity under section (c)(1).

In short, the order tasks government agencies with defining "good faith" and eventually deciding whether any platform's decision to edit, remove, or otherwise moderate user-generated content meets it, upon pain of losing access to all of Section 230's protections.

Should the order result in FCC rules interpreting 230 that way, a platform's single act of editing user content that the government doesn't like could result in losing both kinds of protections under 230. This essentially will work as a trigger to remove Section 230's protections entirely from a host of anything that someone disagrees with. But the impact of that trigger would be much broader than simply being liable for the moderation activities purportedly done in bad faith: Once a platform was deemed not in good faith, it could lose (c)(1) immunity for all user-generated content, not just the triggering content. This could result in platforms being subjected to a torrent of

private litigation for thousands of completely unrelated publication decisions.

The Executive Order's First Amendment Problems

Taking a step back, the order purports to give the Executive Branch and federal agencies powerful leverage to force platforms to publish what the government wants them to publish, on pain of losing Section 230's protections. But even if section 230 permitted this, and it doesn't, the First Amendment bars such intrusions on editorial and curatorial freedom.

The Supreme Court has consistently upheld the right of publishers to make these types of editorial decisions. While the order faults social media platforms for not being purely passive conduits of user speech, the Court derived the First Amendment right from that very feature.

In its 1974 decision in *Miami Herald Co. v. Tornillo*, the Court explained:

A newspaper is more than a passive receptacle or conduit for news, comment, and advertising. The choice of material to go into a newspaper, and the decisions made as to limitations on the size and content of the paper, and treatment of public issues and public officials -- whether fair or unfair -- constitute the exercise of editorial control and judgment. It has yet to be demonstrated how governmental regulation of this crucial process can be exercised consistent with First Amendment guarantees of a free press as they have evolved to this time.

Courts have consistently applied this rule to social media platforms, including the 9th Circuit's recent decision in *Prager U v. Google* and a decision yesterday by the U.S. Court of Appeals for the District of Columbia in a case brought by Freedom Watch and Laura Loomer against Google. In another case, a court ruled that when online platforms "select and arrange others' materials, and add the all-important ordering that causes some materials to be displayed first and others last, they are engaging in fully protected First Amendment expression—the presentation of an edited compilation of speech generated by other persons."

And just last term in *Manhattan Community Access v. Halleck*, the Supreme Court rejected the argument that hosting the speech of others negated these editorial freedoms. The court wrote, "In short, merely hosting speech by others is not a traditional, exclusive public function and does not alone transform private entities into state actors subject to First Amendment constraints."

It went on to note that "Benjamin Franklin did not have to operate his newspaper as 'a stagecoach, with seats for everyone,'" and that "The Constitution does not disable private property owners and private lessees from exercising editorial discretion over speech and speakers on their property."

The Supreme Court also affirmed that these principles applied "Regardless of whether something 'is a forum more in a metaphysical than in a spatial or geographic sense.'"

EFF filed amicus briefs in *Prager U* and *Manhattan Community Access*, urging that very result. These cases thus foreclose the President's ability to intrude on platforms' editorial decisions and to transform

them into public forums akin to parks and sidewalks.

But even if the First Amendment were not implicated, the President cannot use an order to rewrite an act of Congress. In passing 230, Congress did not grant the Executive the ability to make rules for how the law should be interpreted or implemented. The order cannot abrogate power to the President that Congress has not given.

We should see this order in light of what prompted it: the President's personal disagreement with Twitter's decisions to curate his own tweets. Thus despite the order's lofty praise for "free and open debate on the Internet," this order is in no way based on a broader concern for freedom of speech and the press.

Indeed, this Administration has shown little regard, and much contempt, for freedom of speech and the press. We're skeptical that the order will actually advance the ideals of freedom of speech or be justly implemented.

There are legitimate concerns about the current state of online expression, including how a handful of powerful platforms have centralized user speech to the detriment of competition in the market for online services and users' privacy and free expression. But the order announced today doesn't actually address those legitimate concerns and it isn't the vehicle to fix those problems. Instead, it represents a heavy-handed attempt by the President to retaliate against an American company for not doing his bidding. It must be stopped.

Thank you for the opportunity to bring this EFF post to your attention.

Yours sincerely,
Robert E. Rutkowski

cc:
Senator Mitch McConnell
RUSSELL SENATE OFFICE BUILDING
WASHINGTON DC 20510
Phone: (202) 224-2541
Elizabeth_Strimer@mccconnell.senate.gov

Representative Kevin McCarthy
Republican Majority Leader
2421 Rayburn House Office Building
Washington, DC 20515
Phone: (202) 225-2915
Fax: (202) 225-2908
dan.meyer@mail.house.gov

Speaker Nancy Pelosi
OFFICE OF THE SPEAKER
H-232 The Capitol
Washington, DC 20515
Phone: (202) 225-0600
Fax: (202) 225-2012
george.kundanis@mail.house.gov

Senator Chuck Schumer
Democratic Leader

RUSSELL SENATE OFFICE BUILDING
Washington, DC 20510
rocint@schumer.senate.gov

Representative Steny Hoyer
House Majority Leader
Legislative Correspondence Team
1705 Longworth House Office Building
Washington DC 20515
Office: (202) 225-4131
Fax: (202) 225-4300
keith.abouchar@mail.house.gov

Mignon Clyburn

(b) (6)

2527 Faxon Court
Topeka, Kansas 66605-2086
P/F: 1 785 379-9671
E-mail: r_e_rutkowski@att.net

From: [corey welch](#)
To: [Mike Orielly](#)
Subject: fake news
Date: Tuesday, July 21, 2020 12:56:03 PM

Why isn't the FCC doing more to curb the bias, sometimes racist comments about republicans, and those that support them? NYT has repeatedly reported skewed, bias and misleading news about Trump, yet don't retract, are not made to, or anything when the FCC has the rights and power to intervene and force fake news to be no more. We americans need real, honest news. It use to be that way. In the last 3 yrs dems have run amok, with hateful, bias lies about Trump or republicans and are still able to continue the criminal behavior. Why wont you do what taxpayers are paying you to do, give us honest news. Seems the FCC is in bed with the dems, and cater to the far left, while allowing a man to be crucified... when its all been a lie...

Sent from [Mail](#) for Windows 10

From: [Mary Jane Coy](#)
To: [Mike ORIelly](#)
Subject: FCC Laws and social media protections
Date: Saturday, August 22, 2020 4:34:15 PM

Hey Michael,

Please, review the FCC laws regarding social media platforms and the freedom of speech.

it appears that there has been some violation of Section 230 of the Communications Decency Act from social media platforms. If social media platforms are editing content of the users and violating their first amendment free speech, then according to section 230 of the Communications Decency Act they are a publisher and not a social media platform. The protections for social media platforms should be removed for those that are editing the content and interfering with the free speech of its users.

If you have any questions or concerns, or if I can be of any help in any way, please don't hesitate to contact me,

Mary Jane Coy, PhD, LMSW
maryjanecoy@yahoo.com
520.201.1071

[Sent from Yahoo Mail on Android](#)

From: [Joel G. Miller](#)
To: [Mike ORIelly](#); [Mikeorielly1](#); [Erin McGrath](#); [Arielle Roth](#)
Subject: final notes
Date: Tuesday, June 23, 2020 10:59:26 PM
Attachments: [Commerce Notes 6-24-20 final.docx](#)

From: [Norm Hughes](#)
To: [Ajit Pai](#); [Mike Orielly](#); [Brendan Carr](#); [Jessica Rosenworcel](#); [Geoffrey Starks](#)
Subject: First Amendment Freedoms
Date: Monday, August 31, 2020 5:54:29 PM

To: Federal Communications Commission

I urge you to hold Google, Facebook, Twitter, Squarespace and other tech companies accountable. Google's CEO, Sundar Pichai, lied to Congress when he stated his company did not "manually intervene" on search results. Evidence now shows this to be false. These companies are only allowing their personal viewpoints to be expressed and censoring and silencing the free speech of Americans all across our nation.

These Big Tech companies are claiming they are "private companies" and can censor the viewpoints of other citizens, while they also claim to be a "public utility" and immune to lawsuits for the messages they do distribute. They cannot be both if our First Amendment freedoms are to be protected.

Our First Amendment freedom of speech must be protected in the 21st century. We ask Congress to repeal Section 230, which gives legal immunity to private Internet corporations, which should be reserved only for public utility companies like phone providers. In addition, we ask the FCC to regulate and protect First Amendment freedoms.

My First Amendment freedom cannot be dependent on the whims and wishes of a tech geek and whether he/she agrees with me. We respectfully urge you to act now to secure our constitutional freedoms in the face of unrestrained bias in tech corporations.

Sincerely,

Norm Hughes
usnretdoc@hotmail.com
"Pursue Righteousness"
"Fair Winds and Following Seas"

1 Samuel 12:23(NIV)

As for me, far be it from me that I should sin against the Lord by failing to pray for you.

From: [Beowulf ROCHLEN](#)
To: [Mike O'Rielly](#)
Cc: beowulf@twosquaredmediaproductions.com
Subject: FOR TUESDAY Global TV Interview Request: Impact of Social Media on Elections/ 10 min. by Skype or Zoom
Date: Thursday, October 1, 2020 3:41:35 PM
Attachments: [ICON_19X19_WEB_da8453d8-15e5-4269-8a0d-aa34326f5800.jpg](#)
[ICON_19X19_YOUTUBE_c24221d2-0f98-4804-994d-e0392b3a0d21.jpg](#)
[ICON_19X19_FACEBOOK_78226783-072b-46e4-9739-74f38ce232eb.jpg](#)
[ICON_19X19_TWITTER_c19878df-3a28-4faa-a2ab-f47439ce4a14.jpg](#)
[ICON_19X19_INSTAGRAM_7c44092c-e90b-48d9-876e-3edba5146fb3.jpg](#)
[feb-gen-2020_24c5a2a9-6bdf-428d-948c-bc3c33a2113e.jpg](#)

Hello

My name is Beowulf Rochlen, producer with **Inside America with Ghida Fakhry** on TRT World Television.

I'd like to see if Michael O'Rielly might be available as a guest on our program. It would be wonderful to have Mr. O'Rielly on an episode to discuss misinformation and the impact of social media on politics and elections. Our previous guests have included [Governor Mike Huckabee](#), [Trump 2020 Legal Adviser Jenna Ellis](#), and [HHS Director David Price](#).

The interview would be on Tuesday, October 6th via Skype or Zoom. Timing is flexible. We'd need just 10 minutes for the interview itself.

Inside America with Ghida Fakhry breaks down the week's major headlines and uncovers some of the unreported stories across the United States, with hard hitting interview with American officials and decision makers. Ghida Fakhry is a veteran journalist who has covered national and international affairs for 20 years and has interviewed numerous heads of state and senior government officials.

TRT world is available around the world including the U.S, U.K and Australia. It reaches 288 million households and is available on Roku, Sling TV, and TRTWorld.com.

Let me know if this might work- thanks and talk soon!

Beowulf Rochlen
Interview Producer



O - (202) 656-6271
C - (541) 631 9176

Beowulf ROCHLEN

Interview Producer



TRT WORLD Channel,
1819 L Street, Suite 700
NW Washington DC, 20006
T. (202)656-6271
M. (541)661 9176



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From: [Joel G. Miller](#)
To: [Mike O'Rielly](#)
Cc: [Susan Fisenne](#)
Subject: FW: CCIA Meeting Request with Commissioner O'Rielly
Date: Thursday, September 24, 2020 2:15:33 PM

(b) (5)

From: Vann Bentley <vbentley@ccianet.org>
Sent: Thursday, September 24, 2020 11:55 AM
To: Joel G. Miller <Joel.Miller@fcc.gov>
Subject: CCIA Meeting Request with Commissioner O'Rielly

Good morning Mr. Miller,

I am Vann Bentley with the Computer and Communications Industry Association (CCIA). We are a trade association that represents approximately 30 technology firms, and we are interested in meeting with Commissioner O'Rielly to share our views on NTIA's petition to the FCC to engage in rulemaking on Section 230 of the Communications Act. We are very interested in meeting with the Commissioner, possibly with some of our industry partners, to share our views. We are available to meet as early as next week if the Commissioner has any availability in his schedule. Thank you for your consideration.

Sincerely,
Vann Bentley

From: [Arielle Roth](#)
To: [Mike ORIelly](#)
Subject: FW: First cut
Date: Monday, August 3, 2020 10:30:08 PM

(b) (5)

From: Erin McGrath <Erin.McGrath@fcc.gov>
Sent: Monday, August 3, 2020 9:56 PM
To: Arielle Roth <Arielle.Roth@fcc.gov>; Joel G. Miller <Joel.Miller@fcc.gov>; Mikeofcc <(b) (6)>
Subject: Re: First cut

(b) (5)

From: "Arielle Roth" <[Arielle.Roth@fcc.gov](#)>
Date: Monday, August 3, 2020 at 9:46:39 PM
To: "Joel G. Miller" <[Joel.Miller@fcc.gov](#)>, "Mikeofcc" <(b) (6)>, "Erin McGrath" <[Erin.McGrath@fcc.gov](#)>
Subject: RE: First cut

A few suggestions:

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

From: Joel G. Miller <Joel.Miller@fcc.gov>

Sent: Monday, August 3, 2020 8:40 PM

To: Mikeofcc <(b) (6)>; Erin McGrath <Erin.McGrath@fcc.gov>; Arielle Roth <Arielle.Roth@fcc.gov>

Subject: Re: First cut

Couple small nits:

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

(b) (5)

From: "Mikeofcc" <(b) (6)>

Date: Monday, August 3, 2020 at 5:39:58 PM

To: "Joel G. Miller" <Joel.Miller@fcc.gov>, "Erin McGrath" <Erin.McGrath@fcc.gov>, "Arielle Roth" <Arielle.Roth@fcc.gov>

Subject: First cut

Sent from my iPad

From: [Susan Fisenne](#)
To: [Mike O'Rielly](#)
Subject: FW: Google Meeting Request on Sec. 230 EO
Date: Wednesday, July 8, 2020 4:27:44 PM

Okay to schedule?

From: Joel G. Miller <Joel.Miller@fcc.gov>
Sent: Wednesday, July 8, 2020 2:43 PM
To: Scott Deutchman <sdeutchman@google.com>
Cc: Susan Fisenne <Susan.Fisenne@fcc.gov>
Subject: Re: Google Meeting Request on Sec. 230 EO

Hi Scott - we'll check on the Commissioner's calendar and circle back.

Best,
Joel

From: "Scott Deutchman" <sdeutchman@google.com>
Date: Wednesday, July 8, 2020 at 12:41:36 PM
To: "susanne.fisenne@fcc.gov" <susanne.fisenne@fcc.gov>
Cc: "Joel G. Miller" <Joel.Miller@fcc.gov>
Subject: Google Meeting Request on Sec. 230 EO

Hi Susanne,

I hope you are doing well. I'd like to request a videoconference with Commissioner O'Rielly on the importance of Section 230 and the President's Executive Order.

Representing Google would be Johanna Shelton, Austin Schlick, Nora Puckett and myself. We would be happy to find a time over the next two weeks based on the Commissioner's schedule.

Please let me know if you have any questions.

Best,
Scott

Scott Deutchman ☐ Senior Policy Advisor, Govt Affairs & Public Policy ☐ sdeutchman@google.com ☐ 202-642-7790

From: [Susan Fisenne](#)
To: [Mike O'Rielly](#); (b) (6)
Cc: [Joel G. Miller](#)
Subject: FW: Invitation to Testify Before the House Committee on Energy and Commerce (w/ Instructions for Submitting Testimony)
Date: Monday, September 14, 2020 3:50:20 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[How to Set-up Webex.pdf](#)
[How to Join as Panelist via Computer \(Witnesses Only\).pdf](#)
[How to Join as Panelist via iPad \(Witnesses Only\).pdf](#)
[How to Join as Attendee via Computer \(Staff Only\).pdf](#)

[REDACTED]

From: Orlando, Joe <Joe.Orlando@mail.house.gov>
Sent: Monday, September 14, 2020 3:24 PM
To: Joel G. Miller <Joel.Miller@fcc.gov>
Cc: Susan Fisenne <Susan.Fisenne@fcc.gov>
Subject: RE: Invitation to Testify Before the House Committee on Energy and Commerce (w/ Instructions for Submitting Testimony)

Thanks Joel! Below is the info with a link for tomorrow's test, the link for Commissioner O'Rielly on Thursday to use, and a separate one for staff to use on Thursday. I have also attached a few pdf "how to"s in case you need them. We can go over it more tomorrow during the walk through, but if you have any questions in the meantime, please let me know.

Test Tuesday at [1:00 pm](#)

Event address for Witnesses: <https://ushr.webex.com/ushr/onstage/g.php?MTID=e2a96b38b358bd7e17c14191f336d0c19>
Passcode: ECD

Hearing Thursday at 10:00 am

Event address for Witnesses: <https://ushr.webex.com/ushr/onstage/g.php?MTID=e2be978383ab09b954bda1446bc99d034>
Passcode: ECD

Event address for staff: <https://ushr.webex.com/ushr/onstage/g.php?MTID=ea5a5a57727052981e87c09489d5fee0b>

From: Joel G. Miller <Joel.Miller@fcc.gov>
Sent: Monday, September 14, 2020 2:42 PM
To: Orlando, Joe <Joe.Orlando@mail.house.gov>
Cc: Susan Fisenne <Susan.Fisenne@fcc.gov>
Subject: Re: Invitation to Testify Before the House Committee on Energy and Commerce (w/

Instructions for Submitting Testimony

Hi Joe - Freudian slip, should've said Webex! I will definitely join and I'm checking with Mike to see if he needs a run through and will let you know if he decides to join.

From: "Orlando, Joe" <Joe.Orlando@mail.house.gov>
Date: Monday, September 14, 2020 at 1:37:38 PM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>
Cc: "Susan Fisenne" <Susan.Fisenne@fcc.gov>
Subject: RE: Invitation to Testify Before the House Committee on Energy and Commerce (w/ Instructions for Submitting Testimony

Up to you all! If he's comfortable with Webex no need to waste his time.

From: Joel G. Miller <Joel.Miller@fcc.gov>
Sent: Monday, September 14, 2020 11:47 AM
To: Orlando, Joe <Joe.Orlando@mail.house.gov>
Cc: Susan Fisenne <Susan.Fisenne@fcc.gov>
Subject: Re: Invitation to Testify Before the House Committee on Energy and Commerce (w/ Instructions for Submitting Testimony

Hi Joe - either of those will work for me. Is this just for staff or would you like the Commissioner to participate as well? We use MSTeams at the Commission so he should be pretty comfortable.

From: "Orlando, Joe" <Joe.Orlando@mail.house.gov>
Date: Monday, September 14, 2020 at 10:38:58 AM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>
Cc: "Susan Fisenne" <Susan.Fisenne@fcc.gov>
Subject: RE: Invitation to Testify Before the House Committee on Energy and Commerce (w/ Instructions for Submitting Testimony

Hi Joel,

We are starting to hear back from some of the other offices. Would 1 or 2pm tomorrow work on your end? It should only take about 15 min.

Thanks,
Joe

From: Orlando, Joe
Sent: Friday, September 11, 2020 11:19 AM
To: Joel G. Miller <Joel.Miller@fcc.gov>
Cc: Susan Fisenne <Susan.Fisenne@fcc.gov>
Subject: RE: Invitation to Testify Before the House Committee on Energy and Commerce (w/ Instructions for Submitting Testimony)

Thanks Joel! We were also hoping to schedule a walkthrough with our digital director to get everyone comfortable with video conference system and make sure there are no issues. Are either of you available Tuesday from 10-3pm or Wednesday 10-12pm?

From: Joel G. Miller <Joel.Miller@fcc.gov>
Sent: Thursday, September 10, 2020 5:14 PM
To: Orlando, Joe <Joe.Orlando@mail.house.gov>
Cc: Hoehn-Saric, Alex <Alex.Hoehn-Saric@mail.house.gov>; Leverich, Gerald <Gerald.Leverich@mail.house.gov>; Rodriguez, Chloe <Chloe.Rodriguez@mail.house.gov>; Davis, Sharon <Sharon.Davis@mail.house.gov>; Susan Fisenne <Susan.Fisenne@fcc.gov>
Subject: Re: Invitation to Testify Before the House Committee on Energy and Commerce (w/ Instructions for Submitting Testimony)

Thanks Joe - adding Susan in our office as well.

From: "Orlando, Joe" <Joe.Orlando@mail.house.gov>
Date: Thursday, September 10, 2020 at 4:36:49 PM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>
Cc: "Hoehn-Saric, Alex" <Alex.Hoehn-Saric@mail.house.gov>, "Leverich, Gerald" <Gerald.Leverich@mail.house.gov>, "Rodriguez, Chloe" <Chloe.Rodriguez@mail.house.gov>, "Davis, Sharon" <Sharon.Davis@mail.house.gov>
Subject: Invitation to Testify Before the House Committee on Energy and Commerce (w/ Instructions for Submitting Testimony)

Dear Commissioner O’Rielly:

Thank you for agreeing to testify before the House Committee on Energy and Commerce’s Subcommittee on Communications and Technology. The hearing – entitled “*Trump FCC: Four Years of Lost Opportunities*” – will be held on Wednesday, September 17, 2020, at 10 a.m. via the Committee’s Webex platform.

Attached please find a formal invitation to testify from Representative Mike Doyle, Chairman of the Subcommittee, as well as other materials to assist you in preparing for your testimony. The first document (“1_Witness Information Guidelines_116th Congress_2020_FedGov_CAT”) will be the most instructive in helping submit written testimony and other required paperwork. The second and third documents provide details on how to submit the Truth in Testimony form. The remaining

documents are for informational purposes regarding Committee rules and procedures.

Once completed, please submit any written materials and paperwork to Sharon Davis, Chief Clerk, Chloe Rodriguez, and myself (all cc'ed here). Please do not hesitate to contact us with any questions at (202) 225-2927.

Thank you very much, and we look forward to seeing you at the hearing.

Sincerely,

Joseph Orlando
Policy Analyst
Committee on Energy and Commerce
U.S. House of Representatives
(202) 225-2927



From: [Joel G. Miller](#)
To: [Mike O'Rielly](#); [Erin McGrath](#); [Arielle Roth](#)
Subject: FW: NTIA Releases American Broadband Initiative Progress Report
Date: Thursday, June 25, 2020 2:06:41 PM

From: May, Timothy <TMay@ntia.gov>
Sent: Thursday, June 25, 2020 1:12 PM
To: Joel G. Miller <Joel.Miller@fcc.gov>
Subject: NTIA Releases American Broadband Initiative Progress Report

Joel Miller
Chief of Staff
Office of Commissioner Michael O'Rielly
Federal Communications Commission

Joel:

Today NTIA released the [American Broadband Initiative \(ABI\) Progress Report](#), which provides an update on the ABI's work to date and highlights the efforts of multiple departments and agencies, including the FCC. The ABI is the Trump administration's program to drive changes across federal agencies to identify and remove barriers to broadband access and leverage public assets and resources to expand the Nation's broadband infrastructure capacity. Since its formation, the ABI has made substantial progress on the identified commitments in the original February 2019 [Milestones Report](#).

NTIA is proud to have met all of its ABI commitments, including serving on the leadership team of the ABI, as well as launching the [National Broadband Availability Map](#), which has quickly expanded to 18 state partners to deliver accurate, essential data on broadband availability.

We encourage you to review the Progress Report to learn more about the comprehensive efforts undertaken by the member agencies of the ABI, and to contact us if you have questions.

Timothy May
Senior Advisor
NTIA/Office of the Assistant Secretary
M: 202-573-2194

From: [Susan Fisenne](#)
To: [Mike O'Rielly](#)
Cc: [Joel G. Miller](#)
Subject: Fw: please pass this on to Commissioner O'Rielly
Date: Tuesday, August 4, 2020 12:36:23 PM

From: Andrew Schwartzman (b) (6)
Sent: Tuesday, August 4, 2020 12:22 PM
To: Susan Fisenne <Susan.Fisenne@fcc.gov>
Subject: please pass this on to Commissioner O'Rielly

thanx

Andrew Jay Schwartzman
Senior Counselor
Benton Institute for Broadband & Society

----- Forwarded message -----

From: Andrew Schwartzman (b) (6) >
Date: Tue, Aug 4, 2020 at 12:19 PM
Subject: Re: Quick reaction to Trump pulling O'Rielly nomination
To: Tracy, Ryan <ryan.tracy@wsj.com>

If so, it is a stunningly self-inflicted wound. Between now and the end of the year, Commissioner O'Rielly is a free agent, beyond the Administration's reach. After that, even if Trump wins, the FCC will be tied at 2-2 for many months, as there is no way that a new appointee can be selected, vetted and confirmed until well into 2021. If Biden wins, it gives him another slot to fill right away.

I would add that at this point it is hardly surprising, but nonetheless dispiriting, that this Administration would punish someone for acting on principle.

Andrew Jay Schwartzman
Senior Counselor
Benton Institute for Broadband & Society

On Tue, Aug 4, 2020 at 12:09 PM Tracy, Ryan <ryan.tracy@wsj.com> wrote:

Hi Mr. Schwartzman... We're reporting O'Rielly was pulled b/c of what he said about the president's EO on online censorship. Any reaction?

<https://www.wsj.com/articles/white-house-nixes-fcc-nominee-who-questioned-bid-to-regulate-social-media-11596556660>

Ryan

On Mon, Aug 3, 2020 at 5:20 PM Andrew Jay Schwartzman

<(b) (6)> wrote:

This surprising development with considerable consequences. Among other things, in the short term it means that Trump can't possibly get favorable action on the Section 230 petition unless and until he is reelected and then gets a compliant replacement. (It also gets Chairman Pai off the hook from having to decide whether to support something he knows is untenable.)

It will take more reporting to know for sure, but this might also be a message to Pai about the Ligado matter.

Andrew Jay Schwartzman
Senior Counselor
Benton Institute for Broadband & Society

--

Ryan Tracy | Reporter

The Wall Street Journal.

cell 202.309.8060 | ryan.tracy@wsj.com | @ryanjtracy

From: [Joel G. Miller](#)
To: [Mike O'Rielly](#); (b) (6)
Subject: FW: Query Re: Story on Carr/O'Rielly FCC Chairmanship Prospects
Date: Tuesday, June 23, 2020 2:59:18 PM
Importance: High

From: Phillips, Jimm <jphillips@warren-news.com>
Sent: Tuesday, June 23, 2020 2:56 PM
To: Joel G. Miller <Joel.Miller@fcc.gov>
Cc: Buskirk, Howard <hbuskirk@warren-news.com>
Subject: Query Re: Story on Carr/O'Rielly FCC Chairmanship Prospects
Importance: High

Hi Joel,

We're working on a story looking at communications sector stakeholders' view of whether Commissioner Carr or Commissioner O'Rielly faces better prospects of being named to succeed Chairman Pai if President Trump wins re-election. Officials we spoke with believe Commissioner Carr has a slightly better chance, but believe Commissioner O'Rielly also has a strong chance of getting the nod. Senate Commerce Committee Chairman Wicker and Communications Subcommittee Chairman Thune didn't declare a preference but believe either one would be qualified to take over. Does Commissioner O'Rielly's office have any comment?

Thanks,
Jimm Phillips
Communications Daily
jphillips@warren-news.com

From: [Joel G. Miller](#)
To: [Mike ORIelly](#); (b) (6); [Erin McGrath](#); [Arielle Roth](#)
Subject: FW: question
Date: Tuesday, June 23, 2020 12:08:22 PM
Attachments: [PACT Act 6.22.20 update.docx](#)
[PACT Act Section-by-Section.pdf](#)

(b) (5)

From: Sachtjen, Alex (Thune) <Alex_Sachtjen@thune.senate.gov>
Sent: Tuesday, June 23, 2020 11:58 AM
To: Joel G. Miller <Joel.Miller@fcc.gov>
Subject: RE: question

Another question. Happy to chat about this. We're also introducing the attached bill tomorrow with Senator Schatz.

For each commissioner, yes or no, do you agree with the Attorney General that Section 230 is "ripe for reform?"

From: "Sachtjen, Alex (Thune)" <Alex_Sachtjen@thune.senate.gov>
Date: Tuesday, June 23, 2020 at 10:42:39 AM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>
Subject: question

Flagging this question.

Last week, I introduced legislation that would provide additional funding to the FCC for the buildout of broadband networks to unserved areas. Would the framework like the one established under my Rural Connectivity Advancement Program make it easier for the FCC to utilize Congressional dollars for broadband deployment?

Alex J. Sachtjen
Legislative Assistant | Office of U.S. Senator John Thune
511 Dirksen Senate Office Building | Washington, DC 20510
Office: (202) 224-2321 | Fax: (202) 228-5429
Follow Senator Thune:



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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Platform Accountability and Consumer Transparency Act” or the “PACT Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) COMMISSION.—Except as otherwise provided, the term “Commission” means the Federal Trade Commission.

(2) DEMONETIZE.—The term “demonetize”, with respect to content on an interactive computer service, means to take action to prohibit the information content provider that generated or disseminated the content from receiving financial benefit based on the content.

(3) DEPRIORITIZE.—The term “deprioritize”, with respect to content on an interactive computer service, means to take action or use certain techniques to reduce the priority level of the content in response to potentially policy-violating content.

(4) ILLEGAL ACTIVITY.—The term “illegal activity” means activity conducted by an information content provider that has been determined by a Federal or State court to violate Federal criminal or civil law.

(5) ILLEGAL CONTENT.—The term “illegal content” means information provided by an information content provider that has been determined by a Federal or State court to violate—

(A) Federal criminal or civil law; or

(B) State defamation law.

(6) INTERACTIVE COMPUTER SERVICE.—The term “interactive computer service” has the meaning given the term in section 230 of the Communications Act of 1934 (47 U.S.C. 230).

(7) INFORMATION CONTENT PROVIDER.—The term “information content provider” has the meaning given the term in section 230 of the Communications Act of 1934 (47 U.S.C. 230).

(8) POTENTIALLY POLICY-VIOLATING CONTENT.—The term “potentially policy-violating content” means content that may violate the acceptable use policy of the provider of an interactive computer service.

(9) SMALL BUSINESS PROVIDER.—The term “small business provider” means a provider of an interactive computer service that, during the most recent 24-month period—

(A) received fewer than 1,000,000 monthly active users or monthly visitors; and

(B) accrued revenue of less than \$25,000,000.

SEC. 3. FINDINGS.

1 Congress finds the following:

2 (1) Technological advancements involving the internet and interactive computer service
3 providers have led to innovations that offer substantial benefit to the people and the
4 economy of the United States.

5 (2) People in the United States increasingly rely on the internet and other interactive
6 computer services to communicate, gather information, and conduct transactions that are
7 central to many aspects of economic, political, social, and cultural life.

8 (3) The decisions made by providers of interactive computer services shape the online
9 information ecosystem available to people in the United States and impact the environment
10 for free expression.

11 (4) The people of the United States benefit from understanding the choices that
12 interactive computer service providers make in maintaining their services, including by
13 removing, blocking, amplifying, or otherwise modifying information provided by other
14 users.

15 (5) Online consumers are not adequately protected in the United States because, with the
16 exception of Federal criminal statutes, providers of interactive computer services are
17 immune from the enforcement of most Federal statutes and regulations.

18 (6) Federal and State court decisions and Federal statutes and regulations that apply to
19 offline commerce do not always govern online commerce and communications.

20 (7) The rights of consumers should extend to online commerce and communications to
21 provide a level playing field for all consumers and companies, and to prevent wrongdoing
22 and victimization of people in the United States.

23 SEC. 4. POLICY.

24 It is the policy of the United States—

25 (1) to preserve the internet and other interactive computer services as forums for diversity
26 of political discourse, unique opportunities for cultural development, and myriad avenues
27 for intellectual and commercial activity;

28 (2) to ensure consumers have easily accessible and clear information about the acceptable
29 use policies of interactive computer services to inform consumer decisions on participation
30 in, or engagement with, those services through accountability and transparency measures;

31 (3) to encourage the development and use of technologies that minimize illegal activities
32 and content and potentially policy-violating content; and

33 (4) to ensure that the consumer rights of users of interactive computer services are
34 maintained and extended to activities that the users may participate in online.

35 SEC. 5. TRANSPARENCY AND PROCESS 36 REQUIREMENTS.

37 (a) Acceptable Use Policy.—

38 (1) PUBLICATION OF ACCEPTABLE USE POLICY.—A provider of an interactive computer

1 service shall publish an acceptable use policy in accordance with paragraph (2) in a location
2 that is easily accessible to the user.

3 (2) CONTENTS OF POLICY.—The acceptable use policy of a provider of an interactive
4 computer service shall—

5 (A) reasonably inform users about the types of content that are allowed on the
6 interactive computer service;

7 (B) explain the steps the provider takes to ensure content complies with the
8 acceptable use policy;

9 (C) explain the means by which users can notify the provider of potentially policy-
10 violating content, illegal content, or illegal activity, which shall include—

11 (i) subject to subsection (e), making available a live company representative to
12 take user complaints through a toll-free telephone number during regular business
13 hours for not fewer than 8 hours per day and 5 days per week;

14 (ii) an email address or relevant intake mechanism to handle user complaints;
15 and

16 (iii) a complaint system described in subsection (b); and

17 (D) include publication of a semiannual transparency report outlining actions taken
18 to enforce the policy, as described in subsection (d).

19 (b) Complaint System.—A provider of an interactive computer service shall provide a system
20 that is easily accessible to a user through which the user may submit a complaint and track the
21 status of the complaint, including a complaint regarding—

22 (1) potentially policy-violating content, illegal content, or illegal activity; or

23 (2) a decision of the interactive computer service provider to remove content posted by
24 the information content provider.

25 (c) Processing of Complaints.—

26 (1) COMPLAINTS REGARDING ILLEGAL CONTENT, ILLEGAL ACTIVITY, OR POTENTIALLY
27 POLICY-VIOLATING CONTENT.—

28 (A) ILLEGAL CONTENT OR ILLEGAL ACTIVITY.—Subject to subsection (e), if a
29 provider of an interactive computer service receives notice of illegal content or illegal
30 activity on the interactive computer service that substantially complies with the
31 requirements under paragraph (3)(B)(ii) of section 230(c) of the Communications Act
32 of 1934 (47 U.S.C. 230(c)), as added by section 6(a), the provider shall remove the
33 content or stop the activity within 24 hours of receiving that notice, subject to
34 reasonable exceptions based on concerns about the legitimacy of the notice.

35 (B) POTENTIALLY POLICY-VIOLATING CONTENT.—Subject to subsection (e), if a
36 provider of an interactive computer service receives notice of potentially policy-
37 violating content on the interactive computer service, the provider shall, not later than
38 14 days after receiving that notice—

39 (i) review the content;

1 (ii) determine whether the content adheres to the acceptable use policy of the
2 provider; and

3 (iii) take appropriate steps based on the determination made under clause (ii).

4 (2) PROCESS AFTER REMOVAL OF CONTENT.—

5 (A) REMOVAL BASED ON USER COMPLAINT.—

6 (i) IN GENERAL.—Subject to clause (ii), if a provider of an interactive computer
7 service removes potentially policy-violating content based on a user complaint,
8 the provider of the interactive computer service shall, concurrently with the
9 removal—

10 (I) notify the information content provider and the complainant of the
11 removal and explain why the content was removed;

12 (II) allow the information content provider to appeal the decision; and

13 (III) notify the information content provider and the complainant of—

14 (aa) the determination regarding the appeal under subclause (II); and

15 (bb) in the case of a reversal of the decision to remove the content in
16 question, the reason for the reversal.

17 (ii) EXCEPTIONS.—A provider of an interactive computer service shall not be
18 required to provide an information content provider with notice or an opportunity
19 to appeal under clause (i)—

20 (I) if the provider of the interactive computer service is unable to contact
21 the information content provider after taking reasonable steps to do so; or

22 (II) if the provider of the interactive computer service knows that the
23 potentially policy-violating content relates to an ongoing law enforcement
24 investigation.

25 (B) REMOVAL BASED ON MODERATION DECISIONS OF INTERACTIVE COMPUTER
26 SERVICE PROVIDER.—If a provider of an interactive computer service receives notice,
27 through a complaint from the information content provider, that the provider of the
28 interactive computer service removed content of the information content provider that
29 the information content provider believes was not potentially policy-violating content,
30 the provider of the interactive computer service shall, not later than 14 days after
31 receiving notice—

32 (i) review the content;

33 (ii) determine whether the content adheres to the acceptable use policy of the
34 provider of the interactive computer service;

35 (iii) take appropriate steps based on the determination made under clause (ii);
36 and

37 (iv) notify the information content provider regarding the determination made
38 under clause (ii) and steps taken under clause (iii).

39 (d) Quarterly Transparency Report.—

1 (1) IN GENERAL.—Subject to subsection (e), as part of the acceptable use policy required
2 under subsection (a), a provider of an interactive computer service shall publish a quarterly
3 transparency report in accordance with paragraph (2) of this subsection.

4 (2) REQUIREMENTS.—A provider of an interactive computer service shall include in the
5 report required under paragraph (1), with respect to the preceding 3-month period—

6 (A) the total number of instances in which illegal content, illegal activity, or
7 potentially policy-violating content was flagged—

8 (i) due to a user complaint; or

9 (ii) internally, by—

10 (I) an employee or contractor of the provider; or

11 (II) an internal automated detection tool;

12 (B) the number of instances in which the interactive computer service provider took
13 action with respect to illegal content, illegal activity, or known potentially policy-
14 violating content due to its nature as illegal content, illegal activity, or known
15 potentially policy-violating content, including, with respect to such content, removal,
16 demonetization, deprioritization, or appending with an assessment, with respect to such
17 activity, stopping the activity, or with respect to such content or activity, account
18 suspension or account removal, categorized by—

19 (i) the category of rule violated;

20 (ii) the source of the flag, including government, user, internal automated
21 detection tool, coordination with other interactive computer service providers, or
22 personnel employed or contracted for by the provider;

23 (iii) the country of the information content provider; and

24 (iv) coordinated campaign, if applicable;

25 (C)(i) the number of instances in which an information content provider appealed
26 the decision to remove potentially policy-violating content; and

27 (ii) the percentage of appeals described in clause (i) that resulted in the restoration of
28 content; and

29 (D) a description of each tool, practice, action, or technique used in enforcing the
30 acceptable use policy.

31 (3) FORMAT.—A provider of an interactive computer service shall publish the
32 information described in paragraph (2) with an open license, in a machine-readable and
33 open format, and in a location that is easily accessible to consumers.

34 (e) Small Business Provider Exemptions.—

35 (1) LIVE COMPANY REPRESENTATIVE; TRANSPARENCY REPORT.—Subsections (a)(2)(C)(i)
36 and (d) shall not apply to a small business provider.

37 (2) PROCESSING OF COMPLAINTS.—Notwithstanding the deadlines under subsection
38 (c)(1), a small business provider shall take action with respect to illegal content, illegal
39 activity, or potentially policy-violating content under subparagraph (A) or (B) of that

1 subsection, as applicable, within a reasonable period of time based on the size and capacity
2 of the provider.

3 (f) Internet Infrastructure Service Exemption.—Subsections (a) through (e) shall not apply to a
4 provider of an interactive computer service that is used by another interactive computer service
5 for the management, control, or operation of that other interactive computer service, including
6 for services such as web hosting, domain registration, content delivery networks, caching, back-
7 end data storage, and cloud management.

8 (g) Enforcement by Commission.—

9 (1) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—

10 (A) IN GENERAL.—A violation of subsection (c)(1)(B), (c)(2), or (d) shall be treated
11 as a violation of a rule defining an unfair or deceptive act or practice under section
12 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

13 (B) LIMITATION ON AUTHORITY.—Nothing in subparagraph (A) shall be construed to
14 supersede section 230(c)(2) of the Communications Act of 1934 (47 U.S.C. 230(c)(2))
15 or to otherwise authorize the Commission to review any action or decision by a
16 provider of an interactive computer service related to the application of the acceptable
17 use policy of the provider.

18 (2) POWERS OF COMMISSION.—

19 (A) IN GENERAL.—Except as provided in subparagraph (C), the Commission shall
20 enforce this section in the same manner, by the same means, and with the same
21 jurisdiction, powers, and duties as though all applicable terms and provisions of the
22 Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made
23 a part of this Act.

24 (B) PRIVILEGES AND IMMUNITIES.—Except as provided in subparagraph (C), any
25 person who violates this section shall be subject to the penalties and entitled to the
26 privileges and immunities provided in the Federal Trade Commission Act (15 U.S.C.
27 41 et seq.).

28 (C) NONPROFIT ORGANIZATIONS.—Notwithstanding section 4 of the Federal Trade
29 Commission Act (15 U.S.C. 44) or any jurisdictional limitation of the Commission, the
30 Commission shall also enforce this section, in the same manner provided in
31 subparagraphs (A) and (B) of this paragraph, with respect to organizations not
32 organized to carry on business for their own profit or that of their members.

33 (h) GAO Report on Whistleblower Protection and Awards.—Not later than 1 year after the
34 date of enactment of this Act, the Comptroller General of the United States shall submit a report
35 to Congress assessing the viability, including the anticipated cost and benefit to consumers, of
36 establishing a whistleblower protection and award program for employees and contractors of
37 interactive computer services, to be administered by the Commission, that would enable
38 reporting and enforcement of violations of consumer protections that take place online.

39 (i) NIST Voluntary Framework.—

40 (1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the
41 Director of the National Institute of Standards and Technology shall develop a voluntary

1 framework, with input from relevant experts, that consists of nonbinding standards,
2 guidelines, and best practices to manage risk and shared challenges related to, for the
3 purposes of this Act, good faith moderation practices by interactive computer service
4 providers.

5 (2) CONTENTS.—The framework developed under paragraph (1) shall include—

6 (A) technical standards and processes for the sharing of information among
7 providers of an interactive computer service;

8 (B) recommendations on automated detection tools and the appropriate nature and
9 level of human review to correct for machine error in assessing nuanced or context-
10 specific issues;

11 (C) standards and processes for providing researchers access to data to conduct
12 scientific, historical, statistical, and other relevant research, including with respect to
13 content that is removed, demonetized, or deprioritized by the provider of an interactive
14 computer service; and

15 (D) methods to strengthen the capacity of a provider of an interactive computer
16 service to authenticate documentation of a determination by a court that content or an
17 activity violates Federal law or State defamation law.

18 SEC. 6. INTERMEDIARY LIABILITY.

19 (a) Intermediary Liability Standard.—Section 230(c) of the Communications Act of 1934 (47
20 U.S.C. 230(c)) is amended by adding at the end the following:

21 “(3) INTERMEDIARY LIABILITY STANDARD.—

22 “(A) IN GENERAL.—The protection under paragraph (1) shall not apply to a provider
23 of an interactive computer service, with respect to illegal content shared or illegal
24 activity occurring on the interactive computer service, if the provider—

25 “(i) has knowledge of the illegal content or illegal activity; and

26 “(ii) subject to subparagraph (C), does not remove the illegal content or stop the
27 illegal activity within 24 hours of acquiring that knowledge, subject to reasonable
28 exceptions based on concerns about the legitimacy of the notice.

29 “(B) NOTIFICATION OF ILLEGAL CONTENT OR ILLEGAL ACTIVITY.—

30 “(i) IN GENERAL.—A provider of an interactive computer service shall be
31 deemed to have knowledge of illegal content or illegal activity for purposes of
32 subparagraph (A) if the provider receives a notification of such content or activity
33 that substantially complies with the requirements under clause (ii) of this
34 subparagraph.

35 “(ii) ELEMENTS.—A notification of illegal content or illegal activity provided to
36 a provider of an interactive computer service as described in clause (i) shall be in
37 writing and include the following:

38 “(I) A copy of the order of a Federal or State court under which the
39 content or activity was determined to violate Federal law or State defamation

1 law, and to the extent available, any references substantiating the validity of
2 the order, such as the web addresses of public court docket information.

3 “(II) Identification of the illegal content or illegal activity, and information
4 reasonably sufficient to permit the provider to locate the content or each
5 account involved.

6 “(III) Information reasonably sufficient to permit the provider to contact
7 the complaining party, which shall include—

8 “(aa) if the complaining party is a user of the interactive computer
9 service, information identifying the user account; and

10 “(bb) if the complaining party is not a user of the interactive
11 computer service, an email address of the complaining party.

12 “(IV) A statement by the complaining party, made under penalty of
13 perjury in accordance with section 1746 of title 28, United States Code,
14 that—

15 “(aa) the content in the notification is accurate; and

16 “(bb) the content or activity described in the notification has been
17 determined by a Federal or State court to be illegal.

18 “(C) EXEMPTIONS.—

19 “(i) SMALL BUSINESS PROVIDERS.—Notwithstanding the deadline under clause
20 (ii) of subparagraph (A), a small business provider shall take action with respect
21 to illegal content or illegal activity under that subparagraph within a reasonable
22 period of time based on the size and capacity of the provider.

23 “(ii) INTERNET INFRASTRUCTURE SERVICES.—Subparagraph (A) shall not apply
24 with respect to an interactive computer service that is used by another interactive
25 computer service for the management, control, or operation of that other
26 interactive computer service, including for services such as web hosting, domain
27 registration, content delivery networks, caching, back-end data storage, and cloud
28 management.

29 “(D) MONITORING OR AFFIRMATIVE FACT-SEEKING NOT REQUIRED.—Nothing in this
30 paragraph shall be construed to condition the applicability of paragraph (1) to a
31 provider of an interactive computer service on the provider monitoring the interactive
32 computer service or affirmatively seeking facts indicating illegal content or illegal
33 activity in order to identify instances of noticed activity or content additional to any
34 instances about which the provider has received a notification.

35 “(E) ENFORCEMENT EXEMPTION.—Nothing in this paragraph shall be construed to
36 impair or limit the application of subsection (e)(1) or (g).”.

37 (b) Definitions.—Section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)) is
38 amended by adding at the end the following:

39 “(5) ILLEGAL ACTIVITY.—The term ‘illegal activity’ means activity conducted by an
40 information content provider that has been determined by a Federal or State court to violate

1 Federal criminal or civil law.

2 “(6) ILLEGAL CONTENT.—The term ‘illegal content’ means information provided by an
3 information content provider that has been determined by a Federal or State court to violate
4 Federal criminal or civil law or State defamation law.

5 “(7) SMALL BUSINESS PROVIDER.—The term ‘small business provider’ means a provider
6 of an interactive computer service that, during the most recent 24-month period—

7 “(A) received fewer than 1,000,000 monthly active users or monthly visitors; and

8 “(B) accrued revenue of less than \$25,000,000.”.

9 (c) Technical Correction.—Section 230(c)(2)(B) of the Communications Act of 1934 (47
10 U.S.C. 230(c)(2)(B)) is amended by striking “paragraph (1)” and inserting “subparagraph (A)”.

11 **SEC. 7. FEDERAL AND STATE ENFORCEMENT.**

12 (a) Federal Enforcement.—Section 230(e)(1) of the Communications Act of 1934 (47 U.S.C.
13 230(e)) is amended—

14 (1) in the heading, by striking “Criminal Law” and inserting “Federal Criminal or Civil
15 Law”; and

16 (2) by striking “or any other Federal criminal statute” and inserting “any other Federal
17 criminal or civil statute, or any regulations of an Executive agency (as defined in section
18 105 of title 5, United States Code) or an establishment in the legislative or judicial branch of
19 the Federal Government”.

20 (b) Enforcement of Federal Civil Laws by State Attorneys General.—Section 230 of the
21 Communications Act of 1934 (47 U.S.C. 230) is amended by adding at the end the following:

22 “(g) Enforcement of Federal Civil Laws by State Attorneys General.—Notwithstanding any
23 other provision of this section, and in consultation with the Attorney General, the attorney
24 general of a State alleging a violation by a provider of an interactive computer service of a
25 Federal civil law that affects or may affect the State or the residents of the State may bring a civil
26 action on behalf of the residents of the State in any district court of the United States for the
27 district in which the provider is found or transacts business if the underlying claim would
28 constitute a violation of the substantive, nonjurisdictional elements of a civil law of the State.”.

29 **SEC. 8. SEVERABILITY.**

30 If any provision of this Act or an amendment made by this Act, or the application of such a
31 provision or amendment to any person or circumstance, is held to be unenforceable or invalid,
32 the remaining provisions of this Act and amendments made by this Act, and the application of
33 the provision or amendment so held to other persons not similarly situated or to other
34 circumstances, shall not be affected thereby.

35 **SEC. 9. EFFECTIVE DATE.**

36 This Act and the amendments made by this Act shall take effect on the date that is 1 year after
37 the date of enactment of this Act.

Section-by-Section Guide to the Platform Accountability and Consumer Transparency Act

Section 1: Title

This act may be cited as the “*Platform Accountability and Consumer Transparency Act*,” or “*PACT Act*.”

Section 2: Definitions

This section defines terms used throughout the Act, including ‘illegal content’ and ‘illegal activity.’

Section 3: Findings

This section recognizes the improvements the Internet has made to communications and commerce in the daily lives of Americans, underlines the influence of providers in shaping consumers’ online experiences, and highlights the importance of consumers’ access to information about online products.

Section 4: Policy

This section reaffirms the importance of preserving a vibrant Internet while expanding policy to include promoting consumer access to information, minimizing illegal content and activities online, and ensuring consumer protections.

Section 5: Transparency and Process Requirements

This section establishes uniform customer service, due process, and transparency standards for interactive computer service providers, but does not condition a platform’s protections under Section 230 to the enforcement of its acceptable use policy. The Act also creates consistent requirements for the handling of illegal content, illegal activity, and content that violates a platform’s terms of service by requiring that:

- All interactive computer service providers have an acceptable use policy that reasonably informs users about the content allowed on the service.
- All interactive computer service providers have a defined complaint system that processes reports and notifies users of final decisions related to reports of: illegal content, illegal activity, content in violation of the provider’s acceptable use policy.
- The original creator of content that has been removed by an interactive computer service provider has an opportunity to appeal the moderator’s decision.
- Large interactive computer service providers notify users of decisions related to reported content, and illegal content and illegal activity, within 2 weeks and 24 hours, respectively.
- Smaller interactive computer service providers have more flexibility to reasonably address illegal content, illegal activity, and potentially policy violating content, based on their size and capacity.
- Large interactive computer service providers publish a quarterly transparency report disclosing their moderation actions and decisions, posted on their platform and in machine-readable format.

Updated 6/19

- The National Institute of Standards for Technology establishes a voluntary framework to promote best practices around information sharing and other shared challenges facing interactive computer service providers.
- The GAO publishes a study on the viability of an FTC-administered whistleblower program that allows employees and contractors of interactive computer service providers to safely report consumer protection violations.

Section 6: Intermediary Liability

This section narrows Section 230 immunity for interactive computer service providers in instances where they fail to address known illegal content or illegal activity. This section amends Section 230 so that:

- Large platforms that fail to remove illegal content or take action on illegal activity within 24 hours after receiving notice (with more flexible timelines for smaller providers) lose Section 230 protections for that content.
- Notice of illegal content or illegal activity includes a copy of a court order regarding such content or activity, as well as other clarifying information about the content or activity.

Section 7: Enforcement

This section narrows the protections of Section 230 by exempting the enforcement of federal civil laws, and enables state Attorneys General to pursue federal civil violations in federal court. This section amends Section 230 by:

- Expanding Section 230 exemptions to include the government enforcement of federal civil law and regulations, in addition to the existing carve out for federal criminal law.
- Authorizing state Attorneys General to enforce Section 230 violations in federal court in narrow instances in which state law mirrors federal law, and after consultation with relevant federal actors.

Section 8: Exemptions

This section exempts infrastructure providers, which are defined as web hosting services, domain registration services, content delivery networks, caching services, back-end data storage, and cloud management providers, from the Act.

Section 9: Severability

This section clarifies that if any provision of this Act is found to be unenforceable or invalid, the applications of other provisions of the Act will not be affected.

Section 10: Effective Date

This section states that this Act will take effect within one year.

From: [Susan Fisenne](#)
To: [Mike O'Rielly](#); [Joel G. Miller](#)
Subject: Fw: Questions for FierceWireless CBRS panel
Date: Friday, May 8, 2020 4:24:25 PM

From: Linda Hardesty <lhardesty@questex.com>
Sent: Friday, May 8, 2020 3:46 PM
To: Mike O'Rielly <Mike.O'Rielly@fcc.gov>
Cc: Susan Fisenne <Susan.Fisenne@fcc.gov>
Subject: Questions for FierceWireless CBRS panel

Hi Commissioner O'Rielly,
We're looking forward to having you participate in our FierceWireless virtual event about CBRS on Monday, May 18.
Below is my list of questions for our interview. Susan, could you please confirm receipt of these questions? Thank you!

Questions for Michael O'Rielly:

Interested parties in the PALs auctions have already been required to send in their Short Form 175, so you know who the bidders likely will be. Who is interested? If you can't say specifically, can you say by category: Tier 1 wireless providers, MSOs, big cloud companies, industries such as utilities, venue owners, spectrum brokers?

How much are you hoping the PALs auction raises? I've heard estimates of between \$3.5 billion to \$4 billion.

Do you think the PALs licenses are more valuable in the hands of service providers as opposed to enterprises?

Given that C-Band will offer much more spectrum than CBRS (280 MHz vs. 70 MHz), do you think carriers will wait for that C-Band auction in December?

How might carriers such as Verizon and T-Mobile use CBRS? Will it just be a bridge on macro towers to C-Band?

There were a lot of moving parts to bring this CBRS spectrum to auction, between working with the DoD, determining the market size of the PAL licenses, making sure the SAS and ESC work and so forth. What was the most challenging part?

Aside from service providers, there's a feeling that a lot of organizations don't have CBRS on

their radar. If they don't, how will they be able to benefit from it later after the July PALs auctions? The spectrum sharing capabilities built into the CBRS rules should help. Can you explain?

I think it's assumed a lot of PALs won't be purchased. Is there likely to be a second round of PALs auctions?

You've said the power limit restrictions on PALs and GAA are woefully inadequate. Are you concerned about Tier 1's use of CBRS in macro environments or the use of CBRS for smaller players such as WISPS for fixed wireless access deployments? If power limits were increased wouldn't that cause interference problems?

You recently sent a letter to President Trump imploring him to help with more mid-band spectrum, specifically 3.1-3.55 GHz spectrum that is allocated to the Department of Defense. Have you gotten a response from President Trump? Is this the United States' best shot at allocating more mid-band spectrum for 5G?

What do you think are the unknowns in terms of the auction and how this all unfolds?

Linda Hardesty

Editor-in-Chief | FierceTelecom Group
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From: [Susan Fisenne](#)
To: [Mike ORIelly](#)
Subject: Fw: Reminder - Tuesday 7/7 6:00 pm ET
Date: Tuesday, July 7, 2020 11:04:42 AM

No password to join zoom meeting tonight. Below are questions.

From: Kennedy Smith <kennedy.smith@colorado.edu>
Sent: Tuesday, July 7, 2020 10:57 AM
To: Susan Fisenne <Susan.Fisenne@fcc.gov>
Cc: Sara Schnittgrund <sara.schnittgrund@colorado.edu>; Amie Stepanovich <Amie.Stepanovich@colorado.edu>; Blake Reid <blake.reid@colorado.edu>
Subject: Re: Reminder - Tuesday 7/7 6:00 pm ET

Hi Susan,

Here's a general outline of questions to guide our conversation:

I. What (do you do)?

- Just to start off with—can you explain from your perspective what your position is at the FCC, what your day-to-day looks like, what issues you're involved in?

II. Why (did you pick your current place of employment)?

- Why the FCC? What drew you there?
- What's the best part about your job?
- What's challenging, what hardships come with it?
- How does it differ from your expectations?

III. How (did you get to where you are)?

Education

- Recommended classes—what do you use the most in your current position?
- What activities were you involved in? What did you get out of them / do you wish you'd gotten out of them?
- How did you cultivate mentors while you were in school?

Internships / Work Experience

- Where did you intern at (if applicable)? How did you succeed as an intern?
- What did you take away from those experiences? What was important to you in your intern experiences?
- How did you leverage your internships after the fact?
- Networking advice/things you'd wish you'd known while a

Applying

- How did you develop "leads" in D.C.? (CDO, personal connections)
- How'd you get your foot in the door at your first job?
- What do you wish someone had told you? What should you have done that you didn't?

Broader career advice

- Have you ever moved between jobs or positions in the same organization – when, why, how?

Students might also have general questions for him related to covid-19, the President's recent section 230 EO, the future of broadcast TV, 5G issues, etc. I know that Commissioner

O'Rielly is very passionate and vocal about a number of telecom issues. Please let me know if there are any current event topics that he would enjoy discussing in particular, and I'll make sure to bring them up.

-Kennedy

On Tue, Jul 7, 2020 at 7:59 AM Susan Fisenne <Susan.Fisenne@fcc.gov> wrote:

Sure, the questions will be great. I'm sure the entire 90 minutes will not be needed.

Thanks!

Susan

From: Sara Schnittgrund <Sara.Schnittgrund@Colorado.EDU>
Sent: Tuesday, July 7, 2020 9:55 AM
To: Susan Fisenne <Susan.Fisenne@fcc.gov>; Kennedy Smith <kennedy.smith@Colorado.EDU>
Cc: Amie Stepanovich <Amie.Stepanovich@colorado.edu>; Blake Reid <blake.reid@Colorado.EDU>
Subject: Re: Reminder - Tuesday 7/7 6:00 pm ET

Hi Susan,

There is no password to join the zoom meeting. We've reserved 90 minutes for this session, but we certainly don't need to use the entire hour and a half. Commissioner O'Rielly is our only speaker. This is intended to be a casual conversation with our 8 students that are working in DC agencies and organizations. I believe he did something similar a couple of years ago. Kennedy has a series of questions that he can use to guide the conversation. We can share those with you if it's helpful.

Sara

Get [Outlook for iOS](#)

From: Susan Fisenne <Susan.Fisenne@fcc.gov>
Sent: Tuesday, July 7, 2020 5:57:05 AM
To: Sara Schnittgrund <Sara.Schnittgrund@Colorado.EDU>; Kennedy Smith <kennedy.smith@Colorado.EDU>
Cc: Amie Stepanovich <Amie.Stepanovich@colorado.edu>; Blake Reid

<blake.reid@Colorado.EDU>

Subject: RE: Reminder - Tuesday 7/7 6:00 pm ET

Good morning, Sara and Kennedy.

Just checking....is there a password to join or is the code all he needs?

Also, how long is the Commissioner's portion of the event? The invite is 6:00 to 7:30 pm but I assume there are other speakers and panels.

Thanks much!

Susan

From: Sara Schnittgrund <Sara.Schnittgrund@Colorado.EDU>

Sent: Wednesday, July 1, 2020 6:19 PM

To: Susan Fisenne <Susan.Fisenne@fcc.gov>; Kennedy Smith
<kennedy.smith@Colorado.EDU>

Cc: Amie Stepanovich <Amie.Stepanovich@colorado.edu>; Blake Reid
<blake.reid@Colorado.EDU>

Subject: Reminder - Tuesday 7/7 6:00 pm ET

Hi Susan,

Hope you are doing well and staying safe this summer! I'm reaching out to confirm our CU Summer Scholars session with Commissioner O'Rielly on Tuesday 7/7 at 6:00 pm ET (zoom room listed below). Thank you again, for putting this seminar on Commissioner O'Rielly's schedule. Our student cohort is very excited to have a chance to meet with him. We will have 8 students joining in to listen. I've included Kennedy Smith on this thread, as he will serve as our student moderator for the evening. Kennedy is currently interning at the FCC Media Bureau, and would love to touch base with you and/or Commissioner O'Rielly on the details for the evening session. Thanks again for your help!

Sara

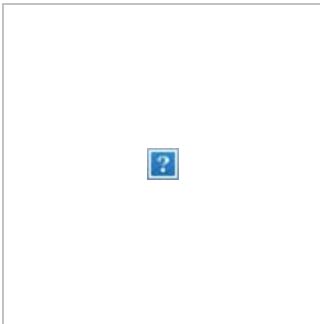
<https://cu.law/zoom202> - Zoom join code (b) (6)

Telephone dial-in Number (audio only): 1-669-900-6833

NOTE: Telephone dial-in is available if bandwidth is an issue. Call the number above and enter the Zoom Join Code that corresponds with your Zoom Room.

Sara Schnittgrund

Director of Student Programs



University of Colorado

401 UCB - Wolf Law Building

Boulder, Colorado 80309

Office: 303.492.0441 | Sara.Schnittgrund@colorado.edu

Siliconflatirons.org

From: [Susan Fisenne](#)
To: [Mike O'Reilly](#); [Joel G. Miller](#)
Subject: FW: Request for comment - Pai moving forward on 230
Date: Thursday, October 15, 2020 3:19:52 PM

From: Chris Mills Rodrigo <cmillsrodrigo@thehill.com>
Sent: Thursday, October 15, 2020 3:10 PM
To: Susan Fisenne <Susan.Fisenne@fcc.gov>
Subject: Re: Request for comment - Pai moving forward on 230

*O'Reilly, sorry busy day!!

On Thu, Oct 15, 2020 at 3:09 PM Chris Mills Rodrigo <cmillsrodrigo@thehill.com> wrote:

Hi Susan,

Hope you're well! I'm reaching out to see if Commissioner O'Reilly has any statement to share on Aji Pai announcing his intention to move forward with rulemaking to clarify the scope of Section 230.

Best,
Chris Mills Rodrigo

--

Chris Mills Rodrigo
Tech Policy Reporter, The Hill
(510) 408-8355
[@chrismills](#)

--

Chris Mills Rodrigo
Tech Policy Reporter, The Hill
(510) 408-8355
[@chrismills](#)

From: [Susan Fisenne](#)
To: [Mike ORIelly](#)
Subject: FW: Schedule an event on DoD RFI
Date: Tuesday, October 13, 2020 8:18:12 AM
Attachments: [image002.png](#)

Ha!

From: McDowell, Robert M <rmcdowell@cooley.com>
Sent: Tuesday, October 13, 2020 7:58 AM
To: Harold Furchtgott-Roth <hfr@furchtgott-roth.com>
Cc: Susan Fisenne <Susan.Fisenne@fcc.gov>; Grace Koh <grace.koh@nokia.com>
Subject: Re: Schedule an event on DoD RFI

Thanks! I'm hoping that Mike and Grace will do all of the talking.

BTW, to avoid confusion, maybe we should limit the use of the title "Commissioner." Or we reserve the use of it for Mike, seeing as how he's the only one among us who actually has any statutory power.

Then again, maybe I'll use that title often just to sow confusion. ;)

Looking forward to it (as soon as I study a bit more)!

Cheers,
Rob

Robert M. McDowell
(202) 251-4640 - cell
usa.mcdowell@gmail.com - personal
[@McDowellTweet](#)
Sent from my iPhone, so please excuse all bizarre typos.

On Oct 13, 2020, at 7:36 AM, Harold Furchtgott-Roth <hfr@furchtgott-roth.com> wrote:

[External]

Susan,
The recording will be remote. The Zoom link is below.
Thank you,

Harold Furchtgott-Roth
(301) 219-3904
hfr@furchtgott-roth.com

Begin forwarded message:

From: Philip Hegseth <phegseth@hudson.org>
Date: October 9, 2020 at 4:03:48 PM EDT
To: "McDowell, Robert M" <rmcdowell@cooley.com>, Harold Furchtgott-Roth <hfr@furchtgott-roth.com>
Cc: Brandi Jackson <brandi@hudson.org>, Kirk Arner <karner@hudson.org>, "Foxwell, Tammi A" <tfoxwell@cooley.com>
Subject: Re: Schedule an event on DoD RFI

Hi Robert and all,

Below is the link for next Tuesday's 2pm ET scheduled recording. I will plan to open that call about 15 minutes early to make myself available to assist with anyone having technical issues joining. Please feel free to call me if you have any such issues:

651.307.1002

Topic: RECORDING: The Future of American Spectrum Policy
Time: Oct 13, 2020 02:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/88105153117?pwd=emV3TmNHUUJCN2VGdGxKMyt0dUE1UT09>

<image002.png>

Philip Hegseth

Technical Manager

[Hudson Institute](#)

o. (202) 974-2406

c. (651) 307-1002

From: "McDowell, Robert M" <rmcdowell@cooley.com>
Date: Friday, October 9, 2020 at 3:58 PM
To: Harold Furchtgott-Roth <hfr@furchtgott-roth.com>
Cc: Philip Hegseth <phegseth@hudson.org>, Brandi Jackson <brandi@hudson.org>, Kirk Arner <karner@hudson.org>, "Foxwell, Tammi A" <tfoxwell@cooley.com>
Subject: Re: Schedule an event on DoD RFI

Team: Commissioner O’Rielly just called me. Do we have the logistics for logging onto the virtual meeting we could give to his team? I’d love to have those too.

Thanks!

Rob

Robert M. McDowell

(202) 251-4640 - cell

usa.mcdowell@gmail.com - personal

@McDowellTweet

Sent from my iPad, so please excuse all bizarre typos!

On Oct 9, 2020, at 9:03 AM, Harold Furchtgott-Roth <HFR@furchtgott-roth.com> wrote:

[External]

Good to go.

Harold Furchtgott-Roth

Furchtgott-Roth Economic Enterprises

(301) 219-3904

hfr@furchtgott-roth.com

From: Philip Hegseth <phegseth@hudson.org>

Date: Friday, October 9, 2020 at 8:53 AM

To: "McDowell, Robert M" <rmcdowell@cooley.com>, Harold Furchtgott-Roth <hfr@furchtgott-roth.com>

Cc: Brandi Jackson <brandi@hudson.org>, Kirk Arner <karner@hudson.org>, "Foxwell, Tammi A" <tfoxwell@cooley.com>

Subject: Re: Schedule an event on DoD RFI

Hi Harold – can you confirm this is good to go so we can publish today?

Thanks,

-Phil

From: Philip Hegseth <phegseth@hudson.org>

Date: Thursday, October 8, 2020 at 12:56 PM

To: "McDowell, Robert M" <rmcdowell@cooley.com>, Harold Furchtgott-Roth <hfr@furchtgott-roth.com>

Cc: Brandi Jackson <brandi@hudson.org>, Kirk Arner <karner@hudson.org>

"Foxwell, Tammi A" <tfoxwell@cooley.com>

Subject: Re: Schedule an event on DoD RFI

Hi all,

Here is a preview for this event getting posted on the website. Let me know if you see any issues, or if this is good to publish.

<https://www.hudson.org/events/preview/1868-the-future-of-american-spectrum-policy-is-do-d-s-request-for-information-the-best-direction-102020>

Thanks,

-Phil

From: "McDowell, Robert M" <rmcdowell@cooley.com>

Date: Thursday, October 8, 2020 at 12:49 PM

To: Harold Furchtgott-Roth <hfr@furchtgott-roth.com>

Cc: Philip Hegseth <phegseth@hudson.org>, Brandi Jackson <brandi@hudson.org>, Kirk Arner <karner@hudson.org>, "Foxwell, Tammi A" <tfoxwell@cooley.com>

Subject: Re: Schedule an event on DoD RFI

OK.

Robert M. McDowell

(202) 251-4640 - cell

usa.mcdowell@gmail.com - personal

@McDowellTweet

Sent from my iPad, so please excuse all bizarre typos!

On Oct 8, 2020, at 12:46 PM, Harold Furchtgott-Roth <HFR@furchtgott-roth.com> wrote:

[External]

Grace is a "former" for responsibility but perhaps not for title. One of the few advantages of being designated "Ambassador" is that it apparently is a lifetime title. It is not a big deal; I don't believe Grace will be offended one way or the other.

Harold Furchtgott-Roth

Furchtgott-Roth Economic Enterprises

(301) 219-3904

hfr@furchtgott-roth.com

From: "McDowell, Robert M" <rmcdowell@cooley.com>
Date: Thursday, October 8, 2020 at 12:42 PM
To: Harold Furchtgott-Roth <hfr@furchtgott-roth.com>
Cc: Philip Hegseth <phegseth@hudson.org>, Brandi Jackson <brandi@hudson.org>, Kirk Arner <karner@hudson.org>, "Foxwell, Tammi A" <tfoxwell@cooley.com>
Subject: Re: Schedule an event on DoD RFI

FYI, Grace is also a "former."

Robert M. McDowell
(202) 251-4640 - cell
usa.mcdowell@gmail.com - personal
@McDowellTweet
Sent from my iPhone, so please excuse all bizarre typos.

On Oct 8, 2020, at 12:09 PM, Harold Furchtgott-Roth <hfr@furchtgott-roth.com> wrote:

[External]

A few edits below:

Join Hudson Institute for a conversation with FCC Commissioner Michael O’Rielly, former FCC Commissioner Robert McDowell, and Ambassador and Special Advisor Grace Koh to discuss the Defense Department’s Dynamic Spectrum Sharing (DSS) Request for Information. Hudson Senior Fellow Harold Furchtgott-Roth will moderate the conversation.

In an effort to advance 5G technologies, the Trump Administration recently released to the FCC additional spectrum from the Defense Department for commercial use. The RFI seeks information about how DoD might lease spectrum for commercial use, including in the same band previously released to the FCC. DoD still operates in large portions of mid- and low-band spectrum considered optimal for the development of 5G technologies.

Concerns have been raised, most notably from members of Congress, about how DoD can own and operate 5G networks and lease capacity to commercial users on government-owned networks. The DoD’s Request for Information also solicits input from the telecom industry on how best to develop and to deploy dynamic spectrum sharing for civilian and military users. As the United States races

against China to build 5G networks, industry carriers point to their successful private sector-led efforts to deploy 4G, noting the industry's capacity for 5G technology innovation.

Commissioners O'Rielly and McDowell and Amb. Koh will discuss the DoD's RFI, potential implications, and how industry and the government stakeholders can ensure the U.S. remains a global leader in 5G network deployment.

Harold Furchtgott-Roth
Furchtgott-Roth Economic Enterprises
(301) 219-3904
hfr@furchtgott-roth.com

From: Philip Hegseth <phegseth@hudson.org>
Date: Thursday, October 8, 2020 at 11:51 AM
To: Brandi Jackson <brandi@hudson.org>, Harold Furchtgott-Roth <hfr@furchtgott-roth.com>, "McDowell, Robert M" <rmcdowell@cooley.com>
Cc: Kirk Arner <karner@hudson.org>, "Foxwell, Tammi A" <tfoxwell@cooley.com>
Subject: Re: Schedule an event on DoD RFI

Hi Harold – following up here.

At your earliest convenience, please confirm whether the below description is good to go. Additionally, a suggested title for the talk would be appreciated. Once we have these, we can post to the website and begin promotion.

Thanks,
-Phil

From: Brandi Jackson <brandi@hudson.org>
Date: Tuesday, October 6, 2020 at 4:07 PM
To: Harold Furchtgott-Roth <hfr@furchtgott-roth.com>, "McDowell, Robert M" <rmcdowell@cooley.com>
Cc: Kirk Arner <karner@hudson.org>, Public Affairs <publicaffairs@hudson.org>, "Foxwell, Tammi A" <tfoxwell@cooley.com>
Subject: RE: Schedule an event on DoD RFI

Terrific. I have edited the description accordingly.

Please let me know if the description is approved and what your suggested title is for the event.

Many thanks again,

Brandi

Join Hudson Institute for a conversation with FCC Commissioner Michael O’Rielly, former FCC Commissioner Robert McDowell, and Ambassador and Special Advisor Grace Koh to discuss the Defense Department’s Dynamic Spectrum Sharing (DSS) Request for Information. Hudson Senior Fellow Harold Furchtgott-Roth will moderate the conversation.

In an effort to advance 5G technologies, the Trump Administration recently released additional spectrum from the Defense Department for commercial use, providing 100 megahertz of contiguous mid-band spectrum that will be auctioned off by the Federal Communications Commission. However, DoD still holds large portions of mid- and low-band spectrum considered optimal for the development of 5G technologies.

Concerns have been raised, most notably from members of Congress, about how DoD can own and operate 5G networks and whether nationalizing 5G will hinder a successful free-market strategy to deploy 5G networks. The DoD’s Request for Information solicits input from the telecom industry on how to best develop and deploy dynamic spectrum sharing for civilian and military users. As the United States races against China to build 5G networks, industry partners point to their successful private sector-led efforts to deploy 4G, noting the industry’s capacity for 5G technology innovation.

Commissioners O’Rielly and McDowell and Amb. Koh will discuss the DoD’s RFI, potential implications, and how industry and the government stakeholders can ensure the U.S. remains a global leader in 5G network deployment.

From: Harold Furchtgott-Roth <hfr@furchtgott-roth.com>

Sent: Tuesday, October 6, 2020 4:00 PM

To: McDowell, Robert M <rmcdowell@cooley.com>; Brandi Jackson <brandi@hudson.org>

Cc: Kirk Arner <karnar@hudson.org>; Public Affairs <publicaffairs@hudson.org>; Foxwell, Tammi A <tfoxwell@cooley.com>

Subject: Re: Schedule an event on DoD RFI

I had not reviewed this either. Comm. McDowell is exactly correct: we are pleased to welcome Amb. Grace Koh to the panel.

Harold Furchtgott-Roth
Furchtgott-Roth Economic Enterprises
(301) 219-3904
hfr@furchtgott-roth.com

From: "McDowell, Robert M" <rmcdowell@cooley.com>
Date: Tuesday, October 6, 2020 at 3:57 PM
To: Brandi Jackson <brandi@hudson.org>
Cc: Harold Furchtgott-Roth <HFR@furchtgott-roth.com>, Kirk Arner <karner@hudson.org>, Public Affairs <publicaffairs@hudson.org>, "Foxwell, Tammi A" <tfoxwell@cooley.com>
Subject: Re: Schedule an event on DoD RFI

Apologies if I am slow to get to the bottom of my inbox today, and I don't want to intrude, but it looks as though we have confirmation from former WRC Ambassador Grace Koh to join this panel discussion, so our promotional materials can now reflect that. But I defer to Harold on this point.

Thanks!
Rob

Robert M. McDowell
(202) 251-4640 - cell
usa.mcdowell@gmail.com - personal
@McDowellTweet
Sent from my iPad, so please excuse all bizarre typos!

On Oct 6, 2020, at 1:28 PM, Brandi Jackson <brandi@hudson.org> wrote:

[External]

Hi Harold,

Phil confirmed that he is available the afternoon of the 13th. Is there a specific time that works best for you and Commissioners O'Rielly and McDowell?

Also, at your earliest convenience, can you review the event description below? And do you have a title in mind for this event?

Join Hudson Institute for a conversation with FCC Commissioner Michael O’Rielly and former FCC Commissioner Robert McDowell to discuss the Defense Department’s Dynamic Spectrum Sharing (DSS) Request for Information. Hudson Senior Fellow Harold Furchtgott-Roth will moderate the conversation.

In an effort to advance 5G technologies, the Trump Administration recently released additional spectrum from the Defense Department for commercial use, providing 100 megahertz of contiguous mid-band spectrum that will be auctioned off by the Federal Communications Commission. However, DoD still holds large portions of mid- and low-band spectrum considered optimal for the development of 5G technologies.

Concerns have been raised, most notably from members of Congress, about how DoD can own and operate 5G networks and whether nationalizing 5G will hinder a successful free-market strategy to deploy 5G networks. The DoD’s Request for Information solicits input from the telecom industry on how to best develop and deploy dynamic spectrum sharing for civilian and military users. As the United States races against China to build 5G networks, industry partners point to their successful private sector-led efforts to deploy 4G, noting the industry’s capacity for 5G technology innovation.

Commissioners O’Rielly and McDowell will discuss the DoD’s RFI, potential implications, and how industry and the government stakeholders can ensure the U.S. remains a global leader in 5G network deployment.

Thanks,
Brandi

From: Harold Furchtgott-Roth <hfr@furchtgott-roth.com>

Sent: Friday, October 2, 2020 11:34 AM

To: McDowell, Robert M <rmcdowell@cooley.com>; Brandi Jackson <brandi@hudson.org>; Kirk Arner <karner@hudson.org>

Cc: Ann Marie Hauser <amhauser@hudson.org>; Philip Hegseth <phegseth@hudson.org>; Public Affairs <publicaffairs@hudson.org>; Foxwell, Tammi A <tfoxwell@cooley.com>

Subject: Re: Schedule an event on DoD RFI

Adding Kirk.

Harold Furchtgott-Roth

Furchtgott-Roth Economic Enterprises
(301) 219-3904
hfr@furchtgott-roth.com

From: "McDowell, Robert M" <rmcdowell@cooley.com>
Date: Friday, October 2, 2020 at 10:40 AM
To: Brandi Jackson <brandi@hudson.org>
Cc: Harold Furchtgott-Roth <HFR@furchtgott-roth.com>, Ann Marie Hauser <amhauser@hudson.org>, Philip Hegseth <phegseth@hudson.org>, Public Affairs <publicaffairs@hudson.org>, "Foxwell, Tammi A" <tfoxwell@cooley.com>
Subject: Re: Schedule an event on DoD RFI

Adding the Amazing Tammi to help us with scheduling, if needed.

Thanks.

Rob

Robert M. McDowell
(202) 251-4640 - cell
usa.mcdowell@gmail.com - personal
@McDowellTweet

Sent from my iPad, so please excuse all bizarre typos!

On Oct 2, 2020, at 10:36 AM, Brandi Jackson <brandi@hudson.org> wrote:

[External]

Harold,

Thank you for the quick turnaround on this. I think the afternoon should work fine. Since Phil will be the one assisting with recording, I'll let him confirm a specific time/time frame. In the meantime, I have held several hours in the afternoon on our calendar.

Best,
Brandi

From: Harold Furchtgott-Roth <hfr@furchtgott-roth.com>
Sent: Thursday, October 1, 2020 10:44 PM
To: Brandi Jackson <brandi@hudson.org>; Ann Marie Hauser <amhauser@hudson.org>; Philip Hegseth <phegseth@hudson.org>; Public Affairs <publicaffairs@hudson.org>
Cc: McDowell, Robert M <rmcdowell@cooley.com>
Subject: Re: Schedule an event on DoD RFI

Brandi,

On further checking with Commissioner O’Rielly, it appears that the afternoon of the 13th would better meet his schedule. May we schedule the recording for a time on the afternoon of the 13th?

Thank you,

Harold Furchtgott-Roth
Furchtgott-Roth Economic Enterprises
(301) 219-3904
hfr@furchtgott-roth.com

From: Harold Furchtgott-Roth <hfr@furchtgott-roth.com>
Date: Thursday, October 1, 2020 at 6:01 PM
To: Brandi Jackson <brandi@hudson.org>, Ann Marie Hauser <amhauser@hudson.org>, Philip Hegseth <phegseth@hudson.org>, Public Affairs <publicaffairs@hudson.org>
Cc: "McDowell, Robert M" <rmcdowell@cooley.com>
Subject: Re: Schedule an event on DoD RFI

Brandi,

If the 13th is still available, let’s do that. A morning recording would be great.

Thank you,

Harold Furchtgott-Roth
Furchtgott-Roth Economic Enterprises
(301) 219-3904
hfr@furchtgott-roth.com

From: Brandi Jackson <brandi@hudson.org>
Date: Thursday, October 1, 2020 at 3:36 PM
To: Harold Furchtgott-Roth <hfr@furchtgott-roth.com>, Ann Marie Hauser <amhauser@hudson.org>, Philip Hegseth <phegseth@hudson.org>, Public Affairs <publicaffairs@hudson.org>
Cc: "McDowell, Robert M" <rmcdowell@cooley.com>
Subject: RE: Schedule an event on DoD RFI

Thank you, Harold.

Would any of these dates work for you?

- Oct. 13th

- Oct. 16th
- Oct. 19th
- Oct. 20th

Best,
Brandi

From: Harold Furchtgott-Roth <hfr@furchtgott-roth.com>
Sent: Thursday, October 1, 2020 2:27 PM
To: Brandi Jackson <brandi@hudson.org>; Ann Marie Hauser <amhauser@hudson.org>; Philip Hegseth <phegseth@hudson.org>; Public Affairs <publicaffairs@hudson.org>
Cc: McDowell, Robert M <rmcdowell@cooley.com>
Subject: Re: Schedule an event on DoD RFI

Brandi,

Here is an event description:

The Department of Defense recently released a Request for Information regarding a variety of possible uses of DoD spectrum including a government-owned that could be shared with commercial users. The DoD RFI has raised concerns among many members of Congress. Hudson's Center for the Economics of the Internet has invited FCC Commissioner Michael O'Rielly and former FCC Commissioner Robert McDowell to join Harold Furchtgott-Roth to discuss the DoD RFI.

Harold Furchtgott-Roth
Furchtgott-Roth Economic Enterprises
(301) 219-3904
hfr@furchtgott-roth.com

From: Brandi Jackson <brandi@hudson.org>
Date: Thursday, October 1, 2020 at 1:58 PM
To: Ann Marie Hauser <amhauser@hudson.org>, Harold Furchtgott-Roth <hfr@furchtgott-roth.com>, Philip Hegseth <phegseth@hudson.org>, Public Affairs <publicaffairs@hudson.org>
Cc: "McDowell, Robert M" <rmcdowell@cooley.com>
Subject: RE: Schedule an event on DoD RFI

Thank you, Ann Marie.

Hi Harold,

I hope you're well.

At your earliest convenience, could you send me a short event description?

Many thanks,
Brandi

From: Ann Marie Hauser <amhauser@hudson.org>
Sent: Thursday, October 1, 2020 1:44 PM
To: Harold Furchtgott-Roth <hfr@furchtgott-roth.com>; Philip Hegseth <phegseth@hudson.org>; Public Affairs <publicaffairs@hudson.org>
Cc: McDowell, Robert M <rmcdowell@cooley.com>; Brandi Jackson <brandi@hudson.org>
Subject: Re: Schedule an event on DoD RFI

Hey Harold—phil is out today and tomorrow but Brandi is helping us with the PA schedule. Adding her here. We'll get back to you later after we look at the calendar. Thanks.

From: Harold Furchtgott-Roth <hfr@furchtgott-roth.com>
Date: Thursday, October 1, 2020 at 1:42 PM
To: Philip Hegseth <phegseth@hudson.org>, Public Affairs <publicaffairs@hudson.org>
Cc: "McDowell, Robert M" <rmcdowell@cooley.com>
Subject: Re: Schedule an event on DoD RFI

Phil,
Any updates on possible dates?
Thank you,

Harold Furchtgott-Roth
Furchtgott-Roth Economic Enterprises
(301) 219-3904
hfr@furchtgott-roth.com

From: Harold Furchtgott-Roth <hfr@furchtgott-roth.com>
Date: Tuesday, September 29, 2020 at 5:29 PM
To: <phegseth@hudson.org>, <publicaffairs@hudson.org>
Cc: "McDowell, Robert M" <rmcdowell@cooley.com>
Subject: Schedule an event on DoD RFI

Phil,
Rob McDowell and I would like to schedule an event on the recent DoD RFI for a new

spectrum-based network. Might there be an opening on the calendar in the next few weeks?

Thank you,

Harold Furchtgott-Roth
Furchtgott-Roth Economic Enterprises
(301) 219-3904
hfr@furchtgott-roth.com

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From: [Susan Fisenne](#)
To: [Mike O'Rielly](#); [Joel G. Miller](#)
Subject: FW: Trump and exec order to limit social media companies
Date: Thursday, May 28, 2020 12:14:24 PM

From: Maggie Reardon <maggie.reardon@cbsinteractive.com>
Sent: Thursday, May 28, 2020 12:13 PM
To: Susan Fisenne <Susan.Fisenne@fcc.gov>
Subject: Trump and exec order to limit social media companies

Hi Susan,

Does Commissioner O'Rielly have a response to news that President Trump plans to issue an executive order calling for the FCC to propose rules about when and how social media companies may edit online content without forfeiting protections under Section 230 of the Communications Decency Act?

I know Commissioner Jessica Rosenworcel has already issued a statement. So I wanted to check to see if Com. O'Rielly had something to say, too.

Thanks,

--

Maggie Reardon
Senior Reporter
CNET/CBS Interactive
646-325-6613

From: [Joel G. Miller](#)
To: [Mike ORIelly](#)
Subject: Fwd: FCC transparency and COVID
Date: Thursday, May 28, 2020 12:07:34 PM

From: "Tayloe, Monty" <mtayloe@warren-news.com>
Date: Thursday, May 28, 2020 at 11:51:54 AM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>
Subject: FCC transparency and COVID

Hi Joel,

Just in case you guys get bored talking about section 230 all the time, I was wondering if you or the Commissioner would be up for talking today or tomorrow about FCC press conferences.

There's been a lot less of them under COVID, and you guys and Carr have been about the only exception to that--there's been no bureau ones, no dem ones, and only one from the Chairman. Would you folks be up for an interview or quote about why you've been able to hold these while others have not, whether press conferences are important, and if this trend is likely to change? Doesn't have to take long, and we have till Friday. I'm at 703 728 0227 if you want to chat.

Thanks,
Monty
(703 728 0227)

From: [Joel G. Miller](#)
To: [Mike O'Rielly](#); [Erin McGrath](#); [Arielle Roth](#)
Subject: Fwd: FoT Tomorrow! May 15th
Date: Thursday, May 14, 2020 4:06:06 PM

(b) (5)



A large black rectangular redaction box covers the majority of the page content below the header. The text "(b) (5)" is written in red at the top left of this redacted area.

From: "Katie McAuliffe" <katie.mcauliffe@digitalliberty.net>
Date: Thursday, May 14, 2020 at 3:32:47 PM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>
Subject: FoT Tomorrow! May 15th

As a reminder, this really is an *invitation only, off the record* meeting. This invitation is *non-transferable*. If you would like to bring or suggest someone for the meeting, email or call me. kmcauliffe@atr.org is the best way to reach me.

Meeting Info

When: Friday, May 15
Meeting: 9:45-11:00am

Lobby opens at 9:00

Where: Microsoft Teams

Join the Microsoft Teams

Platform: <https://teams.microsoft.com/start>

Meeting Link for May 15

[Join Microsoft Teams Meeting](#)

Meeting Schedule

May 29th
June 5th
June 19th
July 3rd

Agenda Sneak Peak

- FCC
- House
- NTIA
- DOT
- H1Bs
- Anti-Trust
- Broadband
- Upcoming Events
- & More

Meeting Details. Important, Please Read!

Above you will find the link to download Microsoft Teams and a link to join the meeting the day of.

I recommend you **make sure you can access Teams** ahead of Friday morning. Depending on the device you are using or web browser, when you click the "Join Teams Meeting" link you may need to download the Teams App first or you maybe able to join via your web browser.

If you wish to present please email me

If you have an article to share, please email that to me as well. I will include it in the read more section and try to share during the meeting as well.

I can accept AV handouts from presenters. Your AV must be a PowerPoint or PDF. Please include an external link to your material also. No videos this week.

Things to remember when you join the meeting:

1. When you join the meeting you will be asked to wait a moment while you are approved. Please be patient, we will get you into the meeting as soon as possible.
2. If you log in before 9:45am all mics will be unmuted--everyone already in attendance will be able to hear and see you unless you mute yourself or turn off your video feature.
 - At the start of the meeting we will mute all participants microphones. If you are speaking or called on to ask question you must unmute your own microphone to talk.
4. If you wish to ask a question please type it into the chat/conversation feature found on the tool bar @Katie.
5. I will be online at 9:00am to welcome you. If you would like to log-on early you can be cleared ahead of start time, just like in our 6th floor conference room.
6. Friends of Tech is off the record, but since this is a virtual meeting, I ask all participants to act as if this is on the record. Acting as if does not change the fact

that this is an OFF THE RECORD meeting.

Friends of Tech is a casual, off the record, get together among friends who care about the future of tech policy

Presentations/announcements are about 5 minutes in length

We will have a little time for everyone to chat and catch up before the presentations begin

During Good of the Order anyone can make a brief announcement, if there is time

Reply to this message or email katie.mcauliffe@digitalliberty.net for a spot on the agenda and to RSVP.

News & Events

Digital Liberty is looking for a new Fellow!

The Digital Liberty Fellow position is open. Please send me your resumes or let me know if you have any recommendations. No previous tech or telecom experience necessary just interest and a willingness to learn. This is a paid position.



Keep Americans Connected

In response to the COVID-19 pandemic, and the challenges that many Americans will face in the coming months, FCC Chairman Ajit Pai recently announced the Keep Americans



The Education Puzzle: COVID-19 widens the homework gap

Join Axios for a live, virtual event on COVID-19's impact on education. We will unpack how the homework gap manifests in middle



List: Rules and Regulations Suspended Due to COVID-19

In the wake of COVID-19, the Trump administration and state and local governments are wisely suspending several rules and

Connected Initiative. In order to ensure that Americans do not lose their...

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America and nationally, looking at communities and the creative solutions surfacing across the nation.

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regulations in order to expand health care access, expand access to medical supplies and food, and to ultimately reduce the...

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Communities Against Rider Surveillance

Imagine you are on a scooter or in the back of an Uber or Lyft, riding to your next appointment. You arrive at your destination, check your phone, and realize the city's been watching. Not only were you charged twice the normal rate for taking an ...

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stopridersurveillance.com



COVID-19: How Cable's Internet Networks Are Performing

Technology is becoming increasingly relevant to every part of our day-to-day lives. COVID-19 has shown us how necessary it is for our daily functioning. But how does it all work, and what's coming next? AEI Visiting Fellow Shane Tews sits down...

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www.ncta.com



2020 State and Local Government Responses to COVID-19

This chart was last updated 4/24/20, 5:45PM ET. We've created a chart with state legislative actions, executive agency actions, gubernatorial actions, and local government actions related to the outbreak of the coronavirus. We will be...

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www.stateside.com



Update on Our Coronavirus (COVID-19) Response | T-Mobile

Rolling Study Halls | Google for Education

Turning commute time into learning time While teachers increasingly assign schoolwork that requires access to the internet, millions of students lack connectivity at home. This 'Homework Gap' disproportionately impacts low-income students,...

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We're committed to supporting our customers. Learn how we're responding to COVID-19. As we continue to closely monitor the impact of COVID-19 on communities across the country, we recognize that T-Mobile customers are relying on our network to...

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www.t-mobile.com

Keeping Our Services Stable and Reliable During the...

COVID-19 has upended the lives of billions of people around the world. In response to this emergency, we've been supporting the global public health community and working to provide people with information to help them stay safe. As the pandemic...

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about.fb.com

Keeping People Safe and Informed About the Coronavirus - ...

In response to the coronavirus outbreak, Facebook is supporting the global public health community's work to keep people safe and informed. Since the World Health Organization declared

As Coronavirus Surveillance Escalates, Personal Privacy...

Tracking entire populations to combat the pandemic now could open the doors to more invasive forms of government snooping later. In South Korea, government agencies are harnessing surveillance-camera footage, smartphone location data and

Working Together to Keep America Connected

Making sure Americans stay connected is the industry's number one priority right now.

the coronavirus a public health emergency in January, we've...

[Read more](#)
about.fb.com

credit...

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www.nytimes.com

And we are fortunate to be working alongside the FCC in this critical endeavor. Last week we saw the Keep Americans Connected Pledge that the wireless industry...

[Read more](#)
www.ctia.org



Healthcare Openness and Access Project 2020: Prerelease

The Mercatus Center at George Mason University is prereleasing a working-paper version of its long-planned 2020 edition of the Healthcare Openness and Access Project (HOAP). It does so in hopes of giving policymakers ideas on how to stretch their ...

[Read more](#)
www.mercatus.org



Deep Dive Episode 95 - Update on FISA Reauthorization...

On March 15, 2020, certain authorities under the Foreign Intelligence Surveillance Act (FISA) will expire absent renewal by Congress. The authorities set to expire fall into three categories: 1) the business records provision (often referred to...

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fedsoc.org



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Verily is focused on using technology to better understand health, as well as prevent, detect, and manage disease. Our mission is to bring together technology and life sciences to uncover new truths about health and disease.

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The Preemption Predicament Over Broadband Internet Access...

Throughout the history of modern telecommunications regulation, there has been an uneasy jurisdictional



Big Tech's key role in fighting the coronavirus outbreak

In the past few years, the attitude toward tech has increasingly soured. Multiple data privacy and election-related scandals at various tech companies and a new political strategy of being tough on "Big Tech" have led to the phenomenon known as...

[Read more](#)
www.ocregister.com

relationship between the FCC and the fifty states. As a result, complex issues of federalism routinely haunt the broadband debate.

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fedsoc.org

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Our customers are counting on us like never before. At every level of our company, we're working to provide the products and services that our customers and communities need as we face a global pandemic. This includes taking a number of important ...

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blog.aboutamazon.com

The Defense Production Act and COVID-19: What Industry...

On March 18, 2020, President Trump announced that he was invoking the Defense Production Act (DPA) in order to allow the administration to marshal American industry to prioritize production of medical supplies and pharmaceuticals that are in...

[Read more](#)
www.gibsondunn.com

COVID-19 HPC Consortium

The COVID-19 High Performance Computing Consortium is a private-public effort to bring free compute time and resources on their world-class machines.

[Read more](#)
www.ibm.com

Op-Ed: Congress shouldn't bow to pressure regarding...

"Never let a good crisis go to waste." This quote has been used over and over again in situations when people are afraid and illustrates how readily some people will use a horrible situation to advance their political agenda.



White House Announces New Partnership to Unleash U.S....

The White House announced the launch of the COVID-19 High Performance Computing Consortium to provide COVID-19 researchers worldwide with access to the world's most powerful high performance computing resources that can significantly advance the...

[Read more
www.whitehouse.gov](http://www.whitehouse.gov)

Trump invokes Defense Production Act in fight against...

President Donald Trump on Wednesday said he's invoking the Defense Production Act, which authorizes commanders-in-chief to force industries to produce goods, in a fresh effort to fight the coronavirus. Trump said the step was being taken "in case ...

[Read more
www.marketwatch.com](http://www.marketwatch.com)

[Read more
www.thecentersquare.com](http://www.thecentersquare.com)



Washington Should Resist Calls to Repeat the Mistakes of ...

As Congress rushes to finish a must-pass rescue package to offset the economic effects of the coronavirus, the danger increases that special-interest provisions are added to win the few remaining votes.

[Read more
www.realclearpolicy.com](http://www.realclearpolicy.com)

Digital Liberty | 722 12th St. NW, 4th Floor, Washington, DC 20005

[Unsubscribe joel.miller@fcc.gov](mailto:joel.miller@fcc.gov)

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Sent by katie.mcauliffe@digitalliberty.net in collaboration with

From: [Joel G. Miller](#)
To: [Mike O'Rielly](#); [Mike](#)
Cc: [Susan Fisenne](#)
Subject: Fwd: Invitation to Testify Before the House Committee on Energy and Commerce (w/ Instructions for Submitting Testimony)
Date: Thursday, September 10, 2020 5:14:04 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[1. Witness Information Guidelines 116th Congress 2020 FedGov CAT.pdf](#)
[2. Witness Truth-in-Testimony Form.pdf](#)
[3. Instructions for Completing Truth-in-Testimony Disclosure Form.pdf](#)
[4. Committee Rules 116th.pdf](#)
[5. House Rules 116th.pdf](#)
[Witness Invite O'Rielly.pdf](#)

From: "Orlando, Joe" <Joe.Orlando@mail.house.gov>
Date: Thursday, September 10, 2020 at 4:36:49 PM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>
Cc: "Hoehn-Saric, Alex" <Alex.Hoehn-Saric@mail.house.gov>, "Leverich, Gerald" <Gerald.Leverich@mail.house.gov>, "Rodriguez, Chloe" <Chloe.Rodriguez@mail.house.gov>, "Davis, Sharon" <Sharon.Davis@mail.house.gov>
Subject: Invitation to Testify Before the House Committee on Energy and Commerce (w/ Instructions for Submitting Testimony)

Dear Commissioner O'Rielly:

Thank you for agreeing to testify before the House Committee on Energy and Commerce's Subcommittee on Communications and Technology. The hearing – entitled "*Trump FCC: Four Years of Lost Opportunities*" – will be held on Wednesday, September 17, 2020, at 10 a.m. via the Committee's Webex platform.

Attached please find a formal invitation to testify from Representative Mike Doyle, Chairman of the Subcommittee, as well as other materials to assist you in preparing for your testimony. The first document ("1_Witness Information Guidelines_116th Congress_2020_FedGov_CAT") will be the most instructive in helping submit written testimony and other required paperwork. The second and third documents provide details on how to submit the Truth in Testimony form. The remaining documents are for informational purposes regarding Committee rules and procedures.

Once completed, please submit any written materials and paperwork to Sharon Davis, Chief Clerk, Chloe Rodriguez, and myself (all cc'ed here). Please do not hesitate to contact us with any questions at (202) 225-2927.

Thank you very much, and we look forward to seeing you at the hearing.

Sincerely,

Joseph Orlando
Policy Analyst
Committee on Energy and Commerce
U.S. House of Representatives
(202) 225-2927



IMPORTANT -- PLEASE READ
DO NOT DETACH

United States Senate
Committee on Commerce, Science, and Transportation
Washington, D.C. 20510-6125

MEMORANDUM

Date: July 8, 2020

To: Commissioner Mike O'Rielly

Date of Hearing: June 24, 2020

Hearing: Oversight of the Federal Communications Commission

Thank you for your recent testimony before the Senate Committee on Commerce, Science, and Transportation. The testimony you provided was greatly appreciated.

Attached are **post-hearing questions** pertaining to the above-mentioned hearing. As a courtesy, please submit a single document consolidating the posed questions followed by your answers for insertion in the printed hearing record. Your responses can be e-mailed to Reed_Cook@commerce.senate.gov.

Should the committee not receive your response within the time frame mentioned below or if the committee staffer assigned to the hearing is not notified of any delay, the committee reserves the right to print the posed questions in the formal hearing record noting your response was not received at the time the record was published.

Committee staffer assigned to the hearing: Reed Cook

Phone: (202) 224-1251

Date material should be returned: July 22, 2020

Thank you for your assistance and, again, thank you for your testimony.

Written Questions Submitted by the Honorable John Thune to Mike O’Rielly

Question 1. Commissioner O’Rielly, you recently stated regarding the FCC’s action to facilitate the deployment of 5G networks across the United States that the ruling would “help entities like FirstNet meet their public safety obligations.” Can you speak more to why you think this action would help FirstNet’s Nationwide Public Safety Broadband Network buildout and why it is important to public safety responders?

Question 2. As you are aware, Congress passed and President Trump signed into the law the TRACED Act, legislation to aimed to help reduce illegal and unwanted robocalls. The law also improved the adoption of technical solutions for blocking illegal robocalls that are both harmful and bothersome to consumers. Additionally, the TRACED Act recognized the importance of legitimate calls, like financial institutions providing customers with important alerts. In addition to the TRACED Act, the Commission has taken several efforts to deter illegal robocalls. What steps has the FCC taken to ensure call blocking technologies do not adversely affect legal robocalls used by legitimate businesses to consumers?

Question 3. In your testimony, you briefly mentioned reforming the World Radio Conference (WRC) and certain international issues as they relate to the FCC. Do you have any specific suggestions for Congress on these matters?

Written Questions Submitted by the Honorable Todd Young to Mike O’Rielly

Question 1. The FCC is looking for additional spectrum to free up for 5G services. Are you reviewing the 500 megahertz of contiguous, terrestrial spectrum at 12 GHz?

Isn’t that band of spectrum one of the few – maybe the only – licensed spectrum block available for 5G use without Federal incumbents in it?

Assuming so, what are the Commission’s plans to examine how the spectrum can be used to support 5G?

Written Questions Submitted by the Honorable Dan Sullivan to Mike O’Rielly

Question 1. The 2.5GHz Rural Tribal Window is a unique opportunity to help bring greater internet connectivity to tribal entities through direct access to spectrum. The current pandemic is occupying many resources that would otherwise be available for applying for this program. Is the FCC considering extending the application deadline to accommodate the current crisis?

Question 2. How is the FCC preparing for the utilization of beam forming, beam steering, and Dynamic Spectrum Sharing in the next generation of transportation?

Question 3. What is the plan for spectrum allocation, aside from DSRC and 802.11P for the DOT, for being able to de-conflict all modes of transportation on the same network?

Question 4. Does the FCC support or see advantages in utilizing localized wireless networks that keep information as localized as possible and could serve educational or medical districts – especially in places that might not have extensive fiber infrastructure – that may allow more connectivity for children and the workforce?

Question 5. What is the FCC’s position on allowing the private management of publicly accessible government networks through spectrum sharing?

From: [Erin McGrath](#)
To: [Mike O'Rielly](#)
Subject: Fwd: Majority QFRs - Oversight of the Federal Communications Commission - June 24, 2020
Date: Monday, July 20, 2020 10:33:00 AM
Attachments: [Majority QFRs - O'Rielly - 06.24.20.docx](#)

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From: "Susan Fisenne" <Susan.Fisenne@fcc.gov>
Date: Thursday, July 9, 2020 at 7:59:58 AM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>, "Mike O'Rielly" <Mike.O'Rielly@fcc.gov>, "Erin McGrath" <Erin.McGrath@fcc.gov>, "Arielle Roth" <Arielle.Roth@fcc.gov>
Subject: RE: Majority QFRs - Oversight of the Federal Communications Commission - June 24, 2020

Attached is the updated QRF's document to include Senator Dan Sullivan's questions. (I've formatted his questions to look like the others.) The document is still saved at:

<K:\Bureaus-Offices\O'Rielly\Congressional\Questions for the Record\2020 - 06.24.20 Senate Oversight Hearing\Majority QFRs - O'Rielly - 06.24.20.docx>

From: Joel G. Miller <Joel.Miller@fcc.gov>
Sent: Wednesday, July 8, 2020 6:17 PM
To: Mike O'Rielly <Mike.O'Rielly@fcc.gov>; Erin McGrath <Erin.McGrath@fcc.gov>; Arielle Roth <Arielle.Roth@fcc.gov>; Susan Fisenne <Susan.Fisenne@fcc.gov>
Subject: Fwd: Majority QFRs - Oversight of the Federal Communications Commission - June 24, 2020

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From: "Cook, Reed (Commerce)" <Reed_Cook@commerce.senate.gov>
Date: Wednesday, July 8, 2020 at 4:58:24 PM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>
Subject: RE: Majority QFRs - Oversight of the Federal Communications Commission - June 24, 2020

Please add the attached QFRs from Senator Sullivan.

Thanks,
Reed

From: Cook, Reed (Commerce)
Sent: Wednesday, July 8, 2020 5:04 PM

To: 'Joel G. Miller' <Joel.Miller@fcc.gov>

Cc: Olivia Trusty (Commerce) (Olivia_Trusty@commerce.senate.gov)
<Olivia_Trusty@commerce.senate.gov>; Guyselman, Kelsey (Commerce)
<Kelsey_Guyselman@commerce.senate.gov>; Lin, John (Commerce)
<John_Lin@commerce.senate.gov>; Holmes, Kevin (Commerce)
<Kevin_Holmes@commerce.senate.gov>

Subject: Majority QFRs - Oversight of the Federal Communications Commission - June 24, 2020

Mr. Miller—

Please find the Majority questions for the record (QFR) submitted in relation to Commissioner O’Rielly’s testimony before the Senate Committee on Commerce, Science, and Transportation’s hearing entitled, “Oversight of the Federal Communications Commission,” on June 24, 2020.

Please complete responses to all QFRs **as soon as possible, but no later than COB Thursday, July 22, 2020**. We also request that the witnesses prioritize responses to questions submitted by our Minority counterparts.

You will find an unofficial transcript attached. Please have Commissioner O’Rielly review the transcript and propose any light grammatical edits he finds appropriate. The Committee asks witnesses to ensure that edits do not alter the meaning or the intent of the language in the transcript. The Committee reserves the right to accept or reject any proposed edits.

Please send responses via email to Olivia_Trusty@commerce.senate.gov, Kelsey_Guyselman@commerce.senate.gov, kevin_holmes@commerce.senate.gov, John_Lin@commerce.senate.gov, Reed_Cook@commerce.senate.gov, and docs@commerce.senate.gov.

Best,

Reed Cook
Professional Staff
U.S. Senate Committee on Commerce, Science, and Transportation
Chairman Roger F. Wicker

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1 OVERSIGHT OF THE FEDERAL COMMUNICATIONS COMMISSION

2

3

4 Wednesday, June 24, 2020

5

6 U.S. Senate

7 Committee on Commerce,

8 Science, and Transportation

9 Washington, D.C.

10

11 The Committee met, pursuant to notice, at 10:00 a.m.
12 in Room SR-253, Russell Senate Office Building, Hon. Roger
13 Wicker, chairman of the Committee, presiding.

14 Present: Senators Wicker [presiding], Cantwell,
15 Klobuchar, Fischer, Blumenthal, Thune, Schatz, Cruz, Moran,
16 Blackburn, Udall, Peters, Lee, Gardner, Baldwin, Capito,
17 Duckworth, Rosen, Young, Tester, and Sinema.

18 Index: Senators Wicker, Cantwell, Klobuchar, Fischer,
19 Blumenthal, Thune, Schatz, Cruz, Moran, Blackburn, Udall,
20 Peters, Lee, Gardner, Baldwin, Capito, Duckworth, Rosen,
21 Young, Tester, and Sinema.

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25

1 OPENING STATEMENT OF HON. ROGER WICKER, U.S. SENATOR
2 FROM MISSISSIPPI

3 Senator Wicker: Good morning. This hearing will come
4 to order.

5 Welcome to today's hearing on the Oversight of the
6 Federal Communications Commission and we have them here
7 today.

8 I extend a special welcome to our distinguished panel
9 of witnesses and thank them for appearing.

10 Today, we will hear from FCC Chairman Ajit Pai,
11 Commissioner Jessica Rosenworcel, Commissioner Mike
12 O'Rielly, Commissioner Brendan Carr, and Commissioner
13 Geoffrey Starks.

14 The FCC is the nation's primary regulator of
15 interstate and international communications networks. A
16 core part of the agency's mission is to ensure that all
17 people in the United States have access to rapid,
18 efficient, and nationwide communications services at
19 reasonable prices.

20 Never before has the FCC's responsibility to achieve
21 this mission been more important. The COVID-19 public
22 health emergency has put a spotlight on the nation's
23 communications networks and the American people's access to
24 broadband services.

25 Since March, there has been a dramatic and sustained

1 surge in internet usage, but the U.S. networks have
2 performed well and we are faring much better than other
3 countries in meeting this increased demand. This is to be
4 applauded but there's still more work to be done, of
5 course.

6 Today, there are far too many Americans who remain
7 unserved and who lack affordable access to any broadband
8 connection whatever.

9 I appreciate the FCC's continued efforts under
10 Chairman Pai's leadership to close the Digital Divide and
11 secure U.S. leadership in next generation communications
12 technologies, especially during this pandemic.

13 Through the Commission's Keep Americans Connected
14 Pledge, over 700 providers have voluntarily committed not
15 to terminate broadband services to any residential or small
16 business customers because of an inability to pay their
17 bills. This has been pivotal in keeping many Americans
18 connected.

19 Clearly the businesses who participated in the pledge
20 cannot sustain that effort indefinitely. We need to engage
21 in a thoughtful debate about ways to transition from the
22 pledge when it expires.

23 In addition, I welcome the FCC's work on the newly-
24 created COVID-19 Telehealth Program authorized by the
25 bipartisan CARES Act. This program is designed to provide

1 access to critical life-saving telehealth services to
2 Americans who lack access to quality care during this
3 global health crisis.

4 Today's hearing is an opportunity for Commissioners to
5 discuss what more can be done to expand broadband access
6 and digital opportunity for all Americans. This work
7 begins with the implementation of the Broadband Data Act.

8 As I've said many times, accurate broadband maps are
9 essential to targeting universal service funds and other
10 federal broadband resources to unserved areas and
11 communities in need.

12 To ensure the success of new USF programs, such as the
13 5G Fund, it is imperative that the FCC develop accurate
14 broadband maps with more precise data about where broadband
15 is available and where it is not and at what speeds.

16 I hope the Commissioners will outline what funding
17 will be necessary to comply with the law before moving
18 forward with 5G Fund.

19 I appreciate Commissioner O'Rielly's commitment to
20 this committee last week that he would not support moving
21 forward with the 5G Fund until the FCC completes the new
22 maps required by the Broadband Data Act.

23 In addition to developing accurate maps, Congress
24 needs to explore the feasibility of allocating more
25 resources for broadband deployment to areas that are not

1 economical to serve or to families who have experienced
2 economic hardship as a result of the pandemic.

3 I look forward to discussing the Accelerating
4 Broadband Connectivity Act, which I have authored, which
5 would incentivize providers to expedite broadband build-out
6 plans without undermining or delaying the RDOF auction.

7 I hope Commissioners will also discuss ways to provide
8 immediate connectivity relief to schools and students,
9 minority communities, and families experiencing economic
10 hardship because of the coronavirus.

11 Another important part of making broadband universally
12 available is having a regulatory framework that fosters
13 investments and promotes broadband deployment. I'm sure
14 the Commissioners will want to discuss the recent adoption
15 of the 5G Upgrade Order which modernizes rules for the
16 installation of wireless communications equipment as well
17 as other efforts to streamline regulatory processes that
18 can delay or indefinitely stall broadband deployment in too
19 many communities across the country. I appreciate
20 Commissioner Carr's leadership on the 5G Upgrade Order.

21 As Americans rely increasingly on their internet
22 connections to engage in professional, educational, health
23 care, and personal activities, it is vital that we ensure
24 the security of our networks and supply chains.

25 Any comprehensive broadband legislation should include

1 network and supply chain security, including full funding
2 for the FCC's newly-authorized Rip and Replace Program.

3 I hope Commissioners will discuss funding needs for
4 that critical program and other plans to increase network
5 security and reliability.

6 Finally, Section 230 of the Communications Decency Act
7 is intended to preserve a vibrant and competitive online
8 marketplace for the benefit of all Americans. Section 230
9 protects interactive computer services, such as social
10 media platforms, from being held liable for the content
11 posted by their users.

12 Section 230 also specifically allows interactive
13 computer services to restrict access to or the availability
14 of content that it considers to be obscene, lewd,
15 lascivious, filthy, excessively violent, harassing, or
16 otherwise objectionable.

17 I am deeply troubled by recent reports that suggest
18 some online platforms are disproportionately censoring
19 conservative voices or imposing an unfair bias through
20 their policies and terms of service.

21 Last week, *The Federalist*, an online magazine, was
22 notified that its publication would be removed from
23 Google's advertising platform because of complaints from
24 NBC News about content in *The Federalist* Content Section.
25 The information I have is that the comments contained on

1 the site were indeed derogatory and impermissible.

2 However, policing offensive content is one thing.

3 Threatening the demonetization of an entire site is quite

4 another.

5 And just yesterday, we learned of comments by Facebook

6 moderators that seemed to confirm a blatant anti-

7 conservative bias.

8 If there is to be a debate over the future of Section

9 230, it is clear that each side has a responsibility to

10 ensure that the internet remains a forum for a true

11 diversity of political discourse that promotes competition

12 and innovation.

13 This committee will evaluate the merits of Section 230

14 and whether modifications are necessary to promote more

15 transparency and accountability across internet platforms

16 and services.

17 Clearly, there's much to discuss today. I thank the

18 Commissioners again for their testimonies, and I thank my

19 friend and colleague, Senator Cantwell, for her cooperation

20 as Ranking Member and I now turn to her for whatever

21 opening remarks she chooses to make.

22 Senator Cantwell?

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1 STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM
2 WASHINGTON

3 Senator Cantwell: Thank you, Chairman wicker, and
4 thanks for holding this important and timely hearing, and
5 it's good to see all the Commissioners here in person, a
6 rare opportunity for sure.

7 The full FCC comes before us today at what I think is
8 a pivotal moment. If we were still in any doubt that the
9 COVID crisis has made its impact clear to us, it is very
10 clear today when it comes to the issue of broadband. It is
11 really an essential service and yet millions of Americans
12 remain trapped on the other side of the Digital Divide.

13 The statistics are well known but no less damning. At
14 least 18 million Americans without access to broadband and
15 even that number may be artificially low. 12 million
16 children currently lack access to broadband at home,
17 prohibiting their ability to learn remotely, and as we have
18 uncertainty about what the fall and beyond will bring, it's
19 imperative that we deal with this issue.

20 In the state of Washington, 16 percent of families
21 with children have no access to broadband and 31 percent of
22 households on tribal lands lack access to high-speed
23 broadband compared to seven percent in non-tribal areas.

24 So we must expand high-quality, affordable broadband
25 in underserved and unserved communities so that Americans

1 who are being isolated can effectively endure during this
2 pandemic and learn remotely and, I would also say, have
3 access to health care. It is so critical that rural
4 communities increase the ability to use broadband as a tool
5 to help deliver medicine at this critical time.

6 We have a real opportunity here to close the Digital
7 Divide, but I know it's going to take being bold. It won't
8 be accomplished through just incremental change or changing
9 some numbers. It will require significant investment. I
10 know our House colleagues have promised more than a hundred
11 billion.

12 But we have to make sure that low-income minority and
13 tribal communities that connectivity is an issue we do
14 address. We need to invest in programs that will promote
15 digital literacy and digital adoption targeting these
16 marginalized communities. So I hope that this can be part
17 of our discussion today.

18 Chairman Pai, I wrote on March 5th and asked for
19 consideration of the FCC's existing authority and programs
20 as well as temporary policies or rule waivers could be used
21 to help ensure the nation was being well served during the
22 COVID crisis.

23 Specifically, I asked what take-home emergency actions
24 to facilitate at-home connectivity for students to keep
25 them in class remote schoolwork being done during the COVID

1 crisis.

2 So I'm not interested in just applying aggressive laws
3 to industry. I'm interested in making sure millions of
4 children caught in the gap of not being able to do their
5 homework don't fall further behind. So I am looking for
6 emergency orders by the Commission and yet nothing has
7 happened.

8 So I'm concerned about spectrum, as well. I know
9 we're in a very high-profile public dispute that the FCC
10 has sided against federal experts on whether forecasting
11 aviation transportation safety and national security.

12 It would be tempting to dismiss these public disputes
13 as just another sign of internal chaos with the
14 Administration, but I believe it is more than that. It
15 seems to me that the agency has narrowed its interests in
16 the standard for public broadband policy.

17 Today, the FCC dismisses national priorities and
18 defaults to the belief that the highest and best use of
19 spectrum is always to test terrestrial broadband. Nowhere
20 is this development more obvious than the *Ligado* decision.
21 Despite unified opposition from the Executive Branch
22 agencies, aerospace industries, and others, *Ligado* would
23 cause harm to the GPS spectrum critical to safety
24 operations, but despite a fundamental disagreement over
25 competing studies, of which there were many, the FCC

1 continued to move forward. So I hope today we can also
2 discuss this issue.

3 I believe that the FCC should not be the place to just
4 move forward but the place to have the discussion and make
5 sure these issues are well addressed. It is important that
6 these issues move forward and are addressed by the many
7 interests in the spectrum because this issue of spectrum is
8 not going to go away. It's going to become even more in
9 demand, and if you think you're just the default agency to
10 make a decision and exacerbate the problem, you can see it
11 hasn't gone away. It's just moved over to the Armed
12 Services Committee.

13 So I would ask you today to think about how we're
14 going to do a better process, given the increased need for
15 spectrum in the future.

16 So, Mr. Chairman, I know there are many other issues
17 that we want to discuss today, but with that, I'll leave my
18 remarks and ask that I do have to go to the Floor but I
19 will return for questioning at some point in time. If I
20 miss my cue, I'm sure my colleague, Senator Blumenthal, or
21 others will jump in in my absence.

22 But again I thank the Commissioners for being here in
23 person.

24 Senator Wicker: Thank you so much, Senator Cantwell.

25 And we are recognizing in this order today. We'll

1 start with the Chair and then we're recognizing
2 Commissioners in terms of seniority.

3 So we'll begin with the Honorable Ajit Pai, Chair of
4 the FCC, and we will receive each set of written testimony
5 in full and ask you to summarize in some five minutes.

6 You are recognized, sir.

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1 STATEMENT OF HON. AJIT PAI, CHAIRMAN, FEDERAL
2 COMMUNICATIONS COMMISSION

3 Mr. Pai: Thank you, Mr. Chairman.

4 Chairman Wicker, Ranking Member Cantwell, Members of
5 the Committee, I appreciate you inviting me to testify and
6 update you on the work of the Federal Communications
7 Commission.

8 With the onset of the COVID-19 pandemic, internet
9 connectivity is more important than ever. Americans rely
10 on broadband to telework, to learn, to consult with
11 doctors, to stay in touch with loved ones, and that's why
12 we have been using every resource at our disposal to deal
13 with this unprecedented national emergency.

14 Most importantly, I challenged broadband and telephone
15 providers in March to take the Keep Americans Connected
16 Pledge, a commitment to, among other things, not terminate
17 service to residential or small business consumers because
18 of their inability to pay their bills due to disruptions
19 caused by the coronavirus pandemic.

20 More than 780 providers took the pledge, including all
21 of our nation's largest. The pledge has been critical to
22 maintaining connectivity for millions of American
23 consumers, but these companies, especially small ones,
24 cannot continue to provide service without being paid for
25 an indefinite period of time. No business in any sector of

1 our economy could.

2 As the pledge ends on June 30th, I have called on
3 providers not to disconnect consumers and small businesses
4 in July who have fallen behind on their bills but to
5 instead adopt extended payment plans to ensure that these
6 consumers have a chance to catch up.

7 This transition period will also give Congress the
8 chance next month to provide funding to help ensure that
9 many Americans have continued access to broadband and
10 telephone services.

11 Along these lines, I applaud Chairman Wicker for
12 releasing the Broadband Connectivity and Digital Equity
13 Framework, and I would welcome the opportunity to work with
14 the committee on this or other related legislative
15 activities.

16 Speaking of funding, I want to thank you for
17 establishing the COVID-19 Telehealth Program as part of the
18 CARES Act. The FCC has worked quickly to adopt rules for
19 this program, to open the application window and review the
20 submissions that we have received.

21 I'm proud that as of this morning, we've approved 444
22 applications in 46 states and the District of Columbia, for
23 a total of \$157.6 million. From the Franklin County
24 Hospital in Meadville, Mississippi, to the Country Doctor
25 Community Health Center in Seattle, this program is

1 enabling health care providers to treat and monitor
2 patients remotely, improving care and reducing risks for
3 patients, doctors, and nurses.

4 During this national emergency, our networks have been
5 tested like never before and I'm pleased to say that they
6 have performed extremely well. For example, average fixed
7 and mobile broadband speeds in our country are now higher
8 than they were before the pandemic hit. The record fiber
9 and small cell deployments of the last two years have made
10 a real difference, but we can't rest on our laurels and
11 that's why the FCC's continuing to take aggressive steps to
12 expedite 5G deployment.

13 In July, we'll begin an auction of 70 megahertz of
14 spectrum for priority access licenses in the 3.5 gigahertz
15 band. We're also on track to commence a public auction of
16 280 megahertz of spectrum in the C-band in December.

17 Because satellite operators vacating this spectrum
18 have committed to accelerated relocation, this spectrum
19 will become available for 5G two to four years earlier than
20 otherwise would have been the case and just yesterday, we
21 won a major court victory as a court rejected the request
22 to stop our progress.

23 I would especially like to thank Chairman Wicker and
24 Chairman Thune for their leadership on this issue.

25 Our rural tribal priority window for the 2.5 gigahertz

1 band is now open, which enables tribes to get first dibs on
2 this prime mid-band spectrum before we hold an auction next
3 year.

4 We've also unanimously opened up the entire six
5 gigahertz band for unlicensed use, a massive 1200 megahertz
6 test bed for innovators and innovation, and we've almost
7 finished the post incentive auction TB transition. Because
8 this transition has gone well, wireless services, including
9 5G, are now being provided throughout America on the 600
10 megahertz band.

11 Finally, I'd like to mention a personal and
12 professional priority that is literally a matter of life
13 and death: suicide prevention. Three weeks from today,
14 the FCC will vote on final rules to designate 9-8-8 as a
15 new nationwide three-digit number to reach trained
16 professionals who staff the National Suicide Prevention
17 Lifeline.

18 By making it easier for those who are in crisis to
19 reach those who can help, we can save lives and reduce the
20 stigma that is associated with mental illness. In a time
21 when suicide rates in America are on the rise, hitting
22 historic levels, especially for vulnerable populations,
23 like veterans, LGBTQ youth, and African American teens,
24 this three-digit number, 9-8-8, could make all the
25 difference.

1 I would like to thank in this regard Senators Gardner
2 and Baldwin for the bipartisan leadership on this issue.

3 Chairman Wicker, Ranking Member Cantwell, Members of
4 the Committee, thank you again for holding this hearing. I
5 look forward to answering your questions today.

6 [The prepared statement of Mr. Pai follows:]

7 [COMMITTEE INSERT]

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1 Senator Wicker: Precisely five minutes. Thank you
2 very much.

3 Ms. Rosenworcel:, welcome.

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1 STATEMENT OF HON. JESSICA ROSEWORCEL, COMMISSIONER,
2 FEDERAL COMMUNICATIONS COMMISSION

3 MS. ROSEWORCEL: Good morning, Chairman Wicker,
4 Ranking Member Cantwell, and Members of the Committee.
5 It's good to see you today from a safe distance.

6 These are historic days. A public health emergency
7 has strained our hospitals and crashed our economy.
8 Protests have filled our streets in our largest cities and
9 smallest towns. We need connections now, physical and
10 digital, that strengthen our mutual bonds because networks
11 that connect more people and more places lift us all.

12 So let me start by telling you about a conversation I
13 had a few weeks ago. I spoke to a middle school teacher.
14 She was from a small town in Northern Vermont, one of those
15 places that is perfect for a postcard, but the truth is it
16 could have happened anywhere in rural or urban America.

17 Anyway, this teacher was out and about and she ran
18 into the mother of one of her students. That student had
19 not been going to online classes during the past week and,
20 of course, the mother knew because right after she
21 exchanged the usual pleasantries with this teacher, she
22 blurted out an explanation.

23 She said, "The internet ran out." In other words, her
24 kids couldn't go to class because in their house, like so
25 many others, they had limited data-capped internet access.

1 That meant during this crisis, they were metering out life
2 online, stuck allocating bits of smart phone service to
3 classes, work, health care, and emergencies.

4 That's haunting but not surprising because this crisis
5 has exposed a hard truth. Our Digital Divide is very real
6 and it's very big. You see it in stories like this one and
7 you also see it how nationwide parking lot wifis become a
8 thing. People are driving to places where the signal is
9 free and sitting in their cars doing work, going to class,
10 just trying to maintain some semblance of normal modern
11 life. We can do better.

12 First, we need a clear plan for broadband for all. It
13 was just a few weeks ago the FCC released its Annual
14 Broadband Progress Report. It was a glowing assessment
15 that all is well and only 18 million Americans do not have
16 access to broadband but that's just not credible. That
17 number is based on the same problematic methodology you
18 called for us to stop using in the Broadband Data Act.

19 Yet despite having made no efforts to improve our
20 nation's dubious broadband data, the FCC's about to hand
21 out billions in fixed broadband support with the new Rural
22 Digital Opportunity Fund, based on maps we know are wrong.

23 It's also proposed the same course with the Wireless
24 5G Fund. We can't afford to delay improved data any
25 further because without it, we will never be assured that

1 we're targeting our universal service support to the right
2 places. We will leave communities behind.

3 We also can't limit our focus to just deployment. We
4 need to address barriers to adoption because the Digital
5 Divide is not just a problem in Rural America. By some
6 estimates, there are three to four times as many households
7 without internet access in urban and suburban areas.

8 Second, we need a clear plan to fix the homework gap.
9 We need to work during the summer months so come fall, no
10 student is without the internet access they need to go to
11 class online.

12 The FCC could do this with the e-Write Program right
13 now, but if you choose to address the homework gap through
14 legislation, I hope we can move fast so no child is left
15 offline.

16 Third, we need a clear plan to keep all Americans
17 connected.

18 The FCC, at the Chairman's direction, has secured a
19 commitment from our nation's carriers that they will not
20 cut off consumers during this crisis, but that commitment
21 comes to an end this month and we should all worry about
22 what's on the other side. With sky high unemployment
23 rates, we need to find a way to extend this commitment.

24 We're also going to have to rethink the Lifeline
25 Program from top to bottom, and we should have a broader

1 conversation about data caps and overage fees.

2 Fourth, we need a clear plan for a secure 5G future.

3 If we want to be a global leader in the next generation of
4 wireless, we need a whole of government approach to 5G
5 service but we don't have one.

6 Our national spectrum strategy is nearly a year
7 overdue and federal authorities are fighting in public
8 about access to 5G spectrum bands.

9 We also have work to do to secure supply chains and
10 need to address the security of the growing internet of
11 things.

12 Fifth, we need a clear plan to sustain local media and
13 stand up for the First Amendment.

14 Local news is vital, but the economics that underlie
15 the industry are changing. To meet these new challenges, I
16 believe we need to study our rules and identify how we
17 better support local media and diversity, but one thing we
18 shouldn't do is compromise our values, including those in
19 the First Amendment.

20 Nowhere is this clearer than in the recent Executive
21 Order concerning Section 230 of the Communications Decency
22 Act. I know that social media can be frustrating, but an
23 Executive Order that would turn the FCC into the
24 President's speech police cannot be the answer.

25 Finally, we need a clear plan to learn from this

1 crisis so we can take stock of changes in network demand
2 and use what we discover to inform our efforts in the
3 future.

4 Thank you. I look forward to answering any questions
5 you might have.

6 [The prepared statement of Ms. Rosenworcel follows:]

7 [COMMITTEE INSERT]

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1 Senator Wicker: Thank you very, very much,
2 Commissioner Rosenworcel.

3 Commissioner O'Rielly, welcome back.

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1 STATEMENT OF HON. MICHAEL O'RIELLY, COMMISSIONER,
2 FEDERAL COMMUNICATIONS COMMISSION

3 Mr. O'Rielly: Thank you.

4 Senator Wicker: We've made this a weekly practice.

5 Mr. O'Rielly: I prefer not to but if you want, I'll
6 be here.

7 Senator Wicker: You're recognized, sir.

8 MR. O'Rielly: Thank you.

9 Chairman Wicker, Ranking Member Cantwell, and Members
10 of the Committee, thank you for the opportunity to be here
11 to discuss important matters before the Federal
12 Communications Commission.

13 Since you have my fairly lengthy written testimony, I
14 thought it best to focus my comments on a few topics. At
15 the forefront of my priorities is bringing broadband access
16 to unserved areas as expeditiously as possible.

17 One outstanding idea championed by Chairman Wicker is
18 to provide financial incentives to FCC auction winners to
19 accelerate their broadband deployment obligations through
20 funding provided by Congress.

21 I thank Chairman Wicker, Senators Blackburn and Capito
22 for introducing the Accelerating Broadband Connectivity
23 bill and I commit to continue working with the committee
24 and staff on this important initiative.

25 I also commit to working with members of Congress on

1 implementing our obligations under the Broadband Data Act.
2 I've long been critical of the FCC's data for purposes of
3 distributing broadband funding and applaud the bipartisan
4 effort that led to the mapping statute being signed into
5 law earlier this year.

6 I agree that we must produce new, accurate coverage
7 maps before moving forward with any new subsidy mechanisms.

8 Switching gears to spectrum, one of the primary
9 obligations of the Commission is to allocate unlicensed
10 spectrum for commercial purposes to accommodate the
11 incredible demand for new spectrum uses. Existing
12 licensees, both commercial and federal, often must
13 relocate, shrink their footprints, or cease operations.

14 While sometimes there are opportunities to entice
15 incumbent licensees to voluntarily alter their current use,
16 such as with the broadcast incentive auction or the C-band
17 satellite services, the vast majority of our efforts
18 requires honestly assessing current usage and actively
19 making changes to the holdings if spectrum is not being
20 appropriately used.

21 Let me take a moment to discuss 5.9 gigahertz because
22 I'm sure it will come up sooner or later.

23 It would be correct to say that in 20+ years, little
24 progress has been made in deploying DSRC technology
25 previously mandated by the Commission. To put a finer

1 point on the matter, DSRC deployment in the universal of
2 vehicles that currently feed our technology is limited to
3 only a few thousand GM Cadillacs. Zero automobile
4 manufacturers are currently deploying DSRC in current
5 models and virtually no one has stated they have any plans
6 to use it at all in the U.S. in the future.

7 Moreover, all of the automobile safety purposes
8 originally envisioned, except one, has been usurped by
9 other technologies that utilize other spectrum bands. On
10 top of this, a new technology based on LTE wireless
11 standard CVX has gained prominence and many automobile
12 companies are actively considering it for auto safety
13 enhancements.

14 The Commission is trying to thoughtfully balance the
15 reality of these circumstances with the increasing demand
16 for wireless spectrum. In this case, the unlicensed
17 community has sought to share a portion of the 5.9
18 gigahertz band, leaving a sufficient amount for dedicated
19 automobile safety purposes.

20 Consider that American families right now are being
21 connected to broadband over 5.9 gigahertz via wireless
22 wisps under temporary Commission authority and millions of
23 Americans could enjoy connectivity from expanded wifi if
24 the Commission moves forward with its balanced approach to
25 allow unlicensed operations in a portion of the band while

1 preserving spectrum for automobile safety systems.

2 In terms of freeing spectrum for future wireless
3 offerings, the most ideal band after C-band and CBRS is the
4 3.1 to 3.55 gigahertz band. This spectrum was singled out
5 by this committee in the Mobile NOW Act.

6 After looking at this matter closely, I respectfully
7 argue that upwards of 200 megahertz needs to be cleared for
8 exclusive use commercial services with the bulk of the
9 remainder available for shared use.

10 At the same time, Congress and the Commission must
11 work together by taking every action to replenish our
12 spectrum, our future spectrum pipeline which lies nearly
13 empty. For instance, we should look at the seven gigahertz
14 for licensed or unlicensed use.

15 Separately, I hope the committee will look closely at
16 the pulls, including in my written testimony, including to
17 expedite the appointment of a work ambassador, establish an
18 international commissioner and modify the Commission's
19 marketing and import rules to promote device innovation.

20 I thank the committee and look forward to answering
21 any questions that members may have.

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

23 [COMMITTEE INSERT]

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1 Senator Wicker: Thank you very much, sir.

2 Commissioner Carr?

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1 STATEMENT OF HON. BRENDAN CARR, COMMISSIONER, FEDERAL
2 COMMUNICATIONS COMMISSION

3 Mr. Carr: Chairman Wicker, Distinguished Members of
4 the Committee, thank you for the opportunity to testify.
5 It's a privilege to appear before you with my FCC
6 colleagues.

7 Since we last testified, the country has been seized
8 by a pandemic that has seriously altered Americans' lives.
9 Our daily routines, driving to work, sending our kids off
10 to school, even catching up with friends were upended.
11 Staying at home prompted us to recreate these routines
12 online in an instant. That sudden massive transition made
13 our internet connections more important than ever.

14 With so many Americans relying on the internet, it was
15 incumbent on providers and the Commission to ensure
16 continuous quality service. I'm proud of our efforts to
17 meet the moment.

18 First, the private sector and regulators joined
19 together to make sure that pandemic-related financial
20 stress and our own support rules did not cut off service
21 when Americans needed it most.

22 Chairman Pai's Keep Americans Connected Pledge opened
23 up free wifi hot spots and kept families online through job
24 disruptions. We cleared the way for providers to donate
25 tablets so kids could learn from home, waived the lifeline

1 rules, and provided flexibility for services vital to the
2 deaf and hard-of-hearing.

3 Second, we tracked the surge in network traffic and
4 took steps to expand capacity. With the pandemic, internet
5 traffic spiked about 25 percent on fixed networks and
6 around 20 percent on mobile ones.

7 Throughout all of this, America's networks fared
8 exceptionally well. Other countries weren't so fortunate.
9 Their networks strained to maintain quality and speed. In
10 Europe, officials asked Netflix to reduce their video
11 quality, yet our networks showed no significant degradation
12 in speed or latency.

13 In fact, U.S. wireless networks saw speed increases.
14 By contrast, China saw up to a 40 percent reduction in
15 speeds, joining many other countries that experienced
16 significant declines.

17 America's networks performed because of the private
18 sector's massive investment in our internet infrastructure.
19 In 2018, for example, America's wireless providers invested
20 70 percent more per subscriber than their counterparts in
21 Europe. In 2019, our wireline providers built out more
22 miles of high-speed fiber than ever before. Those
23 investments increased speeds and pulled families across the
24 Digital Divide.

25 All of this investment is especially important to

1 advancing 5G. The very first commercial 5G service
2 launched here in the U.S. in 2018 and today, 5G networks
3 are live in 381 communities across the 50 states, making us
4 home to the world's leading 5G platform.

5 The network's performance under stress, the 5G build-
6 out, all of this investment didn't happen by chance. They
7 are fostered by a light touch regulatory approach to
8 infrastructure.

9 At the Commission, I've led our infrastructure
10 modernization efforts. We updated federal historic and
11 environmental rules for small cells. We built on common
12 sense reforms adopted by states and just two weeks ago, we
13 acted to expedite the upgrade of thousands of towers to 5G.

14 While wireless towers are being upgraded to 5G,
15 there's another wave of upgrades happening on broadcast
16 towers, the upgrade to ATIS3.0. It's a new standard that
17 allows broadcasters to offer 25 megabit per second download
18 speeds over the same powerful spectrum that Americans now
19 use for TV. These new broadcast internet services could be
20 used for everything from smart ag to connected cars. So I
21 was pleased the FCC voted this month to promote the
22 nationwide development of those services.

23 Whether we're discussing broadcast internet or
24 upgrading towers to 5G, Americans care about these
25 investments because of the life-changing services delivered

1 over those networks and few services can be more life-
2 changing than telehealth.

3 On a trip to Mississippi with Senator Wicker, I first
4 learned about a new trend in telehealth towards connected
5 care. Now back then, we had no idea how important
6 providing care at a distance would be but because of the
7 leg work we started after that visit, the FCC was able to
8 stand up a COVID-19 telehealth program in record time that
9 built on the lessons we learned in Ruleville, Mississippi.

10 Finally, after discussing our work to accelerate
11 infrastructure investment, I'd be remiss if I didn't update
12 you on our efforts to secure those networks.

13 As you know, we prohibited subsidized gear from
14 untrusted vendors from going into our networks. We're
15 looking at removing any such equipment that made its way
16 into our networks and we're considering whether to revoke
17 the authority of certain carriers to connect to our
18 networks.

19 As Congress considers additional action, one step I
20 recommend is to promote the swift transition to software-
21 based networks or O-RAN which will advance our national
22 security goals while decreasing the costs of building out
23 networks.

24 In closing, I want to thank you again, Chairman
25 Wicker, Ranking Member Cantwell, and Distinguished Members

1 of the Committee for holding this hearing. I look forward
2 to your questions.

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

4 [COMMITTEE INSERT]

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1 Senator Wicker: Thank you. Thank you very much.

2 And now we recognize Commissioner Starks.

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1 STATEMENT OF HON. GEOFFREY STARKS, COMMISSIONER,
2 FEDERAL COMMUNICATIONS COMMISSION

3 Mr. Starks: Chairman Wicker, Ranking Member Cantwell,
4 and Members of the Committee, thank you for inviting me
5 here today. It comes at a historic moment.

6 So far, more than two million people in the United
7 States have been infected with COVID-19. Over a 119,000
8 have died. Unemployment has hit its highest level since
9 the Great Depression and millions of children have missed
10 months of in-classroom education. All of this has profound
11 implications for the FCC and I look forward to discussing
12 that with you.

13 Today, however, I also want to shed light on an
14 additional perspective in my remarks by speaking not only
15 as an FCC Commissioner but as an African American father of
16 two young children who deeply cares about my country and my
17 community.

18 The civil protests of the last few weeks have sparked
19 a movement that has centered on the black experience in
20 America. Each of us has our own unique personal narrative
21 about being black in America, but there's also a common
22 story, a shared experience, a collective thread, and over
23 the last few weeks, a tighter bond has formed through
24 shared emotions: fear, frustration, and, most of all, of
25 course, hope.

1 Last week, alongside civil rights leaders Reverend Al
2 Sharpton, Mark Morial, Vanita Gupta, and Maurita Coley, I
3 published an op-ed on broadband in America with a
4 particular focus on communities of color. Our historic
5 failure to close the Digital Divide has had a devastating
6 impact on American communities of color, both rural and
7 urban, which the coming months and years will magnify
8 exponentially without a more urgent and successful
9 intervention.

10 In 2020, black Americans and other people of color are
11 still by a wide margin significantly less likely to have a
12 home broadband connection than their counterparts. They
13 have frequently worked around this issue by searching for
14 libraries, restaurants offering free wifi. The pandemic
15 has changed these fundamentals.

16 Shelter-in-place orders and closings have restricted
17 and foreclosed completely in many instances the broadband
18 access many of these public places and spaces provided and
19 classrooms and workplaces have moved online to virtual
20 settings. Our longstanding Digital Divide has morphed
21 truly into a monstrous COVID-19 divide.

22 A few thoughts. Access to high-quality broadband is a
23 civil right we cannot afford to lose but one that many
24 cannot afford to have. We must focus on affordability as
25 an access issue.

1 Even before the pandemic, more than 18 million
2 American households did not have broadband at home simply
3 because it is too expensive and with unemployment at Great
4 Depression levels and people trying to decide whether they
5 have enough money for groceries or for rent, this problem
6 has undoubtedly worsened.

7 There are a number of legislative proposals currently
8 available for broadband connections and devices for low-
9 income families and the newly unemployed and I cannot
10 overstate how I believe that these efforts are essential to
11 connecting and empowering all Americans.

12 For my part, within the Commission's authority, I have
13 also long advocated that we require rural providers who
14 build out with Universal Service dollars that they offer an
15 affordable broadband option.

16 The Lifeline Program remains disappointingly underused
17 and its benefits do not meet the needs of low-income
18 consumers in this era of social distancing. The FCC must
19 coordinate with agencies that administer services, like
20 SNAP or Medicaid, that determine eligibility for lifeline
21 programs to ensure low-income communities learn about it
22 and avail themselves of its benefits. Americans cannot
23 afford for this government to work in silos and I'm
24 thankful for the 40 Senators that signed a letter agreeing
25 with that proposal, including many on this committee, and

1 I'm thankful for Senator Klobuchar's leadership on the
2 congressional push for interagency coordination to increase
3 lifeline enrollment.

4 We should also increase the data and voice offerings
5 that lifeline covers to meet connectivity needs of our low-
6 income subscribers during this public health crisis.

7 We also need to focus on our youngest learners.
8 Millions of students across the country remain
9 disconnected, even though they spent this spring in-home
10 classrooms away from school grounds. e-Write must meet the
11 demands of the moment and to respond to the ongoing need
12 for distance learning, we should permit schools to offer
13 broadband connections, including hot spots, to their
14 students.

15 The outlook for school reopening for the fall remains
16 opaque. So this issue is not going away.

17 I'm making my own investments in these issues.
18 Earlier this month, I announced my Digital Opportunity
19 Equity Recognition, a DOER Program, and with the help of an
20 advisory board of digital equity champions, I plan to
21 recognize organizations, companies, individuals who have
22 helped to make quality affordable broadband service
23 available to unserved or underserved communities with a
24 particular focus on responding to the challenges of COVID-
25 19.

1 The alarming and predicted impacts of COVID-19 make
2 clear that the American people can no longer wait for
3 connectivity. Inspired by the fierce urgency of now and
4 guided, of course, by hope, I want to make sure that all
5 communities have access to affordable and reliable
6 broadband.

7 If we do and work together, I know we will create a
8 better country for all Americans.

9 Thank you for inviting me here today. I look forward
10 to your questions.

11 [The prepared statement of Mr. Starks follows:]

12 [COMMITTEE INSERT]

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1 Senator Wicker: Well, thank you to all of you for
2 excellent testimony.

3 Let me say we need to do everything we can for
4 distance learning. At the same time, we need to get this
5 economy open and we need to get schools opened. Nothing
6 can take the place of that and that ought to be one of the
7 major priorities of this Congress and this Administration
8 to get our elementary and secondary institutions open so
9 parents can go back to work and kids can go to school where
10 educators are taught and trained to do the best job of
11 teaching and we need to get our colleges and universities
12 opened.

13 So thank you for your effort there, but the main
14 solution is a broader solution.

15 We've got a lot to discuss. Chairman Pai,
16 Commissioner Rosenworcel is concerned that we're not going
17 to get the Broadband Data Act information in time for two
18 important events: the RDOF, Rural Digital Opportunity
19 Fund, and then the 5G Fund.

20 I think you said recently that we can get that
21 information in months rather than years, which is an
22 optimistic and welcomed statement on your part.

23 So I'm going to let the two of you discuss this, but
24 respond to her concerns and on the RDOF, the first step of
25 application begins in a week or two, July, and then it's

1 going to be here before we know it.

2 What do you say to her point that we're going to be
3 doing that blind without new information on the Data Act?

4 Mr. Pai: Mr. Chairman, I would say that that concern
5 is misplaced. Phase 1 of the Rural Digital Opportunity
6 fund focuses on unserved areas, areas that we know,
7 especially after the challenges that we received, do not
8 have any service according to the maps, any map that you
9 look at, and so to me at least for those millions of
10 Americans who are on the wrong side of the Digital Divide,
11 who we know are on the wrong side of the Digital Divide, it
12 is not adequate for me to say they should be denied digital
13 opportunity potentially for months or even years while we
14 figure out the mapping in partially-served areas.

15 That is what is at stake here, Point Number 1. Point
16 Number 2, -0-

17 Senator Wicker: Please hold that point, though.
18 Commissioner Rosenworcel, that makes sense to me. We know
19 that these areas in the RDOF are unserved.

20 Ms. Rosenworcel: So I want to point something out to
21 you. We're making it a choice between speed and accuracy.
22 I think the government needs to do both and let me talk a
23 little bit about accuracy.

24 The nation's largest broadband providers came together
25 and assessed how accurate our data was. What they found

1 was that 38 percent of the homes and businesses that our
2 data say have service today do not. That's an error rate
3 of two in five.

4 Senator Wicker: Okay. But with --

5 Ms. Rosenworcel: We're going to hand out billions of
6 dollars based on that data --

7 Senator Wicker: But with regard, though, to the RDOF
8 areas, we know they're underserved, don't we?

9 Ms. Rosenworcel: But here's the problem. The bulk of
10 Americans without service today are in areas that are on
11 the outskirts of suburbs, on the outskirts of exurban
12 America, and our maps say those people have service when
13 they do not, and the problem is --

14 Senator Wicker: Are they subject to the RDOF?

15 Ms. Rosenworcel: -- one week before the selection, we
16 are poised to give out \$16 billion based on maps we know
17 are wrong. That's 80 percent of the funds for the next 10
18 years we have.

19 To me, I don't think we have any business giving out
20 that much money without first making some effort to fix our
21 maps that we know are wrong.

22 Senator Wicker: Okay. What's your suggestion?

23 Ms. Rosenworcel: Here's what I suggest. I respect
24 what the Chairman said about trying to move fast, but I
25 don't think giving out 80 percent of our funds for the next

1 10 years when we know our data is wrong is the right
2 number.

3 I think we have to reserve far more of those funds for
4 a time when our maps are correct and accurate because if we
5 don't, we will not have funds to get to every American. We
6 will leave people behind.

7 Senator Wicker: We have groups and citizens
8 contacting us saying we need to speed this RDOF up and make
9 it even earlier.

10 Ms. Rosenworcel: And, you know, I --

11 Senator Wicker: Aren't you --

12 Ms. Rosenworcel: -- also lots of people --

13 Senator Wicker: -- saying that we --

14 Ms. Rosenworcel: -- reaching out to me telling me
15 when I look at the FCC map, it says I have service when I
16 don't and as a result, I can't get service in my community,
17 in my home, and in my business. Again, an error rate of
18 two in five.

19 Senator Wicker: Well, I was hoping --

20 Ms. Rosenworcel: It's not the kind of data we should
21 give out billions of dollars from.

22 Senator Wicker: I was hoping, Commissioner
23 Rosenworcel, though, that you would answer the question
24 rather than making a speech.

25 Are these areas that are subject to the RDOF among

1 those suburban areas that you're talking about?

2 Ms. Rosenworcel: No, I think they're the areas that
3 we more conclusively know there is not service today.

4 Senator Wicker: Okay.

5 Ms. Rosenworcel: And I agree we should move ahead and
6 do something fast, but I think taking 80 percent of our
7 funds for the next 10 years and doing this without fixing
8 our data is a mistake. We should find a way to be both
9 fast and accurate.

10 Senator Wicker: Well, okay, how do we get the
11 Broadband Data Act complied with more quickly, Mr.
12 Chairman?

13 Mr. Pai: Well, the FCC needs funding to be able to do
14 that. 65 million just for startup costs in the first year
15 alone. Otherwise it is an unfunded mandate and I've said
16 repeatedly we need money before maps and I think what you
17 just heard was an implicit concession that without it,
18 those Americans, Americans I've met in places like Capon
19 Springs, West Virginia, and the Gulf of Mississippi, and in
20 other poor towns across this country, they will have to
21 wait potentially for years unless and until Congress gives
22 us funding and we stand up the systems to determine what
23 suburban areas might be partially served, and I think
24 digital opportunities should not be denied to those
25 Americans who are on the wrong side of the divide by any

1 metric we use.

2 Senator Wicker: Well, it seems to me that we've
3 mandated this and it is incumbent upon the Congress to
4 provide the funds to get this going as soon as possible
5 because it is an urgent need.

6 Mr. Pai: Yes, sir.

7 Senator Wicker: Thank you very much.

8 Do you two have dinner together?

9 Mr. Pai: Socially distant.

10 Ms. Rosenworcel: He's keeping it lively for you.

11 Senator Wicker: Well, you're both terrific and very
12 articulate.

13 Who is next? Senator Klobuchar?

14 Senator Klobuchar: Thank you very much, Mr. Chairman.

15 Thank you to all of you and thank you for your
16 heartfelt words about what this pandemic has meant,
17 particularly thank to you, Commissioner Starks, to so many
18 families across this nation.

19 So Senator Kramer and I have a bill which I know
20 you're aware of which would create a major fund at the FCC
21 to help providers, some of the small internet providers
22 that are the ones that are stepping in right now to help so
23 many families, so students and low-income families can
24 connect to work, school, and communities.

25 We now have 32 co-sponsors, including nine on this

1 committee, Peters, Young, Baldwin, Duckworth, Sullivan,
2 Tester, Sinema, and Rosen.

3 Chairman Pai, last week you sent a letter to
4 congressional leaders requesting legislation to help ensure
5 that nearly 800 broadband providers that signed the FCC's
6 Keep Americans Connected Pledge can continue providing
7 service to consumers after the pledge expires at the end of
8 the month.

9 You also state in your testimony that "these
10 companies, especially small ones, cannot continue to
11 provide service without being paid for an indefinite period
12 of time."

13 Do you agree that legislation like the one that
14 Senator Kramer and I have introduced would help ensure that
15 we can keep Americans connected?

16 Mr. Pai: I appreciate the question, Senator
17 Klobuchar. There's no question that some of the smaller
18 providers that are the subject of your bill have endured
19 significant losses in many cases, as we've heard, and I
20 think your legislation is an important step in the right
21 direction to make sure that from the consumer perspective
22 they can continue to enjoy the services they've relied on
23 the last three months.

24 Senator Klobuchar: Thank you.

25 Commissioner Rosenworcel?

1 Ms. Rosenworcel: Yes, thank you for your leadership
2 on this issue, and I agree with everything the Chairman
3 just said.

4 Senator Klobuchar: Okay. Very good. Which I'm sure
5 is always the case.

6 [Laughter.]

7 Senator Klobuchar: Commissioner Starks, last week in
8 your joint op-ed in *Essence* with the civil rights leaders
9 that you mentioned, right, --

10 Mr. Starks: Yes.

11 Senator Klobuchar: -- you called on lawmakers to
12 improve connectivity for marginalized communities during
13 this crisis and in the future.

14 We have a bill, Supporting Connectivity for Higher
15 Education Students in Need Act, with Senators Hirono,
16 Peters, and Rosen, to help the National Co-Communications
17 Information Administration ensure that college students
18 with financial need can access critical internet.

19 Do you believe that legislation would be helpful?

20 Mr. Starks: Yes, Senator, I do believe that is
21 extremely helpful legislation. I held an HBCU roundtable
22 myself with presidents from HBCUs as large as Howard, FMU,
23 to Morgan State and each of them also discussed how
24 important this is going to be to make sure that Pell grant
25 students, students that are going back to their homes in

1 rural areas, urban areas where there's not connectivity,
2 making sure that we're thinking through that. It's
3 extremely important.

4 Senator Klobuchar: You also mentioned the Lifeline
5 Program and Senator Durbin and myself wrote a letter along
6 with a 140 members of Congress urging the FCC to take
7 action to make sure that they are aware of the help they
8 can get to access the internet and we know that this has
9 always been an issue but this pandemic has put a major
10 magnifying glass on this problem.

11 What additional measures do you think are necessary to
12 help close the homework gap and increase connectivity for
13 students moving forward?

14 Mr. Starks: Yes, and on that letter in particular, we
15 know that only seven and a half million Americans are on
16 lifeline right now, whereas upwards of 38 million are
17 eligible, and so it's going to be increasingly important
18 and what I called for was an MOU by the FCC to SNAP, to
19 HHS, to other agencies that are prerequisites basically to
20 get lifeline. I think it's going to be extremely important
21 that those agencies be a part of this and the fact of the
22 matter is that Americans cannot afford for our government
23 to work in silos right now.

24 Senator Klobuchar: Okay. Thank you.

25 Ms. Rosenworcel, and I will ask some other broadband

1 questions of the other two Commissioners, I didn't mean to
2 omit you, but this is about the merger of TMobile and
3 Sprint. You know, I have opposed that and I'm very
4 concerned that we have only three nationwide wireless
5 carriers once this would go through and just very concerned
6 about what's happening with consolidation in general.

7 There's a hearing going on unrelated to FCC matters
8 right now but related in a bit of a way and it's over in
9 the House on whistleblowers and it involves some disturbing
10 news on some of the antitrust investigations and political
11 interference in them related to the cannabis industry and
12 some other things but it's worth looking at that testimony.
13 I was pretty shocked. That's how I started my day today.

14 And the reason it's relevant here is not that it
15 involves the FCC but that the concern about any political
16 interference in these merger decisions, and what do you
17 think the impact will be of having only three nationwide
18 wireless carriers on our country's ability to deploy 5G?

19 Ms. Rosenworcel: Thank you for the question.
20 Consolidation is a problem throughout the economy. Less
21 competition is less competition. That means higher rates
22 and less innovation.

23 So we went from four to three major wireless carriers.
24 When we went from four to three major airline carriers, I
25 got baggage fees and smaller seats. The same thing's going

1 to happen here and all I've seen to date are thousands and
2 thousands of job losses. We should be concerned.

3 Senator Klobuchar: Okay.

4 Senator Wicker: Thank you, --

5 Senator Klobuchar: Thank you.

6 Senator Wicker: -- Senator Klobuchar.

7 Senator Fischer joins us remotely. Senator Fischer,
8 you are recognized.

9 Senator Fischer: Thank you, Mr. Chairman. Can you
10 hear me okay?

11 Senator Wicker: Absolutely.

12 Senator Fischer: Okay. Thank you very much.

13 Chairman Pai, Nebraska's one of several states across
14 the country with its own Universal Service Fund and I think
15 the federal-state communication here is particularly
16 important.

17 In the past, the FCC and the Nebraska Universal
18 Service Fund has encouraged and supported projects in a
19 very complementary way. As we look to the FCC's upcoming
20 initiatives, I want to understand how today's FCC views
21 that dynamic.

22 So, Mr. Chairman, do you believe that the FCC has
23 effective ways to interface with state commissions for
24 those that have the Universal Service Funds, such as both
25 the state and federal funds, so that both the state and the

1 federal funds are maximized for the most efficient use?

2 Mr. Pai: Thank you for the question, Senator, and I
3 do hope that you can hear me.

4 The answer to your question is yes. In fact, the very
5 first vote held after I became chairman was to cement a
6 partnership with the State of New York to make sure that
7 federal and state funds for broadband deployment in rural
8 areas were working in concert.

9 Over the years since I've become chairman, we've had
10 cooperative relationships like that with other states, too,
11 Pennsylvania, among others. In fact, just a week ago or
12 two weeks ago, I had a great conversation with broadband
13 leaders in Washington State about making sure that we are
14 working in concert not just on rural broadband but on
15 things like e-Write and tribal broadband to make sure that
16 we stretch every taxpayer dollar, whether it comes from the
17 federal or state level, as far as possible to close that
18 Digital Divide.

19 Senator Fischer: We want to make sure that we don't
20 have duplication but we also want to make sure that we have
21 very, very efficient coordinated efforts. Would you agree
22 with that?

23 Mr. Pai: I couldn't agree more, Senator. It's
24 important from the consumer perspective for all levels of
25 government to be working together, not in silos and

1 certainly not at loggerheads.

2 Senator Fischer: Right. I know Nebraska has a very
3 dynamic, a very thoughtful and involved Public Service
4 Commission, and so I hope that we can continue that
5 partnership to be beneficial to the customers and the
6 citizens of my state.

7 Also, Chairman Pai, due to the pandemic, we see
8 students across the country that have had major shifts in
9 their daily lives over the past several months in needing
10 to complete their class work from home. Questions remain
11 for if and how students will be back at school this fall.
12 It's going to place some extra stress on addressing both
13 the affordability and the access challenges that they have
14 for internet connectivity.

15 So, Chairman Pai, in light of the pledge that's going
16 to be expiring next week, what policies do you see as most
17 helpful in tackling these challenges for student households
18 across the country?

19 I've had a couple roundtables with people in telecom
20 providing services, with state officials, and with
21 superintendents from districts across the state, and this
22 is a deep concern.

23 Mr. Pai: Absolutely, Senator. That's why three
24 months ago, I sent a letter to Congress, including, I
25 believe, members of this committee, urging the creation of

1 a Remote Learning Initiative as part of the CARES Act,
2 something similar to what Congress ultimately did with
3 respect to telehealth in the COVID-19 Telehealth Program.

4 My vision is for Congress to give the FCC similar
5 authority to be able to in a streamlined way direct this
6 funding to the schools and the school kids who really need
7 that connectivity.

8 In the meantime, we're going to continue to pull out
9 the stops with our existing authorities to make sure that
10 we provide that connectivity to the maximum extent
11 possible. We've relaxed the gift rules, for example.
12 We've extended a number of deadlines. We want to work with
13 school districts and also with the Department of Education
14 because the CARES Act did allocate \$16 billion of funding
15 that can be used for education technology.

16 So we're working with federal and state officials to
17 make sure that school districts are aware of that funding
18 so they can use it certainly by the time school gets back
19 in in the fall.

20 Senator Fischer: I really appreciate you taking this
21 cause up and your leadership because you certainly
22 understand the vastness when it comes to many of our states
23 in this country while also recognizing the importance of
24 access but also affordability which we see in many of our
25 urban areas, as well.

1 So thank you.

2 Mr. Pai: Thank you, Senator.

3 Senator Fischer: I was pleased to see the recent
4 announcement of funds going to medical providers in Norfolk
5 and Omaha from the FCC's new COVID-19 Telehealth Program.

6 Commissioner Carr, how has the structure of that
7 program been successful, and what challenges have you seen
8 with that?

9 Mr. Carr: Senator, thank you for the question and for
10 your leadership on expanding telehealth.

11 I had a chance to join you in Norfolk myself. So I'm glad
12 to see that some of these funds are going there.

13 I was also on the remote Pine Ridge Indian Reservation
14 which runs along the South Dakota-Nebraska border and saw
15 where a mental health service provider was able to remotely
16 deliver care for her location in Ballantine, Nebraska. So
17 I think the program that we have at the FCC that we stood
18 up very quickly is moving hundreds of millions of dollars,
19 ultimately I think we're at a 150 million so far today, out
20 into the health care system. I think it's a great result,
21 and I'm really pleased with the progress we're making on
22 that front.

23 Senator Wicker: Thank you.

24 Senator Fischer: On your findings, are those being
25 recorded, and can they be applied to the FCC's other

1 efforts that you're working on with telehealth?

2 Mr. Carr: That's right. Well, the new wave of
3 telehealth applications that are going to open up for a
4 longer-term three-year pilot program, I think there
5 certainly will be lessons learned from this emergency
6 COVID-19 that we can apply in that context, too.

7 Senator Fischer: Thank you very much.

8 Senator Wicker: Thank you.

9 Senator Fischer: Thank you, Mr. Chairman.

10 Senator Wicker: Thank you, Senator Fischer.

11 Senator Blumenthal?

12 Senator Blumenthal: Thanks, Mr. Chairman. Thank you
13 all for being here today and all that you're doing.

14 Chairman Pai, I hope you and the Commission have some
15 sense of the urgency and impatience of this committee on
16 Homework app, which is rapidly turning into a homework
17 chasm.

18 In Connecticut, students, many of them lost a semester
19 that will be very difficult for them to recover and if they
20 lose another semester in the fall, it will seriously and
21 irreparably harm their education.

22 So this homework chasm is turning into a national
23 scandal and I would like to know why the FCC is unwilling
24 apparently to waive the e-Write rules to allow schools to
25 use their funds to provide devices and connections for

1 students.

2 I recognize you've done some on the gifts. I know
3 that you've taken some very limited and narrow steps, but
4 why not go farther to waive those e-Write rules?

5 Mr. Pai: Thank you for the question, Senator. The
6 answer is the law. We can waive a rule. We cannot waive a
7 statute and the statute clearly says that e-Write can only
8 subsidize services delivered to classrooms. It uses that
9 specific term.

10 That's why in the context of the CARES Act when it was
11 being developed, I strongly urged Congress, give us the
12 authority to set up this remote learning initiative so we
13 could do for school kids what we have now successfully done
14 for patients.

15 Senator Blumenthal: You know, on March 16th, Senator
16 Markey and I led a letter with 16 of our Senate colleague
17 saying, in effect, the FCC could do it under your present
18 authority. You disagreed.

19 Commissioner Rosenworcel, what do you think?

20 Ms. Rosenworcel: I think we need to meet this moment.
21 In 2011 and 2012, we used the e-Write Program to help
22 connect disconnected kids at home. There is a reference to
23 classrooms but those classrooms are now online.

24 In addition, there's references to using additional
25 services for educational purposes and we have forbearance

1 authority under Section 10. We're tying ourselves in knots
2 and by doing so, we're not helping students who really need
3 to be connected.

4 Senator Blumenthal: Chairman Pai, I think the sense
5 of this committee, as you've heard, is that the FCC has to
6 do more, it has to do it more quickly, and it has to do it
7 now, and I hope that you will heed that sentiment. I think
8 that you have an obligation to the students of America to
9 do it and to their families.

10 Let me ask you on the subject of authority. Would you
11 agree with me that the FCC has no authority to do the kind
12 of rulemaking that the President has ordered in his most
13 recent Executive Order with respect to Section 230?

14 Mr. Pai: Senator, as you know, the Executive Order
15 directs the NTIA to file a petition for rulemaking with the
16 FCC and so I can't express a view at this time as to --

17 Senator Blumenthal: Well, your fellow Commissioners
18 have.

19 Mr. Pai: I can't speak for them. I can only speak
20 for myself and I would never opine about a petition for
21 rulemaking that we have not yet received.

22 Senator Blumenthal: Will you commit to dealing with
23 that NTIA petition in the coming weeks?

24 Mr. Pai: Senator, we haven't received any petition,
25 so I can't --

1 Senator Blumenthal: Will you deal with it as quickly
2 as you can after it's filed?

3 Mr. Pai: Senator, we will certainly follow the
4 appropriate process that we do for such petitions.

5 Senator Blumenthal: Let me just say this Executive
6 Order is plainly and blatantly simply an assault on the
7 credibility and the legitimacy of the First Amendment and
8 of your agency. It's directing you to do something that
9 you simply do not have the authority to do.

10 If you care about your agency and you care about its
11 integrity and authority, you will stand up for it and avoid
12 the President's effort to engage you in retaliating against
13 his political rivals, against tech companies who happen to
14 be on the other side of issues from him, and I would like
15 your commitment that you will, in effect, dispel the over-
16 hanging threat to them and to constitutional rights that
17 this Executive Order reflects.

18 Mr. Pai: Well, Senator, if you're asking for a
19 substantive answer, I can't provide that. Of course, I'm
20 not going to prejudge any petition for rulemaking, but what
21 I will say is what I've said on every issue. I will always
22 follow the law and follow the facts, nothing more, nothing
23 less.

24 Senator Blumenthal: I'm assuming that everybody on
25 this panel agrees that the Lifeline Program is an important

1 and vital program. If you disagree, please raise your
2 hand.

3 I'm assuming -- and no one has. So let me go to the
4 next question. I'm assuming you all would support more
5 funding for it, as I have urged with a number of my
6 colleagues. I led a letter with about 26 of them urging
7 the leadership to allocate a billion dollars.

8 Do you agree that that is at least the additional
9 amount that's necessary? Anybody disagree?

10 Commissioner O'Rielly? Why don't you turn on your
11 microphone?

12 MR. O'Rielly: Sorry. We're under a billion dollars
13 in terms of spending, so I don't know how much more would
14 be needed. I'm not against more money. I just don't know
15 how much more we're talking about. So your number might be
16 --

17 Senator Blumenthal: You're in favor of more money?

18 Mr. O'Rielly: If needed, absolutely. I voted for it
19 in the past, but in terms of how much more, I can't tell
20 you what the number is.

21 Senator Blumenthal: But you're the only one among the
22 Commissioners who feels that you have any doubts that a
23 billion dollars is necessary and thank you.

24 Mr. Carr: Senator, I would obviously defer to
25 Congress on any bill they pass and be happy to implement

1 it, but I join my colleague in saying there's not a
2 specific number right now that I have in mind.

3 Senator Blumenthal: Are you telling this committee
4 you have no idea how much more money is necessary for the
5 Lifeline Program?

6 Mr. Carr: I'm saying I don't know if a billion
7 dollars is the right number or the wrong number. It could
8 be more, it could be less.

9 Senator Wicker: Thank you. Thank you, Senator
10 Blumenthal.

11 Members of the Commission are asked by our Technical
12 Staff to turn on the microphone when you're speaking but to
13 turn it off then after your answer is complete.

14 I think Senator Thune is next. You are recognized.

15 Senator Thune: Thank you, Mr. Chairman.
16 Commissioners, thank you for being here. Thank you for all
17 your service and in these days under extremely difficult
18 circumstances but nonetheless lots of challenges we face as
19 a nation and you guys are right in the middle of it.

20 Very quickly, Section 230 of the Communications
21 Decency Act has been the subject of much debate and has
22 garnered bipartisan interest.

23 Today, I'll be joining Senator Schatz in introducing a
24 Platform Accountability and Consumer Transparency Act or
25 the PACT Act, which is a bipartisan bill that will provide

1 for more accountability and transparency for large tech
2 platforms with respect to content moderation decisions.

3 The PACT Act includes two provisions put forward by
4 the Department of Justice last week in its recommendations
5 for reforming Section 230. The Attorney General has
6 concluded that Section 230 is, and I quote, "ripe for
7 reform."

8 For each Commissioner, yes or no, do you agree with
9 the Attorney General that Section 230 is ripe for reform
10 and would bipartisan congressional action be the most
11 effective way to achieve this? Mr. Chairman?

12 Mr. Pai: Senator, I can't give you a yes or no
13 answer. It's an important debate, but I haven't formed a
14 view on that particular question at this time.

15 Senator Thune: Okay. Commissioner?

16 Ms. Rosenworcel: Yes, and I believe congressional
17 action is the only way to do this.

18 Senator Thune: Okay.

19 Mr. O'Rielly: Yes.

20 Mr. Carr: It is ripe for reform, and I think all
21 stakeholders in government, from the FCC to the Federal
22 Trade Commission to the Department of Justice to Congress,
23 all have a responsibility to look at their roles in
24 updating and reforming the approach to Section 230.

25 Mr. Starks: Yes, Senator, and I think that the way

1 that Section 230 is currently written, the FCC does not
2 have a role and I'm highly skeptical on that and I do think
3 Congress is the right venue for any further dialogue, yes.

4 Senator Thune: Okay. Thank you. All right. Now
5 you've got to work on your chairman.

6 Last week, I introduced legislation that would provide
7 additional funding to the FCC for the build-out of
8 broadband networks to unserved areas. Would a framework
9 like the one established under my Rural Connectivity
10 Advancement Program Act make it easier for the FCC to
11 utilize congressional dollars for broadband deployment?
12 I'll start with you, Chairman Pai.

13 Mr. Pai: Yes, Senator, absolutely. It would help
14 accelerate that rural broadband deployment in concert with
15 some of the FCC's own initiatives, like the Rural Digital
16 Opportunity Fund, and speeding up broadband deployment, I
17 think, is the top priority of this Commission as well as
18 this Congress.

19 Senator Thune: Mr. O'Rielly?

20 Mr. O'Rielly: Yes, absolutely.

21 Senator Thune: All right. We got consensus there. I
22 will direct this to Chairman Pai and Commissioner Carr.

23 In the United States, we've largely taken a light
24 touch approach to broadband regulation by the Federal
25 Government and because of that, we've seen investment in

1 our fixed and mobile networks increase, which means more
2 individuals can telework, students can utilize distance
3 learning, and families can benefit from telehealth
4 services.

5 Chairman Pai, could you speak to some of the tele-
6 communications infrastructure reforms the FCC has recently
7 taken to ensure that we continue to see more investment in
8 broadband networks, and should Congress consider additional
9 reforms, like the bipartisan Streamlined Small Cell
10 Deployment Act, to spur more investments?

11 Mr. Pai: I would be happy to, Senator. As your
12 question suggests, Commissioner Carr has played a leading
13 role in this effort, but what I will say is that our recent
14 Wireless Infrastructure Declaratory Ruling clarifying our
15 Section 6409 rules I think is a good example of trying to
16 streamline the process to give wireless companies,
17 infrastructure builders, and others the certainty they need
18 to be able to build some of these next generation networks
19 at scale.

20 Capital is fickle, talent is scarce, innovation
21 doesn't have to happen, and so the more difficult the
22 regulatory system is for wireless infrastructure
23 deployment, the less likely we are to get it and that's why
24 that was a step in the right direction, and it's
25 consistent, I would add, with the three years of

1 infrastructure reforms that we have made, often with great
2 heat taken, but ultimately over the last three months those
3 strong networks have been proof of concept for our
4 regulatory approach.

5 Senator Thune: Commissioner Carr?

6 Mr. Carr: I think these infrastructure reforms,
7 including the ones that you have championed in the
8 Streamline Act, would continue and accelerate our efforts
9 to close the Digital Divide, but, look, the trajectory that
10 we've gone in this country over the last three years when
11 it comes to building out internet infrastructure is a
12 marked contrast from the prior eight years.

13 We wasted a tremendous amount of time chasing around
14 partisan political agendas at the FCC rather than focusing
15 on what matters, which is building out internet
16 infrastructure in Rural America, and I think this pandemic
17 has put telecom policy in a crucible and what comes out of
18 all of this is that's what we have to focus on, not
19 partisan politics but on closing the Digital Divide, and
20 that's really where we've been the last three years and
21 it's paying off results. We're not raising the mission
22 accomplished flag yet but the Digital Divide is narrowing
23 and speeds are increasing and the U.S. internet
24 infrastructure held up better than a lot of our global
25 counterparts because of the investment that the private

1 sector generated over the last couple years.

2 Senator Thune: Hear hear. Very quickly, we're seeing
3 5G networks deployed across the country, including in South
4 Dakota. It's going to require a combination of low band/mid
5 band/high band spectrum.

6 The FCC recently held successful auctions to free up
7 additional high band spectrum, but assuring that we have
8 additional mid band spectrum is key to winning the race.

9 Chairman Pai, I appreciate your work on the upcoming
10 C-band auction that is set to take place at the end of this
11 year. Can you speak to the benefits of getting this
12 spectrum to market quickly?

13 Mr. Pai: Absolutely, Senator, and because the
14 satellite operators have accepted accelerated relocation,
15 that spectrum will be available two to four years sooner
16 than otherwise would have been the case and that means that
17 American consumers will be ahead of the curve in enjoying
18 5G services.

19 American companies will get quicker access to this
20 spectrum, one of the critical parts of the 5G air waves
21 ecosystem, and America will be ahead of the curve compared
22 to other countries that are looking to seize the advantage
23 when it comes to 5G.

24 C-band was critical to our efforts and I'm very proud
25 of the work that we've done, thanks in part to you and

1 Senator Wicker.

2 Senator Thune: Thank you. Thank you, Mr. Chairman.
3 Thanks to all of you for your service. Appreciate you
4 being here.

5 Senator Wicker: Thank you, Senator Thune.

6 Senator Schatz?

7 Senator Schatz: Thank you, Mr. Chairman. Thank you
8 to the Commissioners for being here.

9 I want to start with a follow-up question on the
10 exchange, Commissioner Pai, that you had with Commissioner
11 Rosenworcel.

12 She said that 80 percent of the \$16 billion for
13 broadband that is going to be deployed over the next 10
14 years will be decided upon this October and that it has a
15 40 percent error rate. Do you agree that those are the
16 facts?

17 Mr. Pai: Those are not the facts. First of all, with
18 respect to the 80 percent, that is the estimated cost of
19 deploying to Phase 1 areas. If that budget is not met,
20 those funds roll over into Phase 2. So it could well be
21 lower than 16 billion, as was the case in the Connect
22 America Fund Phase 2 auction.

23 Secondly, the 38 percent she's talking about has
24 nothing whatsoever to do with the unserved areas that are
25 part of Phase 1.

1 Senator Schatz: So what's the number?

2 Mr. Pai: In terms of the error rate or in terms of
3 the --

4 Senator Schatz: Yes.

5 Mr. Pai: Well, again, the error rate has to do with
6 partially-served areas. Phase 1 has only to do with the
7 unserved areas. We're talking apples and oranges here.

8 Senator Schatz: What's the error rate?

9 Mr. Pai: I don't know what the error rate exactly is.
10 There is an estimate of --

11 Senator Schatz: So hold on, hold on. I know you can
12 go five minutes on your own. I want to make sure I get my
13 questions in here.

14 You don't know what the error rate is. We're asking
15 you to get better fidelity on what the error rate is and
16 the basic point Commissioner Rosenworcel is making is that,
17 you know, measure twice, cut once, that this is a
18 significant investment, that maybe it's not 80 percent of
19 the \$16 billion, maybe it's something less than that, but
20 it's certainly a significant chunk and certainly it is an
21 incomplete picture as we deploy billions and billions of
22 dollars.

23 Commissioner Rosenworcel, I want to give you a chance
24 to respond to Commissioner Pai here.

25 Ms. Rosenworcel: Yes, thank you for the question.

1 Again, we should have a policy that involves both speed and
2 accuracy. That's how we should spend federal dollars, and
3 I think the record reflects that we don't have accurate
4 data.

5 We say 18 billion people don't have broadband. There
6 are other studies that suggest that number is 42 billion or
7 even a 162. We just don't know well enough to give out 80
8 percent of our funds for the next 10 years in October.

9 Senator Schatz: Thank you. Commissioner Pai, I want
10 to follow up on Senator Blumenthal's question regarding the
11 definition of a classroom, and you and I have had a
12 conversation about this, but it seems to me, and I've
13 consulted with lawyers about this, that the definition of a
14 classroom under the statute for e-Write certainly could be
15 captured by an online classroom, and I'm just wondering why
16 you have chosen to interpret this statute in the middle of
17 a pandemic so narrowly because the consequences are so dire
18 here.

19 Why not allow e-Write dollars to be used to provide
20 more connectivity when brick and mortar classrooms are in
21 lots of instances actually closed?

22 Mr. Pai: Senator, I share your frustration. That's
23 why three months ago, at the inception of negotiations of
24 the CARES Act, I urged Congress to give us additional
25 authority and funding.

1 Senator Schatz: I got it. I got it. You wanted a
2 statute to make it clear and now you have an opportunity to
3 interpret existing statute in a way that doesn't run afoul
4 of the law but actually provides more broadband and so do
5 you have -- can I get a commitment that you'll relook at
6 this and consider the possibility that you have maybe a
7 more narrow legal path but a path nonetheless to get this
8 done?

9 Mr. Pai: I'm always happy to look at new legal
10 arguments about this issue.

11 Senator Schatz: Okay. We'll send that in. Finally,
12 the CARES Act appropriated \$200 million for telehealth. 46
13 states have received funding. Why has Hawaii, North
14 Dakota, Montana, and Alaska not received an award at all?

15 Mr. Pai: Thank you for the question, Senator. The
16 reason is because we've been applying objective level,
17 county level data from Johns Hopkins University as the
18 Department of Health and Human Services advised, and we're
19 considering an area to be hard hit if the county where the
20 lead applicant is located is in the 75th percentile of all
21 U.S. counties for either confirmed cases or confirmed
22 deaths.

23 Now the highest counties in the states that you
24 mentioned --

25 Senator Schatz: So hold on. So the only criteria

1 that you're using is current COVID rates during the time
2 that you consider the application. I want you to know how
3 absurd that is.

4 Number 1, obviously this virus moves across the
5 country in unpredictable ways. So you might be a highly-
6 impacted county one month and then a low-impact county the
7 next month.

8 The other thing is this is telehealth. This is about
9 providing health care generally speaking, not just COVID-
10 related health care, and every single part of this entire
11 country has been impacted as every single hospital was told
12 to, whenever possible, to utilize telehealth for non-COVID-
13 related services.

14 So the idea that the only way a county or a county
15 hospital can be hit is if it's got a high COVID rate is
16 based on nothing at all, other than the objective to peg it
17 to one set of data. That is not the intention of the
18 statute and that is not fair to states and counties that
19 have done a good job in managing this pandemic.

20 Mr. Pai: Senator, I understand your frustration, but
21 again we've adopted objective criteria that are flexible to
22 meet changing circumstances.

23 Senator Schatz: It's not an objective criteria.

24 Mr. Pai: For example, we gave an award to Yakima,
25 Washington, because it's an emerging hot spot and they

1 demonstrated that. If there are areas in Hawaii that meet
2 that objective criteria, let me know, but we can't just
3 give it out on a whim. We have to do it based on objective
4 criteria.

5 Senator Schatz: So what I'm saying, Commissioner Pai,
6 is that it is not an objective criteria to tie it
7 exclusively to the COVID rate in a particular county.
8 That's not what the statute was for. That's not what
9 telehealth in hospitals is exclusively for.

10 I want you to understand that just because you tie it
11 to one dataset doesn't make it objective.

12 Mr. Pai: Senator, again, we're relying on data from
13 Johns Hopkins as advised by HHS and if we were to do
14 anything other than that, --

15 Senator Schatz: I got your talking point. Everybody
16 heard the Johns Hopkins talking point.

17 Mr. Pai: It's not a talking point.

18 Senator Schatz: Yeah. So what I'm saying --

19 Mr. Pai: Okay. Well, we're --

20 Senator Schatz: What I'm saying is -- what I'm saying
21 is that what you need to do is consider the possibility
22 that the statute was not only about serving places with a
23 high COVID rate.

24 Mr. Pai: Senator, if I did anything different, if I
25 didn't use objective criteria, I'd be criticized for

1 picking winners and losers across the country and that's
2 not what I'm going to do. We're going to base it on the
3 expert opinion of those who had advised us to use these
4 Johns Hopkins county level data across the country and be
5 flexible to meet those adapting circumstances in places
6 like Yakima, Washington.

7 Senator Schatz: I apologize, Mr. Chairman. I
8 apologize to the Chairman for exceeding my time. I'll send
9 a letter.

10 Thank you.

11 Senator Wicker: Thank you. And yes, we'll take other
12 rounds and submit questions.

13 But let me ask you, Mr. Chairman. Was this decision
14 made administratively? Was it made by a vote of the
15 Commission?

16 Mr. Pai: The actual set up of the COVID-19 Telehealth
17 Program was a vote of the Commission. The staff has been
18 developing some of the criterias, of which one is relying
19 on the county level data from Johns Hopkins University to
20 reach that 75th percentile benchmark.

21 Senator Wicker: Okay. And if the committee will
22 indulge me for a moment, Commissioner Rosenworcel, I just
23 want to make sure, you're not proposing that the RDOF be
24 postponed, are you?

25 Ms. Rosenworcel: What I am proposing is that we

1 reconsider the sheer volume of dollars that we're rushing
2 out the door before we have more accurate data. Let's
3 calibrate so we have enough funds for the next 10 years to
4 reach everybody. I think that should be our goal.

5 Senator Wicker: Would you change the scheduled RDOF
6 in any way?

7 Ms. Rosenworcel: I would certainly support us having
8 Rural Digital Opportunity Fund opportunity in October, but
9 I think giving out 80 percent of our funds for the next 10
10 years before we have better data is a mistake. I think we
11 should actually identify how we can preserve some of those
12 funds for a moment when we have a lot better data because
13 leaving 20 percent for the next 10 years strikes me as
14 likely to leave communities behind.

15 Senator Wicker: Chairman Pai, do you understand the
16 proposal that Commissioner Rosenworcel is making?

17 Mr. Pai: No. Look, the answer to your first question
18 was yes. I mean that is the argument, right, that we
19 shouldn't do Phase 1 until the maps are perfect. That's
20 not going to happen immediately. It's not going to happen
21 in 2020 and so I think people who advance that view should
22 own it, that we want to keep people we know are unserved on
23 the wrong side of the Digital Divide until suburban areas
24 or other areas are filled in with perfect color. That is
25 not acceptable to me, Number 1.

1 Number 2, this whole distinction between Phase 1 and
2 Phase 2 in terms of the budget is false. As I mentioned,
3 if the budget is lower for Phase 1, those funds roll over
4 into Phase 2 and, secondly, the Commission can always
5 increase the size of Phase 2, if need be, to meet the
6 circumstances. That's a decision for a future commission
7 to make.

8 Senator Wicker: Okay. Well, why don't I give
9 Commissioner Rosenworcel 30 seconds and then I'll apologize
10 to Senator Cruz and the two of you can supplement on the
11 record.

12 Ms. Rosenworcel: Sure. At the end of the day, I
13 think we have to have speed and accuracy together. For two
14 years, you've been telling us to improve our broadband data
15 and not to give our funds until we actually know with
16 clarity where people have service and where they don't.

17 We know we have really high error rates in the data we
18 have. I think we should do some funds fast but we've got
19 to make sure that the bulk of them go out when we have
20 accurate maps.

21 Senator Wicker: See if the two of you can supplement
22 your answers on the record.

23 Senator Cruz, thank you for indulging the Chair. You
24 are recognized for at least five minutes.

25 Senator Cruz: Thank you, Mr. Chairman. Thank you to

1 each of you for your service. Thank you for being here.

2 I want to talk about the topic of big tech censorship,
3 which is a difficult topic. I believe it is an incredibly
4 important topic.

5 We have been seeing in recent years and recent months
6 and even recent weeks growing assertions of power from big
7 tech to censor, to shadow ban, to silence views with which
8 they disagree.

9 Just within the last two weeks, we saw Google, at the
10 behest of a foreign advocacy group, threaten to
11 "demonetize" *The Federalist*, a conservative online
12 journalistic outlet. *The Federalist* was told the reason
13 they faced the threat of being demonetized was because of
14 objectionable comments in their Comments Section. So
15 nothing that actually anyone at *the Federalist* had written
16 but, rather, third party users had put some, as far as I
17 know, unidentified comments that Google found
18 objectionable.

19 That policy is not a policy Google applies uniformly.
20 Indeed, a quick search can show dozens of progressive
21 journalistic outlets that have comment sections that have
22 all sorts of nasty things being said that are not facing
23 the threat of demonetization and indeed one doesn't need to
24 look as far as a third party site.

25 YouTube, which is wholly owned by Google, any one of

1 us can go on to YouTube Comments right now and read a host
2 of profane and racist and otherwise offensive comments on
3 YouTube's platform. Yet Google was not applying that
4 standard to its own wholly-owned and highly-profitable
5 subsidiary but was instead applying it to *The Federalist* to
6 force them to demonetize.

7 Now *The Federalist* ended up just pulling its Comments
8 Section down because Google's power is such that
9 challenging the star chamber is almost impossible.

10 Yesterday, we saw Twitter decide to censor and block a
11 tweet from the President of the United States that said
12 that an autonomous zone, a lawless autonomous zone will not
13 be allowed to be created in Washington, D.C., and if anyone
14 attempts to do so, law enforcement will stop them. Google
15 deemed the President pledging to protect public safety and
16 stop the creation of a lawless zone in our Nation's
17 Capital, Twitter deemed that abusive and so put a content
18 block on it.

19 Something else that complicates this challenge is
20 there's an utter lack of transparency. If one asks and I
21 have asked representatives from Google, from Facebook, from
22 Twitter, from YouTube over and over and over again how many
23 posts are you blocking, how many posts are you throttling,
24 are you just reducing the number of people who see them,
25 they won't answer that.

1 There are zero data that exist about comparative
2 blocking. In other words, bias. I've asked the questions,
3 very simple questions. We have two major political
4 parties. I've asked each of them the question, how many
5 posts from Republican candidates for office have you
6 blocked? How many posts from Democratic candidates for
7 office have you blocked?

8 We do know, for example, Twitter blocked my colleague
9 Senator Blackburn's launch video for Senate. So she's a
10 sitting candidate, a sitting member of the House running
11 for Senate and Twitter deemed her launch video unacceptable
12 and blocked it. They refused to answer these questions.

13 They then respond, well, there are no data showing our
14 bias because the only source of the data is the black box
15 of their internal file. No one else has that information
16 but Google and YouTube and Facebook and Twitter. So much
17 like the individual that kills his parents and then pleads
18 mercy of the court because he's an orphan, the absence of
19 data is their direct creation because they refuse to answer
20 these questions.

21 The FCC has recently been brought directly into this
22 issue with an Executive Order from the President and I
23 understand from comments earlier that at least some of you
24 have concerns as to the extent of legal authority to
25 address this.

1 This is a topic I've been deeply engaged in a long
2 time and I will readily admit solving it is complicated.
3 Part of the reason solving it is complicated is because it
4 cuts across so many jurisdictional lines, that it doesn't
5 fit neatly into one silo. It doesn't fit neatly into FCC
6 or FTC or DOJ or Antitrust or Civil Division or Consumer
7 Protection. It cuts across all of those lines and so I
8 think our Federal Government is straining to figure out how
9 to address this.

10 I want to start with just a question to each of you.
11 Do you agree that it is a problem that a handful of Silicon
12 Valley billionaires have unfettered power to silence speech
13 with which they disagree with no transparency and no
14 accountability whatsoever for those decisions?

15 Mr. Pai: Yes.

16 Ms. Rosenworcel: Well, Senator, what I would start
17 with is what I agree with you with, the absolute lack of
18 transparency and also that social media is frustrating, but
19 I think when it comes to the First Amendment, it's there to
20 protect all forms of media from government, not to protect
21 government from all forms of media.

22 I think the Executive Order has it backwards, but I
23 would understand and support efforts of you, this
24 committee, and Congress to try to revisit this law, but as
25 you said, it is complicated.

1 Mr. O'Rielly: Yes, I believe the transparency is
2 horrible and their positions and how they have treated
3 different groups, specifically conservatives, has been
4 absolutely horrible.

5 Mr. Carr: The Prodigy and CompuServ messaging boards
6 of the day when Congress passed Section 230 have long since
7 shed their swaddling clothes. They are now corporate
8 behemoths Twitter, Google, Facebook. They have more power,
9 more control over more speech than any other institution
10 we've ever known in history.

11 This immense concentration of power and the
12 application of it in an arbitrary way is something that
13 those of us in government can't look at and sit on our
14 hands and do nothing. I think that's why you're seeing
15 bipartisan consensus from Senator Blumenthal and the EARN
16 IT Act to some words from FTC Commissioner Wilson to take
17 action.

18 I think the status quo is no longer going to hold. I
19 don't think it can hold. I think we have a responsibility
20 at the FCC to take a look at updating Section 230. I think
21 the Federal Trade Commission needs to look at some of the
22 unfair deceptive business practices and Attorney General
23 Barr needs to look at some of the competition and antitrust
24 issues at issue.

25 Mr. Starks: Thank you for the question, Senator. I

1 do agree that this is a cross-sectional issue, that there
2 are a lot of complications and a lot of heavy issues. What
3 I would focus on is the First Amendment, which I do think
4 prohibits the government from focusing on the speech of
5 these companies.

6 What I would also really like to fixate on here is
7 that what we really need to do in order to make sure that
8 this does not cloud our elections, I have encouraged NTIA
9 to bring the Executive Order to the FCC as quickly as
10 possible so that we can have a vote amongst us. I again do
11 not think that there's legal authority. I'm happy to
12 engage with my colleagues, but so that this does not
13 overhang throughout our elections and have a dark cloud
14 over online speech is something that I'm interested in
15 making sure we do as quickly as practicable.

16 Senator Cruz: My time has expired. Let me make a
17 very quick observation, which is, I look forward to working
18 with each of you on this and Commissioner Rosenworcel's
19 observation about the need for transparency.

20 If the FCC were able to do one thing and simply
21 provide real transparency so the American people can see
22 how many people are being silenced, how many people are
23 being shadow banned, who and what the relative ratios are,
24 that would transform the ability to address this problem
25 and so transparency would be a very valuable thing to focus

1 on.

2 Senator Wicker: Thank you very much, Senator Cruz.

3 Senator Cantwell?

4 Senator Cantwell: Thank you, Mr. Chairman, and again
5 apologize for my absence. I guarantee you all these issues
6 are very important and very important to the state of
7 Washington and to all of us.

8 I made in my opening statement comments about the
9 homework gap and so I want to come back to that. I know
10 that my colleague from Hawaii brought this up, as well, but
11 I think, Commissioner Rosenworcel, you know because you
12 visited Washington State, you looked at both the education
13 gap but also we focused a lot on the health care gap, too.
14 So both of them are incredibly important and I can see you
15 were a little shocked when I said some of our numbers
16 because you were thinking, wait, in Washington, you still
17 have -- yes, that's true, even in Washington, we can still
18 have a gap.

19 So following up on what my colleague from Hawaii
20 brought up, how can we address the e-Write issue with the
21 authority that you have?

22 Ms. Rosenworcel: Sure. We have adequate authority
23 right now so that all of our nation's schools could loan
24 our wifi hot spots, routers, get every student connected at
25 home. We got 50 million kids who were kicked out of the

1 classroom but not all of them could go to online school.

2 So let's use the e-Write Program to meet this moment.
3 We've already used this authority back in 2011-2012. The
4 statute mentions classrooms. Those classrooms are online.
5 We also have forbearance authority to forbear from that to
6 the extent the Chairman thinks it's an impediment. Let's
7 not get tied up. Let's figure out to help students so no
8 child's left offline.

9 Senator Cantwell: So why aren't we doing this?

10 Ms. Rosenworcel: Well, despite my understanding of
11 the statutes, I don't believe that I have convinced my
12 colleagues, but I know that you are leading on a piece of
13 legislation to compel this agency to use e-Write and make
14 sure every kid gets connected and I hope we can proceed and
15 use the summer months to get it done.

16 Senator Cantwell: Well, thank you. I couldn't agree
17 more that we just can't afford this gap, just can't afford
18 it, can't afford it. The crisis has brought into focus
19 many inequities but clearly the inequity by not having good
20 broadband access for education is one of them. So I could
21 say the same thing.

22 I think, Commissioner O'Rielly, you know, I know the
23 Chairman's got a tough job. He's got to fit all these
24 people in. So last week, we had a panel. Too many people
25 on the panel to get the time in questions in, so I'm going

1 to give you a question today.

2 Mr. O'Rielly: Sure.

3 Senator Cantwell: So last year, the international
4 community rejected the FCC's inadequate protection for
5 weather spectrum adjacent to the 24 gigahertz band.
6 Instead, they adopted a more stringent protection based on
7 sound science and analysis, and I was part of a bipartisan
8 coalition of Senators who believed the FCC had put that
9 weather data at risk. We had many conversations about this
10 with our colleagues.

11 So what is the FCC doing now to ensure that the
12 domestic wireless companies will comply with these
13 international interference protections, and will you commit
14 to working with NASA and NOAA to ensure that these
15 protections on interference are improved?

16 Mr. O'Rielly: I'll always work with my federal
17 agencies and partners.

18 In terms of what we're doing now, we have the WRCC
19 proceedings that came that I was there in Egypt. At some
20 point, they will be transferred into an FCC Order and we'll
21 have a chance to consider it. They take a number of years
22 to actually -- you know, it takes a little bit of time to
23 actually put before us.

24 We were voting on previous -- you know, every four
25 years, we were doing a couple of them, catch-up, during the

1 Wheeler days. So it will take a little bit of time before
2 they're adopted into our proceedings.

3 Senator Cantwell: So you are going to adhere to those
4 international issues that were brought up, saying that
5 there was inadequate protection?

6 Mr. O'Rielly: I will -- we will put that into the
7 item and have an opportunity to consider it at that time.
8 That was the position of the United States and they agreed
9 to it.

10 Senator Cantwell: Commissioner Rosenworcel, can I ask
11 you about this and the *Ligado* issue? I mean, why not go
12 back -- if so many people are involved now saying hold up,
13 time out, like, you know, this is like all of these issues
14 fighting around, I mean, shouldn't we listen to these
15 international standards and make sure they're implemented?
16 Shouldn't we look in the *Ligado* case and say, well, wait,
17 wait just a minute, let's look at this?

18 I mean, to me, aviation safety is critical and it
19 bothers me to think that our aviation system of the future
20 is going to be hampered if that also is not adequately
21 addressed.

22 Ms. Rosenworcel: Okay. So a lot there. The first
23 was the 24 gigahertz band and I agree with my colleague.
24 We're going to have to take the standards that were
25 developed at the World Radio Conference, put them into our

1 policies. I understand those to be more stringent in terms
2 of protecting weather services than what the FCC initially
3 proposed. We'll have to do that and because I believe
4 those have the force of law, we should do that in short
5 order.

6 With respect to *Ligado*, I want to be clear that I
7 respect deeply the work of the FCC's engineers. They've
8 worked on this issue for 10 years and so many adjustments
9 and changes have been made over time, including an
10 extraordinary reduction in power levels, a much larger
11 guard band.

12 So I think their work is solid, but I also want to
13 respect you and your point, which is, there's a lot of
14 concern about the continuing viability of GPS as a result
15 of this decision.

16 So I think balancing those equities and out of respect
17 for you and your colleagues who have said that they're
18 concerned about this, if the Chairman was interested in
19 circulating a decision to us staying the decision we
20 recently reached on the L-band, that would certainly be
21 something I would support because we've got to iron this
22 kind of stuff out if we really want to have a big and bold
23 5G future.

24 Senator Cantwell: Thank you. Thank you, Mr.
25 Chairman. I see my time has expired, and I don't know if

1 our vote has started yet.

2 Senator Wicker: It has not started yet.

3 Senator Moran?

4 Senator Moran: Chairman Wicker, thank you very much.
5 Commissioners, thank you for being here.

6 I have the view that we have a very solid and
7 impressive FCC and I appreciate all five of you.
8 Particularly I believe that FCC is enhanced by the presence
9 of two of my colleagues from Kansas.

10 Chairman Pai, let me start with you. Appropriations
11 process, FSGG appropriates money for the FCC. As you know,
12 as you've experienced, we take our oversight
13 responsibilities pretty seriously, and you have been in
14 front of our subcommittee numerous times now.

15 One of the things that I understand is that your
16 staff, the FCC staff is working to provide our subcommittee
17 with specific information on the FCC's previous broadband
18 availability data, data collection, and mapping efforts.

19 I just want to hear from you that you commit to me
20 that this information will be provided to our subcommittee
21 as soon as possible, quickly, as we begin the
22 deliberations, as we continue the deliberations about
23 appropriations for the ensuing year, and I want to make
24 certain that we have that information and that there can be
25 no complaint that the FCC hasn't fulfilled its

1 responsibilities to provide such information.

2 Can you commit that to me, Chairman Pai?

3 Mr. Pai: Yes, Senator. I know the staff has had a
4 number of crosswalks and briefings with the FSGG staff and
5 will provide you further information, as needed, as soon as
6 we possibly can.

7 I know our Office of Managing Director is working on
8 that particular issue that you raised in your question.

9 Senator Moran: Thank you very much. Chairman Pai,
10 last week we discussed the FCC's Keep America Connected
11 Pledge. That pledge is with nearly 800 broadband
12 providers.

13 I've had since then conversations with a number of
14 Kansas providers. I think the expectation is that the
15 COVID-19 consequences are lingering longer than perhaps
16 expected and the amount of the resources that these
17 companies are forgoing from their customers is increasing.

18 Based upon your conversations with providers, do you
19 have suggestions for any future legislative package? Does
20 the FCC have any recommendations for targeting federal
21 relief to those providers who are forgoing the payments
22 from their customers? Are there certain size of broadband
23 providers that need to be prioritized? Are there certain
24 types of eligible services or recipients that federal
25 resources should be focused on, and is there a preferred

1 method in distributing that federal funding? Should
2 federal support be directly provided to the consumer or to
3 the provider?

4 Mr. Pai: Thank you for the question, Senator.
5 Obviously that is a really important topic and also a
6 complex one and so if it's okay, I'd like to follow up with
7 you and your team and the committee in more detail, but at
8 a very high level, I think you've put your finger on the
9 problem.

10 As illustrated in my colloquy with Senator Klobuchar,
11 smaller providers in particular, I would say those below,
12 say, two million subscribers, something like that, have
13 incurred a great deal of cost which is disproportionate to
14 them, given their smaller scale, and so I think it's
15 important as the pledge expires as we move into the post
16 pledge transition for Congress to think about creative
17 solutions to ensure that at the end of the day, those
18 consumers who are with those smaller providers ultimately
19 have seamless service.

20 I defer to Congress, of course, in the first instance
21 as to what exactly that vehicle looks like, whether it's a
22 subsidy to consumers or to companies and the like, but I
23 think it's important for us to address this as soon as
24 possible because a lot of these consumers, of course,
25 continue to rely on connectivity during the pandemic.

1 Senator Moran: I appreciate Senator Klobuchar's
2 legislative attention to this issue. Let me see if any
3 other Commissioners have anything they'd like to respond to
4 that question.

5 Ms. Rosenworcel: I would just say that I agree with
6 the Chairman on this. I think that legislation is
7 important, it's timely, and I hope that this committee and
8 Congress acts.

9 Senator Moran: Anyone else?

10 [No response.]

11 Senator Moran: Let me highlight the FCC's
12 announcement yesterday. I'm a sponsor with another member
13 of this committee, Senator Gardner, of a three-digit
14 suicide hotline. Let me highlight and express gratitude to
15 the FCC for the efforts that you are undertaking.

16 Would any of you care to speak to the importance of
17 the transition deadline of July 16th applicable to all
18 telecommunications carriers, and based upon your
19 conversations with industries, are you expecting any
20 challenges to get us to that point by that date, meeting
21 that transition deadline?

22 Mr. Pai: Senator, I would be happy to take the first
23 crack at it since I just circulated the Order to my
24 colleagues yesterday, but based on the record, we believe
25 that that two-year implementation deadline of July 16th,

1 2022, was the soonest feasible, given the fact that we have
2 thousands, if not hundreds of thousands of switches in the
3 United States that need to be reconfigured or replaced,
4 etcetera.

5 Industry wanted a longer period of time, three years
6 or later, but to me at least, we need to match both the
7 priority of this issue, suicide, as I mentioned, is
8 reaching epidemic levels, with the technical feasibility,
9 and so I wish in my heart it could be sooner but we believe
10 that that two-year transition period is the most
11 appropriate one, given the facts in the record.

12 Senator Moran: Thank you. I appreciate again your
13 attention to this issue. I serve as the chairman of the
14 Veterans' Committee. This is an important issue for all
15 Americans and I understand, Mr. Chairman, that I'm yielding
16 back no time.

17 Senator Blackburn: [presiding] The gentleman yields
18 back.

19 Senator Udall, you are recognized on remote.

20 Senator Udall: Madam Chair and Ranking Member
21 Cantwell, I want to thank all the members of the Commission
22 for being here today.

23 The public health crisis and the resulting economic
24 crisis caused by COVID-19 has put a spotlight on the work
25 you do to connect Americans. Broadband service is more

1 essential than ever for New Mexicans to stay connected to
2 school, to medical and emergency services, work, social
3 services, friends and family, and the Commission's role in
4 protecting free speech and freedom of the press is
5 especially important as protesters continue to call for
6 justice reform.

7 Chairman Pai, as part of your confirmation hearing in
8 July 2017, you pledged to this committee that you would
9 speak out if the press were under attack. You also pledged
10 to exercise your authority as Chairman of the FCC to
11 regulate the media in an impartial manner, free of white
12 House political pressure.

13 Setting aside the substantive Section 230 debate, we
14 are talking about it because the President is engaged in
15 high-profile feuds with social media companies. In light
16 of the President's repeated threats to use government power
17 against those he deems enemies of the people, this looks
18 like a bad faith attempt to retaliate against criticism of
19 the President.

20 On top of that, there are far too many examples of
21 journalists being unconstitutionally restricted and
22 physically assaulted and detained as they have tried to
23 cover historic Black Lives Matter protests. There are
24 dozens and dozens of documented assaults by law enforcement
25 on journalists. If there is any time to speak up, it is

1 now.

2 Chairman Pai, will you take this committee hearing as
3 an opportunity to reassure us you will not buckle the White
4 House demands on Section 230 and to speak out in support of
5 press freedom to cover these protests?

6 Mr. Pai: Senator, not only do I reaffirm that
7 commitment I made several years ago, but I have actually
8 done that over the last couple of weeks, including standing
9 up for local broadcasters who I said must be allowed to do
10 their work free from attacks. I've also rejected the calls
11 of some who argued that a television broadcaster should
12 have its licenses threatened or even yanked because of
13 disagreement with the political viewpoint it expresses. So
14 the answer to your question ultimately is yes.

15 Senator Udall: Commissioner Starks and Commissioner
16 Rosenworcel, during these times of crisis like this, we see
17 just how important local journalism is. It's how people
18 stay informed on local events and situations to keep their
19 families and their communities safe.

20 What more must Congress and the FCC do to protect the
21 First Amendment and increase support for local journalism?

22 Mr. Starks: Yes, thank you for the question, Senator,
23 and I could not agree more, especially when we're talking
24 about the coverage of the Black Lives Matters rallies, the
25 civil rights movement that I see burgeoning right now. I

1 agree that it's deeply important that we continue to
2 protect all of our journalists.

3 To your point on Section 230, I do have some strong
4 concern about what I see as a clear intention to influence
5 social media companies in particular with regard to their
6 coverage of political issues, especially in the upcoming
7 election cycle.

8 Senator Udall: Commissioner Rosenworcel?

9 Ms. Rosenworcel: Thank you, Senator. I agree with
10 what my colleague just said. Local news is really
11 important. It tells us what we need to know about our
12 lives, our community, and our country, and I think that the
13 economic pressures on local media are significant right now
14 and the FCC needs to spend some time looking through its
15 rules to identify how we can sustain local media because we
16 all need it. It's essential for our democracy. It's
17 essential for our communities.

18 Senator Udall: Thank you. I want to align myself
19 with my colleagues Blumenthal, Schatz, and the Ranking
20 Member when it comes to the e-Write and expanding access.

21 I also want to specifically thank Commissioner
22 Rosenworcel for her work to close the homework gap and
23 improve wifi access to students.

24 Commissioner Rosenworcel, I have a bipartisan bill
25 that would make wifi hot spots on school buses eligible for

1 e-Write. The House infrastructure package includes similar
2 language. You said that the FCC has the authority now to
3 do something similar but you believe such a legislative
4 approach will help close the homework gap in underserved
5 areas.

6 Do you believe the Senate should consider such a bill?

7 Ms. Rosenworcel: Yes, we are heading into the next
8 school year and we don't know what it looks like. I say
9 that professionally but also as a parent of young children.
10 We've got to make sure every student can get online and go
11 to class. We don't want any of them locked out of the
12 virtual classroom.

13 Senator Udall: Thank you. Yield back, Madam Chair.

14 Senator Blackburn: Gentleman yields back.

15 I want to welcome all of you and thank you all for
16 being here. It's been awhile since we've had you in front
17 of us and I was sitting here thinking and, Commissioner
18 Starks, you've not had the opportunity to hear me opine
19 about the Browser Act and why we should have passed it
20 years ago and give consumers control over their data, to
21 protect their virtual you, and to put in place some guard
22 rails being able to opt in, to opt out.

23 If we had done that, we wouldn't be where we are today
24 with the discussions on Section 230 and the need for
25 greater transparency and the need for competition. So it

1 shows the cost of not taking action and not having
2 congressional action. So let's hope that now we do move
3 forward with reforming Section 230.

4 Let's see. Chairman Pai, there's been some talk about
5 the President's Executive Order. So let's go to that. Are
6 you planning a comment process pursuant to this Executive
7 Order?

8 Mr. Pai: Senator, per the Executive Order, the
9 Department of Commerce's NTIA is supposed to file a
10 petition for rulemaking with the FCC. If and when that
11 happens, then we will follow the appropriate process.

12 Senator Blackburn: You do plan to follow through with
13 that process?

14 Mr. Pai: Yes, we will follow that process.

15 Senator Blackburn: Absolutely. That sounds great.
16 Let's move on to the telehealth issue. I want to thank you
17 all for the work that you have put into that.

18 As we've discussed when I was in the House, telehealth
19 was considered a luxury and a convenience but what we found
20 out in COVID was that it was something that was a necessity
21 and very important to people that were suffering and had
22 complex medical conditions. So thank you for the attention
23 that you have put on that.

24 Let's go to the broadband process and expanding
25 broadband, which is vital. I agree with every comment that

1 you all have said about the necessity for that, and I
2 agree, Mr. Chairman, you were talking about the 6409 rules
3 and beginning to relax and move things out of the way and
4 Senator Baldwin and I have the Internet Exchange Act to put
5 these data numbers in places. So that is something that we
6 want to see moved forward, but spectrum is a part of this,
7 also.

8 So, Commissioner O'Rielly, you've kind of had the lead
9 on some of these things and we appreciate the outreach from
10 you. Talk a little bit about what is on the horizon as we
11 look at this mid-band spectrum recouping it. DoD has some.
12 We know that other agencies, NTIA has got to do the
13 inventory so that we can recoup and then we can auction.
14 So speak to that.

15 Mr. O'Rielly: We've done great work, I believe, in
16 the high bands. We've also done great work starting on
17 mid-bands. CBRS, C-band are already moving forward auction
18 schedule, but it's the future part, the pipeline, what's
19 next, five years look like and beyond. 3.1 to 3.55, which
20 is being hotly fought over.

21 We have, you know, -- there's nothing else being
22 worked on and that's where I've been spending some time
23 trying to talk to manufacturers and experts in this space.
24 What else can we convert for commercial purposes? How can
25 we reclaim spectrum? That does require difficult decisions

1 with federal agencies who are using it today>

2 Senator Blackburn: Commissioner Rosenworcel, I think
3 you wanted to comment?

4 Ms. Rosenworcel: No, I agree with my colleague.

5 Listen, we're going to need to have more air waves to fuel
6 our wireless future and right now we've got knock-
7 down/drag-out fights between different federal entities
8 over what we can reclaim and what we can't. We're going to
9 need a better way in the future. We're going to need to
10 figure out how to value existing federal assets and then
11 we're going to have to figure out how to create some
12 structured incentives so those federal authorities see gain
13 and not just loss from reallocation.

14 Senator Blackburn: Well, I think that as we look at
15 the NTIA and last year with the NTIA, we had a Section 214
16 and we discussed some of this and finding a way to make the
17 spectrum available is going to be essential.

18 Commissioner Carr, I want to come back to you on the
19 issue of giving people the ability to air their grievances
20 against big tech and one of the reasons we refer to it as
21 big tech is because these are no longer infant companies.
22 They're not babies. They have grown up. They are some of
23 the biggest that are there and the censorship that we see
24 taking place in the virtual space is absolutely
25 unprecedented.

1 So what I continue to hear from people is they want to
2 see some kind of public comment period so that there is a
3 way to air those grievances and Senator Cruz got on this
4 issue a little bit, but I want you to speak to that, the
5 importance of supporting a process where the FCC can have a
6 notice of inquiry and allow the public to comment on what
7 they've experienced at the hands of big tech.

8 Mr. Carr: Thank you, Senator. Thank you for your
9 leadership on these issues. I think it's time for all of
10 us in government to look for not just greater transparency,
11 which is important, but accountability for a lot of the
12 arbitrary decisions we're seeing across big tech, from
13 Google to Twitter.

14 I'll refer you to a public statement on Twitter's
15 website from one of their officials. They say, "The truth
16 is we are impartial and believe strongly in impartiality.
17 The Twitter platform doesn't take sides. Diverse
18 perspectives are treated equally so users can see every
19 side."

20 It's hard to read those words with a straight face at
21 this point and I think this is why a lot of people are
22 calling for some accountability. I welcome the President's
23 Executive Order and I think we should move forward and
24 provide the public an opportunity to comment on whether we
25 at the FCC should engage in Section 230 reforms.

1 Senator Blackburn: Thank you. I yield back.

2 Senator Peters, you're recognized for five minutes.

3 Senator Peters: Thank you, Senator, for the
4 recognition and to all of you, thank you for your testimony
5 here today.

6 Commissioner Starks, I read with great interest a
7 recent op-ed that you have published which is entitled
8 *Broadband Access is a Civil Right We Can't Afford to Lose*
9 *But Many Can't Afford to Have*. I think it's a very
10 powerful op-ed and focuses on the need for us to make sure
11 that everybody, no matter who you are and no matter where
12 you live, have access to the broadband access and the
13 digital world at large and certainly in my state, it is a
14 problem and, in fact, in Detroit, nine out of 10 students
15 don't have access to tablets, computers, or the internet.
16 Nine out of 10.

17 This is a time during the COVID crisis when our
18 schools shut down and moved to online instruction and yet
19 students simply had no opportunity whatsoever to be able to
20 avail themselves of that.

21 So I have a few more other questions, but perhaps you
22 could just tell us a little bit about how do we approach
23 this in an equitable fashion? Zip codes should not matters
24 and right now, it's those zip codes of communities of color
25 that really matters. How do we change that?

1 Mr. Starks: I could not agree more and thank you so
2 much for your leadership. I appreciate it deeply.

3 I have done a virtual event that was in Detroit and I
4 was shocked to hear the statistics that you're talking
5 about, Senator, and it's deeply disturbing that when you're
6 talking about 90 percent of the students that are in
7 Detroit are without tablets, are without home connectivity.

8 One thing that we haven't talked about here today is
9 that e-Write is basically designed to offer support for
10 schools that have students with a higher percent that are
11 on free lunch and so when you are talking about households
12 that are on those Head Start breakfasts, those are exactly
13 the families that are disconnected and that's exactly the
14 students that e-Write needs to further reach.

15 Affordability, I think, is an integral part of this,
16 making sure that we have connections that are affordable
17 for millions of struggling families right now, making sure
18 that we have something that is \$10-11 ultimately. There
19 are a lot of legislative proposals there that I think
20 deserve serious merit.

21 The last thing that I would mention is, of course,
22 Lifeline. Our Lifeline Program is going to need to meet
23 the day and that's going to be expanding the data,
24 expanding the voice, expanding the number of dollars, but,
25 you know, something additionally that I think that I would

1 focus on is that because Lifeline is so seriously under-
2 subscribed, about 20 percent of people that are eligible
3 for Lifeline actually are subscribers.

4 Over 74 Senators wrote a letter saying that the
5 Federal Government should use its advertising dollars to
6 make sure that local broadcasters who are hurting right now
7 can have some of the advertising dollars that they're
8 losing.

9 I think it makes some good sense for us to have
10 Lifeline advertised, given its low subscribership, to some
11 of these local broadcasters. I think it's a slam dunk win-
12 win scenario.

13 Senator Peters: Well, I appreciate your leadership on
14 this, Commissioner Starks, and your focus and your passion
15 on it, and as I look at this issue, we also need to think
16 about ownership of broadcast assets, who actually owns
17 these facilities, and having diversity in ownership tends
18 to lead to broader reach, as well.

19 I introduced the Expanding Broadcast Ownership
20 Opportunities Act to make sure that folks of color actually
21 have a seat at the table, which is critically important in
22 my mind.

23 Statistics are striking, as well. Women make up less
24 than six percent of broadcast TV station owners and
25 minorities account for less than three percent. Similarly,

1 women own just seven percent of broadcast radio stations
2 and minorities own less than three percent, as well.

3 So my bill would establish the FCC's Tax Certificate
4 Program, which incentivizes the sale of broadcast stations
5 to socially-disadvantaged individuals.

6 So my question to you, Commissioner, is, how would
7 this help diversify the industry, and what needs to be done
8 to help bring back this important program?

9 Mr. Starks: Well, thank you again for the question,
10 Senator. You know, I could not foot stomp that legislation
11 more.

12 When you look at the numbers on our media diversity
13 and it's important from the ownership to who's in front of
14 the camera, who is in the newsroom, the fact of the matter
15 is that in our latest report that we issued in February,
16 first of all, it covers data from 2017, so in that sense, I
17 think it's a bit stale, the data is trending in the wrong
18 direction from 2015.

19 Asian ownership is down. Latino ownership is down.
20 As you pointed out, Senator, women ownership is down from
21 7.4 percent down to 5.3 percent, despite the fact that we
22 know that they're over 50 percent of our population, and
23 the fact of the matter is out of 1,400 full power TV
24 stations, 12 of them are owned by African Americans and so
25 what that means is if you are rounding that number, you

1 would round it down to zero percent. That is unacceptable
2 in this day and in this time.

3 Access to capital, access to opportunities, all of
4 these are important. The tax incentive proposal that you
5 have is the biggest shot in the arm that I see that we can
6 take on this front.

7 Senator Peters: I appreciate it. Thank you. My time
8 is up.

9 Senator Lee: [presiding] Senator Gardner is up to
10 bat next.

11 Senator Gardner: Thank you, Mr. Chairman, and thank
12 you to the panelists for taking the opportunity to testify
13 today.

14 Colorado has one of the highest suicide rates in the
15 country. Tragically, we lose a Coloradan approximately
16 once every seven hours to suicide and the COVID-19 pandemic
17 has exacerbated that problem. For the months of March and
18 April 2020, calls to our state mental health crisis lines
19 spiked 48 percent compared to last year and a significant
20 number of those calls were related to the global pandemic.

21 We have to ensure that people in this crisis have the
22 resources they need for such an emergency and such
23 emergency situations that they can access those resources
24 easily to help provide them when they are at their greatest
25 need.

1 So I was pleased to see Chairman Pai's announcement
2 yesterday. Thank you very much, Chairman Pai, that the
3 Commission will be voting on Advancing the Designation and
4 Implementation of 9-8-8 to replace the current 10-digit
5 suicide hotline.

6 Your leadership on this issue is incredible. It's
7 commendable and will save countless lives by making 9-8-8
8 the new three-digit national hotline for mental health
9 crises.

10 Senator Baldwin and I have been working, as well,
11 together on this as well as with our House counterparts,
12 Congressman Stewart, Congressman Moulton, to put that
13 designation of 9-8-8 into law.

14 Our legislation does not absolve Congress of its duty
15 to continue to ensure robust funding for the National
16 Suicide Hotline but it helps ensure that any extra dollars
17 raised for 9-8-8 services actually go toward that intended
18 purpose.

19 Lastly, we commissioned a report on specialized
20 services for communities most at risk of suicide ideation,
21 including LGBTQ youth who face a suicide contemplation rate
22 that is four times higher than that of their peers.

23 My office consulted with the FCC for feedback before
24 this committee passed our legislation unanimously and we
25 recently passed the bill through the Full Senate

1 unanimously, as well.

2 So I'd just like to go through each of the
3 Commissioners briefly down the line and ask a simple yes or
4 no question, beginning with Chairman Pai.

5 Do you agree with all 100 Senators that this is
6 critical legislation and that it complements the work you
7 are doing at the Commission and should be swiftly passed by
8 the House of Representatives to help save lives?
9 Commissioner Pai, I'll begin with you and then if we'd go
10 down the panel that would be great. Yes or no?

11 Mr. Pai: Yes, Senator. Thank you for your leadership
12 on this issue.

13 Senator Gardner: Great. Commissioner Rosenworcel?

14 Ms. Rosenworcel: The answer is yes, Senator. Thank
15 you.

16 Senator Gardner: Thank you. Commissioner O'Rielly?

17 Mr. O'Rielly: Yes.

18 Senator Gardner: Commissioner Carr?

19 Mr. Carr: Yes, Senator. Thank you for your
20 leadership on these mental and behavioral health issues.

21 Senator Gardner: Thank you. Commissioner Starks?

22 Mr. Starks: Thank you. I agree, yes, this is
23 tremendous work and I champion it.

24 Senator Gardner: Thank you. Chairman Pai, once
25 implementation of 9-8-8 is live, what's the Commission's

1 plan to ensure that public education about this new number
2 is clear and widespread?

3 Mr. Pai: I appreciate the question, Senator. In the
4 first instance, public education will be the responsibility
5 of agencies, such as HHS, the Veterans' Affairs Department,
6 and others, but I can assure you that I or whoever
7 constitutes the future commission will certainly use this
8 pulpit to make sure we increase awareness and we're already
9 doing that now in consultation with other sister agencies
10 and private sector organizations, like the Trevor Project,
11 the National Council on Behavioral Health, and others.

12 Senator Gardner: Thank you, Chairman, and for all
13 Commissioners, 5G is the next wave of wireless connectivity
14 and can provide billions of dollars in economic benefits
15 for the U.S.

16 Colorado plays a leading role in these efforts
17 obviously, including major advancements in research and
18 development underway at Ft. Collins, Englewood, and
19 elsewhere along the Front Range.

20 In addition to the rapid embrace of ORAN and
21 virtualized networks, the future of U.S.-backed tele-
22 communications is incredibly bright, but despite all this
23 good news, some have suggested and it continues to arise in
24 the conversation again that in order to stay competitive
25 with China, we must nationalize our 5G network or select a

1 single company to operate it.

2 I'd like to ask another simple yes or no question to
3 each of you. Do you support such a plan to either
4 nationalize our 5G network or select a single company to
5 operate it? Chairman Pai, I'll begin with you.

6 Mr. Pai: No.

7 Senator Gardner: Chairman Rosenworcel?

8 Ms. Rosenworcel: No, I do not, Senator.

9 Senator Gardner: Chairman O'Rielly?

10 Mr. O'Rielly: No, I completely oppose it.

11 Senator Gardner: Commissioner Carr?

12 Mr. Carr: No.

13 Senator Gardner: Commissioner Starks?

14 Mr. Starks: I strongly agree, no.

15 Senator Gardner: Thank you very much for that, and I
16 think I agree with your answers.

17 Commissioner Carr, last week I spoke with small tele-
18 communications providers in Colorado. I did a Zoom call
19 with them, teleconference with them, who mentioned they are
20 struggling to find adequate personal protective equipment
21 to safely conduct house calls to perform maintenance and
22 continue construction projects.

23 We have to ensure our hospitals and medical providers
24 on the front line of COVID-19 have adequate PPE, first and
25 foremost, obviously, but it's also important not to forget

1 our small businesses as we continue to reopen the economy
2 in state like Colorado for those businesses that are going
3 into homes and interacting with people.

4 Have you heard about similar concerns to this on PPE
5 in your conversations with telecommunication providers and,
6 if so, what more can Congress and the FCC be doing to
7 ensure that providers have access to PPE to keep Coloradans
8 connected?

9 Mr. Carr: Senator, thank you for that question. I've
10 spent a lot of time with America's telecom techs and tower
11 crews, including during this pandemic, and I've heard some
12 of these concerns, principally early on in the pandemic. I
13 think some of those issues are being worked out as a
14 country.

15 We have ramped up our supply of PPE, but I look
16 forward to continuing to work with you and my colleagues
17 across government to make sure we get this right.

18 Senator Gardner: Thank you. I look forward to that.
19 We need to work together on it. It was just something
20 again that a number of rural cooperatives had brought to my
21 attention and something we need to continue to work on.

22 So thank you to all the Commissioners. Thank you for
23 your work on that, and, Mr. Chairman, I'll turn it back to
24 you.

25 Senator Lee: Thank you, Senator Gardner.

1 Senator Baldwin?

2 Senator Baldwin: Well, thank you, Mr. Chairman. I
3 really appreciate all of the Commissioners joining us here
4 today and for your service.

5 I want to dovetail on the remarks of Senator Gardner
6 just now on the three-digit number to access Suicide
7 Lifeline Services and the Veterans' Crisis Line.

8 It was a pleasure to work with my colleague, Senator
9 Gardner, on this, on namely making it easier for Americans
10 in crisis to get the help they need by creating that three-
11 digit number, 9-8-8, for crisis services.

12 Last month, as we noted, the Full Senate passed our
13 bill and I urged my House colleagues to pass it as soon as
14 possible, but, Chairman Pai, thank you for acknowledging in
15 your testimony the importance of this issue.

16 We just know that the crisis has been made even more
17 heightened due to COVID-19. The pandemic and its economic
18 consequences are placing enormous stress on Americans'
19 health, both physical and mental, and we've seen a
20 tremendous increase in those seeking help.

21 Just by way of example, in March of this year, there
22 was nearly a 900 percent increase in calls to HHS' Disaster
23 Distress Help Line compared to the prior March and so I
24 hope that we all can move forward expeditiously and I'm
25 glad to see continued progress on the issue at the FCC.

1 I'm looking forward to working with the Commissioners to
2 get this done.

3 I'd like to now turn to another critical support for
4 Americans in need, another lifeline in fact, and that is
5 the Universal Services Fund Lifeline Program. It plays a
6 critical role in keeping low-income Americans, including
7 millions of seniors and veterans, connected.

8 Lifeline is all the more important in the current
9 environment. On the one hand, American families are
10 relying more than ever on connectivity to work, learn, and
11 get medical help and stay in touch with friends and family,
12 and on the other hand, many of those families are facing
13 unemployment and other hardships, making that now critical
14 broadband service unaffordable.

15 Commissioner Rosenworcel, you talked about this in
16 your opening statement. I'll ask Commissioner Starks also
17 because you did, too.

18 How do we get these individuals connected to Lifeline,
19 and what steps do we need to take to strengthen this
20 program to meet the growing needs?

21 Ms. Rosenworcel: That is such a good question,
22 Senator. Listen, Lifeline was started during the Reagan
23 Administration when most communications involved a jack in
24 the wall and it was last updated during the Bush
25 Administration after Hurricane Katrina. We saw there was a

1 disaster and we expanded it to wireless telephony.

2 I think we have a crisis right now, too, and we've got
3 to figure out how to keep more Americans connected and
4 we've got to use Lifeline to do it. We've got to remake it
5 from top to bottom. We've got to reconsider who is
6 eligible. We have to reconsider what services we support,
7 and then we have to do something along the lines that
8 Commissioner Starks spoke about, which is, we've got to
9 double out our outreach so that every interaction with
10 public services we make available this service, so everyone
11 gets a fair shot at staying connected in this crisis.

12 Mr. Starks: Yes, thank you, Senator.

13 Senator Baldwin: Commissioner Starks?

14 Mr. Starks: Yes, thank you, Senator. Lifeline is
15 such an undersubscribed benefit that we do need to increase
16 advertising. We do need to increase -- again, I think it's
17 a common sense idea that the FCC -- we know that SNAP
18 applications because of food insecurity has skyrocketed
19 during this pandemic.

20 The fact of the matter is that if you are eligible for
21 SNAP, if you are a new SNAP applicant, you are also
22 eligible for Lifeline, and so we at the FCC have to have an
23 MOU in place where, if you start to get SNAP benefits, you
24 should also be told that you're eligible for a Lifeline
25 phone, either follow-up via an e-mail or direct mailing,

1 something that makes people aware of this program.

2 The fact of the matter is that we have millions of
3 struggling Americans right now and if they come knocking on
4 one door, they shouldn't have to knock on each door in
5 order to get the help that they need.

6 I think there are also some very administrative things
7 that we need to do. The Lifeline Verifier has been bogged
8 down. The fact of the matter is that only 13 states are
9 automatically connecting applicants through SNAP. We have
10 to do better on that because the manual review for Lifeline
11 applications is not good and the error rate is extremely
12 high and then you have people that are more vulnerable that
13 don't get the benefit that they need.

14 So there are a lot of things from top to bottom that
15 we need to do better on Lifeline and millions of Americans
16 are counting on us.

17 Senator Baldwin: Thank you.

18 Senator Lee: Senator Capito?

19 Senator Capito: Thank you, Mr. Chairman. Thank all
20 of you for your service and thank you for being here today.

21 We know that the FCC has played a critical role in
22 addressing the critical needs that we've talked a lot about
23 today. Certainly during COVID, it's just been essential,
24 some of the things we've learned that impact the -- I mean
25 that are impacted by the decisions that you've made.

1 Looking forward, our largest opportunity, I've heard a
2 lot of conversation about it, obviously is the RDOF
3 Program, which will provide funding over the next decade.

4 According to the FCC under RDOF, West Virginia has
5 over a 128,000 eligible locations. I heard you mention
6 West Virginia in one of your answers, Mr. Chairman. So I
7 appreciate that and your visits to West Virginia.

8 It's imperative that as many census blocks are
9 eligible for this funding as possible and I'm concerned
10 about this.

11 So I would ask you, Mr. Chairman, as you're looking at
12 the process of the challenges that have been made on
13 certain census blocks and where the distribution of the
14 money is going to be, it's important that we do it
15 effectively and efficiently.

16 So as you continue to look at this auction process,
17 will you commit to scrutinizing the challenges in the RDOF
18 eligible location process?

19 Mr. Pai: Yes, Senator, we will.

20 Senator Capito: And are you in the midst of doing
21 that now, and when do you expect that you will -- I mean,
22 I'm sure it's an evolving/revolving decision.

23 Mr. Pai: Yes, it is an ongoing process, but I can
24 tell you that the list of eligible areas is scheduled to be
25 published by July 1st, which is when the short form

1 application window opens, and so we're in the final stages
2 now. We should have results on this front very soon.

3 Senator Capito: Thank you. One of the areas I've
4 been concerned about of past programs is the transparency
5 and accountability of actual delivery of what's been
6 promised.

7 How do you expect under this new auction or this
8 increased auction aimed at Rural America, how are we going
9 to get better at the transparency and accountability of
10 this?

11 Mr. Pai: A critical question. All the taxpayer money
12 in the world doesn't make a difference if the providers who
13 get it don't use it appropriately and that's why for this
14 auction, the RDOF in particular, winning bidders will have
15 to enter geo-coded locations where they have provided
16 deployments into what's called the HUB, the High-Cost
17 Broadband Database, essentially.

18 In addition to that, USAC will verify and audit that
19 information to make sure the providers have in fact done
20 what they've said they're going to do. On top of that,
21 later on the networks will be subject to drive testing and
22 other rigorous speed and latency verification and if they
23 fail on any of these scores, then ultimately what happens
24 is the providers will have support withheld. They may have
25 to pay support they've received back and may face other

1 enforcement action because we want to make sure again those
2 128,000 locations in West Virginia, places like Capon
3 Springs and Clay and Clendenin, they deserve funding and
4 they deserve deployment.

5 Senator Capito: Well, I would encourage enforcement
6 because, I mean, we can say we're going to do things, but
7 if we don't --

8 Mr. Pai: Absolutely.

9 Senator Capito: -- enforce it, it's not going to --
10 it's a toothless enforcement mechanism.

11 Commissioner O'Rielly, I want to thank you for working
12 with us in addressing the diversion of the 9-1-1 fees. I
13 know it's been an issue that West Virginia was labeled as a
14 fee diverter and it was impacting our abilities to have
15 these issues resolved. So we are now eligible in the much-
16 needed next generation 9-1-1 funding. So I just wanted to
17 thank you personally for that.

18 Commissioner Carr, you came to West Virginia with the
19 Connected Care Initiative. Boy, if we'd known then, you
20 know, where we are now, it's an amazing -- I mean, West
21 Virginia University just now got a grant to be able to
22 expand their telehealth services.

23 So here's what I'm concerned about. I don't want to
24 see us do the same thing we do with EMRs. So we've got a
25 telehealth initiative that's going across the country, but

1 we don't have the ability for all of our health providers
2 to be able to be on the same page. I mean, do you imagine
3 that through Connected Care and other initiatives that
4 you're going to be able to have really broad-based -- I
5 don't want to say regulations but best practices so that we
6 don't come back in five years and go, well, that's great,
7 but the radiologists can't talk to the cardiologists, the
8 rural can't talk to the urban.

9 How do you see that playing out as you -- both what
10 you've done through COVID but also through your Connected
11 Care Initiative that I know you very much are committed to?

12 Mr. Carr: Senator, I thank you so much for your
13 leadership on telehealth. When I joined you last summer
14 out in West Virginia, that's actually when we rolled out
15 our proposal that little did we know turned into this
16 COVID-19 Telehealth Program. So it was great that we were
17 out there doing the leg work that's paid off.

18 Senator Capito: By the way, they've used the Stroke
19 Initiative. Actually, it wasn't a fake person. It was a
20 real person and actually had great results.

21 Mr. Carr: That's wonderful to see. I think West
22 Virginia facilities have now received somewhere over \$2
23 million already in more money that we have to process.

24 I think there's going to be some important lessons
25 learned, perhaps the one that you flagged already. We're

1 going to have another follow-on Connected Care pilot
2 program. That's going to be a three-year pilot that's
3 going to run sort of after this emergency COVID one does.
4 So I think there's going to be lessons that we can carry
5 over to that, and, frankly, I think the government
6 generally has done a great job.

7 If you look at what HHS has done in terms of updating
8 some of the licensing/reimbursement issues, I think those
9 are gains that we need to maintain as we power out of this
10 COVID-19 pandemic because I think this connectivity in
11 telehealth is the future. It improves patient outcomes and
12 drives down costs at the same time.

13 Senator Capito: Well, just anecdotally, in talking
14 with folks who've had telehealth visits both on the
15 provider side and on the patient side, they seem to really
16 like it. The convenience of it, the ability to be more
17 efficient, and, you know, it's not going to work in every
18 instance obviously, and so I think really the face of
19 medicine is going to change through this, and I look
20 forward to working with you on this, and thank you.

21 Senator Lee: Senator Duckworth?

22 Senator Duckworth: Thank you, Mr. Chairman. Sorry.
23 I was on mute.

24 Thank you for holding this important oversight
25 hearing, and I want to start by thanking each of the

1 Commissioners for your previous commitments before this
2 committee to combat unjust and unreasonable phone rates for
3 inmates and their families by clarifying the FCC's existing
4 intrastate rates, something that we still need to do.

5 In the interest of time, I'd like to reaffirm that we
6 are on the same page on this issue. So in the interest of
7 time, please raise your hand if you still believe that more
8 should be done to address unjust and unreasonable phone
9 rates at incarceration and detention facilities in the
10 United States.

11 Mr. Chairman, you'll have to take a look for me
12 because I can't see -- oh, there we go. Everybody's got
13 their hands up. Wonderful. Thank you.

14 Just to be clear, anyone who thinks you've adequately
15 tackled this issue, please speak up now.

16 [No response.]

17 Senator Duckworth: All right. Thank you. I'm glad
18 to see that each of you agree that more can be done and
19 that more should be done. However, I am deeply
20 disappointed by the FCC's lack of action and I do
21 understand that there is an opportunity for legislation
22 which I am still working on.

23 I am not aware of any major action taken by the
24 Commission over the past three years to address this issue.

25 Commissioner Rosenworcel, did I miss anything?

1 Ms. Rosenworcel: No, Senator, you did not. We do
2 have issues associated with intrastate rates. We need your
3 legislation to help us on that, but when it comes to
4 interstate rates, we have a crisis. A single phone call to
5 someone who's incarcerated typically costs as much as you
6 and I pay for a monthly unlimited plan. That's not fair.
7 That's not right. It harms the families of the
8 incarcerated and especially during this crisis when visits
9 are limited and so much communication is cut off, the FCC
10 should be far more creative when it comes to thinking about
11 rate caps for interstate services, ancillary fees, and site
12 commissions.

13 We should be doing everything we can to lower those
14 rates and make them fair and just because that's what the
15 law requires.

16 Senator Duckworth: Thank you.

17 Chairman Pai, as this hearing has made clear, there's
18 a -- I'd like to move on to *Ligado* and its threat to GPS.
19 As this hearing has made clear, there's a tendency for the
20 *Ligado* debate to quickly get bogged down in the weeds and I
21 fear that we're at risk of losing sight of the forest for
22 the trees.

23 When I examined the *Ligado* issue, the primary question
24 that jumps out to me is simple. I mean, aside from the
25 *Ligado* itself, why is anyone aggressively pushing for

1 approval, other than *Ligado*? *Ligado* is not mentioned in
2 any 5G plan that I previously reviewed, no independent
3 entity that I'm aware of believes that *Ligado*'s proposed
4 network would be significant in any way, shape, or form as
5 a 5G solution. Yet there does appear to be a consensus
6 among key stakeholders, including NTIA and the Departments
7 of Defense and Transportation, that *Ligado*'s proposed
8 network threatens GPS.

9 Even FCC noted in Paragraph 91 of the Order, and I
10 quote, "Our analysis should not be construed to say that
11 there's no potential for harmful interference to any GPS
12 device currently in operation or in the marketplace.
13 Indeed, the RAA testing showed that there is potential for
14 harmful interference to some devices, particularly high
15 precision devices."

16 Chairman Pai, I understand your frustration that the
17 FCC sought comment four separate times over two years on
18 the *Ligado* proposal and yet DoD did not submit comments for
19 the first four times. You won't find a more sympathetic
20 audience to your frustration than me over DoD's, shall we
21 say, deliberate haste in responding to requests for
22 information from members of Congress.

23 However, our sympathy to your plight does not change
24 the reality. DoD is strongly opposed to the FCC Order and
25 informed Congress that *Ligado*'s proposed network places our

1 national security at risk.

2 The Department of Transportation testified to this
3 very committee the following. They said, "I regret to say
4 in this case I believe that physics stand between the
5 people of goodwill. I do not see a way in which anything
6 approaching the *Ligado* proposal can succeed without
7 interference with GPS."

8 So, Chairman Pai, recognizing that the FCC is already
9 considering petitions from DoD, DOT, NTIA, and various
10 industries requesting that the FCC reconsider the *Ligado*
11 Order under existing administrative procedures, why
12 wouldn't the FCC reconsider the Order? Isn't the whole
13 point of the reconsideration process to enable FCC to deal
14 with controversial orders where there are disputes over the
15 record, new information continues to emerge, and in the
16 event that *Ligado's* network does lead to improper
17 interference, the costs of which could be enormous and
18 these costs could be passed on to consumers, why would you
19 not reconsider this?

20 Mr. Pai: Well, Senator, thank you for the question
21 about the unanimous bipartisan decision that the FCC made
22 to approve this application with serious conditions.

23 This issue has been pending for over a decade. In
24 fact, in 2003, the FCC granted terrestrial authority to
25 companies, like *Ligado*, to use this spectrum on the ground.

1 In 2010, this issue was first teed up and for the last
2 10 years, the agency has been considering what the
3 technical rules should be.

4 Based on the engineering and the facts in the record
5 and that alone, the FCC decided to approve the application
6 with stringent conditions: a 99.3 percent reduction in
7 power levels to 9.8 watts, a 23 megahertz guard band carved
8 out of *Ligado's* own spectrum, even though its GPS was
9 actually bleeding over into *Ligado's* spectrum, a stop
10 buzzer to ensure that any deployments that are occurring or
11 that have occurred will not cause interference to GPS, the
12 replacement and removal of equipment.

13 I mean, all of these conditions were imposed because
14 we wanted to balance the necessary interests. Allowing
15 this company to move forward, as the FCC had granted it
16 authority to do 17 years ago, and preserving GPS from
17 harmful interference.

18 Based on the facts in the record, we made a decision,
19 a decision, I would add, that was shared with federal
20 agencies well over half a year ago to enable them to give
21 feedback to us, based on the facts that they saw in the
22 record.

23 We've had a very open door. This process has gone on
24 for long enough and we made a decision based solely on the
25 facts and on the law and I will defend this decision before

1 any forum in this Congress or around the country.

2 Senator Duckworth: I am out of time and I yield back,
3 Mr. Chairman.

4 Senator Lee: Thank you so much, Senator Duckworth.

5 Thanks to all of you for being here. It was
6 fantastic, by the way. I liked the polling. That sounds
7 like fun. Maybe for a future hearing, I will employ that
8 technique. It's also given me some ideas on other
9 commissions. Maybe the next time we have the Supreme Court
10 in front of the Judiciary Committee, I could try the same
11 thing. I'm not sure they'll love it.

12 Chairman Pai, I want to thank you. A few weeks ago,
13 several of my colleagues and I sent you a letter asking
14 some questions about the *Ligado* issue and about the
15 Commission's decision to approve the spectrum license
16 modification for *Ligado*. You responded and you provided a
17 number of very helpful answers to my technical questions,
18 and without objection that will be entered into the record
19 for today's hearing.

20 Mr. Pai: Thank you, Senator.

21 [The information referred to follows:]

22 [COMMITTEE INSERT]

23

24

25

1 Senator Lee: Chairman Pai, in a recently-disclosed e-
2 mail, there was an official at the Department of Defense
3 who acknowledged that the Department of Defense has not
4 relied on the GPS L1 Band "for years" and that the
5 Department of Defense uses the L2 Signal, which is not
6 close to, is somewhat far away from the L1 Band.

7 If it's true that the Department of Defense is relying
8 on the L2 Signal, then why is it that the Department of
9 Defense argues that *Ligado* will cause interference with the
10 DoD's GPS systems?

11 Mr. Pai: A very good question, Senator, one that is
12 more appropriately presented to the Department of Defense.
13 All I can say from our perspective is that our
14 determination was that starting at 1569 megahertz and
15 above, that *Ligado*'s operation is well below that, 23
16 megahertz below that, would not cause interference to any
17 of the GPS spectrum, especially the lower in that band,
18 which is where the L1 Signal comes from.

19 Senator Lee: Okay. So if that's the case, if the
20 military in fact operates on the L2 Signal and not the L1
21 Signal, then is interference from *Ligado*, from the *Ligado*
22 Bands even possible?

23 Mr. Pai: Senator, we don't believe it is likely but
24 to be sure, that's why we imposed those very strict
25 conditions. We easily could have rubber stamped this

1 application as it was and said, you know what, we don't
2 think there's any engineering case here at all, but to make
3 sure that we protected high precision receivers and others,
4 we incorporated all those conditions and that is why I'm
5 very confident in going forward that we've made a decision
6 that is based much more on sound engineering as opposed to
7 some of the fear-mongering that we've heard.

8 Senator Lee: The *Ligado* Bands are roughly how far
9 away from the L2?

10 Mr. Pai: From L2, so it's 23 megahertz up to the L1,
11 which is 1569. I can't remember exactly. It's a
12 significant amount more than that to get to L2. I can't
13 remember if it's 33 or more.

14 Senator Lee: Okay. So we've got --

15 Mr. Pai: For context, by the way, --

16 Senator Lee: -- buffer there?

17 Mr. Pai: Oh, absolutely. For context, in the 600
18 megahertz incentive auction, we created a three megahertz-
19 wide guard band to protect wireless companies from full
20 power broadcasters. We're talking about a guard band here
21 that is almost eight times as large to protect against the
22 L1 Signal, let alone the L2.

23 Senator Lee: That's helpful. Thank you. And, Mr.
24 Chairman, it's my understanding that the National Advanced
25 Spectrum and Communications Test Network, I keep wanting to

1 figure out a pronounceable acronym from that, NASCTN, but
2 it doesn't sound very good, but it provides testing and
3 modeling and analysis to form spectrum policy and that it's
4 a joint effort that involves a whole bunch of federal
5 agencies, including NIST, NTIA, DoD, NASA, NSF, and NOAA.

6 Is there any evidence that the NASCTN produces biased
7 results?

8 Mr. Pai: Not at all, Senator. In part, I would say
9 because some of those agencies you mentioned are a member
10 of that group.

11 Senator Lee: And did this group, the NASCTN, study
12 the impact of the LPE Signals in *Ligado's* spectrum on GPS
13 devices?

14 Mr. Pai: They did, yes.

15 Senator Lee: And were DoD's comments and concerns
16 heard and studied in this particular instance?

17 Mr. Pai: I have no reason to think that they were
18 not.

19 Senator Lee: I've seen arguments that the
20 Commission's decision would somehow impact taxpayer dollars
21 because the Department of Defense, as a result of the
22 decision, would be tasked with updating its government
23 systems to comply.

24 Now in the event that there is harmful interference,
25 my understanding is that *Ligado* is on the hook for

1 replacing the affected government receivers. Chairman Pai,
2 did that issue get addressed in the FCC's Order?

3 Mr. Pai: It did, Senator. We imposed a condition on
4 *Ligado* to essentially remedy any of those types of
5 situations. That could include, for example, replacement
6 of certain affected receivers, high precision receivers.

7 By the way, now I'm recalling the L2 is actually 300
8 megahertz away. It's in 1227, something like that. So
9 we're talking about a significant distance away from
10 *Ligado*'s operations.

11 Senator Lee: I want to make one final point.
12 Commissioner O'Rielly and Commissioner Rosenworcel, the FCC
13 approved the *Ligado* Modification unanimously. It's no
14 small feat for the FCC to agree in a unanimous manner and
15 some would say in a bipartisan manner, especially on a
16 complex issue like spectrum allocation.

17 But even though the Commission unanimously agreed, the
18 *Ligado* issue still took about a decade to complete,
19 spanning multiple Administrations and Administrations of
20 multiple political parties.

21 Now this wasn't, as far as I can understand, for
22 partisan reasons nor was it the product of petulance or
23 inaction on the part of commissioners. This wasn't for
24 partisan reasons, but I do fear that it might reflect a
25 broken interagency process for spectrum decision-making,

1 and, if true, this would hinder U.S. leadership in
2 technology.

3 So I guess the question I have for you is should the
4 *Ligado* decision be a warning sign for a broken interagency
5 spectrum decision process, and what do we do to address
6 this breakdown in communication between agencies on
7 spectrum-related decision-making?

8 Ms. Rosenworcel: Sure. Thank you for bringing that
9 up, Senator. We're going to need more air waves if we want
10 to power the 5G future and this is a tough story, the one
11 that the Chairman just exchanged with you. We've got to do
12 better. We can't wait 10 years to continue to reclaim air
13 waves.

14 So here are three things we could do right now.
15 First, we should reform the Interdepartment Radio Advisory
16 Committee, which is how the FCC comes together with other
17 federal actors to figure out what spectrum to reclaim.

18 Second, we should do something like you and Senator
19 Markey proposed in legislation. We need a full valuation
20 of federal spectrum. What do they own where? What is its
21 value when it comes to all of our nation's spectrum assets?

22 And then we've got to set up a series of incentives.
23 I don't think people do things when we continue to have
24 these knock-down/drag-out fights. What we need to do is
25 make sure that federal actors get the opportunity to see

1 budgetary gain and not just loss from their reallocation.

2 Senator Lee: Thank you.

3 Mr. O'Reilly: So I would argue a couple things
4 similar to my colleague. One, we need to improve the
5 structure for how NTIA manages the different agencies that
6 it oversees in terms of spectrum policy, the one-off
7 agencies coming and complaining to Congress that the FCC is
8 not working. So whether it's NOAA or NASA or DoD or DOT
9 coming at us one-on-one has been very problematic and
10 that's what NTIA used to do. We have to filter through
11 some of that function and weed out the bad arguments and
12 only present the most compelling and that's not what we're
13 getting today.

14 I would agree with my colleague in terms of
15 incentives, but I'd also suggest we're going to need more
16 sticks and that's why I've suggested we need the budgetary
17 impact. We need to understand how much funding or how much
18 assets they're sitting on in terms of dollars. The
19 valuation piece is important. It should be part of their
20 budget. We're going to need more sticks to push this issue
21 forward.

22 And the last thing I would say is Congress needs to
23 identify the bands. We can help you with that. Identify
24 new federal bands that need to be converted. It's a heavy,
25 heavy lift. It's been done in the past by this committee

1 just as recent as Mobile Now Act, and it just requires a
2 lot of lifting.

3 Senator Lee: Well said. Thank you. I'll turn the
4 gavel back over to the Chairman. I'll say in closing when
5 somebody is going up against an issue that the FCC has
6 addressed over a decade with great scientific expertise and
7 on an issue of great national importance as this one, they
8 darn well better come to the argument armed with something
9 other than the catch phrase national security or trust us,
10 we're right, or I can't tell you why I think this because
11 it's classified, but trust us, national security dictates
12 that we not do this. That's wrong. They know it's wrong
13 and we can't let them get away with it.

14 Thank you.

15 Senator Wicker: Thank you, Senator Lee. Senator Lee
16 and Senator Blackburn have been very gracious during this
17 hearing to take the gavel for an extended period of time
18 and I very much appreciate that.

19 We might as well finish talking about *Ligado*. First
20 of all, who wants to take this, this issue of the decision
21 being made in the dark of night on a weekend? Who would
22 like that? Chairman Pai?

23 Mr. Pai: I'd be happy to take it. It's absolute
24 nonsense. I circulated the Order to my fellow
25 Commissioners on Thursday. The majority of votes were in

1 the following day, Friday.

2 Senator Wicker: So this was done remotely, as we've
3 had to do so many things during this time frame?

4 Mr. Pai: Absolutely, and we, of course, do things in
5 the regular course, as we do on circulation.

6 Senator Wicker: When you circulated that, was that
7 provided only to the members and staff or was it a matter
8 of public record?

9 Mr. Pai: It was -- when we do things on circulation,
10 we share it with all the Commissioners and their staff.

11 Senator Wicker: Okay.

12 Mr. Pai: We also shared six months earlier that exact
13 draft with the Department of Defense, among other agencies,
14 through the Interdepartment Radio Advisory Committee.

15 Senator Wicker: Okay.

16 Mr. Pai: So other departments had that physical
17 possession of it months and months in advance.

18 Senator Wicker: Okay. Now why didn't you just vote
19 on it on Thursday? You have to wait a certain period of
20 time? I just --

21 Mr. Pai: There are two different ways that things are
22 voted on at the FCC. One is at our monthly meetings in
23 which case the Chairman has to designate an item at least
24 three weeks in advance. The other is through circulation,
25 as it's known. Essentially, you e-mail around the

1 proposal, the order to all the various commissioners, and
2 then they have a certain -- essentially an indefinite
3 period of time to be able to suggest changes and the like,
4 and so in this case, I did that, circulated it on Thursday.
5 I can't speak for why the other offices voted when they did
6 but they did and we ultimately released the item the
7 following Thursday, a week later.

8 Senator Wicker: Okay. Ms. Rosenworcel, 30 seconds,
9 and Mr. O'Rielly, 30 seconds.

10 Ms. Rosenworcel: I think the Chairman's correct when
11 he says our regular processes were followed.

12 Senator Wicker: Okay. And Mr. O'Rielly?

13 Mr. O'Rielly: Yes, I waited till Friday to vote. I
14 voted on Friday. I had four meetings, phone call meetings
15 with all interested parties that wanted to weigh in on the
16 matter. I listened to those arguments and then voted. So
17 it wasn't over the weekend.

18 Senator Wicker: Ms. Rosenworcel, on this terminology
19 interference, harmful interference, potentially impacting,
20 help us parse that. Is harmful interference a term of art?

21 Ms. Rosenworcel: Well, it's terminology that is
22 widely used not just by the FCC but by our colleagues at
23 NTIA and in fact it's used worldwide. I think it means if
24 something significantly obstructs, degrades, or interferes
25 with existing communication, and in every environment, the

1 agency and our engineers are tasked with trying to give
2 meaning to that and like I mentioned before, our staff did
3 work on doing that here.

4 Senator Wicker: So to the extent that this new
5 proposal hurts the GPS functioning, that would not be
6 permitted without compensation and correction by *Ligado*, am
7 I correct there?

8 Ms. Rosenworcel: I believe that's correct. It is a
9 slightly more complicated story than that, but, yes, that
10 was the intent of what I believe the Order intended.

11 Senator Wicker: So in 10 years, it is more
12 complicated.

13 Ms. Rosenworcel: I know. I know I just want --
14 listen, you'd be going back and forth with the Chairman on
15 it --

16 Senator Wicker: I want to let you --

17 Ms. Rosenworcel: -- if he has the opportunity.

18 Senator Wicker: -- wrap this issue up and then
19 recognize Senator Rosen.

20 Mr. Pai: So, sorry, I missed that.

21 Senator Wicker: No. On the --

22 Mr. Pai: Oh, on the harmful --

23 Senator Wicker: -- harmful interference and
24 interference.

25 Mr. Pai: Right. So there are two different issues.

1 First is how do you measure harmful interference and,
2 second, what is the likeliness of harmful interference from
3 *Ligado's* operations?

4 There's a fundamental disagreement about the standard.
5 The Department of Defense and others are advancing a
6 certain standard that is called the One DB Standard, the
7 metric. It's not even a standard for measuring harmful
8 interference and to take that metric seriously would wipe
9 out wireless communications as we know them because just
10 through natural occurrences, you can see a one DB change in
11 any type of device's operation.

12 So putting aside to the One DB Standard, which the FCC
13 has never embraced, which NTIA itself has rejected, then
14 you move to the question of what is going to happen in
15 terms of harmful interference?

16 The FCC tested over a long period of time a whole
17 bunch of different GPS receivers and they found that the
18 *Ligado's* operations with the parameters that we're talking
19 about, 9.8 watts, 99 percent reduction, the guard band,
20 etcetera, would not cause harmful interference.

21 One could make an argument that for certain high
22 precision receivers, there may be some type of interference
23 and so we said, okay, stipulated there will be interference
24 in that case, let's make sure that we impose all of these
25 different conditions that we've discussed to ensure that

1 that is not the case and on top of that back it up with a
2 pre-deployment notification *Ligado* has to do for federal
3 agencies and a post-deployment notification system where
4 any affected agency can essentially tell us there's
5 interference. This needs to be remedied ASAP.

6 So given all of these conditions, I find it very hard
7 to say that the FCC just rubber stamped this and sent it
8 out into the ether. We took a very careful look at this
9 over a long period of time. It would have been very easy
10 for me just to kick the can down the road, as many of my
11 predecessors have done, but that's not why we're called to
12 these things.

13 We're called to these jobs to make the difficult
14 decisions, to promote American leadership in wireless, and
15 to protect incumbent interests from harmful interference.
16 We have to make tough decisions and we've got to make them
17 now and I'm not going to kick this can or any can down the
18 road any longer.

19 Senator Wicker: I guess we could win the race to 5G
20 without this.

21 Mr. Pai: This is the argument in every band, 2.5,
22 3.5, 3.7, 3.1, 4.9, 5.9, 6 gigahertz, *Ligado*. Every single
23 agency, every single band you'll find somebody, some
24 federal agency or some stakeholder saying I'm completely in
25 favor of American leadership in 5G, just not in this band.

1 If we were to take this objection seriously, this
2 country would never go anywhere and that's part of the
3 reason why we've done the hard work, based on engineering,
4 focusing on the facts, to promote American leadership and
5 protect those incumbent interests. Were it otherwise, we'd
6 still be stuck in the starting blocks while China and South
7 Korea and Europe and other countries, other regions just
8 race ahead of us.

9 Senator Wicker: Senator Rosen?

10 Senator Rosen: Thank you, Senator Wicker. Thank you,
11 Ranking Member, and for bringing this important oversight
12 hearing to us today. I appreciate all the witnesses also
13 for your hard work in so many areas.

14 Today, I want to talk a little bit about maternal
15 mapping and health outcomes because in Nevada and across
16 the country, it has really been incredible to see the way
17 the telehealth has enabled so many patients to receive care
18 while complying with the stay-at-home orders due to the
19 pandemic and so telemedicine, of course, we know it's not a
20 substitute for receiving a physical evaluation. It is
21 useful in many applications, including keeping pregnant
22 women and new mothers safe while accessing maternal care.

23 As a country, we have the highest maternal-infant
24 mortality rate amongst other developed countries. That was
25 before the pandemic and it's especially crucial that we use

1 every tool and resource we have to reach every new and
2 expectant mother. This is especially important for our
3 high-risk populations, women of color, disparities among
4 our indigenous, African American, and rural communities.
5 It's even more pronounced during this pandemic.

6 That's why last year, I introduced the Data Mapping to
7 Save Moms' Lives Act along with Senators Fischer, Young,
8 and Schatz, and this bipartisan legislation would direct
9 the FCC to consult with the CDC to incorporate data on
10 maternal health outcomes into the FCC's broadband health
11 maps in order to show where poor broadband access and high
12 rates of poor maternal health outcomes, where they overlap
13 in order to determine where telehealth is most needed.

14 So, Chairman Pai, I just really want to say thank you
15 to your office for reaching out and working with mine, to
16 understand the issues and all the outstanding issues on
17 this bill.

18 The Commission, you currently map health data for
19 rural broadband physician shortages, diabetes, obesity. I
20 know you've updated your mapping platform so maternal
21 health shouldn't be a major challenge.

22 But for Commissioner Rosenworcel, I'd like to thank
23 you for your leadership on maternal and infant health and
24 mortality and I'd like you to address how easy or difficult
25 it would be for the Commission to add maternal health

1 outcomes to your current health mapping platform.

2 Ms. Rosenworcel: Thank you, Senator, for the question
3 and for your leadership on this.

4 We've got a crisis in this country. We are the only
5 industrialized nation with a rising level of maternal
6 mortality and that is especially a challenge for women of
7 color and also women in rural communities. Half of our
8 counties in Rural America no longer have a maternity ward.

9 So I spent some time in Rural Arkansas and also with
10 the Mayo Clinic in Minnesota and what I've learned is
11 they're coming up with all forms of telemedicine to figure
12 out how to take on this maternal health care crisis.

13 So I think it would be terrific if we could use some
14 of our mapping data, like we have in the past with
15 diabetes, to understand which communities are connected and
16 which communities have the highest levels of maternal
17 mortality because it is the start of a solution and we
18 should make sure our work gets us there.

19 Senator Rosen: So building upon that, are there other
20 health issues that you think might be useful for us to
21 track if we're going to be adding maternal mortality?
22 Maybe while we're doing that, we just add a few other
23 things at the same time. What do you think might help?

24 Ms. Rosenworcel: It's a really good question. There
25 are really two things to think about here.

1 First, what types of health care problems are we
2 seeing en masse around this country that we have to correct
3 for, and, second, what subset of those problems are likely
4 to be effectively managed with telemedicine?

5 We've seen some early demonstrations that with
6 maternal mortality and with diabetes, these are tools where
7 continuous home monitoring could make a huge difference.

8 So I'd welcome a dialogue with Congress and this
9 committee to continue to try to identify what meets those
10 two criteria and how we can organize our thinking about
11 broadband in accord with it.

12 Senator Rosen: And I think that's terrific. I'd like
13 to ask you finally for the last few seconds I have how the
14 FCC can harness the Connected Peer Pilot Telehealth Program
15 to support this delivery of future telehealth services,
16 particularly for our rural or underserved communities.

17 Ms. Rosenworcel: Yeah. We do have this \$100 million
18 program that we've announced and it's a pilot, but rather
19 than just giving the money here, there, here's an idea.
20 Let's choose maternal mortality. Let's identify that
21 problem and let's see what we can do with it in all 50
22 states nationwide.

23 Senator Rosen: Thank you. I appreciate that, and
24 I'll yield back my last 20 seconds. Thank you.

25 Senator Wicker: Thank you, Senator Rosen. We

1 certainly haven't been worried about 20-second periods
2 during this hearing.

3 Let me see if we can nail a few things down. On the
4 money that the Education Department was provided in CARES,
5 are you all coordinating with Secretary DeVos? How does
6 that work, and is there some way we can facilitate,
7 Chairman Pai?

8 Mr. Pai: Yes, we are, Senator, and we've been working
9 with the Department of Education on making sure the local
10 school districts and other educational officials are aware
11 of that \$16 billion. It's broken up into 13 billion and
12 then three billion.

13 Under the law as passed by Congress, that's available
14 for education technology and we want to make sure that
15 school districts are able and willing to use that for home
16 connectivity.

17 Senator Wicker: Are we a little slow on that? Is the
18 proposed system a little behind?

19 Mr. Pai: Well, we certainly are not. I can tell you
20 that one of the first things we did after the CARES Act was
21 passed was to sit down and figure out how do we strategize
22 with the Department of Education and they've had an open
23 door with us, as well. So we're continuing that effort
24 with our state counterparts.

25 Ms. Rosenworcel: It's good what the Chairman's doing.

1 I do appreciate his effort, particularly with the \$13
2 billion, coordinating with the Department of Education, but
3 that funding was also for sanitizing schools, teacher
4 training. It's a laundry list of things that schools are
5 going to need to get back up and running, just like you
6 suggested.

7 So I think it's essential that we identify how we can
8 use e-Write for a dedicated pool of funding to get students
9 connected.

10 Senator Wicker: Very good. I'm told Senator Young is
11 now in the queue, is that correct?

12 Senator Young: Yes, thank you, Mr. Chairman.

13 Commissioner Carr, so good to see you and the other
14 Commissioners once again. I want to thank you for
15 accepting my invitation to come to Indiana not too long
16 ago. That was pre-pandemic. A lot's changed since then,
17 since the pandemic hit our country. I want to thank you
18 for your work in establishing the \$100 million Connected
19 Care Pilot Telehealth Program. It's really benefited our
20 state. It's a \$200 million telehealth fund that we, in a
21 bipartisan way, established through the CARES Act.

22 Just today, the 10th Street Clinic in Richmond,
23 Indiana, a community health center in Lawrenceburg, Decatur
24 County Memorial Hospital in Greensburg, Indiana, were
25 awarded nearly a million dollars from the fund to support

1 telehealth efforts. So the resources are getting out there
2 and very much appreciated.

3 I'd just ask you to briefly discuss the importance of
4 both of these programs, the Connected Care pilot and the
5 Telehealth Fund, and then if you could quickly pivot kindly
6 to whether there are flexibilities related to telehealth
7 that have been made temporarily available that should
8 remain in place on a permanent basis, based on your early
9 assessment of how they're working.

10 Mr. Carr: Thank you, Senator, for the question and
11 for your leadership on telehealth. I had a chance to join
12 you out in Indiana, in McCordsville, and visit a health
13 care facility there that's relying on high-speed internet
14 connections.

15 I think this is the future. It's going to be a game-
16 changer. For years, we focused on connections to brick and
17 mortar facilities. That's important. It'll continue, but
18 where we've pivoted now with this COVID program and with
19 the Connected Care Program is this idea of connected care
20 so that people can access high-quality care wherever they
21 have a high-speed connection.

22 That's so important in Rural America as this country
23 is facing a growing doctor divide. Health care facilities
24 are closing by the dozen. It's hard to get a general
25 practitioner in Rural America, let alone a specialist. So

1 I think what we're doing now is laying the groundwork to
2 give everyone in this country a fair shot at quality
3 affordable health care.

4 There are lessons learned that we need to keep as we
5 power out of this pandemic. I think HHS has done a lot of
6 great work in short order to look at licensing
7 reimbursement issues. Our Emergency COVID Program is being
8 followed by this separate \$100 million program. I think we
9 are, you know, moving in the right direction and we need to
10 keep the red tape that we've cut to the sideline.

11 Senator Young: Well, thank you. Why don't we
12 maintain a dialogue, as we have ever since you were
13 confirmed to this position, about the issue of telehealth
14 and we'll continue, of course, to work with HHS on that
15 issue.

16 Commissioner O'Rielly, you recently blogged about
17 removing unnecessary barriers and maximizing competition
18 within the Universal Service Fund through their auctions,
19 such as the upcoming Rural Digital Opportunity Fund that
20 will extend broadband in Rural Indiana and across other
21 rural areas around the country.

22 Can you expand on this idea of maximizing competition
23 and removing unnecessary barriers, maybe identifying
24 specific actionables that need to be taken?

25 Mr. O'Rielly: Sure. My blog explored whether we

1 should eliminate our eligible telecommunications carrier
2 designation requirement and actually recommended that
3 Congress do so. The ETC mandate that's in law actually
4 limits the number of competitors that are willing to
5 participate in our auctions.

6 I've talked to multiple providers who would like to
7 participate and drive down the costs. So when you think of
8 the RDOF, for instance, we're trying to drive a \$30 billion
9 program into a \$16 billion expenditure and that's through
10 competition. It's letting the different providers compete
11 for different areas and driving down how much we need to
12 subsidize those things.

13 So there's a barrier, in my opinion, that's no longer
14 necessary. The burdens that exist today in terms of state
15 verification and state designation for ETCs don't make any
16 sense any longer, in my opinion, especially since the fact
17 that broadband and VOIP are both areas that are outside
18 state jurisdiction. So I think that's something the
19 Congress really could be helpful for.

20 Senator Young: So if you eliminate that condition
21 that auction winners be designated ETCs under the statute,
22 you prod more people into the auction. You end up in short
23 getting more value for the taxpayer in the end, is that
24 correct?

25 Mr. O'Rielly: Absolutely. The money that's collected

1 on a monthly basis goes further and stretches. You expand
2 broadband services throughout our nation. Absolutely.

3 Senator Young: Thank you so much. I'm out of time.

4 Senator Wicker: Thank you, Senator Young.

5 Senator Tester, have you had lunch yet?

6 Senator Tester: Thanks for caring. I appreciate
7 that.

8 I would say, first of all, thank you, Mr. Chairman,
9 for having this hearing, and I want to thank the FCC for
10 being here.

11 One of the things you get to do being last is you get
12 to hear most of what's been said before or being close to
13 last, and I just want to go back to underserved areas. I
14 want to go back to allocating 80 percent of the RDOF funds,
15 you know, at the end of this administration, and the reason
16 this is somewhat troubling is because this committee has
17 always been, I think it's still there, has always been
18 very, very bipartisan in the fact we want maps that are
19 right, so you can spend the money and not waste money.

20 We're talking about a fair amount of dough. 80
21 percent is a little over 16 billion, if my math is correct.
22 That 16 billion doesn't draw a lot of attention around here
23 and so the question is -- this is to Chairman Pai and Ms.
24 Rosenworcel, if you'd like.

25 I don't see how you're going to put this money out

1 without good maps. I just got to tell you and I want the
2 money out sooner than later. I come from a state that has
3 underserved areas big time in it, but the potential for
4 wasting money here is just over the top and I want you to
5 tell me, Chairman Pai, how this money is going to be
6 appropriated out so it isn't just a crap shoot.

7 Mr. Pai: Senator, there are thousands upon thousands
8 of locations in Montana that we know, based on any map you
9 consult, are unserved and that is exactly what Phase 1 is
10 targeting.

11 What some would argue is that unless and until we
12 figure out how the suburbs of Milwaukee are getting covered
13 or not, we will not move forward with Montana. That's not
14 acceptable to me.

15 Senator Tester: So, Chairman Pai, you have maps that
16 are rock solid certain that if you take this \$16 billion
17 and you put it in the marketplace, that that money is going
18 to go to underserved areas and not overbuild in others?

19 Mr. Pai: Absolutely, Senator. Phase 1 goes to
20 unserved areas, areas that we suggested were unserved and
21 now we've gone through the challenge process. We can
22 confirm they are unserved, so that when the auction starts
23 on October 29th, we're talking about thousands of locations
24 in your state that for the first time will get broadband
25 deployment. That's what's at stake here.

1 Senator Tester: That's music to my ears, but the
2 question has been before why hasn't the money already been
3 appropriated to those areas if we knew they don't have the
4 service?

5 Mr. Pai: I can't speak for what happened before I got
6 in office, but the very first thing we did was to reorient
7 our USF Programs to target unserved parts of the country to
8 firmly close that Digital Divide, and I've seen it for
9 myself in Wisdom and see Ignatius and Absaroka Wilderness
10 and other places like that, and it's high time that these
11 folks in Montana and other unserved areas got digital
12 opportunity.

13 I'm not willing to wait for months or even years while
14 we --

15 Senator Tester: I've got it.

16 Mr. Pai: -- figure out what suburban areas are
17 partially served before we get these unserved parts of the
18 country on the right side of the Digital Divide.

19 Senator Tester: I've got it. But one of the major
20 problems has always been, and I don't want -- we're both on
21 the same page here. We want to do the same thing. I think
22 everybody does on the FCC and then on this committee is on
23 the same page. We want to make sure the money is well
24 spent. You've been on the FCC for a long time. I mean,
25 it's not like you haven't been affiliated with this board,

1 this Commission.

2 Mr. Pai: I couldn't agree more, Senator, and that's
3 why in August, we instituted the Digital Opportunity Data
4 Collection to get the more granular maps. Unfortunately,
5 Congress has now passed the Broadband Data Act which not
6 only prohibits us from using USAC to create those maps, it
7 also doesn't give us any funding to be able to implement
8 the Broadband Data Act's mandates.

9 65 million in the first year alone is required. We
10 don't have it and so that's why I'm coming to you and I
11 went to the Appropriations Subcommittee last week to ask
12 for this necessary funding. We need it to be able to
13 create those maps.

14 Senator Tester: I got it, and I appreciate that.
15 Things don't happen by air.

16 I would just tell you this, that I think that the
17 accountability issue here becomes a real problem because if
18 you're doing it before you walk out the door potentially
19 and we're counting on those maps being correct and if
20 they're not, we just wasted a ton of money, and, look, I
21 think I've supported nearly everybody, if not everybody, on
22 the Commission's confirmation, and the fact is, is that, we
23 need to have this work.

24 If we've seen anything in Montana, we've seen health
25 care being shortchanged. We're seeing education being

1 shortchanged because we don't have the service and that's
2 the bottom line, and I hear you say we're going to do it.
3 I just hope you're right on that.

4 One last thing I just want to ask about and that's a
5 question that Senator Schatz brought up about health care
6 and the fact that \$200 million in the CARES Act. Montana
7 got zero and other states did, too, based on the incidence
8 of COVID-19.

9 I would just say this. Our governor took actions that
10 were very preemptive and it stopped things from happening
11 like they could have happened. We're getting penalized
12 because the governor showed good leadership and we don't
13 know where this virus is going to go and we've got at least
14 three proposals, and I want to ask you to go back and look
15 at those to see if there's any money left in that fund to
16 try to help these folks out.

17 Montana is just not a flyover state. There's people
18 that live there and they're pretty good people. So we need
19 service, too.

20 Mr. Pai: Well, Senator, if I might, I did want to let
21 you know that we have given grants to, for example,
22 Providence St. Joseph in Seattle, which has been given a
23 million dollars in funding for several sites, including St.
24 Patrick Hospital in Missoula and St. Joseph Medical Center
25 in Polson. In addition to that, Avera ECare in Sioux Falls

1 has also gotten a grant, 803,000, to cover in part 10
2 Montana health care providers across the state. So we look
3 forward to continuing to work with you to make sure that
4 your state gets the help that it needs under this program.

5 Senator Tester: I appreciate that and I appreciate
6 the help that we've gotten. Make no mistake about it.
7 Those other states need help, too.

8 Thank you, Mr. Chairman.

9 Mr. Pai: Thank you, Senator.

10 Senator Wicker: Thank you. Thank you, Senator
11 Tester.

12 Before I go to Senator Sinema, Chairman Pai, when did
13 the FCC first conceive of the RDOF? When did you first
14 start working on that?

15 Mr. Pai: Gosh. Early 2018, yes, I believe it's --
16 sorry. Late 2018, if I remember correctly. I'll have to
17 go back and look at the calendar, but it's been awhile,
18 long time.

19 Senator Wicker: Okay. So --

20 Mr. Pai: I first publicly announced it, if I remember
21 correctly, in the spring of 2019.

22 Senator Wicker: Okay. Now if it goes forward on time
23 in October, I think the problem we're going to see is it's
24 going to take a long time to build this out. Now we could
25 use a whole lot more money from the Congress and get this

1 build-out done much faster, could we not?

2 Mr. Pai: Absolutely, Mr. Chairman, and --

3 Senator Wicker: You would welcome that, would you
4 not?

5 Mr. Pai: Yes, your initiative --

6 Senator Wicker: We would welcome that, would you not?

7 Ms. Rosenworcel: I think as we've established, I
8 think there's a fatal flaw in its foundation, but your idea
9 to speed it up because people can't wait and that you would
10 make sure that winners get additional funds if they build
11 faster is one that has a certain sense to it, yes.

12 Senator Wicker: Senator Sinema, thank you for
13 indulging me there just to let me try to nail that down.
14 You are recognized, ma'am.

15 Senator Sinema: Thank you, Mr. Chairman, and thank
16 you to all of our witnesses.

17 You know, I look forward to working with the FCC and
18 my colleagues on this committee to support Americans with
19 expanded affordable broadband access during the pandemic as
20 jobs, schools, and health care have shifted online.

21 My first question is for Commissioner Rosenworcel.
22 I'm sorry.

23 Ms. Rosenworcel: No problem.

24 Senator Sinema: Now more than ever, communities
25 across Arizona need reliable access to emergency services.

1 I've heard from Arizonans lacking consistent cell service,
2 including some seniors living at the Sundance RV Resort and
3 the Fairways Community in Pinal County, many of whom can't
4 reach 9-1-1 in the event of an emergency. In fact, during
5 a recent 30-minute call between my staff and a resident
6 discussing this poor cell service, the call was dropped
7 three times.

8 So the FCC Mobility Fund failed to reach communities
9 in need because the maps were just plain wrong. I'm
10 concerned the FCC might repeat the mistakes of the past and
11 again spend money without ensuring it gets to communities
12 that need it, like in Pinal County.

13 How do you recommend we best move forward to help
14 Arizonans who live without reliable cell service?

15 Ms. Rosenworcel: Thank you, Senator, for the
16 question. Not having wireless service, like you said, it's
17 not just an inconvenience, it could be a matter of life or
18 death. You can't 9-1-1. You can't get health care and for
19 a long time, the FCC's been trying to figure out with
20 propagation maps from carriers where service is and where
21 service is not and what we've found is that many of the
22 maps we had from carriers were profoundly wrong.

23 So we're going to have to take the authority you gave
24 us in the Broadband Data Act and rebuild our wireless maps,
25 figure out where service is and is not, and when we do it,

1 let's not just do it here in Washington with the five of
2 us. Let's not just go to carriers. Let's go to people in
3 Arizona and every other state in the country who from their
4 lived experience know where you get bars on your phone and
5 where you don't and use that kind of crowd sourcing to
6 inform our data and that way we'll develop the kind of
7 information that allows us to target funds to places that
8 need it most.

9 Senator Sinema: Oh, thank you. Chairman Pai, that
10 one I got right, we need to provide tribal governments with
11 the resources to ensure equitable broadband access for
12 Indian Country.

13 I've worked to ensure that tribes in Arizona can
14 utilize the 2.5 gigahertz band for broadband services. The
15 tribal priority filing window for this spectrum can lessen
16 the Digital Divide in Indian Country but tribes need
17 adequate time to learn about the spectrum and understand
18 how they can use it.

19 Unfortunately, tribes have been disproportionately
20 affected by the coronavirus and have requested additional
21 time to apply for the spectrum.

22 Would you commit to a 180-day extension for the tribal
23 priority filing window in the 2.5 gigahertz band because of
24 the coronavirus?

25 Mr. Pai: Thank you, Senator, for the question. I

1 certainly appreciate your leadership on issues of tribal
2 connectivity.

3 It was my insistence that we included this rural
4 tribal priority window to give tribes first dibs on this
5 prime mid-band spectrum. I'm aware of the request from
6 some advocates for an extension of that window and that's
7 something that we are currently considering. We would be
8 happy to keep your team apprised as we make that decision.

9 Senator Sinema: Please do. As you may be aware,
10 Chairman Pai, there are several tribes in Arizona which are
11 currently facing the most severe outbreaks in the entire
12 country, in fact reaching levels above that of New York.
13 So the need for them to have additional flexibility during
14 this very dangerous time for their communities is
15 important.

16 Commissioner, do you also agree with the Chairman
17 about the need to consider extending time for Indian tribal
18 communities to have access to this decision?

19 Ms. Rosenworcel: Yes, it's a once-in-a-lifetime
20 opportunity for tribes to have some mid-band spectrum to
21 promote wireless broadband services. They are some of the
22 least connected communities in the country. I think we
23 should give an extension of that August 3rd deadline
24 because tribal communities have been more affected by this
25 virus than others and I think an extension of a 180 days is

1 warranted.

2 Senator Sinema: Thank you. Chairman Pai, I'll follow
3 up with you directly on the specific needs of these tribal
4 communities in Arizona, and I would ask you again to very
5 strongly consider granting them an extension as right now
6 their tribal communities are entirely focused on issues of
7 life and death during this pandemic.

8 Mr. Chairman, I yield back my time. Thank you.

9 Senator Wicker: Thank you so much, Senator Sinema.

10 Let me tie up some loose ends and I do appreciate the
11 Commission indulging us.

12 Chairman Pai, there's some build-out in unserved areas
13 being done through funds provided through RUS, the Rural
14 Utility Service. Is there a chance that in the RDOF
15 process there could be duplication there and how do we
16 avoid that?

17 Mr. Pai: There is not, Mr. Chairman. So per the
18 FCC's Order, we want to make sure that there is no company,
19 no provider that is under a legal obligation through either
20 a federal or state program to build out broadband to that
21 area. So those types of areas would not be eligible in
22 Phase 1 of the RDOF because we don't want to give companies
23 essentially twice the money to do the same thing.

24 Senator Wicker: Okay. Now let's see. Commissioner
25 Carr, broadcasters are in the process of implementing a

1 technological evolution in their Signal ATSC 3.0 or Next
2 Gen TV will provide broadcasters with new business
3 opportunities beyond simply broadcasting.

4 Could you please explain what the new ATSC 3.0
5 technology is, how it works, and how you think this will
6 facilitate greater applications in Rural America?

7 Mr. Carr: Thank you, Senator, for the question. I
8 think ATSC 3.0 is a really fascinating technology. It
9 takes the same spectrum that Americans receive today over-
10 the-air television and lets broadcasters use some or all of
11 that to offer effectively a 25 megabit per second, so think
12 of it as a high-speed internet, down link over its existing
13 footprint.

14 So it could be used for anything from updating
15 connected cars with these large-scale files that they may
16 need for mapping to smart ag, which can be important for
17 rural communities, to just downloading movies potentially
18 on your phone.

19 I think the future of connectivity is going to be one
20 where you don't have necessarily the same pipe as the
21 download pipe and the upload pipe at the same time. You
22 may be able to couple together different options from
23 different technologies and different spectrum bands.

24 So I think broadcast internet is going to be part of
25 that future of connectivity and our decision at the FCC

1 this month removed the overhang of some regulations that
2 could have slowed down the build-out nationwide of
3 broadcast internet services.

4 Senator Wicker: Thank you. Commissioner O'Rielly,
5 let me get your comment about the Universal Service Fund.
6 Stakeholders have voiced concerns about the sustainability
7 of the funding mechanism.

8 What solution do you recommend, if any, to ensure that
9 the USF remains sustainable in the months and years ahead,
10 and what are your thoughts on making sure this remains
11 sustainable?

12 Mr. O'Rielly: It is not sustainable as it currently
13 sits. Some of that recent increase is because of the
14 pandemic that's going on, but it's been rising for far too
15 long.

16 There have been a number of ideas that have been put
17 forward. One of those pushed forward by the state
18 commissioners would involve a tax on broadband. I haven't
19 favored that and that has put us at loggerheads. We
20 haven't been able to get past that conversation.

21 I have asked for any idea and all to be debated out
22 and let's figure out how we can get to a new mechanism for
23 USF funding. Our expenditures, the amount of money, every
24 single one of the four programs, plus some that are
25 outside, are being increased in terms of the amount of

1 dollars that are going out, but the money coming in is
2 problematic, how we collect it.

3 Senator Wicker: Commissioner Starks or Commissioner
4 Rosenworcel, do you want to jump in on that?

5 Ms. Rosenworcel: I think that Commissioner O'Rielly
6 and I both had the pleasure of running the Universal
7 Service Joint State Board that has tried to wrestle with
8 these issues and, honestly, it's really hard because the
9 system that was set up in the Telecommunications Act of
10 1996 assumed the future was intrastate long distance voice
11 and what that means is that that's what we assess against
12 in order to come up with all these funds to build
13 broadband.

14 So the factor keeps rising because the pool that we
15 assess against keeps falling.

16 Senator Wicker: Right.

17 Ms. Rosenworcel: Simple math. And I think I've come
18 to the conclusion that we're going to have to work with
19 Congress to figure out what comes next because I don't
20 think the law and what we were contemplating in 1996 is
21 quite adequate for the moment that we're in.

22 Senator Wicker: I think people viewing this hearing
23 today can appreciate there's a lot that the Commission
24 needs to work with Congress on.

25 Chairman Pai, temporary waivers on Lifeline oversight

1 expire in a day or two. How do you plan to ensure that
2 qualified Lifeline users remain connected while also
3 ensuring that the program does not experience waste, fraud,
4 or abuse?

5 Mr. Pai: Great question, Mr. Chairman. We've tried
6 to make sure that we grant maximum flexibility to both
7 Lifeline providers and consumers. For example, just
8 recently, we took the step of making sure that rural tribal
9 consumers that can't produce documentation for eligibility
10 are able to get service nonetheless for 45 days after the
11 application is submitted to allow the provider to get some
12 additional time to verify the documentation.

13 We've also relaxed some de-enrollment and
14 recertification rules. We've taken other steps and we'd be
15 happy to consider extending those, if necessary, to meet
16 the needs of this emergency.

17 There have been a whole bunch of different steps like
18 this that we have taken to make sure that low-income
19 consumers can have that connectivity and certainly think
20 that a number of my colleagues support has been very
21 important in that process.

22 Senator Wicker: Thank you. We haven't talked about
23 rip and replace yet. The FCC recently collected data from
24 telecommunications providers about the use of Huawei and
25 ZTE and their networks. Based on the information provided

1 so far, how we doing? How much do you think it will cost
2 to rip out that equipment and replace it with network
3 components from trusted suppliers as we all agree needs to
4 be done and as Congress has put into the statute, Chairman
5 Pai?

6 Mr. Pai: I'll be happy to take a crack at it.

7 Senator Wicker: Yes.

8 Mr. Pai: So our preliminary estimate was that it
9 would cost up to two billion to rip and replace that
10 equipment with trusted vendors. Right now, as you
11 mentioned, we have a data collection that we've now
12 received all the information from.

13 The Office of Economics and Analytics is going through
14 that information to verify the nature of the equipment
15 involved and what the price tag would be for replacing it
16 and so once we reach that assessment, we'd be happy to work
17 with your team to make sure that the adequate resources are
18 given to companies to rip and replace that problematic
19 equipment.

20 Senator Wicker: Do you think it's worth \$2 billion to
21 the taxpayers?

22 Mr. Pai: Oh, I think in this regard, I think it is
23 indeed. Making sure that we have trusted vendors supplying
24 that equipment and services in our networks is incredibly
25 important.

1 Senator Wicker: What is the time frame on getting
2 this done, Mr. Chair?

3 Mr. Pai: You mean in terms of --

4 Senator Wicker: Of completing the mandate under rip
5 and replace, secure and trusted communications network.

6 Mr. Pai: So certainly the OAE is going through that
7 data collection information as quickly as they can and we
8 would -- I mean, we want to work with you to make sure we
9 do it as soon as possible. This is an issue that I've been
10 banging the drum about for a couple of years and we need to
11 make sure we take action with dispatch.

12 Senator Wicker: How soon can it be done?

13 Mr. Pai: I mean, I can't give you a full answer
14 because I don't know the nature of the funding that's going
15 to be provided. We don't yet know the full scope of the
16 problematic equipment. So I would hesitate to give you an
17 answer if there are thousands of providers out there or
18 hundreds. The time frame shifts very significantly.

19 Senator Wicker: Okay. Let's talk about regulatory
20 barriers, Commissioner Carr, and I think this is your
21 question. The FCC recently approved an infrastructure
22 order that clarifies key siting rules for wireless
23 infrastructure deployment, including 5G. It's intended to
24 eliminate unnecessary barriers to siting on existing
25 infrastructure and accelerate wireless networks upgrades.

1 I understand you're the lead commissioner on this
2 Order, is that correct, sir, and what impact do you see
3 from the 5G Upgrade Order? Do you anticipate increased
4 investment and build-out as a result?

5 Mr. Carr: Thank you, Senator, for the question and
6 for your work to help promote the accelerated build-out of
7 internet infrastructure.

8 Our goal, I think all of our goal on the Commission,
9 is to see 5G build in every single community. The finish
10 line was never when New York or San Francisco see their
11 first 5G builds. We've made tremendous progress over the
12 last couple of years and one way that we ultimately closed
13 that Digital Divide is to make sure that internet
14 infrastructure is available in every community.

15 This 5G Upgrade Order looks at existing macro towers
16 which serve a lot of rural communities. I was at one not
17 too long ago in Glenelg, Maryland, macro tower a couple
18 hundred feet on a farm, got to climb up the tower with
19 Charlie and Aaron, two of the America's hard-working tower
20 techs, swapping out an antenna from effectively a 2G style
21 antenna to a 5G antenna, took them less than an hour, but
22 the regulatory process can drag on for months and months.

23 So we updated and clarified our approach under Section
24 6409, which Congress passed, and I do think this is going
25 to accelerate the upgrade of 5G, particularly in rural

1 communities.

2 Senator Wicker: Who's going to be offended by this?
3 Who's going to fight you?

4 Mr. Carr: Any time that we issue a decision off the
5 FCC that deals with the build-out of internet
6 infrastructure, you're going to see some pushback from
7 state and local governments that ultimately oversee the
8 siting process.

9 What I've been pleased by, though, is we've gotten
10 support from a lot of state and local officials who want 5G
11 build-out in their community and understand that if we
12 drive down the regulatory costs of building out, it's going
13 to happen in their communities faster.

14 Senator Wicker: Commissioner Rosenworcel, is this
15 going to be easy?

16 Ms. Rosenworcel: We've been here for three hours.
17 Nothing feels totally easy at this point.

18 Senator Wicker: Thank you all. We have so many
19 issues.

20 Ms. Rosenworcel: No, no, no. I appreciate your
21 efforts.

22 Listen, we've got to streamline the deployment of
23 infrastructure in this country. That is an absolute given.
24 We also have a 10th Amendment and a long history of local
25 control in this country. You know, people don't take

1 kindly to five unelected people telling them what they can
2 and can't do in their own backyard and so we're going to
3 have to figure out how to balance those two things.

4 I would suggest this, that if you have future
5 infrastructure legislation with dollars attached, you
6 should condition them on speedy resolution of siting and
7 permits at the local level. Let's figure out how we can
8 use carrots rather than sticks to get this done.

9 Senator Wicker: Well, we are anticipating such
10 legislation.

11 Ms. Rosenworcel: So I read.

12 Senator Wicker: Chairman Pai, what can you tell us
13 about the pending proceeding at the FCC to create a new FM
14 Radio Broadcast Class, referred to as FM Class C4? Have
15 you ever heard of that?

16 Mr. Pai: I've heard a little bit about that, Mr.
17 Chairman.

18 Senator Wicker: Can you just give us an update there
19 and tell us what the considerations are?

20 Mr. Pai: I appreciate the question. We received a
21 petition from NMTC, among other advocates, suggesting that
22 the creation of a Class C4 could be useful for certain
23 radio broadcasters and I put that on the floor for my
24 colleagues' consideration. At the request of one of my
25 colleagues, we converted what was originally intended to be

1 a Notice of Proposed Rulemaking into a Notice of Inquiry.

2 My understanding, based on the last time we've had
3 these discussions, is that there's not majority support for
4 moving ahead with the Notice of Proposed Rulemaking and so
5 we look forward to creative solutions to trying to advance
6 the ball in a way that reflects consensus on this issue.

7 Senator Wicker: Who has doubts about this that you'd
8 like to voice? Yes, Commissioner O'Rielly?

9 Mr. O'Rielly: Yes, I don't like to voice but I will
10 voice. I have concerns it will cause, our favorite word,
11 harmful interference to existing other radio broadcasters
12 and there is a big, you know, disagreement amongst existing
13 broadcasters on the impact of this.

14 What I did, and I asked the Chairman to go from an
15 NPRM back to an NOI because the NPRM was fairly empty and I
16 thought it ought to understand what are the impacts. It
17 should explain what's the value of this going forward. It
18 didn't. So we went to an NOI and hopefully that has been
19 addressed and fully fleshed out, but I haven't seen
20 anything sent.

21 Senator Wicker: What is an NOI?

22 Mr. O'Rielly: Notice of Inquiry. It's a more vague
23 approach in our process.

24 Senator Wicker: Okay. Well, there are people out
25 there who will very much benefit from that answer.

1 Okay. Let me stir the pot on my last question.
2 Commissioner Carr, you said something that makes sense to
3 me about how well we've done during this recent period as
4 compared to our friends across the ocean and some
5 adversaries across the ocean in terms of the internet
6 working. You say, "America's networks performed because of
7 the private sector's massive investment in our internet
8 infrastructure over the past years."

9 So the question is, why did this happen? Are we just
10 lucky? You conclude, "The network's performance under
11 stress, the 5G build-out, and all of this investment
12 doesn't happen by chance. They are fostered by light touch
13 regulatory approach to infrastructure. It's an approach
14 that emphasizes clear rules that keep pace with changing
15 technology" and apparently in your view, also encourage
16 investment by the private sector which got us to this very
17 favorable position that we've had the last few months.

18 So you've expressed your opinion there. I'll let
19 anybody on the panel discuss this and challenge it or take
20 a different view. Do we all agree with the conclusion of
21 Commissioner Carr in that regard? Are you raising your
22 hand, Commissioner Rosenworcel?

23 Ms. Rosenworcel: I know. Well, I just want to
24 qualify. First, let's be proud of how our nation's
25 networks have responded to this crisis.

1 Senator Wicker: And I am proud.

2 Ms. Rosenworcel: I absolutely -- no, but I believe
3 they've done a good job, but here's the thing. I think I
4 would like it if we collected data on it. We don't even
5 collect standardized data on broadband outages. It's not
6 part of our network outage reporting system and so the one
7 thing I would say is I'm not sure if we know on a regional
8 and local level how well it's performed because we're not
9 collecting data on it.

10 Senator Wicker: And how would we do that?

11 Ms. Rosenworcel: Well, I think we would update our
12 outage reporting structure so that it reflects the
13 broadband age.

14 Right now, we primarily collect data on legacy
15 telephone outages, but, you know, just last week, we had a
16 major wireless provider that had an outage that affected
17 big swaths of the country. The wireless phone didn't work
18 for one major national provider. We got to figure out how
19 our outage system and reporting reflects the way that
20 people use services today so then we can use that data to
21 make sure our policies are smarter in the future.

22 Senator Wicker: Thank you. And, Chairman Pai, you
23 get the last word in this lengthy hearing on that topic.
24 Is it a fact that our system performed so much better and
25 why is that?

1 Mr. Pai: I appreciate the question, Mr. Chairman, and
2 I think the answer that Commissioner Carr gave is correct,
3 and if you look at it from 60,000 feet, over the last three
4 years, we've had to make some very difficult decisions.
5 Some of them were popular, some of them were less so, but
6 at the end of the day, the proof is in the pudding.

7 Because of some of the decisions we've made to get rid
8 of utility-style regulation of internet infrastructure, to
9 get rid of heavy-handed regulation of business data
10 services, to streamline the process for wireless
11 infrastructure deployment, to encourage companies to focus
12 their investments on fiber instead of copper, these types
13 of decisions in the aggregate have created an incredibly
14 strong incentive for companies to make the massive network
15 investments that are necessary for moments just like this
16 and but for the fact that we had the courage to make some
17 of these decisions, I daresay that we may have been put in
18 the position similar to the European Union which had to
19 proactively, as Commissioner Carr mentioned, go to Netflix
20 and YouTube and these other streaming services and ask them
21 to proactively throttle their own consumers' band width in
22 order to make sure that networks didn't collapse.

23 I'm incredibly proud not just of the American
24 broadband network's performance but of all the building
25 blocks that were in place for that success, one of the

1 critical ones of which was the regulatory framework we've
2 established over the last three years.

3 Senator Wicker: Well, thank you, Chairman Pai, and
4 thank you all, and these are words that you have been
5 longing to hear.

6 The hearing record will remain open for two weeks.
7 During this time, Senators are asked to submit any
8 questions for the record. Upon receipt, the witnesses are
9 requested to submit their written answers to the committee
10 as soon as possible but by no later than midnight
11 Wednesday, July 29th, 2020.

12 [The information referred to follows:]

13 [COMMITTEE INSERT]

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1 Senator Wicker: I thank you and this hearing is now
2 adjourned.

3 [Whereupon, at 1:19 p.m., the hearing was adjourned.]

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From: [Joel G. Miller](mailto:Joel.G.Miller@fcc.gov)
To: [Mike O'Rielly](mailto:Mike.O'Rielly@commerce.senate.gov); [Erin McGrath](mailto:Erin.McGrath@commerce.senate.gov); [Arielle Roth](mailto:Arielle.Roth@commerce.senate.gov); [Susan Fisenne](mailto:Susan.Fisenne@commerce.senate.gov)
Subject: Fwd: Majority QFRs - Oversight of the Federal Communications Commission - June 24, 2020
Date: Wednesday, July 8, 2020 6:17:12 PM
Attachments: [Majority QFRs - Commissioner O'Rielly.docx](#)
[FCC Oversight 2020 hearing transcript.doc](#)

(b) (5)

From: "Cook, Reed (Commerce)" <Reed.Cook@commerce.senate.gov>
Date: Wednesday, July 8, 2020 at 4:05:29 PM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>
Cc: "Trusty, Olivia (Commerce)" <Olivia.Trusty@commerce.senate.gov>, "Guyselman, Kelsey (Commerce)" <Kelsey.Guyselman@commerce.senate.gov>, "Lin, John (Commerce)" <John.Lin@commerce.senate.gov>, "Holmes, Kevin (Commerce)" <Kevin.Holmes@commerce.senate.gov>
Subject: Majority QFRs - Oversight of the Federal Communications Commission - June 24, 2020

Mr. Miller—

Please find the Majority questions for the record (QFR) submitted in relation to Commissioner O'Rielly's testimony before the Senate Committee on Commerce, Science, and Transportation's hearing entitled, "Oversight of the Federal Communications Commission," on June 24, 2020.

Please complete responses to all QFRs **as soon as possible, but no later than COB Thursday, July 22, 2020**. We also request that the witnesses prioritize responses to questions submitted by our Minority counterparts.

You will find an unofficial transcript attached. Please have Commissioner O'Rielly review the transcript and propose any light grammatical edits he finds appropriate. The Committee asks witnesses to ensure that edits do not alter the meaning or the intent of the language in the transcript. The Committee reserves the right to accept or reject any proposed edits.

Please send responses via email to Olivia.Trusty@commerce.senate.gov, Kelsey.Guyselman@commerce.senate.gov, kevin_holmes@commerce.senate.gov, John.Lin@commerce.senate.gov, Reed.Cook@commerce.senate.gov, and docs@commerce.senate.gov.

Best,

Reed Cook
Professional Staff
U.S. Senate Committee on Commerce, Science, and Transportation
Chairman Roger F. Wicker

IMPORTANT -- PLEASE READ
DO NOT DETACH

United States Senate
Committee on Commerce, Science, and Transportation
Washington, D.C. 20510-6125

MEMORANDUM

Date: July 8, 2020

To: Commissioner Mike O'Rielly

Date of Hearing: June 24, 2020

Hearing: Oversight of the Federal Communications Commission

Thank you for your recent testimony before the Senate Committee on Commerce, Science, and Transportation. The testimony you provided was greatly appreciated.

Attached are **post-hearing questions** pertaining to the above-mentioned hearing. As a courtesy, please submit a single document consolidating the posed questions followed by your answers for insertion in the printed hearing record. Your responses can be e-mailed to Reed_Cook@commerce.senate.gov.

Should the committee not receive your response within the time frame mentioned below or if the committee staffer assigned to the hearing is not notified of any delay, the committee reserves the right to print the posed questions in the formal hearing record noting your response was not received at the time the record was published.

Committee staffer assigned to the hearing: Reed Cook

Phone: (202) 224-1251

Date material should be returned: July 22, 2020

Thank you for your assistance and, again, thank you for your testimony.

Written Questions Submitted by the Honorable John Thune to Mike O’Rielly

Question 1. Commissioner O’Rielly, you recently stated regarding the FCC’s action to facilitate the deployment of 5G networks across the United States that the ruling would “help entities like FirstNet meet their public safety obligations.” Can you speak more to why you think this action would help FirstNet’s Nationwide Public Safety Broadband Network buildout and why it is important to public safety responders?

Question 2. As you are aware, Congress passed and President Trump signed into the law the TRACED Act, legislation to aimed to help reduce illegal and unwanted robocalls. The law also improved the adoption of technical solutions for blocking illegal robocalls that are both harmful and bothersome to consumers. Additionally, the TRACED Act recognized the importance of legitimate calls, like financial institutions providing customers with important alerts. In addition to the TRACED Act, the Commission has taken several efforts to deter illegal robocalls. What steps has the FCC taken to ensure call blocking technologies do not adversely affect legal robocalls used by legitimate businesses to consumers?

Question 3. In your testimony, you briefly mentioned reforming the World Radio Conference (WRC) and certain international issues as they relate to the FCC. Do you have any specific suggestions for Congress on these matters?

Written Questions Submitted by Honorable Todd Young to Mike O’Rielly

Question 1. The FCC is looking for additional spectrum to free up for 5G services. Are you reviewing the 500 megahertz of contiguous, terrestrial spectrum at 12 GHz?

Isn’t that band of spectrum one of the few – maybe the only – licensed spectrum block available for 5G use without Federal incumbents in it?

Assuming so, what are the Commission’s plans to examine how the spectrum can be used to support 5G?

From: [Erin McGrath](#)
To: [Mike O'Rielly](#)
Subject: Fwd: Majority QFRs
Date: Monday, July 20, 2020 3:02:27 PM
Attachments: [Majority QFRs - O'Rielly - 06.24.20 v1.docx](#)

Wow I just got this

From: "Mikeofcc" <(b) (6)>
Date: Monday, July 20, 2020 at 2:59:32 PM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>, "Erin McGrath" <Erin.McGrath@fcc.gov>, "Arielle Roth" <Arielle.Roth@fcc.gov>
Subject: Majority QFRs

(b) (5)
[Redacted text block]

Sent from my iPad

IMPORTANT -- PLEASE READ
DO NOT DETACH

United States Senate
Committee on Commerce, Science, and Transportation
Washington, D.C. 20510-6125

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Date: July 8, 2020

To: Commissioner Mike O'Rielly

Date of Hearing: June 24, 2020

Hearing: Oversight of the Federal Communications Commission

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Answer. (b) (5) [Redacted]

[Redacted]

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Answer. (b) (5) [Redacted]

[Redacted]

(b) (5)

Question 3. In your testimony, you briefly mentioned reforming the World Radio Conference (WRC) and certain international issues as they relate to the FCC. Do you have any specific suggestions for Congress on these matters?

Answer. (b) (5)

Sec. _____. International Commissioner Designation.

Section 5 of the Communications Act of 1934 is amended by inserting at the end the following:

“(f) A Chairman or acting Chairman shall select, within [90] days of appointment or at an opening longer than 90 days, a commissioner to serve as international commissioner with primary responsibility to represent the Commission in international fora, advise the Chairman on developments in policy involving other nations, and carry out other related duties as the Chairman deems appropriate. A commissioner selected for this role shall serve without any additional compensation and shall perform such functions in addition to other Commission responsibilities. Nothing in this subsection shall diminish the authority of Chairman in any capacity.”

Sec. _____. World Radiocommunication Conference Ambassador.

Section 103(b)(2)(G) of the National Telecommunications and Information Administration Act (47 USC 902) is amended by adding at the end the following:

“(iv) providing advice and recommendations to the Secretary of State regarding candidates to serve as U.S. head of delegation and Ambassador to the quadrennial World Radiocommunication Conference of the International Telecommunications Union, not later than 30 months prior to a conference’s premier meeting.

Section 302 of the Foreign Service Act of 1980 (52 US Code 3942) is amended in subsection (a)(2) by adding at the end the following:

“(D) Notwithstanding subsection (b)(1), the President may confer the personal rank of ambassador to the quadrennial World Radio Communication Conference for a temporary term not exceeding two years in duration.

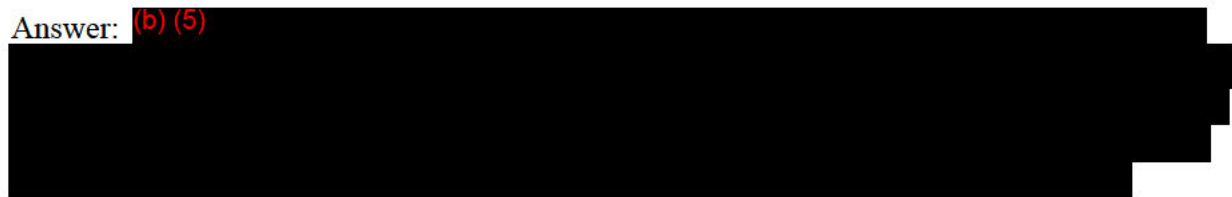
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Assuming so, what are the Commission’s plans to examine how the spectrum can be used to support 5G?

Answer: (b) (5)



(b) (5)

[Redacted]

[Redacted]

[Redacted]

Written Questions Submitted by the Honorable Dan Sullivan to Mike O’Rielly

Question 1. The 2.5GHz Rural Tribal Window is a unique opportunity to help bring greater internet connectivity to tribal entities through direct access to spectrum. The current pandemic is occupying many resources that would otherwise be available for applying for this program. Is the FCC considering extending the application deadline to accommodate the current crisis?

Answer. (b) (5)

A large black rectangular redaction box covers the entire answer to Question 1.

Question 2. How is the FCC preparing for the utilization of beam forming, beam steering, and Dynamic Spectrum Sharing in the next generation of transportation?

Question 3. What is the plan for spectrum allocation, aside from DSRC and 802.11P for the DOT, for being able to de-conflict all modes of transportation on the same network?

Question 4. Does the FCC support or see advantages in utilizing localized wireless networks that keep information as localized as possible and could serve educational or medical districts – especially in places that might not have extensive fiber infrastructure – that may allow more connectivity for children and the workforce?

Question 5. What is the FCC’s position on allowing the private management of publicly accessible government networks through spectrum sharing?

Answer. (b) (5)

A black rectangular redaction box covers the answer to Question 5.

From: [Erin McGrath](#)
To: [Mike Orielly](#)
Subject: Fwd: Qfrs
Date: Monday, July 6, 2020 10:25:58 AM
Attachments: [Minority QFRs for Mr. Michael O'Rielly copy.docx](#)

From: "Mike" <(b) (6)>
Date: Sunday, July 5, 2020 at 10:04:19 AM
To: "Erin McGrath" <Erin.McGrath@fcc.gov>
Subject: Qfrs

(b) (5)

Questions for the Record for the Honorable Michael O’Rielly
U.S. Senate Committee on Commerce, Science, and Transportation
“Nominations Hearing”
June 16, 2020

Questions Submitted by the Hon. Maria Cantwell to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Executive Branch Concerns with FCC’s Ligado Decision. The Departments of Commerce and Transportation (along with the entirety of the executive branch) believe that the Federal Communications Commission’s (“FCC’s”) recent approval of Ligado’s terrestrial wireless plans threatens the nation’s global positioning system (“GPS”) on which the safety and security of everything from civil aviation to military operations to weather forecasting rely. The FCC rejected the executive branch’s concerns and related technical studies both from the government and the private sector showing that the precision and effectiveness of GPS could be impaired. Instead, the FCC relied on competing technical studies (some of which were funded by Ligado), and its own conclusion that the government studies measured the wrong things, to allow Ligado to move forward with its plans. Yet in its decision to allow Ligado to move forward, the FCC acknowledged that its “analysis [in the order] should not be construed to say there is no potential for harmful interference to any GPS device currently in operation in the marketplace.”

Question 1. Did the FCC quantify the number of receivers that would be negatively impacted by its decision, or analyze the impact of its decision on the risk this interference could cause to safety of life or property?


Answer.

Question 2. Did the Department of Transportation or Commerce provide data in its study on the percentage of GPS receivers that would suffer interference from Ligado’s terrestrial operations at the power levels recently authorized by the FCC? Did the FCC ask for such information?

Answer.

Question 3. Do you agree that in high-profile spectrum decisions, particularly ones which create potential risk to safety of life, that it is in the greater public interest to reach consensus among and between the FCC and the expert federal agencies on aviation, transportation safety, and national defense?

Answer. (b) (5)



Question 4. Given the potential risks to safety; the unprecedented and unified opposition of executive branch agencies to the FCC’s decision; and the fact that a third of the U.S Senate, on a bipartisan basis, has asked you and your colleagues to take a step back and reexamine the decision, would you be willing to support a stay of the Ligado decision until the FCC can work with the federal expert agencies to reach a sustainable consensus that serves the greater public interest in terms of protecting aviation and transportation safety, national security and our 5G future?

Answer. (b) (5)

Sustaining Local Media Outlets. Local newspapers, radio, and television stations provide important local content that keeps their communities informed. People rely on local newspapers and broadcasters to cover school and business closures, communicate public health guidance, and to combat life-threatening misinformation. It is for these reasons that journalism, as an industry, is considered critical infrastructure. The Department of Homeland Security and state governors have deemed journalists essential workers. The current COVID-19 related economic crisis has exacerbated and accelerated the decline in local news advertising while at the same time underscoring the unprecedented need for local news outlets to give consumers access to accurate and timely information about local community business and government operation and information to promote public health, safety and protect consumers from fraud and abuse. Some local broadcasters have reported as much as a 90 percent loss in advertising revenues due to the effects of the coronavirus. Nationwide, advertising losses for local TV and radio broadcasters are estimated to reach at least \$3 billion as a result of the current health crisis. From 2000-2018, local TV stations’ advertising revenue fell by 40 percent. From 2003-2018, the ad revenues of FM stations dropped by 43.8 percent. In contrast, large online platforms have used their dominant market power to take a massive share of digital advertising revenue. Facebook and Google currently account for 58 percent of national digital advertising revenue, and 77 percent of local digital advertising revenue respectively. In the last several months, almost half of newspapers have had to lay-off or furlough employees according to the News Media Alliance. Industry analysts predict these trends to continue, with digital capturing 59.5 percent of overall U.S. advertising revenue by 2029. The total estimated local ad revenues for a single digital advertising competitor—Google—will roughly equal the total over-the-air ad revenues for all TV stations in the U.S. and will soon exceed total TV station ad revenues.

Question 1. Given the revenue trends for local news organizations, it is likely that when we emerge from this crisis we will have many fewer local news organizations. In this context, what is your view of the FCC’s statutory obligations to promote localism? What regulatory levers can the FCC now use to address the current precipitous decline in localism that I have just outlined?

Answer. (b) (5)

[Redacted text block]

[Redacted text block]

**Questions Submitted by the Hon. Amy Klobuchar to the Hon. Michael O’Rielly,
Nominated to be a Commissioner of the Federal Communications Commission.**

Question 1. Last year, you voted to approve the proposed merger of T-Mobile and Sprint. As Ranking Member of the Antitrust Subcommittee, I repeatedly raised concerns about the harmful effects of eliminating one of the four largest wireless carriers, and I remain skeptical of the argument that the merger is necessary to maintain America’s leadership in deploying 5G.

Do you believe that it was in the public interest to approve a transaction that risks significant consumer harm for the promise of speculative benefits on 5G and rural wireless deployment that may not materialize?

Answer. (b) (5)

[Redacted]

[Redacted]

**Questions Submitted by the Hon. Richard Blumenthal to the Hon. Michael O’Rielly,
Nominated to be a Commissioner of the Federal Communications Commission.**

Blumenthal: On May 28, after being fact-checked for false tweets about mail-in voting, President Trump issued an executive order that directs Federal agencies to investigate and retaliate against online platforms over imagined political bias. The FCC is not an arm of the Presidency – it is an independent agency – it cannot be pressed into service to retaliate against Donald Trump's political rivals or to stifle critical speech.

Question 1. Will you commit to stand up to unconstitutional and bullying use of power by this President?

Answer.

Question 2. Do you believe that the FCC has the currently authority to write rules for tech platforms and to revise CDA 230 as the President has insisted?

Answer.

Question 3. What do you believe the FCC should do with the President’s E.O. and an anticipated NTIA petition to rewrite CDA 230?

Answer.

Blumenthal: The Coronavirus pandemic and social distancing are a resounding demonstration of the importance of Lifeline. In normal times, Lifeline is underfunded. During a pandemic – when schools are shut down and businesses are shuttered – it is more essential than ever. There are now tens of millions of people that are newly unemployed as a result of the Coronavirus. They need the internet to get back to normal, to find new employment, and to find help.

Question 1. Do you agree Lifeline needs more funding during this crisis?

Answer.

Question 2. Do you have an estimate about how much money it will take to support Lifeline? What considerations do we need to take into account in determining the amount of funds required?

Answer.

Question 3. What changes would you recommend to improve the services offered under Lifeline to meet the public's needs?

Answer.

Questions Submitted by the Hon. Brian Schatz to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Question 1. The COVID-19 pandemic has demonstrated important role broadband plays in our lives today. Whether it is used to engage in distance learning or consult with a doctor via telehealth, this pandemic has shown that broadband has become essential to participate in today’s society. Unfortunately, the pandemic has shown that previous efforts to deploy universal broadband have not worked, as the digital divide continues to exist. As an FCC Commissioner, what will you do differently over the next five years to ensure that all Americans have access to high capacity broadband?

Answer.

Question 2. The COVID-19 pandemic has shown that we, as a nation, have much work to do close the digital divide in our country. The universal service fund is a critical tool to support this work. However, for years the FCC has neglected to fix the current contribution methodology so that there are more funding sources available for broadband buildout in unserved areas. Instead, the Commission has proposed capping programs to depress demand and lower the contribution factor. You have been the Chair of the Federal State Joint Board on Contributions for the last three years. Do you have any updates on the status of contribution reform? Do you support any proposals to update the current contribution methodology? If not, why not? Outside of capping the universal service programs, how can the Commission ensure that the funding needs of all of our universal service programs are met?

Answer.

Question 3. Last year the FCC sought comment on a proposal to combine the Rural Health Care and E-Rate programs into a single program with a unified spending cap. If the Commission goes forward with this plan to combine the caps of these programs, increased demand in one program could lead to both programs becoming underfunded, which would pit schools and libraries and healthcare providers against each other in an unnecessary competition for funding. How would having programs compete against each other for funding ensure that our health care providers and schools have the connectivity they need to provide telehealth and distance learning? Wouldn’t the uncertainty caused by these programs competing for funding conflict with the Commission’s duty under the law to provide “specific, predictable, and sufficient” support for universal service participants?

Answer.

Question 4. During a FCC press conference in March 2016, when discussing the outcome of an FCC decision on Lifeline, you stated “Never trust a democrat.” In 2018, the Office of Special Counsel concluded that you violated the Hatch Act when you urged the election of conservatives at the Conservative Political Action Conference that year. Two months ago you sent a letter to

President Trump praising his “extraordinary leadership ... on all communications policy matters, especially regarding 5G advanced wireless services...” This record of partisanship is disconcerting, particularly since your job is to work on important telecom issues that impact our country in a bi-partisan way. How can we ensure that you will be able to work with your fellow Commissioners on telecom policy who may have different political viewpoints than you?

Answer.

Questions Submitted by the Hon. Jon Tester to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Question 1. The 5G Fund proposal, which you supported, lays out a false choice between speed and accuracy, and suggests waiting for new maps would delay awards until at least 2023. How would “Option A” in the 5G Fund proposal, which moves ahead with awards based on inaccurate maps, avoid the pitfalls that doomed the Mobility Fund?

Answer.

Question 2. Even if accurate maps are not available in 2021, why should we consider spending the entire 10-year Fund based on maps that we know to be inaccurate, and which will soon be replaced?

Answer.

Question 3. I understand the FCC is considering a proposal that would establish a cap on the overall USF budget and combine the E-rate and Rural Health Care programs under a single sub-cap. I hear from educators and health care providers in my state that worry this proposal will force them to compete against each other for funding. What is the status of this proposal?

Answer.

Question 4. Given the connectivity issues highlighted by COVID-19, do you still support capping these programs?

Answer.

From: [Joel G. Miller](#)
To: [Mike O'Reilly](#); [Arielle Roth](#)
Subject: Fwd: Would you like to present this Friday?
Date: Tuesday, May 26, 2020 5:17:20 PM

(b) (5)



A large black rectangular redaction box covers the majority of the page content below the header.

From: "Katie McAuliffe" <katie.mcauliffe@digitalliberty.net>
Date: Tuesday, May 26, 2020 at 2:27:41 PM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>
Subject: Would you like to present this Friday?

As a reminder, this really is an **invitation only, off the record** meeting. This invitation is **non-transferable**. If you would like to bring or suggest someone for the meeting, email or call me. kmcauliffe@atr.org is the best way to reach me.

Meeting Info

When: Friday, May 29th

Meeting: 9:45-11:00am

Lobby opens at 9:00

Articles from the last meeting are in the News & Events section

If you would like something included, please email it to me

Where: Microsoft Teams

Join the Microsoft Teams

Platform: <https://teams.microsoft.com/start>

Meeting Link for May 29th

[Join Microsoft Teams Meeting](#)

Meeting Schedule **June 5th** **June 19th** **July 3rd**

Meeting Details. Important, Please Read!

Above you will find the link to download Microsoft Teams and a link to join the meeting the day of.

I recommend you **make sure you can access Teams** ahead of Friday morning. Depending on the device you are using or web browser, when you click the "Join Teams Meeting" link you may need to download the Teams App first or you maybe able to join via your web browser.

If you wish to present please email me

If you have an article to share, please email that to me as well. I will include it in the read more section and try to share during the meeting as well.

I can accept AV handouts from presenters. Your AV must be a PowerPoint or PDF. Please include an external link to your material also. No videos this week.

Things to remember when you join the meeting:

1. When you join the meeting you will be asked to wait a moment while you are approved. Please be patient, we will get you into the meeting as soon as possible.
2. If you log in before 9:45am all mics will be unmuted--everyone already in attendance will be able to hear and see you unless you mute yourself or turn off your video feature.
 - At the start of the meeting we will mute all participants microphones. If you are speaking or called on to ask question you must unmute your own microphone to talk.
4. If you wish to ask a question please type it into the chat conversation feature found on the tool bar @Katie.
5. I will be online at 9:00am to welcome you. If you would like to log-on early you can be cleared ahead of start time, just like in our 6th floor conference room.
6. Friends of Tech is off the record, but since this is a virtual meeting, I ask all participants to act as if this is on the record. Acting as if does not change the fact that this is an OFF THE RECORD meeting.

Friends of Tech is a casual, off the record, get together among friends who care about the future of tech policy

Presentations/announcements are about -5 minutes in length

We will have a little time for everyone to chat and catch up before the presentations begin

During Good of the Order anyone can make a brief announcement, if there is time

Reply to this message or email katie.mcauliffe@digitalliberty.net for a spot on the agenda and to RSVP.

News & Events

Digital Liberty is looking for a new Fellow!

The Digital Liberty Fellow position is open. Please send me your resumes or let me know if you have any recommendations. No previous tech or telecom experience necessary just interest and a willingness to learn. This is a paid position.



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National Telecommunications and Information Administration (NTIA) U.S. Department of Commerce. Notice, request for public comment. NTIA is seeking comments and recommendations on priorities that advance international communications and...

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List: Rules and Regulations Suspended Due to COVID-19

In the wake of COVID-19, the Trump administration and state and local governments are wisely suspending several rules and regulations in order to expand health care access, expand access to medical supplies and food, and to ultimately reduce the...

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The Continuing Data Privacy Debates and the Question of...

Recently, a group of Republican senators announced they plan to introduce the COVID-19 Consumer Data Protection Act of 2020 to address privacy concerns related to contact-tracing and other pandemic-related apps. This new bill will reinvigorate...

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COVID-19: How Cable's Internet Networks Are Performing

Technology is becoming increasingly relevant to every part of our day-to-day lives. COVID-19 has shown us how necessary it is for our daily functioning. But how does it all work, and what's coming next? AEI Visiting Fellow Shane Tews sits down...

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Opinion | Coronavirus Demands a Privacy Law

Reopening the economy and returning to "normal life" in the absence of a Covid-19 vaccine may be possible, we are told, with a combination of widespread testing and contact tracing. But these solutions will depend heavily on technology, and...

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Big Tech's key role in fighting the coronavirus outbreak

In the past few years, the attitude toward tech has increasingly soured. Multiple data privacy and election-related scandals at various tech



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The System That Actually Worked

How the internet kept running even as society closed down around it. Here's a question that should make you shudder:

companies and a new political strategy of being tough on "Big Tech" have led to the phenomenon known as...

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Keep Americans Connected

In response to the COVID-19 pandemic, and the challenges that many Americans will face in the coming months, FCC Chairman Ajit Pai recently announced the Keep Americans Connected Initiative. In order to ensure that Americans do not lose their...

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Democrats have unabashedly used the COVID-19 pandemic to push unrelated, partisan policy priorities. Throughout the crisis, House Speaker Nancy Pelosi and House Democrats have called for \$1 trillion in bailout funds for high-tax states, have...

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Coronavirus crisis proves 'net neutrality' was a...

Deregulation has been the most effective tool in dealing with the coronavirus pandemic. As of this writing at least 50 regulations at the national and state level have been waived to help fight COVID-19. Regulations can make things worse. A...

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What if, in the midst of the coronavirus pandemic, the internet had buckled?

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A Primer on Data Privacy Enforcement Options - AAF

Executive Summary Enforcement options for a federal data privacy law often are presented as a binary choice-either give people the right to sue, or maintain the status quo-but in reality a wide range of options exist. There are five general...

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Opinion: U.S. broadband holds up under virus pressure

To be sure, the coronavirus pandemic has laid bare some of the most pressing short- and long-term challenges in our public health infrastructure. But it's also tested another infrastructure - our broadband networks - that serves as a lifeline for...

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White House Announces New Partnership to Unleash U.S....

The White House announced the launch of the COVID-19 High Performance Computing Consortium to provide COVID-19 researchers worldwide with access to the world's most powerful high performance computing resources that can significantly advance the...



Panicking About 5G is a Celebrity Trend You Shouldn't Follow

The COVID-19 pandemic has shown how important technology is for enabling social distancing measures while staying connected to friends, family, school, and work. But for some, including a number of celebrities, it has also heightened fears of...

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Don't Ban H-1B Workers: They Are Worth Their Weight in...

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Trump invokes Defense Production Act in fight against...

President Donald

reportedly working on an executive order to ban the issuance of new E-1B visas. This order is expected to be issued before the end of this month. This order would be quite a negative blow to the U.S. economy and hit...

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The Preemption Predicament Over Broadband Internet Access...

Throughout the history of modern telecommunications regulation, there has been an uneasy jurisdictional relationship between the FCC and the fifty states. As a result, complex issues of federalism routinely haunt the broadband debate.

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The Defense Production Act and COVID-19:



Op-Ed: Congress shouldn't bow to pressure regarding...

"Never let a good crisis go to waste." This quote has been used over and over again in situations when people are afraid and illustrates how readily some people will use a horrible situation to advance their political agenda.

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Washington Should Resist Calls to Repeat the Mistakes of ...

As Congress rushes to finish a must-pass rescue package to

Trump on Wednesday said he's invoking the Defense Production Act, which authorizes commanders-in-chief to force industries to produce goods, in a fresh effort to fight the coronavirus. Trump said the step was being taken "in case ...

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What Industry...

On March 18, 2020, President Trump announced that he was invoking the Defense Production Act (DPA) in order to allow the administration to marshal American industry to prioritize production of medical supplies and pharmaceuticals that are in...

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offset the economic effects of the coronavirus, the danger increases that special-interest provisions are added to win the few remaining votes.

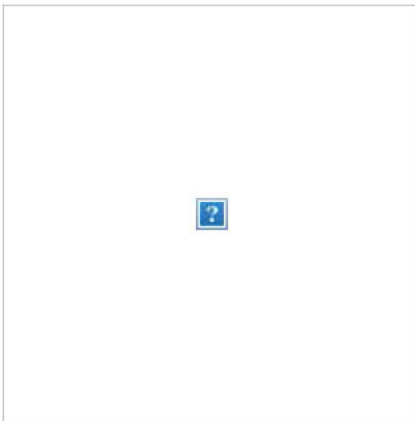
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From: [Joy Medley](#)
To: [Joy Medley](#)
Subject: House Oversight Hearing - Thursday, Sept 17 @ 10am
Date: Wednesday, September 16, 2020 3:13:20 PM

Chairman and Commissioners O’Rielly, Carr, Rosenworcel and Stark will testify tomorrow, September 17 on [oversight of the Federal Communications Commission](#) before the House Subcommittee on Communications and Technology of the Committee on Energy and Commerce. The hearing is scheduled to begin at 10am via Cisco Webex.

The live webcast as well as committee memo and witness testimony will be available at <https://energycommerce.house.gov/committee-activity/hearings/hearing-on-trump-fcc-four-years-of-lost-opportunities>.

Joy Medley
Office of Legislative Affairs
Federal Communications Commission
202.418.1907

From: [Scott Cleland](#)
To: [Mike Orielly](#)
Subject: How Section 230 Is Anticompetitive
Date: Tuesday, July 21, 2020 11:17:37 AM

How Section 230 Is Anticompetitive

Published on Precursorblog.com on Tue, 2020-07-21 10:06

By Scott Cleland

Our polarized Internet world has generated at least one area of extraordinary bipartisan consensus: 77 percent of Americans agree Google, Facebook, and Amazon have too much power according to a [Gallup survey](#).

The near unanimous [participation](#) of Federal, State and Congressional antitrust authorities in probing Google, Facebook, and Amazon, indicates extraordinary concern that their unchecked market power threatens competition for the consumer market.

Both political parties [agree](#) that Section 230 of the Communications Decency Act, which grants Internet platforms with immunity from liability for good faith moderation of online content, in practice provides Internet platforms unaccountable power that warrants reform.

Section 230's intermediary impunity loophole provides these dominant consumer gatekeepers with anticompetitive advantages that facilitate the monopolization of access to consumer demand online, thus undermining competition for U.S. consumer spending that comprises [68%](#) of U.S. GDP.

These gatekeepers, which do their best to avoid competing directly with each other, dominate competitive access to the online U.S. consumer market, leaving most potential competitors dependent on them to broadly reach online consumer demand.

How could this happen?

Online gatekeeper special interests, which commercially benefit from Internet interactions being viewed as protected free speech, and not commercial conduct that can be judged as harmful and illegal, have subverted competition, and created an unfair playing field.

Over years, their assiduous legal influence over successive Section 230 court precedents via extraordinary funding of legal positions pushing for maximally expansive court interpretations, has resulted in a de facto court-created, loophole that has perverted the law's intended immunity from liability contingent on "good faith" moderation of content, into de facto intermediary impunity.

This "Bad Samaritan" impunity loophole in the Good Samaritan-named immunity section of U.S. Internet law is what creates unchecked, anticompetitive, power online that has made America's most powerful least accountable.

How is Section 230 intermediary impunity anticompetitive?

Impunity is defined as *exemption from punishment, harm, or loss*, i.e., extraordinary power.

America's Constitution of separation of powers, checks and balances, and a Bill of Rights, makes every effort to prevent King George-like impunity, which I characterize in this context as Internet platform intermediary impunity online to harm or coerce others, to take away others' freedoms, or to gain from harmful or illegal activity.

In this Section 230 Internet intermediary context, impunity is best understood as uniquely disruptive "taker power," which I define as the power to "take" whatever one wants from others online without consequence, because courts now routinely rule summary judgement in favor of Internet platforms in Section 230 cases, effectively denying plaintiffs discovery and their right to access the courts for recourse and redress.

This unique taker power is inherently anticompetitive.

That's because it perverts normal legal obligations and limits to operate a business responsibly - into the opposite - disruptive impunity to facilitate and profit from harmful and illicit activity online, e.g., fraud, harassment, illegal drug trafficking, terrorist activity, spread of child sexual abuse materials, espionage, identity theft, etc., to drive outsized business growth of revenue, profit, and market valuation.

In the "give and take" between Internet platforms and everyone else, there is no question that these companies have given consumers incredible benefits and value over the years.

However, the "give and take" is not balanced. They publicly trumpet the benefits they "give" their users, but have been nontransparent and deceptive about much that they "take" from everyone in return.

Thus, what is in question here is what Internet platforms have taken from others that has been harmful, illegal, and hidden from everyone.

Now let's try a thought experiment to better understand this unbalanced give and take, and to learn more specifically how Section 230 can be anticompetitive.

First, imagine any sport or game where one team must play by the rules and the other team does not, because it has been granted impunity, which I call

a "cheaters charter" in this context.

What does a contest that involves Section 230 intermediary impunity look like?

The team playing with this cheaters charter advantage cannot lose and the team that must play by the rules cannot win.

It is an anticompetitive, unfair playing field.

It is certainly not competition or free market capitalism, because the outcome is predetermined.

Second, imagine what Internet platforms with impunity "taker power" can take from users, competitors, and the public that other companies cannot.

Take all comers - criminals, predators, bad actors, harmful products and services, etc. - to virally grow fastest, biggest, and broadest.

Take no responsibility for negligent, reckless, and willfully blind, non-curation of take-all-comers content.

Take advantage of, and profit from, users' harmful illicit behavior that abuses others' trust, innocence, insecurities, vulnerabilities, and situations, by taking liberties with their attention, intentions, intimacies, relationships, and locations, without liability or safeguards.

Take no responsibility for protecting minors from harm or exploitation.

Take no responsibility for business practices that profit from harmful misinformation, disinformation, polarization, and addiction.

Take exception with obeying laws and rules everyone else must obey to do "whatever-it-takes" to win.

Third, imagine "meddler models" that Section 230 intermediary impunity enable Internet platforms to opaquely impose on users and competitors that other companies cannot.

With Section 230's intermediary impunity, Internet platforms can program algorithms by default to meddle, which I characterize in this extraordinary context to operate like there is nothing they cannot involve themselves in - none of their prying into the privacies and proprietary affairs of others is out of bounds - and no one else's data, pictures, or secrets are their own.

They also can leverage their taker power advantage to meddle at scale by copying, reading, and exploiting most data and metadata that is processed by their many ubiquitous networks, apps, and hardware, without regard to the data's authenticity, legality, security, or proprietor.

Now step back and imagine what disruptive Internet platforms with a cheaters charter, taker power, and meddler business models can do with impunity that other companies cannot.

Intercept and profit from competitors—inside information, trade secrets, confidential business information, and proprietary data.

Interfere with competitors—direct-to-consumer relationships, branding, marketing, selling, customer service, and delivery.

Interject into others—business models discriminatory ranking, self-preferencing, and arbitrary rules, fees, and terms.

Interrupt competition, free market forces, and economic value creation.

In sum, this thought experiment shows that we do not have to imagine the ways that Section 2—D can be anticompetitive.

Authorities, policymakers, and others need only look for the Section 2—D anticompetitive reality that is hiding in plain sight.

Google, Facebook, and Amazon’s extraordinary accumulation of market power over online access to the U.S. consumer market did not happen organically entirely on merit, it also was artificially enabled and facilitated by Section 2—D’s unintended, anticompetitive, intermediary impunity.

□□□

Scott Cleland served as Deputy U.S. Coordinator for International Communications & Information Policy in the George H. W. Bush Administration. He is President of Precursor[®] a responsible Internet consultancy; and is working on his second book tentatively titled: “The Irresponsible Internet & How to Fix It.” In 2011, he authored the first critical book on Google: “Search & Destroy, Why You Can’t Trust Google Inc., which was translated into Korean and Portuguese. Cleland has testified before the Senate and House antitrust subcommittees seven times; and Institutional Investor twice ranked him the #1 independent analyst in communications when he was an investment analyst.

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From: [CHUCK SCHUTT](#)
To: [Mike O'Rielly](#)
Subject: In the Matter of Docket RM-11862
Date: Wednesday, September 2, 2020 11:36:57 AM

Michael O'Rielly, Commissioner
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
Re: In the Matter of Docket RM-11862

I support a review of Section 200 based on my following comments.

Why is it allowed for news media to show a biased form of politicized stories? These "newscasts" are always shown repeatedly even after it is obvious the story is wrong. This is sensationalism, not journalism, and not about providing unbiased news reporting. Shouldn't news agencies lose their license for such misrepresentation?

When the full facts come out that show a news agency's error, the agency usually makes no retraction. In the rare case a retraction is published it is so small compared to the original broadcast that it goes unnoticed. This minimization seems by plan since it occurs repeatedly with every sensational story. News agencies used to admit their mistakes and make corrections equivalent to the original posts. What has caused such a loss of their integrity? Don't we need integrity more now, not less, considering the current Government conflicts?

Given the harm that misinformation can cause, an agency that publishes misinformation must be required to publish a correction with an equivalent amount of time devoted to the retraction explaining how the error was made. This must be rebroadcast at the same frequency of occurrence as the original erroneous story. These sanctions ensure if the published error was accidental that the attempt to correct it would be of an equivalent effort. On the other hand, if the error was intentional and the agency refused this effort, then the agency must be blocked from further interaction until such time as they can schedule a retraction and correction with the FCC. These additional teeth supporting Section 200 would limit the initial misinformation given the sanction, and agencies would perform due diligence rather than sensationalize a story.

Thank you for your time,
Chuck Schutt
1416 Aldenwood Ln
Knoxville, TN 37919
865-24-0005

From: [Alethea Lewis](#)
To: [Alexander Sanjenis](#); [Alisa Valentin](#); [Allison Baker](#); [Anne Veigle](#); [Arielle Roth](#); [Aurelle Porter](#); [Austin Bonner](#); [Benjamin Arden](#); [Blaise Scinto](#); [Brendan Carr](#); [Brian Hart](#); [Catherine Schroeder](#); [Cecilia Sulhoff](#); [Charles Mathias](#); [Christopher Santini](#); [Dana Shaffer](#); [Diane G. Holland](#); [Donald Stockdale](#); [Erika Olsen](#); [Erin Fitzgerald](#); [Erin McGrath](#); [Evan Swarztrauber](#); [Geoffrey Starks](#); [Giulia McHenry](#); [Holly Saurer](#); [Jamison Prime](#); [Jesse Jachman](#); [Jessica Martinez](#); [Jessica Rosenworcel](#); [Joel G. Miller](#); [John Schauble](#); [Joseph Calascione](#); [Justin Faulb](#); [Kate Black](#); [Kathryn OBrien](#); [Katie Gorscak](#); [Kris Monteith](#); [Lauren Kravetz](#); [Lisa Fowlkes](#); [Lisa Gelb](#); [Mark Stephens](#); [Matthew Berry](#); [Matthew Pearl](#); [Michael Carowitz](#); [Michelle Carey](#); [Mike ORielly](#); [Montana L. Hyde](#); [Nadja SodosWallace](#); [Nancy Zaczek](#); [Nicholas Degani](#); [OLA Distribution List](#); [Patrick Webre](#); [Preston Wise](#); [Rachel Kazan](#); [Rosemary Harold](#); [Sean Spivey](#); [Susan Mort](#); [Thomas Johnson](#); [Thomas Sullivan](#); [Travis Litman](#); [Umair Javed](#); [Will Adams](#); [Will Wiquist](#); [William Davenport](#); [Zac Champ](#); [Zenji Nakazawa](#)
Subject: Incoming Congressional Correspondence for Today
Date: Friday, August 14, 2020 4:14:05 PM
Attachments: [Green642.pdf](#)

Cong. Mark Green – Connect America – Lifeline – (WCB)

- Expresses concern that after August 31st, Lifeline subscriber benefits will decrease.
- Makes recommendations to further the benefits of the program during the pandemic.
- Requests a response by August 21, 2020.

Alethea Lewis
Senior Congressional Liaison Specialist
Federal Communications Commission
Office of Legislative Affairs
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MARK GREEN

7TH DISTRICT, TENNESSEE

COMMITTEE ON HOMELAND SECURITY

SUBCOMMITTEE ON INTELLIGENCE
AND COUNTERTERRORISM

SUBCOMMITTEE ON TRANSPORTATION
AND MARITIME SECURITY

COMMITTEE ON OVERSIGHT AND REFORM

SUBCOMMITTEE ON NATIONAL SECURITY



642

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Congress of the United States
House of Representatives
Washington, DC 20515

August 13, 2020

The Honorable Ajit Pai
Commissioner
Federal Communications Commission
445 12th Street, SW
Washington, DC 20201

Dear Chairman Pai:

Thank you for your strong leadership at the Federal Communications Commission. I wrote to you on March 21, 2020, and I want to thank you for the subsequent Orders to provide temporary relief for many Americans who depend on the Lifeline program to access essential services, including many of my fellow veterans.

As a veteran and emergency room physician, as well as a Congressman representing thousands of veterans living in Tennessee, I know the importance of telecommunications services for healthcare providers. As we in Congress continue to work to address the legislative response to the COVID-19 outbreak, I know the Commission has a very important role in providing a regulatory environment that promotes reliable access to online services for Americans.

Back in the 1980s, the Reagan Administration established the Lifeline program for emergencies just like this current pandemic. President Trump has repeatedly emphasized the importance of using telemedicine services to provide safe and convenient healthcare services, especially in rural America. It is my view that Lifeline devices provide the best technology solution for lower-income Americans to remotely access healthcare providers and telemedicine services, to stay in touch with employers and teachers, to find a job, or to reach an emergency first responder. The benefits of this access have enabled many Americans to remain self-reliant and less likely to need further government assistance.

The Commission should continue to suspend several existing Lifeline regulatory barriers to ensure eligible individuals will remain able to obtain a phone or to retain their current phone and broadband Internet access. It is important that the Commission support additional program funding to encourage phone providers to include telemedicine solutions and mobile hotspots on devices. This would allow clinicians to provide the additional data to support telemedicine applications and online education needs which are so critical to meet the critical needs of many Americans. Of course, this includes many veterans who need mobile access to healthcare providers or suicide prevention counselors through the forthcoming Suicide Prevention Lifeline.

As you are aware, without action before August 31, 2020, many Lifeline subscribers will begin to be dropped from the program at a time when schools are starting back and the pandemic is still having a substantial disruptive impact on our communities.

I share the Commission's views in the April 29 Lifeline Order that the Commission's "waiver better serves the public interest," and that unfortunately "[t]he circumstances necessitating those prior waivers have not changed, and ... this extension is warranted to ensure that no Lifeline subscribers are involuntarily de-enrolled from the Lifeline program during this unprecedented national pandemic." You stated in March that you "don't want any American consumers to lose connectivity." I completely agree, and I ask that you help ensure no one is left behind.

Furthermore, the announced mobile broadband minimum service standard proposed Lifeline order that you circulated will mandate that Lifeline providers immediately provide a 50 percent increase in free data later this year. However, while Americans need more mobile broadband data, I am concerned about the power of a government agency to mandate that a private company provide a costly service without compensation. In the corresponding news release, the Commission cautioned that updating the minimum service standard could result in "dramatic year-over-year swings in the standard – fluctuations that risk making Lifeline service unaffordable to many current subscribers." This led the Commission to consider a smaller mandated increase. However, any large increase as set forth in your order may ultimately make mobile broadband less affordable at a time when many low-income Americans are struggling to make ends meet.

More specifically, I believe that to ensure the most vulnerable Americans can continue to stay healthy and are not left behind, the Commission should immediately order the following moratoriums:

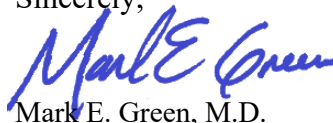
- A. I understand that without FCC action before August 31st to renew its waiver order related to non-usage, recertifications, and reverifications, Lifeline program regulations require that subscribers will be removed from coverage if they do not utilize their phone for 30 days or their eligibility is not re-verified. I recommend that the Commission's waivers should continue until 60 days after the national emergency declaration is lifted. My experience is that many elderly Americans of all income levels do not use a cell phone as frequently as you or I may. They often do not use their phones for convenience; only for emergencies. Lifeline subscribers tend to be older and at a higher risk of serious health conditions. In addition, if SNAP databases are not connected in 35 states to reverify subscribers' eligibility it will be much more difficult to do so. If people need a phone for an emergency, it is too late if their phone service was previously cut off.
- B. The Commission should immediately waive implementation of any increase in the Lifeline minimum service standard until after the Commission publishes its scheduled Lifeline Marketplace Report in 2021. At this time and without funding, an increase in the data mandate by 50 percent or any other amount will not help subscribers but will likely have the unintended consequence of making access to this important service less affordable, which is contrary to Congress' prior stated intent. Furthermore, it is important that the Commission ensures that providers continue to be reimbursed for providing coverage during this moratorium. Most Lifeline providers are small businesses. A short term loss in revenues could force them out of business, seriously harming the subscribers the program is intended to serve.

- C. In addition, we know that data is not free for large telecommunications carriers to provide. For years, these telecommunications carriers have chosen not to serve the Lifeline population, preferring to sell their wireless and mobile broadband data services to smaller Lifeline resellers which then serve eligible subscribers. The additional data required is not free. I remain very concerned that providers are not being adequately compensated for the increasing amounts of broadband data they are required to provide, and unless financial assistance is provided, eligible subscribers will lack access to telemedicine services, remote learning or other essential services. Therefore, until the national emergency is lifted, the Commission should increase the monthly \$9.25 reimbursement to at least \$16 to \$18 per month or more to compensate Lifeline providers for the substantial increase in subscriber data demands so subscribers can access online classrooms and telemedicine services. Simply put, without the additional data and increasing reimbursements to pay for it, our citizens will not receive adequate access to wireless and broadband services.
- D. Finally, I am aware that in some states, there is a Lifeline provider monopoly because only one or two chosen providers are approved to serve up to millions of people in those states. Although that may be against the Commission's intent, it is today's reality. Your agency has many provider applications pending that are requesting FCC authorization to serve the needy in those states. For seven or eight years, these applications have remained pending with no action. I request the Commission immediately start reviewing and granting qualified Lifeline provider applications.

I know we both agree that the country cannot afford restricted access to important wireless and broadband services for vulnerable Americans, especially during this crisis. The federal program was designed for this very purpose.

Many of my colleagues share these concerns. I respectfully ask you to consider these requests. Thank you for your dedication to our nation and efforts to address this crisis. I appreciate your time and consideration. I kindly request an update by August 21st to be sent to my senior legislative assistant, Joseph Danaher (joseph.danaher@mail.house.gov). I look forward to hearing from you soon.

Sincerely,



Mark E. Green, M.D.
Member of Congress

From: [Alethea Lewis](#)
To: [Alexander Sanjenis](#); [Alisa Valentin](#); [Anne Veigle](#); [Arielle Roth](#); [Aurelle Porter](#); [Austin Bonner](#); [Benjamin Arden](#); [Blaise Scinto](#); [Brendan Carr](#); [Brian Hart](#); [Catherine Schroeder](#); [Cecilia Sulhoff](#); [Charles Mathias](#); [Christopher Santini](#); [Dana Shaffer](#); [Diane G. Holland](#); [Donald Stockdale](#); [Erika Olsen](#); [Erin Fitzgerald](#); [Erin McGrath](#); [Evan Swarztrauber](#); [Geoffrey Starks](#); [Giulia McHenry](#); [Holly Saurer](#); [Jamison Prime](#); [Jesse Jachman](#); [Jessica Martinez](#); [Jessica Rosenworcel](#); [Joel G. Miller](#); [John Schauble](#); [Joseph Calascione](#); [Justin Faulb](#); [Kate Black](#); [Kathryn OBrien](#); [Katie Gorscak](#); [Kris Monteith](#); [Lauren Kravetz](#); [Lisa Fowlkes](#); [Lisa Gelb](#); [Mark Stephens](#); [Matthew Berry](#); [Matthew Pearl](#); [Michael Carowitz](#); [Michelle Carey](#); [Mike O'Rielly](#); [Montana L. Hyde](#); [Nadja SodosWallace](#); [Nancy Zaczek](#); [Nicholas Degani](#); [Nirali Patel](#); [OLA Distribution List](#); [Patrick Webre](#); [Preston Wise](#); [Rachel Kazan](#); [Rosemary Harold](#); [Sean Spivey](#); [Susan Mort](#); [Thomas Johnson](#); [Thomas Sullivan](#); [Travis Litman](#); [Umair Javed](#); [Will Adams](#); [Will Wiquist](#); [William Davenport](#); [Zac Champ](#); [Zenji Nakazawa](#)
Subject: Incoming Congressional Correspondence for Today
Date: Friday, July 31, 2020 4:01:23 PM
Attachments: [Warner et al 617.pdf](#)

Sen. Mark Warner, et al. – Spectrum – Licensing – (WTB)

- Requests an extension of the 2.5 GHz Rural Tribal Priority Window.
- Requests that the deadline date be extended by 180 days due to COVID-19.
- Encourages the Commission to issue an Auction Procedures Public Notice to ensure that the auction stays on track for 2021.

Alethea Lewis
Senior Congressional Liaison Specialist
Federal Communications Commission
Office of Legislative Affairs
(202) 418-0103
Alethea.Lewis@fcc.gov

July 30, 2020

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

Dear Chairman Pai,

We write to respectfully request that the Federal Communications Commission (FCC) extend the 2.5 GHz Rural Tribal Priority Window, which opened on February 3, 2020 and closes August 3, 2020, by 180 days. In making this request, we join a growing group of voices asking for an extension of this important opportunity, including the National Congress of American Indians, at least eighteen U.S. Senators, the National Consumer Law Center, the Benton Institute for Broadband and Society, and more than a dozen additional advocacy and community development organizations.¹ Extending the 2.5 GHz Rural Tribal Priority Window is essential for ensuring that Virginia tribes and tribes across the nation have a fair opportunity to develop their applications given their capacity challenges and obligations under the current national crisis resulting from the coronavirus pandemic. At the same time, we encourage you to issue an Auction Procedures Public Notice to ensure that the auction stays on track for 2021.

As you know, in July 2019 the FCC adopted rules to bring unused 2.5 GHz spectrum, previously used by educational institutions, to auction. Recognizing a persistent lack of broadband connectivity in tribal lands, the FCC established a “priority window” to allow tribes to access these important areas of spectrum in rural areas that have long been underserved by telecommunications access. Tribal need for better broadband is acute. As the FCC’s 2019 Tribal Broadband Report has demonstrated: 36% of tribal households—about 628,000 households nationwide—do not have access to any broadband at standard speeds. In comparison, the same is true for only 8% of non-tribal households. Furthermore, the issues may be even more significant than they appear, as the Government Accountability Office (GAO) has observed that FCC broadband data overstates service in tribal communities.

¹ https://www.publicknowledge.org/wp-content/uploads/2020/07/CongressionalLetter_PaloneWalden_7.06.2020_Final-1.pdf,
<https://www.heinrich.senate.gov/download/5-19-2020-fcc-spectrum-policy-letterpdf>,
<https://www.king.senate.gov/newsroom/press-releases/king-urges-fcc-to-ensure-rural-tribal-communities-have-equal-internet-access>

Our Virginia tribes have faced significant internet and cellular connectivity challenges due to their rural locations. These challenges have even greater implications in the current COVID-19 pandemic, and represent an ongoing equity issue in our Commonwealth. Virginia tribes have been working tirelessly to keep their tribal citizens safe, housed, and fed during an unprecedented global pandemic. At the same time, they are facing difficulties with reliable cellular connection and face issues accessing online video conferencing platforms that are being used to continue local, state, and federal governmental processes. Several tribes experience issues when transferring, uploading, and downloading large files.

The window deadline and the pandemic are coinciding at a particularly difficult time because our federally recognized Virginia tribes are some of the most recently recognized in the nation. Six of our federally-recognized tribes (the Chickahominy Indian Tribe, Chickahominy Indian Tribe - Eastern Division, the Monacan Indian Nation, the Nansemond Indian Tribe, the Rappahannock Indian Tribe, and the Upper Mattaponi Indian Tribe) received federal recognition from the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2017, which was signed into law on January 29, 2018 by President Trump. One tribe, the Pamunkey Indian Tribe, received federal recognition through the Bureau of Indian Affairs with a decision effective on January 28, 2016. As a result, along with facing the sudden needs of their communities related to COVID-19, our tribal governments are also in the process of applying for many federal grants and establishing federal programs for the first time. Most of the tribes have a meager number of paid staff members, which limits their capacity to accomplish a significant amount of tasks in a very short period of time, especially when the majority of the available spectrum window opportunity has occurred in the midst of the pandemic. Many tribal leaders in Virginia serve their communities on a volunteer basis.

The 2.5 GHz window represents a once in a lifetime opportunity for tribes to acquire spectrum and is a major initiative of your tenure as Chairman. You recognized the importance of this opportunity on June 23rd, when you wrote to Senator Blumenthal that one of your “top priorities as Chairman has been to bring digital opportunity to all Americans, particularly those in rural and Tribal communities.”² We are concerned that unless you extend the tribal priority window, some tribes will not have the benefit of submitting their applications for consideration. Given the rarity of these priority windows and the significant opportunity provided by this auction, we ask you to please extend the deadline to allow the maximum possible number of tribes to participate.

Accordingly, we urge you to extend the Rural Tribal Priority Window until February 1st, 2021, while not delaying further necessary proceedings associated with the auction in order that it stay on track.

Thank you for your prompt attention to this request.

² <https://docs.fcc.gov/public/attachments/DOC-365273A1.pdf>

Sincerely,

/s/

Mark R. Warner
United States Senator

/s/

Tim Kaine
United States Senator

/s/

Robert C. "Bobby" Scott
Member of Congress

/s/

Robert J. Wittman
Member of Congress

/s/

A. Donald McEachin
Member of Congress

/s/

Abigail D. Spanberger
Member of Congress

From: [Alethea Lewis](#)
To: [Alexander Sanjenis](#); [Alisa Valentin](#); [Anne Veigle](#); [Arielle Roth](#); [Aurelle Porter](#); [Austin Bonner](#); [Benjamin Arden](#); [Blaise Scinto](#); [Brendan Carr](#); [Brian Hart](#); [Catherine Schroeder](#); [Cecilia Sulhoff](#); [Charles Mathias](#); [Christopher Santini](#); [Dana Shaffer](#); [Diane G. Holland](#); [Donald Stockdale](#); [Erika Olsen](#); [Erin Fitzgerald](#); [Erin McGrath](#); [Evan Swarztrauber](#); [Geoffrey Starks](#); [Giulia McHenry](#); [Holly Saurer](#); [Jamison Prime](#); [Jesse Jachman](#); [Jessica Martinez](#); [Jessica Rosenworcel](#); [Joel G. Miller](#); [John Schauble](#); [Joseph Calascione](#); [Justin Faulb](#); [Kate Black](#); [Kathryn OBrien](#); [Katie Gorscak](#); [Kris Monteith](#); [Lisa Fowlkes](#); [Lisa Gelb](#); [Mark Stephens](#); [Matthew Berry](#); [Matthew Pearl](#); [Michael Carowitz](#); [Michelle Carey](#); [Mike ORielly](#); [Montana L. Hyde](#); [Nadja SodosWallace](#); [Nancy Zaczek](#); [Nicholas Degani](#); [Nirali Patel](#); [OLA Distribution List](#); [Patrick Webre](#); [Preston Wise](#); [Rachel Kazan](#); [Rosemary Harold](#); [Sean Spivey](#); [Susan Mort](#); [Thomas Johnson](#); [Thomas Sullivan](#); [Travis Litman](#); [Umair Javed](#); [Will Adams](#); [Will Wiquist](#); [William Davenport](#); [Zac Champ](#); [Zenji Nakazawa](#)
Subject: Incoming Congressional Correspondence for Today
Date: Tuesday, June 9, 2020 3:54:00 PM
Attachments: [Rubio. et al..pdf](#)

Sen. Marco Rubio, et al. – Consumer – Public Interest Obligation – (MB)

- Writes regarding the Executive Order on Preventing Online Censorship.
- Expresses concern about Americans who are censored by social media platforms.
- Asks the Commission clearly define the framework under which technology firms, including social media companies, receive protections under Section 230.

Alethea Lewis
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Federal Communications Commission
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United States Senate
WASHINGTON, DC 20510-0908

492

June 9, 2020

The Honorable Ajit Pai
Chairman
Federal Communications Commission
455 12th Street, SW
Washington, D.C. 20554

Dear Chairman Pai:

We write regarding the role of the Federal Communication Commission (FCC) in the recently signed *Executive Order on Preventing Online Censorship*. The unequal treatment of different points of view across social media presents a mounting threat to free speech. This Executive Order is an important step in addressing this form of censorship.

Section 230 of the Communications Decency Act shields social media platforms from the liability imposed on publishers when they act in “good faith” to restrict access to or remove certain objectionable materials. However, the protections afforded by Section 230 are not absolute or unconditional. While social media companies enjoy their special status under Section 230, it is questionable that they are living up to their obligations when they blur the lines between distributor and publisher by favoring one political point of view over another.

While the President has the means to push back on unfair treatment, we worry about everyday Americans who are sidelined, silenced, or otherwise censored by these corporations. Social media companies, whose protections come from their acting as distributors, not publishers, have increasingly engaged in partisan editorializing, censorship of Chinese dissidents, and a host of politically motivated speech policing. While these actions speak for themselves, companies continue to enjoy Section 230 protections due to a lack of clear rules and judicial expansion of the statute.

Social media companies have become involved in a range of editorial and promotional activity; like publishers, they monetize, edit, and otherwise editorialize user content. It is time to take a fresh look at Section 230 and to interpret the vague standard of “good faith” with specific guidelines and direction. In addition, it appears that courts have granted companies immunity for editing and altering content even though the text of Section 230 prohibits immunity for any content that the company “in part . . . develop[s].” These interpretations also deserve a fresh look. We therefore request that the FCC clearly define the framework under which technology firms, including social media companies, receive protections under Section 230.

We look forward to working with you on this important issue.

Sincerely,

Handwritten signature of Marco Rubio in black ink.

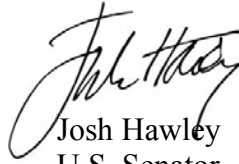
Marco Rubio
U.S. Senator

Handwritten signature of Kelly Loeffler in blue ink.

Kelly Loeffler
U.S. Senator

Handwritten signature of Kevin Cramer in blue ink.

Kevin Cramer
U.S. Senator

Handwritten signature of Josh Hawley in blue ink.

Josh Hawley
U.S. Senator

From: [Alethea Lewis](#)
To: [Alexander Sanjenis](#); [Alisa Valentin](#); [Anne Veigle](#); [Arielle Roth](#); [Aurelle Porter](#); [Austin Bonner](#); [Benjamin Arden](#); [Blaise Scinto](#); [Brendan Carr](#); [Brian Hart](#); [Catherine Schroeder](#); [Cecilia Sulhoff](#); [Charles Mathias](#); [Christopher Santini](#); [Dana Shaffer](#); [Diane G. Holland](#); [Donald Stockdale](#); [Erika Olsen](#); [Erin Fitzgerald](#); [Erin McGrath](#); [Evan Swarztrauber](#); [Geoffrey Starks](#); [Giulia McHenry](#); [Holly Saurer](#); [Jamison Prime](#); [Jesse Jachman](#); [Jessica Martinez](#); [Jessica Rosenworcel](#); [Joel G. Miller](#); [John Schauble](#); [Joseph Calascione](#); [Justin Faulb](#); [Kate Black](#); [Kathryn OBrien](#); [Katie Gorscak](#); [Kris Monteith](#); [Lisa Fowlkes](#); [Lisa Gelb](#); [Mark Stephens](#); [Matthew Berry](#); [Matthew Pearl](#); [Michael Carowitz](#); [Michelle Carey](#); [Mike O'Rielly](#); [Montana L. Hyde](#); [Nadja SodosWallace](#); [Nancy Zaczek](#); [Nicholas Degani](#); [Nirali Patel](#); [OLA Distribution List](#); [Patrick Webre](#); [Preston Wise](#); [Rachel Kazan](#); [Rosemary Harold](#); [Sean Spivey](#); [Susan Mort](#); [Thomas Johnson](#); [Thomas Sullivan](#); [Travis Litman](#); [Umair Javed](#); [Will Adams](#); [Will Wiquist](#); [William Davenport](#); [Zac Champ](#); [Zenji Nakazawa](#)
Subject: Incoming Congressional Correspondence for Today
Date: Monday, June 8, 2020 4:12:23 PM
Attachments: [Jones484.pdf](#)
[Allen485.pdf](#)

Sen. Doug Jones – Connect America – Rural Healthcare – (WCB)
Cong. Rick Allen

- Writes in support of University of Alabama for telehealth support under the CARES Act.
- Writes in support of Augusta University Health System for telehealth support under the CARES Act.
- Lists the benefits of receiving the support.

COMMITTEE ON AGRICULTURE

SUBCOMMITTEE ON
CONSERVATION AND FORESTRY

SUBCOMMITTEE ON
GENERAL FARM COMMODITIES
AND RISK MANAGEMENT

COMMITTEE ON
EDUCATION AND THE WORKFORCE

SUBCOMMITTEE ON
HIGHER EDUCATION
AND WORKFORCE DEVELOPMENT

SUBCOMMITTEE ON
HEALTH, EMPLOYMENT, LABOR,
AND PENSIONS



RICK W. ALLEN
12TH DISTRICT, GEORGIA

Congress of the United States
House of Representatives

May 28, 2020

Received & Inspected

JUN 03 2020

FCC Mailroom

485

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[HTTP://ALLEN.HOUSE.GOV](http://ALLEN.HOUSE.GOV)

Mr. Ajit Pai
Chairman
Federal Communications Commission
445 12th Street SW
Washington, D. C. 20554

Dear Chairman Pai:

I am writing in support of the application made by the Augusta University Health System for the COVID-19 Telehealth Program.

As the representative of Georgia's 12th Congressional District, I am committed to ensuring the health needs of my constituents, especially now during this unprecedented COVID-19 pandemic. If awarded the funds from this grant, Augusta University would be able to support healthcare providers in the fight against the ongoing COVID-19 pandemic by expanding their current telemedicine program to the Chronic Disease Management program by targeting those at most risk for severe COVID-19 illness, using internet connected devices (pulse oximeter, pulse rate, and respiratory rate) to remotely monitor patients for onset of COVID-19 and worsening chronic medical conditions.

This could have an immediate impact on healthcare providers and their patients by enabling them to decrease exposure of the health system's most vulnerable population to hospital-acquired COVID-19 by decreasing hospital admission rates as well as Emergency Department utilization rates. This initiative also furthers the mission to empower rural communities by improving the quality of life for residents in our district and throughout the state. For these reasons, I respectfully ask that you give strong consideration to the application submitted by the Augusta University Health System to better enable them to provide advanced healthcare to our communities during this pandemic health crisis. Thank you for your continued work in this very important area.

Sincerely,

Rick W. Allen
Member of Congress

RWA:dtm

United States Senate

484

May 19, 2020

Received & Inspected

JUN 01 2020

FCC Mailroom

Chairman Ajit V. Pai
Federal Communications Commission
445 12th Street SW
Washington, DC 20554-0004

Dear Chairman Pai,

I am writing to express my support for the proposal submitted by the University of Alabama to the Federal Communications Commission for the COVID-19 Telehealth Program.

This funding, if awarded, would provide remote patient monitoring (RPM) equipment for patients in twelve counties who are most vulnerable to morbidity and mortality, the elderly and those in rural communities, due to COVID-19. Monitoring will be performed by physicians at University Medical Center, a large multi-specialty clinic affiliated with the University of Alabama. With RPM equipment, clinical level data can be relayed, wirelessly and immediately, from the patient's home to a primary care physician. The use of this equipment can alert physicians that attention is needed, allowing a patient's needs to be addressed immediately. This approach will reduce cost, improve care, expand access to care, and protect these high risk patients by keeping them at home and away from medical facilities.

I hope you will agree that this proposal has merit and is worthy of funding. If I can answer any questions or provide additional information, please do not hesitate to contact me.

Sincerely,



Doug Jones
United States Senator

DJ/st

From: [Alethea Lewis](#)
To: [Alexander Sanjenis](#); [Alisa Valentin](#); [Allison Baker](#); [Anne Veigle](#); [Arielle Roth](#); [Aurelle Porter](#); [Austin Bonner](#); [Benjamin Arden](#); [Blaise Scinto](#); [Brendan Carr](#); [Brian Hart](#); [Catherine Schroeder](#); [Cecilia Sulhoff](#); [Charles Mathias](#); [Christopher Santini](#); [Dana Shaffer](#); [Diane G. Holland](#); [Donald Stockdale](#); [Erika Olsen](#); [Erin Fitzgerald](#); [Erin McGrath](#); [Evan Swarztrauber](#); [Geoffrey Starks](#); [Giulia McHenry](#); [Holly Saurer](#); [Jamison Prime](#); [Jesse Jachman](#); [Jessica Martinez](#); [Jessica Rosenworcel](#); [Joel G. Miller](#); [John Schauble](#); [Joseph Calascione](#); [Justin Faulb](#); [Kate Black](#); [Kathryn OBrien](#); [Katie Gorscak](#); [Kris Monteith](#); [Lauren Kravetz](#); [Lisa Fowlkes](#); [Lisa Gelb](#); [Mark Stephens](#); [Matthew Berry](#); [Matthew Pearl](#); [Michael Carowitz](#); [Michelle Carey](#); [Mike O'Rielly](#); [Montana L. Hyde](#); [Nadja SodosWallace](#); [Nancy Zaczek](#); [Nicholas Degani](#); [OLA Distribution List](#); [Patrick Webre](#); [Preston Wise](#); [Rachel Kazan](#); [Rosemary Harold](#); [Sean Spivey](#); [Susan Mort](#); [Thomas Johnson](#); [Thomas Sullivan](#); [Travis Litman](#); [Umair Javed](#); [Will Adams](#); [Will Wiquist](#); [William Davenport](#); [Zac Champ](#); [Zenji Nakazawa](#)
Subject: Incoming Congressional Correspondence for Today
Date: Tuesday, September 1, 2020 4:04:26 PM
Attachments: [Manchin706.pdf](#)

Sen. Joe Manchin – Consumers – Public Interest Obligation – (OGC)

- Writes regarding the invitation for public comment on the Petition for Rulemaking filed by NTIA seeking clarification on section 230 of the 1996 Communications Decency Act.
- Asks the Commission to review Section 230 to clarify that it does not shield companies from liability for criminal activity conducted on their platforms and that companies must cooperate with federal, state, and local law enforcement.

Alethea Lewis
Congressional Liaison Specialist
Federal Communications Commission
Office of Legislative Affairs
(202) 418-0103
Alethea.Lewis@fcc.gov

August 31, 2020

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

Dear Chairman Pai:

I write to you today regarding the invitation for public comment on the Petition for Rulemaking filed by the National Telecommunications and Information Administration (NTIA) seeking clarification on section 230 of the 1996 Communications Decency Act. While the administration's focus is on the moderation of speech, I write to you regarding an urgent and related issue regarding section 230, the sale of illicit drugs online.

Section 230 states, "No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider."¹ To this day, these 26 words protect online platforms from liability for content posted by users on their platforms. At the time, the Internet was in its infancy, and this short section was an elegant solution to a simple problem: how to encourage platforms to remove pornography and hate speech without making them liable as publishers in the law. No one could have envisioned how much the world would evolve from the simple chatrooms of the 1990s. Today, nearly all of us carry the Internet in our pocket, using our phones to call cabs, message friends and family across town and across the globe, book hotel rooms and vacation rentals, buy groceries, and undertake a nearly infinite array of activities – all still covered by this one, now outdated section of the law.

That protection under the law has given rise to the innovation and ascendancy of Silicon Valley and the U.S. tech sector, but it also has a dark side, shielding companies from the proliferation of illegal content on their platforms. Today, a user can find illicit narcotics easily through Instagram, TikTok, Facebook and other social media platforms. Over four months in 2018, researchers at the University of California, San Diego used an algorithm to capture Instagram posts on drugs, finding more than 1200 posts advertising illicit drugs for sale and generating an inquiry from at least one clear buyer.² Facebook's own Transparency Report noted that it had removed more than 7.9 million posts in just the first quarter of 2020.³ A 2015 study by Carnegie Mellon University found that revenues from online illicit drug sales grew from between \$15 million in 2012 to \$180 million in 2015.⁴ That has only grown exponentially since that time, and impacts every corner of the Internet, with roughly half taking place on the "Surface Web"

¹ 47 U.S.C. § 230

² <https://www.bostonmagazine.com/health/2019/10/1/instagram-drug-market/>

³ <https://transparency.facebook.com/community-standards-enforcement#regulated-goods>

⁴ <https://www.wired.com/2015/08/crackdowns-havent-stopped-dark-webs-100m-yearly-drug-sales/>

(Google, Facebook, etc.) and half on the “Dark Web” (which requires a special browser to access), with drug dealers often operating in both interchangeably.

The rise in Internet crime is especially problematic during the COVID-19 pandemic. Since the country began social distancing measures, the Internet Crime Complaint Centre at the Federal Bureau of Investigation (FBI) reports that daily digital crime has risen by 75%.⁵ The National Center for Missing and Exploited Children (NCMEC) has experienced a 93.33% increase in online child exploitation this year compared to last year.⁶

Over the past year, I have met with federal law enforcement, private companies, and other stakeholders to discuss the impact of the opioid crisis in my state of West Virginia, and the growing threat of online drug sales. In 2018, the Department of Homeland Security (DHS) seized almost 5,000 pounds of fentanyl – to kill every American four times over.⁷ Officials report that the vast majority of it was ordered over the Internet and sent by mail from China. In one recent takedown, the Joint Criminal Opioid and Darknet Enforcement (J-CODE) team – a joint interagency effort comprising the FBI, DEA, DHS, CBP, USPS, DOJ, and DOD – made 61 arrests and shut down 50 Darknet accounts, confiscating 300 kg of drugs and over \$7 million.⁸ According to the FBI, taking down one Darknet drug vendor has the same effect as taking down a traditional mid-level size criminal organization. This is not just a problem on the Darknet, however. Research by the National Association of Boards of Pharmacy (NABP) found that when searching online for prescription opioids, nearly 91% of the first search results led users to an illegal online drug seller offering prescription opioids. In 2019, NABP found that of nearly 12,000 websites they surveyed, 90% were operating illegally.⁹ Former Food and Drug Administration Commissioner Scott Gottlieb summarized, “The easy availability and online purchase of these products from illegal drug peddlers is rampant and fuels the opioid crisis.”¹⁰

At the same time, it is increasingly clear that social media companies have turned a blind eye to the problem, blaming their inability to keep up with the proliferation of illegal content on faulty algorithms and human behavior, when the real issue is profits. Companies could devote more resources to moderation and more R&D on new programs and technology to seek out illegal content, but they are absolved of this responsibility by Section 230. When overworked and underpaid moderation teams do find illegal content, they often simply take down the offending content and do not share it with law enforcement, arguing that this would infringe on the user’s privacy rights.

⁵ <https://www.economist.com/international/2020/08/17/during-the-pandemic-a-digital-crimewave-has-flooded-the-internet>

⁶ <https://www.missingkids.org/blog/2020/covid-19-and-missing-and-exploited-children>

⁷ https://www.dhs.gov/sites/default/files/publications/19_0424_s1_opioid-fact-sheet_v2.pdf

⁸ <https://www.fbi.gov/news/pressrel/press-releases/j-code-announces-61-arrests-in-its-second-coordinated-law-enforcement-operation-targeting-opioid-trafficking-on-the-darknet>

⁹ <https://nabp.pharmacy/wp-content/uploads/2019/11/Rogue-Rx-Activity-Report-2019.pdf>

¹⁰ <https://www.wsj.com/articles/fda-wants-better-control-of-online-opioid-sales-1522877801>

In the 24 years since Section 230 was enacted in 1996, our world has changed, and nothing has seen – or caused – more of that upheaval than the Internet. Google didn't exist until 1996, and Facebook wasn't launched until 2004, and Twitter wasn't found until 2006. The iPhone wasn't introduced until 2007, while companies like AOL, Myspace, and Netscape have risen and fallen into obscurity over that time. And certainly, Section 230 was not written with companies like Uber and Airbnb in mind. I believe that while some aspects of Section 230 should be preserved, the overbroad interpretation of this provision in the courts has provided protection for bad actors online, even if they are knowingly participating or allowing illicit and criminal activity on their platforms and failing to work with law enforcement to stop such behavior.

Let me be clear. One opioid sold online is too many, and the reticence and deflection with which many social media companies have approached this problem is unacceptable. That is why I am calling on the FCC, in the course of their review of NTIA's petition, to determine whether Section 230 needs to be amended to clarify that it does not shield companies from liability for criminal activity conducted on their platforms and that companies must cooperate with federal, state, and local law enforcement. We must amend Section 230 to reflect the way that the Internet impacts our society today – both good and bad. It is past time to hold these sites accountable for the economic and human damage they have caused to our communities.

I again applaud you for undertaking this review of Section 230, and I thank you for your consideration of my request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joe Manchin III", written in a cursive style.

Joe Manchin III
United States Senator

From: [Joy Medley](#)
To: [Alexander Sanjenis](#); [Alisa Valentin](#); [Allison Baker](#); [Anne Veigle](#); [Arielle Roth](#); [Aurelle Porter](#); [Austin Bonner](#); [Benjamin Arden](#); [Blaise Scinto](#); [Brendan Carr](#); [Brian Hart](#); [Catherine Schroeder](#); [Cecilia Sulhoff](#); [Charles Mathias](#); [Christopher Santini](#); [Dana Shaffer](#); [Diane G. Holland](#); [Donald Stockdale](#); [Erika Olsen](#); [Erin Fitzgerald](#); [Erin McGrath](#); [Evan Swarztrauber](#); [Geoffrey Starks](#); [Giulia McHenry](#); [Holly Saurer](#); [Jamison Prime](#); [Jesse Jachman](#); [Jessica Martinez](#); [Jessica Rosenworcel](#); [Joel G. Miller](#); [John Schauble](#); [Joseph Calascione](#); [Justin Faulb](#); [Kate Black](#); [Kathryn OBrien](#); [Katie Gorscak](#); [Kris Monteith](#); [Lauren Kravetz](#); [Lisa Fowlkes](#); [Lisa Gelb](#); [Mark Stephens](#); [Matthew Berry](#); [Matthew Pearl](#); [Michael Carowitz](#); [Michelle Carey](#); [Mike ORielly](#); [Montana L. Hyde](#); [Nadja SodosWallace](#); [Nancy Zaczek](#); [Nicholas Degani](#); [OLA Distribution List](#); [Patrick Webre](#); [Preston Wise](#); [Rachel Kazan](#); [Rosemary Harold](#); [Sean Spivey](#); [Susan Mort](#); [Thomas Johnson](#); [Thomas Sullivan](#); [Travis Litman](#); [Umair Javed](#); [Will Adams](#); [Will Wiquist](#); [William Davenport](#); [Zac Champ](#); [Zenji Nakazawa](#)
Subject: Incoming Congressional Correspondence for Today
Date: Thursday, October 15, 2020 5:50:43 PM
Attachments: [20_10_15 Senator Rubio to Chairman Pai re censorship and section 230.pdf](#)
[20201015 - FCC pole attachment letter \(002\).pdf](#)

Senator Rubio (R-FL)

- Re-examination of Section 230

Rep. Matsui (D-CA)

- Requests clarification of existing rules regarding utility pole access

Joy Medley
Office of Legislative Affairs
Federal Communications Commission
202.418.1907

DORIS O. MATSUI
6TH DISTRICT, CALIFORNIA

COMMITTEE ON ENERGY
AND COMMERCE

Congress of the United States
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October 15, 2020

828

Ajit Pai
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Chairman Pai,

I write today to urge the Federal Communications Commission (FCC) to promptly consider a pending Petition for Declaratory Ruling to clarify its existing pole attachment rules to help minimize broadband deployment barriers in underserved communities. Access to a reliable, high-speed internet connection is more critical than ever, and FCC action on this Petition could help bring more Americans online.

Much of the country's broadband infrastructure is carried by cables attached to utility poles, which provide a crucial link between many rural homes and businesses across the country. Given the critical nature of pole access, the FCC's pole attachment rules were developed at the direction of Congress to ensure fair and timely access. However, when it comes to actually deploying new broadband infrastructure, this process is too often complex and costly. The FCC's broad authority in this space should be employed to ensure a more predictable and equitable process.

Accordingly, I encourage the FCC to move quickly to clarify its existing rules regarding utility pole access. Such a clarification should ensure a transparent, fair, and fast process that considers the needs of pole owners and those who need to attach to them.

Thank you for your attention to this critical issue. I look forward to working with you on increasing broadband access and closing the digital divide.

Sincerely,



Doris Matsui
Member of Congress

October 15, 2020

827

The Honorable Ajit Pai
Chairman
Federal Communications Commission
45 L Street NE
Washington, D.C. 20554

Dear Chairman Pai:

On June 9, 2020, along with several of my colleagues, I wrote to you regarding the Federal Communication Commission's (FCC's) vital role in combating the imbalanced treatment of varying viewpoints on social media platforms and the rising threat to free speech. Recent events, most notably Facebook and Twitter's decision to censor accounts, posts, and content related to a *New York Post* article on the foreign business dealings of Hunter Biden, the son of former Vice President Joe Biden,¹ makes clear this is a problem that can no longer be ignored.

The dominance of a small number of social media platforms presents a unique challenge to everyday Americans' ability to express themselves freely and access uncensored and filtered information. Actions taken by social media companies to censor political speech out of favor with Silicon Valley elites underscores the importance of timely measures to protect free speech and push back against partisan editorializing and politically motivated online speech policing.

The Department of Commerce's Petition for Rulemaking to the FCC regarding Section 230 of the Communications Decency Act of 1996 issued on July 27, 2020, clearly stated that "large online platforms appear to engage in selective censorship that is harming our national discourse."² The once nascent, scrappy internet companies that benefited from the protections afforded by Section 230 of the Communications Decency Act have become Goliaths intent on twisting and manipulating America's public square to their liking. The *New York Post* censorship saga is only the latest example of this consistent effort by Silicon Valley giants. Twenty days before the presidential election, it is also one of the most egregious.

On Twitter, users were presented with a link to a page warning of "potentially spammy or unsafe" material when they attempted to click a link to the article.³ Twitter even went so far as to forcibly lock the personal account of White House Press Secretary Kayleigh McEnany for sharing the article.

¹ <https://nypost.com/2020/10/14/email-reveals-how-hunter-biden-introduced-ukrainian-biz-man-to-dad/>

² https://www.ntia.gov/files/ntia/publications/ntia_petition_for_rulemaking_7.27.20.pdf

³ https://twitter.com/safety/unsafe_link_warning?unsafe_link=https://nypost.com/2020/10/14/email-reveals-how-hunter-biden-introduced-ukrainian-biz-man-to-dad/

Twitter's founder Jack Dorsey called the company's actions "unacceptable," but only because there was "zero context as to why we're blocking."⁴ Facebook Policy Communications Manager Andy Stone explicitly stated, in reference to the *New York Post* article, that his company was "reducing its distribution on our platform."⁵

Regardless of whether social media companies "provide context" or wait for "third-party fact checking partners" it is abundantly clear that companies like Twitter and Facebook are playing the role of publisher.

As Congress examines and debates the appropriate measures that recognize this reality, I encourage you to proactively engage in the rulemaking process requested by the Secretary of Commerce pursuant to Executive Order 13925. It is time to reexamine Section 230. Platforms that engage in editorial activity must no longer be treated as neutral hosts, and freedom of speech, press, and viewpoint diversity must be protected.

I look forward to continuing to engage with you on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Rubio', written in a cursive style.

Marco Rubio
U.S. Senator

⁴ <https://twitter.com/jack/status/1316528193621327876>

⁵ <https://twitter.com/andymstone/status/1316395902479872000>

From: [Joel G. Miller](#)
To: [Mike O'rielly](#); (b) (6); [Erin McGrath](#); [Arielle Roth](#)
Subject: latest topics
Date: Tuesday, June 23, 2020 3:47:18 PM
Attachments: [Commerce Notes 6-24-20.docx](#)

A few more might come in and will update accordingly. (b) (5)

[Redacted]

[Redacted]

From: [Joel G. Miller](#)
To: [Arielle Roth](#); [Erin McGrath](#); [Mike ORIelly](#); [Mikeorielly1](#)
Subject: latest
Date: Tuesday, June 16, 2020 11:00:51 AM
Attachments: [Commerce Notes 6-16-20 final.docx](#)

From: [Neil Fried](#)
To: [Mike O'Rielly](#); [Joel G. Miller](#)
Subject: Letter in RM-11862 re: sec. 230
Date: Thursday, October 1, 2020 5:14:20 PM
Attachments: [201001 DigitalFrontiers Advocacy response to Wyden-Cox reply.pdf](#)

Commissioner O'Rielly and Mr. Miller,

I hope you are both well. Attached please find a courtesy copy of a letter I filled today in RM-11862 addressing the FCC's authority to construe section 230 and an inaccurate description of the position of DigitalFrontiers Advocacy in the reply comments of Sen. Wyden and former Congressman Chris Cox.

Regards,

Neil

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

October 1, 2020

In re Section 230 of the Communications Act of 1934, RM-11862

Dear Secretary Dortch:

Senator Ron Wyden and former Congressman Chris Cox incorrectly state in their reply that I seek to “add to Section 230 ‘a duty of care’ or a ‘reasonableness’ standard that cannot be found in the statute.”¹ I write to correct the record, as well as to note that other language in the reply of Senator Wyden and Congressman Cox ironically supports the position I *do* take.

The Common Law Duty of Care

Contrary to the phrasing by Senator Wyden and Congressman Cox, the issue is not whether section 230 creates a duty of care. The question is whether the FCC can reasonably conclude that section 230 *does not preempt* the duty of care that would otherwise already apply to internet platforms under common law.

Ordinarily, businesses have an affirmative duty to take reasonable steps to prevent someone from using their service to harm others, *and so can be held liable if they don’t take such steps*.² Courts have essentially construed section 230(c)(1), however, as preempting this duty of care.³ As a result, platforms cannot be held liable even when they do little or no content moderation.

Consequently, despite conventional wisdom and Congress’ best intentions, section 230 as applied by the courts makes platforms less likely to moderate content, putting the public at greater risk of harm.⁴ To address that problem, I and others have suggested in this proceeding

¹Reply Comments of Co-Authors of Section 230 of the Communications Act of 1934, at 15-16 (Sept. 17, 2020).

²See Statement of DigitalFrontiers Advocacy in Support of Petition for Rulemaking, at 6 & n.28 (citing DAN B. DOBBS ET AL., HORNBOOK ON TORTS § 9.2, at 191, § 20.1, at 459-60, § 20.6, at 465-66, § 25.1, at 615-16, § 25.4, at 620-21, §§ 26.1-26.5, at 633-44, §§ 26.9-26.10, at 651-55 (2d ed. 2015)); Reply of DigitalFrontiers Advocacy, at 2.

³See Statement of DigitalFrontiers Advocacy in Support of Petition for Rulemaking, at 5-6 & nn.26, 29-34 (citing *Zeran v. AOL*, 129 F.3d 327 (4th Cir. 1997); *Doe v. AOL, Inc.*, 783 So.2d 1010 (Fla. 2001); *Carafano v. Metrosplash.com, Inc.*, 339 F.3d 1119 (9th Cir. 2003); *Chicago Lawyers’ Committee for Civil Rights Under Law v. Craigslist*, 519 F.3d 666 (7th Cir. 2008); *Barnes v. Yahoo!, Inc.*, 570 F.3d 1096 (9th Cir. 2009); *Jones v. Dirty World Enter. Recordings LLC*, 755 F.3d 398 (6th Cir. 2014); *Herrick v. Grindr LLC*, 18-396 (2d Cir. Mar. 27, 2019); *Force v. Facebook*, 934 F.3d 53 (2d Cir. 2019)); Reply of DigitalFrontiers Advocacy, at 1-2.

⁴See Statement of DigitalFrontiers Advocacy in Support of Petition for Rulemaking, at 4-8; Reply of DigitalFrontiers Advocacy, at 1-2. *Accord* Comments of Common Sense Media, at 1-2 (stating that “Section 230’s broad liability shield protects bad actors and makes interactive computer services unaccountable when online harms emerge”); Comments of Consumer Reports, at 9 (stating that “Section 230’s ‘Good Samaritan’ provision allows for good faith moderation, but it does not encourage it.”); Comments of Carrie Goldberg at 1-2 (stating that “[c]ompanies take no initiative to stop active abuses because there are zero consequences if they don’t. They have zero incentive to identify or prevent harm. And in one of my cases, the court even pointed to Section 230 as a logical reason for a tech company to not take action to help a crime victim actively stalked and impersonated, because the immunity from liability meant no action was legally necessary.... Big Tech monopolies have abused Section 230 as

and in congressional testimony that *Congress*—not the FCC—add to section 230 an explicit requirement that platforms take reasonable steps to curb unlawful behavior as a condition of receiving the section’s protections.⁵

Short of that, however, the FCC can play a positive role *not by inserting a new requirement* into section 230, but by adopting the reasonable construction that section 230 *does not preempt the existing common law duty of care*.⁶

FCC Authority to Construe Section 230

The Supreme Court has held that an agency may construe ambiguous statutory provisions within its jurisdiction.⁷ When doing so, the agency is not bound by prior court interpretations so long as its own construction is reasonable.⁸ Courts, however, are then bound to apply that agency construction going forward, even if they believe another construction is better.⁹

The FCC has authority to construe section 230.¹⁰ Section 230 falls within the FCC’s jurisdiction, as it is part of the Communications Act.¹¹ Section 201(b) of the Act also authorizes the FCC to “prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of ... chapter [five],”¹² which includes section 230.¹³ Moreover, section

a license to allow revenge porn, cyberstalking, sex trafficking, dissemination of child sexual abuse material, and criminal harassment on their platforms—the exact type of content that Section 230 was meant to stop.”).

⁵See Statement of DigitalFrontiers Advocacy in Support of Petition for Rulemaking, at 13; *Disinformation Online and a Country in Crisis: Hearing before H. Subcomm. on Commc’ns. & Tech, and H. Subcomm. on Consumer Prot. and Commerce, H. Comm. on Energy and Commerce*, 116th Cong. (2020) (statement of Neil Fried, Principal, DigitalFrontiers Advocacy), <https://digitalfrontiersadvocacy.com/6-24-20-sec-230-testimony>; *Fostering a Healthier Internet to Protect Consumers: Hearing before H. Subcomm. on Commc’ns. & Tech, and H. Subcomm. on Consumer Prot. and Commerce, H. Comm. on Energy and Commerce*, 116th Cong. (2019) (statement of Prof. Danielle K. Citron, Boston University School of Law), <https://energycommerce.house.gov/committee-activity/hearings/hearing-on-fostering-a-healthier-internet-to-protect-consumers>. Accord Comments of Common Sense Media, at 1, 3 (suggesting Congress should reform section 230); Comments of Consumers Reports, at 9 (stating that “Congress can and should strengthen the incentives for platforms to carefully moderate harmful or false content on their sites and networks. Lawmakers should also hold platforms responsible, commensurate with their powers and resources, for protecting consumers from content that causes demonstrable harm.”); Comments of Carrie Goldberg, at 1 (advocating legislation); Comments of the Information Technology & Innovation Foundation, at 1 (advocating Congress clarify or update section 230); Comments of Public Knowledge, at 1 (stating that “[t]here are of course legitimate debates to be had about the interpretation of Section 230 in some cases, and even ways it could be amended.”).

⁶Statement of DigitalFrontiers Advocacy in Support of Petition for Rulemaking, at 13-17; Reply of DigitalFrontiers Advocacy, at 4-13.

⁷See Statement of DigitalFrontiers Advocacy in Support of Petition for Rulemaking, at 15 & n.50 (citing *NCTA v. Brand X*, 545 U.S. 967, 980-83 (2005)); Reply of DigitalFrontiers Advocacy at 9-10.

⁸See Statement of DigitalFrontiers Advocacy in Support of Petition for Rulemaking, at 15; Reply of DigitalFrontiers Advocacy at 9.

⁹See Statement of DigitalFrontiers Advocacy in Support of Petition for Rulemaking, at 15; Reply of DigitalFrontiers Advocacy at 9.

¹⁰See Statement of DigitalFrontiers Advocacy in Support of Petition for Rulemaking, at 4-10; Reply of DigitalFrontiers Advocacy, at 14-15; Comments of the Free State Foundation, at 2, 4.

¹¹See 47 U.S.C. § 230.

¹²*Id.*, § 201(b).

¹³See *id.*, ch. 5, <https://www.govinfo.gov/content/pkg/USCODE-2018-title47/pdf/USCODE-2018-title47-chap5.pdf>.

554(e) of the Administrative Procedure Act allows an agency, “in its sound discretion, [to] issue a declaratory order to terminate a controversy or remove uncertainty.”¹⁴ The FCC has previously relied on section 554(e) to construe provisions of the Communications Act, as the Free State Foundation has pointed out.¹⁵

The Ambiguity of Section 230

Section 230(c) is ambiguous regarding platform liability for failing to moderate content.¹⁶ Although subsection (c)(2) states that “[n]o provider or user of an interactive computer service shall be held liable [for] action *voluntarily taken* to restrict access,”¹⁷ it says nothing about action *not taken*. And although subsection (c)(1) states that “[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider,”¹⁸ it does not say anything about a platform’s action or inaction. Nor does it mention the word “liability.” A prohibition on treating platforms as speakers or publishers is not necessarily the same as a general prohibition on assessing liability.

Subsection (c)(1)’s language certainly can be—and has been—interpreted by courts as precluding liability for both action and inaction regarding third party conduct over a platform. But no language in section 230 clearly indicates a congressional intent to preempt the affirmative duty of care that platforms—like most businesses—would ordinarily have under common law to take reasonable steps to prevent use of their services to harm others.

In fact, statements in the reply comments of Senator Wyden and Congressman Cox are consistent with the view that Congress did not intend section 230 to preempt the ordinary duty of care. “In writing Section 230,” they say, “we—and ultimately the entire Congress—decided that [legal rules, such as those governing defamation, deceptive and unfair practices, and negligence] should continue to apply on the internet just as in the offline world. Every business, whether operating through its online facility or through a brick-and-mortar facility, would continue to be responsible for all of its legal obligations.”¹⁹

One such legal obligation of every business is to reasonably mitigate use of its service to harm others. This is the ordinary negligence standard of the common law duty of care.

An Alternative, Reasonable Construction of Section 230

A different and reasonable interpretation of section 230(c)(1) would be that although it *does* preclude treating platforms in defamation cases as speakers or publishers of their users’

¹⁴5 U.S.C. § 554(e).

¹⁵Reply Comments of the Free State Foundation, at 5-6 & n.12 (citing *In re* Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks, WT Docket No. 07-53, *Declaratory Ruling*, FCC 07-30, at ¶ 2 & n.3 (rel. Mar. 23, 2007); *In re* United Power Line Council’s Petition for Declaratory Ruling Regarding the Classification of Broadband over Power Line Internet Access Service as an Information Service, WC Docket No. 06-10, *Memorandum Opinion and Order*, FCC 06-165, at ¶ 2 & n.2 (rel. Nov. 7, 2006)).

¹⁶See Statement of DigitalFrontiers Advocacy in Support of Petition for Rulemaking, at 15-16, Reply of Digital Frontiers Advocacy, at 10.

¹⁷47 U.S.C. § 230(c)(2) (emphasis added).

¹⁸*Id.*, § 230(c)(1).

¹⁹Reply Comments of Co-Authors of Section 230 of the Communications Act of 1934, at 10-11.

content, it *does not* preclude treating platforms in defamation cases as distributors of their users' content.²⁰ Nor does it preclude holding platforms liable in non-defamation cases for negligently, recklessly, or knowingly failing to curb unlawful use of their services.²¹

Congress' decision to adopt section 230 was prompted by its consternation with the court decision in *Stratton Oakmont v. Prodigy*, a libel case.²² That makes it reasonable to construe the language of section 230 in the context of libel law. Libel law has developed specific ways for treating the original author—or “speaker”—of defamatory material, the “publisher” of the material, and the “distributor” of the material.²³ The fact that section 230(c)(1) mentions the first two terms but not the third could reasonably be construed to mean that subsection (c)(1) precludes treating a platform in a defamation case as either a speaker or publisher, *but does not preclude treating it as a distributor* in a defamation case, notwithstanding that courts today have concluded that it precludes treating platforms as any of the three.

Under this interpretation, platforms *could* be held culpable for the defamatory statements of their users *if they knew or should have known about the defamatory statements*—the standard that applies to distributors. This interpretation would make sense in light of the fact that there was no allegation in the *Stratton* case that Prodigy knew or should have known about the defamatory statement, which means there is no reason to assume Congress wanted to preclude holding platforms culpable for defamation in such cases.

Congress clearly disagreed with the *Stratton* court's decision to treat Prodigy *as a publisher*—which can be held culpable *even if it is not aware of a defamatory statement* in content it publishes—merely because Prodigy had engaged in content moderation. Precluding the *Stratton* decision's treatment of platforms in defamation cases as publishers of specific content *they did not moderate* merely because of other content *they did moderate*, would remove a significant deterrent to content moderation. It would therefore reasonably meet Congress' objective even without precluding distributor liability for defamatory content that platforms know or have reason to know about, such as when they have been alerted to its existence.

Subsection (c)(2) under this interpretation would still preclude assessing liability on platforms *for their actual moderating of content*, which is consistent with Congress' goal to remove disincentives to content moderation. Neither subsection (c)(1) nor (c)(2) would preclude assessing liability on platforms *in non-defamation cases where they did not moderate* the specific content at issue. And without that shield, platforms could still be held culpable if they breached the ordinary duty of care by negligently, recklessly, or knowingly failing to curb unlawful conduct over their services. Another way to think of this is that platforms would not be held liable for defamation as a speaker or publisher of their users' content, or for moderating content, but for *not moderating* content and breaching the duty of care.

²⁰See Statement of DigitalFrontiers Advocacy in Support of Petition for Rulemaking, at 16-17; Reply of Digital Frontiers Advocacy, at 11-13.

²¹See Statement of DigitalFrontiers Advocacy in Support of Petition for Rulemaking, at 16-17; Reply of Digital Frontiers Advocacy, at 12-13.

²²See Statement of DigitalFrontiers Advocacy in Support of Petition for Rulemaking, at 2-4.

²³See *id.*, at 2-3; Reply of Digital Frontiers Advocacy, at 11.

This Construction Is Not Just Reasonable—It’s Better

This would not just be a reasonable construction of section 230. It would be a better construction than the prevailing one applied by the courts, even though it need not be to warrant deference under Supreme Court precedent.²⁴

Congress’ goal with section 230 was to protect the public from harmful conduct by encouraging content moderation through a liability shield for platforms that *do* take proactive measures. It seems odd to construe section 230 as granting a shield to platforms even when they *do not* take such measures, thereby removing the duty of care. Doing so increases the likelihood people will be harmed, rather than decreases it.

Congress presumably would have spoken more explicitly if it intended to broadly eliminate for platforms the general duty of care, shielding them even when they do not moderate content and negligently, recklessly, or knowingly fail to curb unlawful conduct over their services. That Congress may not have intended to grant such sweeping immunity when platforms do not act is buttressed by the fact that Congress explicitly precluded liability in subsection (c)(2), which applies when platforms take action, but did not use the word “liability” in subsection (c)(1), which is not contingent on platform action. As one commenter observed: “[W]here Congress includes particular language in one section of a statute but omits it in another ..., it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.”²⁵

Conclusion

Despite the framing by Senator Wyden and Congressman Cox, the question is not whether section 230 *creates* a duty of care, but whether it *preempts* the duty of care that would ordinarily apply. Section 230 is ambiguous on that point, and the FCC can reasonably construe the provision as allowing platform liability for negligently, recklessly, or knowingly failing to curb unlawful activity. Indeed, even Senator Wyden and Congressman Cox state that Congress did not seek to change platforms’ ordinary legal obligations, such as those related to negligence.

Respectfully Submitted,

x Neil Fried

Neil Fried

Principal, DigitalFrontiers Advocacy

cc by email: Chairman Pai
Commissioner Rosenworcel
Commissioner O’Rielly
Commissioner Carr
Commissioner Starks

Matthew Berry
Travis Litman
Joel Miller
Joseph Calascione
William Davenport

Tom Johnson
Patrick Webre

²⁴See Statement of DigitalFrontiers Advocacy in Support of Petition for Rulemaking, at 16; Reply of Digital Frontiers Advocacy, at 13.

²⁵Comments of Michelle Banayan, at 11 (quoting Keene Corp. v. United States, 508 U.S. 200, 208 (1993)).

From: [Susan Fisenne](#)
To: [Mike ORIelly](#)
Subject: Letter to BCarr that you were cc"d on.
Date: Wednesday, July 22, 2020 2:22:17 PM
Attachments: [Richard Emanuel 05.27.20 letter to Carr.pdf](#)

COPY

Received & Inspected

JUL 22 2020

FCC Mailroom

Richard Emanuel
12501 Alpine Drive
Anchorage, AK 99516

Commissioner Brendan Carr
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

May 27, 2020

Dear Commissioner Carr,

I was positively gobsmacked when I heard your opening remarks on Shannon Bream's Fox News show tonight: "Look, since the 2016 election, the far left has worked to weaponize social media platforms."

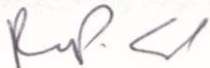
Excuse me? **Who** has weaponized social media?

Oh my God. The absurdity of that statement is breathtaking.

Mr. Carr, no one, with the possible exception of Vladimir Putin, has weaponized social media more than Donald J. Trump. No one. Not one person comes close. If you cannot see that, sir, then you do not know your business.

Now, as an Alaskan, I appreciate your visiting my state, and I am grateful for your efforts to bring broadband to rural America. We agree on this, and doubtless on other things. But I am alarmed by the casual way the president abuses social media, casting aspersions on political opponents and on legitimate journalists and news media. The word "nasty" comes to mind. Do you see no danger here? Your own remarks about the "far left" weaponizing social media while you defend the president's ceaseless counterfactual tweets disturbs me, too. Should an FCC Commissioner be this partisan? Cynical abuse of social media is a serious threat to American democracy. I don't know how to fight it, but launching partisan broadsides on Fox News is not the answer. Please reflect on your contributions to America's problems with social media.

Sincerely,



Richard Emanuel
remanuelak@gmail.com

cc: Chairman Pai, Commissioners O'Rielly, Rosenworcel, Starks

From: [Day, Christopher \(Commerce\)](#)
To: [Mike O'Rielly](#)
Cc: [Bobbink, Matthew \(Commerce\)](#); [Branscome, John \(Commerce\)](#); [Bone, Shawn \(Commerce\)](#)
Subject: Minority QFRs for Commissioner Michael O'Rielly
Date: Tuesday, June 30, 2020 5:31:01 PM
Attachments: [Minority QFRs for Mr. Michael O'Rielly.pdf](#)
[Minority QFRs for Mr. Michael O'Rielly.docx](#)

Commissioner O'Rielly:

Attached are questions for the record (QFRs) for you submitted by minority committee members from the June 16, 2020, Senate Commerce, Science, and Transportation Committee nominations hearing.

Please submit responses to these questions electronically — in both Word and PDF formats — to matthew_bobbink@commerce.senate.gov and Christopher_Day@commerce.senate.gov as soon as possible and no later than COB **Tuesday, July 14, 2020**.

As always, feel free to reach out to us with any questions.

Thank you –

Chris

Christopher Day
Chief Investigator and Senior Counsel (Minority)
U.S. Senate Committee on Commerce, Science, and Transportation
202-224-5621 (office direct)
703-930-2179 (cell)

**Questions for the Record for the Honorable Michael O’Rielly
U.S. Senate Committee on Commerce, Science, and Transportation
“Nominations Hearing”
June 16, 2020**

Questions Submitted by the Hon. Maria Cantwell to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Executive Branch Concerns with FCC’s Ligado Decision. The Departments of Commerce and Transportation (along with the entirety of the executive branch) believe that the Federal Communications Commission’s (“FCC’s”) recent approval of Ligado’s terrestrial wireless plans threatens the nation’s global positioning system (“GPS”) on which the safety and security of everything from civil aviation to military operations to weather forecasting rely. The FCC rejected the executive branch’s concerns and related technical studies both from the government and the private sector showing that the precision and effectiveness of GPS could be impaired. Instead, the FCC relied on competing technical studies (some of which were funded by Ligado), and its own conclusion that the government studies measured the wrong things, to allow Ligado to move forward with its plans. Yet in its decision to allow Ligado to move forward, the FCC acknowledged that its “analysis [in the order] should not be construed to say there is no potential for harmful interference to any GPS device currently in operation in the marketplace.”

Question 1. Did the FCC quantify the number of receivers that would be negatively impacted by its decision, or analyze the impact of its decision on the risk this interference could cause to safety of life or property?

Answer.

Question 2. Did the Department of Transportation or Commerce provide data in its study on the percentage of GPS receivers that would suffer interference from Ligado’s terrestrial operations at the power levels recently authorized by the FCC? Did the FCC ask for such information?

Answer.

Question 3. Do you agree that in high-profile spectrum decisions, particularly ones which create potential risk to safety of life, that it is in the greater public interest to reach consensus among and between the FCC and the expert federal agencies on aviation, transportation safety, and national defense?

Answer.

Question 4. Given the potential risks to safety; the unprecedented and unified opposition of executive branch agencies to the FCC’s decision; and the fact that a third of the U.S Senate, on a

bipartisan basis, has asked you and your colleagues to take a step back and reexamine the decision, would you be willing to support a stay of the Ligado decision until the FCC can work with the federal expert agencies to reach a sustainable consensus that serves the greater public interest in terms of protecting aviation and transportation safety, national security and our 5G future?

Answer.

Sustaining Local Media Outlets. Local newspapers, radio, and television stations provide important local content that keeps their communities informed. People rely on local newspapers and broadcasters to cover school and business closures, communicate public health guidance, and to combat life-threatening misinformation. It is for these reasons that journalism, as an industry, is considered critical infrastructure. The Department of Homeland Security and state governors have deemed journalists essential workers. The current COVID-19 related economic crisis has exacerbated and accelerated the decline in local news advertising while at the same time underscoring the unprecedented need for local news outlets to give consumers access to accurate and timely information about local community business and government operation and information to promote public health, safety and protect consumers from fraud and abuse. Some local broadcasters have reported as much as a 90 percent loss in advertising revenues due to the effects of the coronavirus. Nationwide, advertising losses for local TV and radio broadcasters are estimated to reach at least \$3 billion as a result of the current health crisis. From 2000-2018, local TV stations' advertising revenue fell by 40 percent. From 2003-2018, the ad revenues of FM stations dropped by 43.8 percent. In contrast, large online platforms have used their dominant market power to take a massive share of digital advertising revenue. Facebook and Google currently account for 58 percent of national digital advertising revenue, and 77 percent of local digital advertising revenue respectively. In the last several months, almost half of newspapers have had to lay-off or furlough employees according to the News Media Alliance. Industry analysts predict these trends to continue, with digital capturing 59.5 percent of overall U.S. advertising revenue by 2029. The total estimated local ad revenues for a single digital advertising competitor—Google—will roughly equal the total over-the-air ad revenues for all TV stations in the U.S. and will soon exceed total TV station ad revenues.

Question 1. Given the revenue trends for local news organizations, it is likely that when we emerge from this crisis we will have many fewer local news organizations. In this context, what is your view of the FCC's statutory obligations to promote localism? What regulatory levers can the FCC now use to address the current precipitous decline in localism that I have just outlined?

Answer.

**Questions Submitted by the Hon. Amy Klobuchar to the Hon. Michael O’Rielly,
Nominated to be a Commissioner of the Federal Communications Commission.**

Question 1. Last year, you voted to approve the proposed merger of T-Mobile and Sprint. As Ranking Member of the Antitrust Subcommittee, I repeatedly raised concerns about the harmful effects of eliminating one of the four largest wireless carriers, and I remain skeptical of the argument that the merger is necessary to maintain America’s leadership in deploying 5G.

Do you believe that it was in the public interest to approve a transaction that risks significant consumer harm for the promise of speculative benefits on 5G and rural wireless deployment that may not materialize?

Answer

**Questions Submitted by the Hon. Richard Blumenthal to the Hon. Michael O’Rielly,
Nominated to be a Commissioner of the Federal Communications Commission.**

Blumenthal: On May 28, after being fact-checked for false tweets about mail-in voting, President Trump issued an executive order that directs Federal agencies to investigate and retaliate against online platforms over imagined political bias. The FCC is not an arm of the Presidency – it is an independent agency – it cannot be pressed into service to retaliate against Donald Trump's political rivals or to stifle critical speech.

Question 1. Will you commit to stand up to unconstitutional and bullying use of power by this President?

Answer.

Question 2. Do you believe that the FCC has the currently authority to write rules for tech platforms and to revise CDA 230 as the President has insisted?

Answer.

Question 3. What do you believe the FCC should do with the President’s E.O. and an anticipated NTIA petition to rewrite CDA 230?

Answer.

Blumenthal: The Coronavirus pandemic and social distancing are a resounding demonstration of the importance of Lifeline. In normal times, Lifeline is underfunded. During a pandemic – when schools are shut down and businesses are shuttered – it is more essential than ever. There are now tens of millions of people that are newly unemployed as a result of the Coronavirus. They need the internet to get back to normal, to find new employment, and to find help.

Question 1. Do you agree Lifeline needs more funding during this crisis?

Answer.

Question 2. Do you have an estimate about how much money it will take to support Lifeline? What considerations do we need to take into account in determining the amount of funds required?

Answer.

Question 3. What changes would you recommend to improve the services offered under Lifeline to meet the public's needs?

Answer.

Questions Submitted by the Hon. Brian Schatz to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Question 1. The COVID-19 pandemic has demonstrated important role broadband plays in our lives today. Whether it is used to engage in distance learning or consult with a doctor via telehealth, this pandemic has shown that broadband has become essential to participate in today’s society. Unfortunately, the pandemic has shown that previous efforts to deploy universal broadband have not worked, as the digital divide continues to exist. As an FCC Commissioner, what will you do differently over the next five years to ensure that all Americans have access to high capacity broadband?

Answer.

Question 2. The COVID-19 pandemic has shown that we, as a nation, have much work to do close the digital divide in our country. The universal service fund is a critical tool to support this work. However, for years the FCC has neglected to fix the current contribution methodology so that there are more funding sources available for broadband buildout in unserved areas. Instead, the Commission has proposed capping programs to depress demand and lower the contribution factor. You have been the Chair of the Federal State Joint Board on Contributions for the last three years. Do you have any updates on the status of contribution reform? Do you support any proposals to update the current contribution methodology? If not, why not? Outside of capping the universal service programs, how can the Commission ensure that the funding needs of all of our universal service programs are met?

Answer.

Question 3. Last year the FCC sought comment on a proposal to combine the Rural Health Care and E-Rate programs into a single program with a unified spending cap. If the Commission goes forward with this plan to combine the caps of these programs, increased demand in one program could lead to both programs becoming underfunded, which would pit schools and libraries and healthcare providers against each other in an unnecessary competition for funding. How would having programs compete against each other for funding ensure that our health care providers and schools have the connectivity they need to provide telehealth and distance learning? Wouldn’t the uncertainty caused by these programs competing for funding conflict with the Commission’s duty under the law to provide “specific, predictable, and sufficient” support for universal service participants?

Answer.

Question 4. During a FCC press conference in March 2016, when discussing the outcome of an FCC decision on Lifeline, you stated “Never trust a democrat.” In 2018, the Office of Special Counsel concluded that you violated the Hatch Act when you urged the election of conservatives at the Conservative Political Action Conference that year. Two months ago you sent a letter to

President Trump praising his “extraordinary leadership ... on all communications policy matters, especially regarding 5G advanced wireless services...” This record of partisanship is disconcerting, particularly since your job is to work on important telecom issues that impact our country in a bi-partisan way. How can we ensure that you will be able to work with your fellow Commissioners on telecom policy who may have different political viewpoints than you?

Answer.

Questions Submitted by the Hon. Jon Tester to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Question 1. The 5G Fund proposal, which you supported, lays out a false choice between speed and accuracy, and suggests waiting for new maps would delay awards until at least 2023. How would “Option A” in the 5G Fund proposal, which moves ahead with awards based on inaccurate maps, avoid the pitfalls that doomed the Mobility Fund?

Answer.

Question 2. Even if accurate maps are not available in 2021, why should we consider spending the entire 10-year Fund based on maps that we know to be inaccurate, and which will soon be replaced?

Answer.

Question 3. I understand the FCC is considering a proposal that would establish a cap on the overall USF budget and combine the E-rate and Rural Health Care programs under a single sub-cap. I hear from educators and health care providers in my state that worry this proposal will force them to compete against each other for funding. What is the status of this proposal?

Answer.

Question 4. Given the connectivity issues highlighted by COVID-19, do you still support capping these programs?

Answer.

From: [Bryan Stevens](#)
To: [Ajit Pai](#)
Cc: [Jessica Rosenworcel](#); [Mike ORIelly](#); [Geoffrey Starks](#); [Brendan Carr](#)
Subject: MSNBC producer resigns from network with scathing letter
Date: Tuesday, August 4, 2020 12:52:59 AM

What does it take?

I am tweeting this to President Trump along with the emails I sent you before about doing something about the Media.

There's two witness's right there and I'm sure there's many more but you already know what is going on. We have all witnessed the riots and Main Stream Media calling them peaceful protestors while we all watched the looting, burning business's , beating people, attacking police and killing them. We have watched as the News has turned in to Fake News and Propaganda outlets. Recently as you know, the young man that was viciously attacked in the news by Media outlets sued them and CNN and The Washington Post have settled out of court and he is suing six others. The News Media is helping tear this Country apart with its hate and propaganda and Fake News.

What does it take? Do you know what the measure of a man is?

<https://www.foxnews.com/media/msnbc-producer-ariana-pekary-letter>

A former MSNBC producer wrote a scathing open letter explaining why she recently left the cable news network.

"July 24th was my last day at MSNBC. I don't know what I'm going to do next exactly but I simply couldn't stay there anymore," Ariana Pekary wrote on her personal website. "My colleagues are very smart people with good intentions. The problem is the job itself. It forces skilled journalists to make bad decisions on a daily basis."

Pekary provided a number of examples of why she wanted to leave the cable news network.

"It's possible that I'm more sensitive to the editorial process due to my background in public radio, where no decision I ever witnessed was predicated on how a topic or guest would 'rate.' The longer I was at MSNBC, the more I saw such choices — it's practically baked in to the editorial process — and those decisions affect news content every day," Pekary said. "Likewise, it's taboo to discuss how the ratings scheme distorts content, or it's simply taken for granted, because everyone in the commercial broadcast news industry is doing the exact same thing. But behind closed doors, industry leaders will admit the damage that's being done."

She then quoted someone she described a "successful and insightful TV veteran" who said: "We are a cancer and there is no cure... But if you could find a cure, it would change the world."

Pekary, who described herself as an "integral member" of the MSNBC primetime show "The Last Word with Lawrence O'Donnell," used the "cancer" analogy to describe MSNBC's coverage of the coronavirus outbreak and the racial unrest in recent months, writing: "The model blocks diversity of

thought and content because the networks have incentive to amplify fringe voices and events, at the expense of others... all because it pumps up the ratings."

"This cancer risks human lives, even in the middle of a pandemic.

Bari Weiss, the former New York Times op-ed staff editor who recently resigned from the newspaper with her own letter, praised Pekary's "integrity" on social media.

From: [Michael Boyd](#)
To: pkadushin@atlanta.gov; mismith@atlanta.gov; norman@atlantaga.gov; tmsabilius@atlantaga.gov; samcafeb@atlantaga.gov; keisha@keishalancebottom.com; mayor@cityoftulsa.org; public@publicmediatulsa.org; matt-trotter@publicmediatulsa.org; acluok@acluok.org; ajiita.pai@fcc.gov; [Mike O'Rielly](mailto:Mike_O'Rielly); brendan.carr@fcc.org; jessica.rosenworce1@fcc.gov; Geoffrey Starks; campaignlaow@fcc.gov; tips@rollcall.com; pepole@cgrollcall.com; opinion@cgrollcall.com; books@cgrollcall.com; kevinrogers@cgrollcall.com; chhayrithychhuan@cgrollcall.com; lauraustin@cgrollcall.com; dakotabraun@cgrollcall.com; tomtempe@cgrollcall.com
Subject: Music from Mike Majik Boyd - "Donald Trump Has Got to Go (Vote him out)" and "Never Should Have Been There in the First Place"
Date: Tuesday, June 16, 2020 10:28:25 PM
Attachments: [Donald Trump Has Got to Go \(Vote him Out\) -final.mp3](#)
[Never Should Have Been There in the First Place.mp3](#)

i,

I wrote "Donald Trump Has Got to Go (Vote Him Out)" to help rally together all Democrats and like-minded Americans who want to make sure that Donald Trump is not re-elected, and that all the elections between now and November 2020, reflect that "Donald Trump Has Got to Go"

"Donald Trump Has Got to Go (Vote Him Out)" should be played at all your rallies to unite voters and to help persuade people to vote Democrat and make sure Donald Trump and the Republicans are voted out. This message should start now and be continued throughout 2020.

Please feel free to share this song with any and all like-minded groups and organizations so we can do all we can to get the word out.

You can also play the song on YouTube: <https://youtu.be/8R0Ad-zGA>

As you know, our country has a tremendous problem with racism, especially in the South. One of the biggest racial problems in the South is the flying of the Confederate flag and the statues of Confederate war "heroes". It is a constant reminder of the pain, degradation, humiliation and ruination of Black lives since the beginning of slavery. This song was written to bring attention to, and protest that, the flag should never have been there in the first place.

We really hope that you like and support this message representing the Black race and other supporters cry, "take it down". Feel free to share the song with any other people/groups who feel the same about this effort.

Please contact me for any speaking engagements or to perform the songs.

Thank you.

Sincerely,

Mike Boyd

Singboy

(818-512-2910

Follow me @Mike Majik Boyd

Mike Boyd is a renowned singer and songwriter who writes numerous styles of music. His newest Christmas song takes us back to the days when Christmas music had the spirit of the holidays. This feel-good, family-friendly song sparks memories of the thrill and anticipation of the magic of Christmas.

Mike Boyd's "message music" has been changing the lives of adults and children that it reaches with its positive uplifting messages. Mike Boyd is a motivating, inspirational teacher who wrote his signature song "I Stand For You" to bring his message of universal humanity to everyone. People call it the universal anthem. His #1 hit single, "American Soldier Thank You (for all the things you do)" is playing on several hundred radio stations across the country and numerous internet stations worldwide. He followed that with "We Love Our Soldiers" "Red, White and Blue" to honor our servicemen and women and Veterans.

Mike has also toured the country with his show "Trip Down Memory Lane, A Tribute to Sam Cooke" He has performed in "Legends in Concert" at the Imperial Palace Hotel in Las Vegas and in "Country, Soul and Rock n Roll" at the Riverside Casino and Hotel in Laughlin. The show also had a long run at the Hollywood Park Casino in Los Angeles.

Please visit our website at www.singboy.com or iTunes, Spotify, etc. to purchase a copy.

Please contact Singboy Records at (818-512-2910 or singboy@earthlink.net, for additional information or to schedule an interview.

From: [FCC Office of Media Relations](#)
Subject: NEWS: Statement of FCC Chairman Ajit Pai on the Department of Commerce's Section 230 Petition for Rulemaking
Date: Monday, August 3, 2020 10:45:10 AM
Attachments: [image002.jpg](#)

FCC - News from the Federal Communications Commission



Media Contact:

Will Wiquist, (202) 418-0509
will.wiquist@fcc.gov

For Immediate Release

STATEMENT OF FCC CHAIRMAN AJIT PAI ON THE DEPARTMENT OF COMMERCE'S SECTION 230 PETITION FOR RULEMAKING

WASHINGTON, August 3, 2020—This morning, Federal Communications Chairman Ajit Pai issued the following statement regarding the Petition for Rulemaking filed last week by the Department of Commerce regarding Section 230 of the Communications Decency Act of 1996:

“Today, the FCC's Consumer and Governmental Affairs Bureau will invite public input on the Petition for Rulemaking recently filed by the Department of Commerce regarding Section 230 of the Communications Decency Act of 1996. Longstanding rules require the agency to put such petitions out for public comment ‘promptly,’ and we will follow that requirement here. I strongly disagree with those who demand that we ignore the law and deny the public and all stakeholders the opportunity to weigh in on this important issue. We should welcome vigorous debate—not foreclose it. The American people deserve to have a say, and we will give them that chance. Their feedback over the next 45 days will help us as we carefully review this petition.”

###

Media Relations: (202) 418-0500 / ASL: (844) 432-2275 / Twitter: @FCC / www.fcc.gov

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).

From: [Rocky Stone](#)
To: [Ajit Pai](#); [Mike Orielly](#); [Brendan Carr](#); [Jessica Rosenworcel](#); [Geoffrey Starks](#)
Subject: Our First Amendment freedom of speech must be protected!
Date: Tuesday, August 11, 2020 3:18:22 PM

To: Federal Communications Commission

I urge you to hold Google, Facebook, Twitter, Squarespace and other tech companies accountable. Google's CEO, Sundar Pichai, lied to Congress when he stated his company did not "manually intervene" on search results. Evidence now shows this to be false. These companies are only allowing their personal viewpoints to be expressed and censoring and silencing the free speech of Americans all across our nation.

These Big Tech companies are claiming they are "private companies" and can censor the viewpoints of other citizens, while they also claim to be a "public utility" and immune to lawsuits for the messages they do distribute. They cannot be both if our First Amendment freedoms are to be protected.

Our First Amendment freedom of speech must be protected in the 21st century. We ask Congress to repeal Section 230, which gives legal immunity to private Internet corporations, which should be reserved only for public utility companies like phone providers. In addition, we ask the FCC to regulate and protect First Amendment freedoms.

My First Amendment freedom cannot be dependent on the whims and wishes of a tech geek and whether he/she agrees with me. We respectfully urge you to act now to secure our constitutional freedoms in the face of unrestrained bias in tech corporations.

Sincerely,

Rocky Stone

In God We Trust - Don't Tread on Me - God Bless the USA!

"freedom is never more than a generation away from extinction," Ronald Reagan

I hope my ship comes in before my dock rots!

From: [Alethea Lewis](#)
To: [Alisa Valentin](#); [Arielle Roth](#); [Aurelle Porter](#); [Austin Bonner](#); [Benjamin Arden](#); [Blaise Scinto](#); [Brendan Carr](#); [Catherine Schroeder](#); [Cecilia Sulhoff](#); [Charles Mathias](#); [Christopher Santini](#); [Dana Shaffer](#); [Diane G. Holland](#); [Donald Stockdale](#); [Erika Olsen](#); [Erin Fitzgerald](#); [Erin McGrath](#); [Evan Swarztrauber](#); [Geoffrey Starks](#); [Giulia McHenry](#); [Holly Saurer](#); [Jamison Prime](#); [Jesse Jachman](#); [Jessica Martinez](#); [Jessica Rosenworcel](#); [Joel G. Miller](#); [John Schauble](#); [Joseph Calascione](#); [Justin Faulb](#); [Kate Black](#); [Kathryn OBrien](#); [Kris Monteith](#); [Lauren Kravetz](#); [Lisa Fowlkes](#); [Lisa Gelb](#); [Mark Stephens](#); [Matthew Pearl](#); [Michelle Carey](#); [Mike ORielly](#); [Nadja SodosWallace](#); [Nancy Zaczek](#); [Patrick Webre](#); [Rachel Kazan](#); [Rosemary Harold](#); [Sean Spivey](#); [Susan Mort](#); [Thomas Johnson](#); [Thomas Sullivan](#); [Travis Litman](#); [Umair Javed](#); [Will Adams](#); [William Davenport](#); [Zac Champ](#)
Cc: [Paul Jackson](#)
Subject: Outgoing Congressional Correspondence from Last Week
Date: Friday, July 24, 2020 9:29:41 AM
Attachments: [Rubio et al Section 230 Response 20-492MR.pdf](#)

Alethea Lewis
Senior Congressional Liaison Specialist
Federal Communications Commission
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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

July 16, 2020

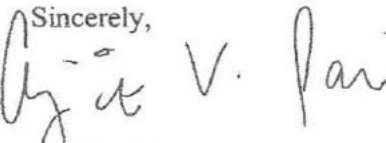
The Honorable Kevin Cramer
United States Senate
400 Russell Senate Office Building
Washington, DC 20510

Dear Senator Cramer:

Thank you for your letter regarding the recent *Executive Order on Preventing Online Censorship*. As I said when the Executive Order was released, this is an important debate, and the Federal Communications Commission will carefully review any request for rulemaking filed pursuant to the Order.

As you know, section 2 of the Executive Order directs the Department of Commerce, in consultation with the Department of Justice, to file a petition with the FCC within 60 days of the Order's issuance requesting that the Commission make certain clarifications concerning the scope of section 230 of the Communications Decency Act of 1996. As with any potential Commission action, it would not be appropriate for me to weigh in on the merits of the petition before it is filed, but I can assure you that we will carefully review it.

I appreciate your interest in this matter. As always, please let me know if I can be of any further assistance.

Sincerely,

Ajit V. Pai



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

July 16, 2020

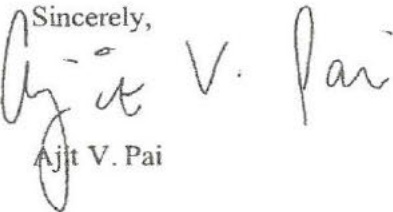
The Honorable Kelly Loeffler
United States Senate
B85 Russell Senate Office Building
Washington, DC 20510

Dear Senator Loeffler:

Thank you for your letter regarding the recent *Executive Order on Preventing Online Censorship*. As I said when the Executive Order was released, this is an important debate, and the Federal Communications Commission will carefully review any request for rulemaking filed pursuant to the Order.

As you know, section 2 of the Executive Order directs the Department of Commerce, in consultation with the Department of Justice, to file a petition with the FCC within 60 days of the Order's issuance requesting that the Commission make certain clarifications concerning the scope of section 230 of the Communications Decency Act of 1996. As with any potential Commission action, it would not be appropriate for me to weigh in on the merits of the petition before it is filed, but I can assure you that we will carefully review it.

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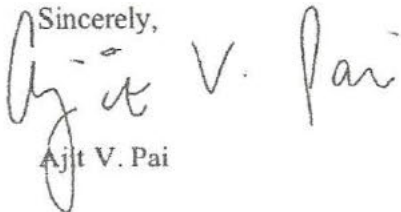
The Honorable Josh Hawley
United States Senate
212 Russell Senate Office Building
Washington, DC 20510

Dear Senator Hawley:

Thank you for your letter regarding the recent *Executive Order on Preventing Online Censorship*. As I said when the Executive Order was released, this is an important debate, and the Federal Communications Commission will carefully review any request for rulemaking filed pursuant to the Order.

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I appreciate your interest in this matter. As always, please let me know if I can be of any further assistance.

Sincerely,

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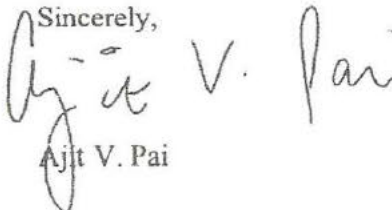
The Honorable Marco Rubio
United States Senate
284 Russell Senate Office Building
Washington, DC 20510

Dear Senator Rubio:

Thank you for your letter regarding the recent *Executive Order on Preventing Online Censorship*. As I said when the Executive Order was released, this is an important debate, and the Federal Communications Commission will carefully review any request for rulemaking filed pursuant to the Order.

As you know, section 2 of the Executive Order directs the Department of Commerce, in consultation with the Department of Justice, to file a petition with the FCC within 60 days of the Order's issuance requesting that the Commission make certain clarifications concerning the scope of section 230 of the Communications Decency Act of 1996. As with any potential Commission action, it would not be appropriate for me to weigh in on the merits of the petition before it is filed, but I can assure you that we will carefully review it.

I appreciate your interest in this matter. As always, please let me know if I can be of any further assistance.

Sincerely,

Ajit V. Pai

From: [Joel G. Miller](#)
To: [Mike O'Reilly](#); (b) (6)
Subject: pirates draft
Date: Monday, June 29, 2020 10:08:43 PM
Attachments: [Pirate Radio v1.docx](#)

From: [Erin McGrath](#)
To: [Mike O'Rielly](#); [Arielle Roth](#)
Subject: QFRs
Date: Thursday, July 9, 2020 1:57:20 PM
Attachments: [AR_Minority_QFRs_v2_em.docx](#)

Just a few. I highlighted the only substantive edit/question.

Sent from my iPad

**Questions Submitted by the Hon. Richard Blumenthal to the Hon. Michael O’Rielly,
Nominated to be a Commissioner of the Federal Communications Commission.**

Blumenthal: On May 28, after being fact-checked for false tweets about mail-in voting, President Trump issued an executive order that directs Federal agencies to investigate and retaliate against online platforms over imagined political bias. The FCC is not an arm of the Presidency – it is an independent agency – it cannot be pressed into service to retaliate against Donald Trump's political rivals or to stifle critical speech.

Question 1. Will you commit to stand up to unconstitutional and bullying use of power by this President?

Answer. (b) (5) [Redacted]

Question 2. Do you believe that the FCC has the currently authority to write rules for tech platforms and to revise CDA 230 as the President has insisted?

Answer. (b) (5) [Redacted]

Question 3. What do you believe the FCC should do with the President’s E.O. and an anticipated NTIA petition to rewrite CDA 230?

Answer. (b) (5) [Redacted]

(b) (5) [Redacted]

Blumenthal: The Coronavirus pandemic and social distancing are a resounding demonstration of the importance of Lifeline. In normal times, Lifeline is underfunded. During a pandemic – when schools are shut down and businesses are shuttered – it is more essential than ever. There are now tens of millions of people that are newly unemployed as a result of the Coronavirus. They need the internet to get back to normal, to find new employment, and to find help.


Question 1. Do you agree Lifeline needs more funding during this crisis?

Answer. (b) (5)



Question 2. Do you have an estimate about how much money it will take to support Lifeline? What considerations do we need to take into account in determining the amount of funds required?

Answer. (b) (5)



Question 3. What changes would you recommend to improve the services offered under Lifeline to meet the public's needs?

Answer. (b) (5)



Questions Submitted by the Hon. Brian Schatz to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Question 1. The COVID-19 pandemic has demonstrated important role broadband plays in our lives today. Whether it is used to engage in distance learning or consult with a doctor via telehealth, this pandemic has shown that broadband has become essential to participate in today’s society. Unfortunately, the pandemic has shown that previous efforts to deploy universal broadband have not worked, as the digital divide continues to exist. As an FCC Commissioner, what will you do differently over the next five years to ensure that all Americans have access to high capacity broadband?

Answer. (b) (5)

[Redacted answer text]

Commented [2]: Or “, during this administration and the last,”

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Question 2. The COVID-19 pandemic has shown that we, as a nation, have much work to do close the digital divide in our country. The universal service fund is a critical tool to support this work. However, for years the FCC has neglected to fix the current contribution methodology so that there are more funding sources available for broadband buildout in unserved areas. Instead, the Commission has proposed capping programs to depress demand and lower the contribution factor. You have been the Chair of the Federal State Joint Board on Contributions for the last three years. Do you have any updates on the status of contribution reform? Do you support any proposals to update the current contribution methodology? If not, why not? Outside of capping the universal service programs, how can the Commission ensure that the funding needs of all of our universal service programs are met?

Answer. (b) (5)

[Redacted answer text]

Question 3. Last year the FCC sought comment on a proposal to combine the Rural Health Care and E-Rate programs into a single program with a unified spending cap. If the Commission goes forward with this plan to combine the caps of these programs, increased demand in one program could lead to both programs becoming underfunded, which would pit schools and libraries and healthcare providers against each other in an unnecessary competition for funding. How would having programs compete against each other for funding ensure that our health care providers and schools have the connectivity they need to provide telehealth and distance learning? Wouldn't the uncertainty caused by these programs competing for funding conflict with the Commission's duty under the law to provide "specific, predictable, and sufficient" support for universal service participants?

Answer. (b) (5)



Question 4. During a FCC press conference in March 2016, when discussing the outcome of an FCC decision on Lifeline, you stated "Never trust a democrat." In 2018, the Office of Special Counsel concluded that you violated the Hatch Act when you urged the election of conservatives at the Conservative Political Action Conference that year. Two months ago you sent a letter to President Trump praising his "extraordinary leadership ... on all communications policy matters, especially regarding 5G advanced wireless services..." This record of partisanship is disconcerting, particularly since your job is to work on important telecom issues that impact our country in a bi-partisan way. How can we ensure that you will be able to work with your fellow Commissioners on telecom policy who may have different political viewpoints than you?

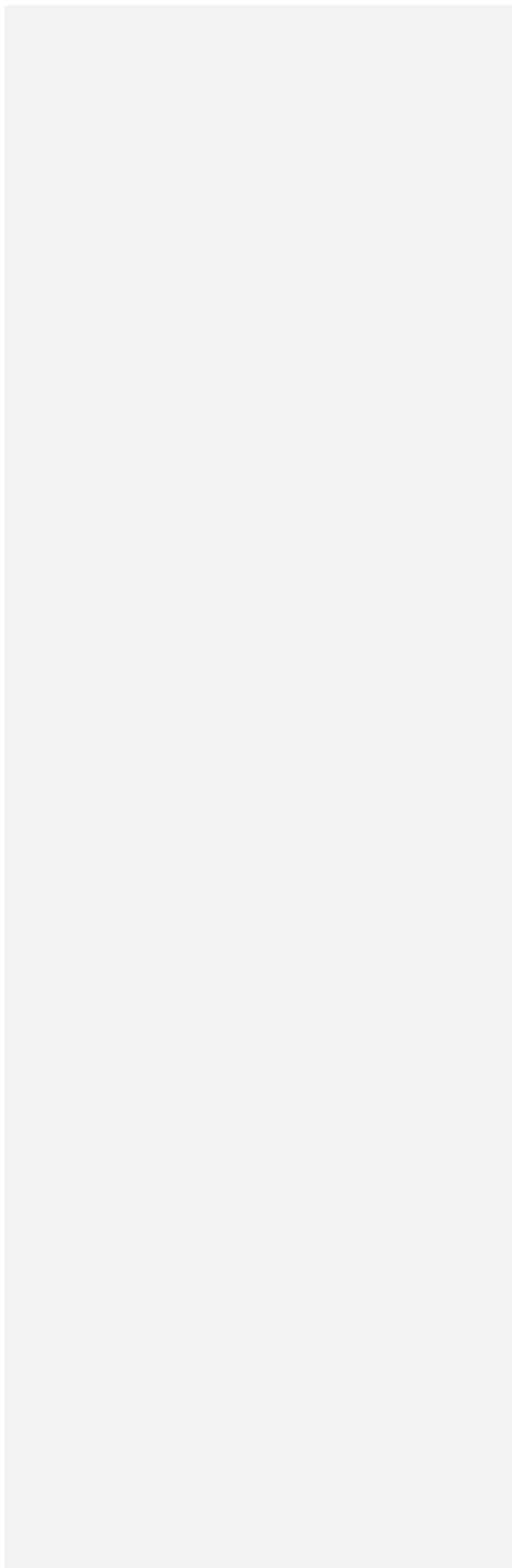
Answer. (b) (5)



(b) (5)

[Redacted text]

[Redacted text]



Questions Submitted by the Hon. Jon Tester to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Question 1. The 5G Fund proposal, which you supported, lays out a false choice between speed and accuracy, and suggests waiting for new maps would delay awards until at least 2023. How would “Option A” in the 5G Fund proposal, which moves ahead with awards based on inaccurate maps, avoid the pitfalls that doomed the Mobility Fund?

Answer. (b) (5)

Question 2. Even if accurate maps are not available in 2021, why should we consider spending the entire 10-year Fund based on maps that we know to be inaccurate, and which will soon be replaced?

Answer. (b) (5)

Question 3. I understand the FCC is considering a proposal that would establish a cap on the overall USF budget and combine the E-rate and Rural Health Care programs under a single sub-cap. I hear from educators and health care providers in my state that worry this proposal will force them to compete against each other for funding. What is the status of this proposal?

Answer. (b) (5)

Brendan McTaggart

From: Mike.O'rielly@fcc.gov
Sent: Tuesday, July 14, 2020 12:40 PM
To: Wall, Steven (Commerce); O'Connor, James (Commerce)
Cc: Trusty, Olivia (Commerce)
Subject: Re: Majority QFRs - Nominations Hearing - 6.16.2020
Attachments: Minority QFRs for Mr. Michael O'Rielly v1.docx; Minority QFRs for Mr. Michael O'Rielly v1.pdf

Here you go! If you see something amiss, let me know.

From: "Wall, Steven (Commerce)" <Steven.Wall@commerce.senate.gov>
Date: Tuesday, July 14, 2020 at 12:06:30 PM
To: "Mike O'rielly" <Mike.O'rielly@fcc.gov>, "O'Connor, James (Commerce)" <James.O'Connor@commerce.senate.gov>
Cc: "Trusty, Olivia (Commerce)" <Olivia.Trusty@commerce.senate.gov>
Subject: RE: Majority QFRs - Nominations Hearing - 6.16.2020

Questions for the Record for the Honorable Michael O’Rielly
U.S. Senate Committee on Commerce, Science, and Transportation
“Nominations Hearing”
June 16, 2020

Questions Submitted by the Hon. Maria Cantwell to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Executive Branch Concerns with FCC’s Ligado Decision. The Departments of Commerce and Transportation (along with the entirety of the executive branch) believe that the Federal Communications Commission’s (“FCC’s”) recent approval of Ligado’s terrestrial wireless plans threatens the nation’s global positioning system (“GPS”) on which the safety and security of everything from civil aviation to military operations to weather forecasting rely. The FCC rejected the executive branch’s concerns and related technical studies both from the government and the private sector showing that the precision and effectiveness of GPS could be impaired. Instead, the FCC relied on competing technical studies (some of which were funded by Ligado), and its own conclusion that the government studies measured the wrong things, to allow Ligado to move forward with its plans. Yet in its decision to allow Ligado to move forward, the FCC acknowledged that its “analysis [in the order] should not be construed to say there is no potential for harmful interference to any GPS device currently in operation in the marketplace.”

Question 1. Did the FCC quantify the number of receivers that would be negatively impacted by its decision, or analyze the impact of its decision on the risk this interference could cause to safety of life or property?

Answer. The Commission based its decision on the information submitted into the record, as required by the Administrative Procedures Act. The Federal agencies, which relied on testing and analysis that the Commission concluded was not directly correlated to measuring harmful interference and was technically flawed, did not submit information that would permit a receiver-by-receiver analysis. Based on the information and technical analysis supplied, FCC staff concluded that the risk of potential harmful interference to GPS operations was low. To further ensure that GPS operations would not be harmed, however, the Commission also placed extraordinary conditions on the approval, including imposing power limits on Ligado’s operations, prohibiting the use of the 23 megahertz of spectrum closest to the GPS frequencies, ordering that Ligado replace affected Federal receivers, mandating drive testing to ensure compliance with the technical rules, requiring Ligado to adhere to reporting requirements, including disclosing the location of its facilities to the Federal agencies, and ensuring that Ligado deploy a “stop buzzer” to shut down its system if there is harmful interference to GPS, among others. While there is always a risk that a new service can unexpectedly cause harmful interference, the Commission believes these mitigation conditions will sufficiently protect safety of life and property.

Question 2. Did the Department of Transportation or Commerce provide data in its study on the percentage of GPS receivers that would suffer interference from Ligado's terrestrial operations at the power levels recently authorized by the FCC? Did the FCC ask for such information?

Answer. To the best of my knowledge, neither the Department of Transportation nor the Department of Commerce provided specific data on the percentage of deployed and operational GPS receivers that could allegedly be subject to harmful interference from Ligado's future terrestrial operations at the power levels authorized. Commission staff generally rely on the information submitted in the record by interested parties. I do not have insight into all of the conversations between staff and the Federal agencies, so I am unaware as to whether staff asked for additional information on this question.

Question 3. Do you agree that in high-profile spectrum decisions, particularly ones which create potential risk to safety of life, that it is in the greater public interest to reach consensus among and between the FCC and the expert federal agencies on aviation, transportation safety, and national defense?

Answer. Generally, yes. It is always advisable to gain consensus with all affected parties, especially Federal agencies, whenever possible. In certain circumstances, however, the Commission has to consider all the relevant facts and decide issues regarding spectrum bands allocated for commercial use notwithstanding the objections of any particular Executive Branch Department or agency.

Question 4. Given the potential risks to safety; the unprecedented and unified opposition of executive branch agencies to the FCC's decision; and the fact that a third of the U.S Senate, on a bipartisan basis, has asked you and your colleagues to take a step back and reexamine the decision, would you be willing to support a stay of the Ligado decision until the FCC can work with the federal expert agencies to reach a sustainable consensus that serves the greater public interest in terms of protecting aviation and transportation safety, national security and our 5G future?

Answer. My understanding is that FCC engineers are engaging with the engineering staff of affected Federal agencies on data points not previously disclosed to the Commission regarding the Ligado license modification item. As I have previously committed, I am willing to give due consideration to a stay, based on new data or evidence, if such an item is circulated by the Chairman. Under our current procedures, only the Chair can initiate a reconsideration order, and I do not get the impression that such an item is being drafted at the moment. Notably, I have made numerous recommendations and provided proposals to modify the Commission's procedures to increase efficiency and transparency, including a greater role for Commissioners to initiate, amend, or vote on items.

Sustaining Local Media Outlets. Local newspapers, radio, and television stations provide important local content that keeps their communities informed. People rely on local newspapers

and broadcasters to cover school and business closures, communicate public health guidance, and to combat life-threatening misinformation. It is for these reasons that journalism, as an industry, is considered critical infrastructure. The Department of Homeland Security and state governors have deemed journalists essential workers. The current COVID-19 related economic crisis has exacerbated and accelerated the decline in local news advertising while at the same time underscoring the unprecedented need for local news outlets to give consumers access to accurate and timely information about local community business and government operation and information to promote public health, safety and protect consumers from fraud and abuse. Some local broadcasters have reported as much as a 90 percent loss in advertising revenues due to the effects of the coronavirus. Nationwide, advertising losses for local TV and radio broadcasters are estimated to reach at least \$3 billion as a result of the current health crisis. From 2000-2018, local TV stations' advertising revenue fell by 40 percent. From 2003-2018, the ad revenues of FM stations dropped by 43.8 percent. In contrast, large online platforms have used their dominant market power to take a massive share of digital advertising revenue. Facebook and Google currently account for 58 percent of national digital advertising revenue, and 77 percent of local digital advertising revenue respectively. In the last several months, almost half of newspapers have had to lay-off or furlough employees according to the News Media Alliance. Industry analysts predict these trends to continue, with digital capturing 59.5 percent of overall U.S. advertising revenue by 2029. The total estimated local ad revenues for a single digital advertising competitor—Google—will roughly equal the total over-the-air ad revenues for all TV stations in the U.S. and will soon exceed total TV station ad revenues.

Question 1. Given the revenue trends for local news organizations, it is likely that when we emerge from this crisis we will have many fewer local news organizations. In this context, what is your view of the FCC's statutory obligations to promote localism? What regulatory levers can the FCC now use to address the current precipitous decline in localism that I have just outlined?

Answer. One of the most important things the FCC can do for local journalism is to formally acknowledge the very marketplace changes that you properly highlight and update our definition of what constitutes the relevant advertising market for purposes of Commission rules and policies. I completely agree that online advertisers are seizing a sizable chunk of ad dollars that would otherwise, and in past eras did, go to local print and broadcast organizations. However, the failure of the FCC and DOJ to properly account for these changes in the market has played a significant role in undermining and preventing beneficial investments, partnerships, and in some cases, common ownership of local papers and television stations, which may help secure greater financial stability.

In fact, we have evidence that allowing certain transactions, subject to the Commission's thoughtful consideration and approval process, have beneficial effects for both the respective local news organizations, and more importantly, local communities. Specifically, in the Sioux Falls television market, the FCC last year allowed the combination of two television stations, of which one was clearly struggling, with a commitment that the owner would actually increase the amount of local news within the market. The two stations continue to operate under their respective banners, but combined have increased the amount of unique, local news being provided to the community by 35 percent. This is an exemplary case of how the FCC can facilitate an increase in localism and should serve as a model in other contexts as well.

**Questions Submitted by the Hon. Amy Klobuchar to the Hon. Michael O’Rielly,
Nominated to be a Commissioner of the Federal Communications Commission.**

Question 1. Last year, you voted to approve the proposed merger of T-Mobile and Sprint. As Ranking Member of the Antitrust Subcommittee, I repeatedly raised concerns about the harmful effects of eliminating one of the four largest wireless carriers, and I remain skeptical of the argument that the merger is necessary to maintain America’s leadership in deploying 5G.

Do you believe that it was in the public interest to approve a transaction that risks significant consumer harm for the promise of speculative benefits on 5G and rural wireless deployment that may not materialize?

Answer. Following a careful consideration of the record, extensive conversations with interested parties, and a review of the current marketplace, I decided to vote to approve the transaction. In weighing the various considerations, I was especially mindful of Sprint’s financial situation and diminished ability to be an effective competitor. I have never been one to artificially declare that having four providers is necessarily better than three, and I found merit in the argument that three strong wireless providers fighting for consumers is better than a market consisting of two strong competitors and two much smaller players. In terms of commitments made, I expect the Commission to fully enforce the obligations agreed to by representatives of T-Mobile and Dish.

In the end, only time will tell whether approving the transaction will ultimately prove the right decision, but I believe the Commission made the best judgment possible at that moment in time. Early indications suggest that the merger has been beneficial as new T-Mobile begins the integration of Sprint spectrum assets, enhancing its network and aiding the deployment of advanced wireless services for American consumers.

**Questions Submitted by the Hon. Richard Blumenthal to the Hon. Michael O’Rielly,
Nominated to be a Commissioner of the Federal Communications Commission.**

Blumenthal: On May 28, after being fact-checked for false tweets about mail-in voting, President Trump issued an executive order that directs Federal agencies to investigate and retaliate against online platforms over imagined political bias. The FCC is not an arm of the Presidency – it is an independent agency – it cannot be pressed into service to retaliate against Donald Trump's political rivals or to stifle critical speech.

Question 1. Will you commit to stand up to unconstitutional and bullying use of power by this President?

Answer. I have enormous respect for the FCC as an institution and the great people who work there. I will stand up against anyone seeking that the agency impose unconstitutional measures or abuse applicable statutes as enacted by Congress. In this case, the President is fully within his rights to seek an examination of this statute and any other he deems appropriate for purposes of carrying out his responsibilities. Clearly, certain high-technology companies apply content moderation in a way that is unfairly discriminatory to many groups, especially conservative Americans. While I have doubts as to the FCC’s statutory authority to issue rules in this area, I commit to carefully considering the record and all relevant issues should NTIA submit a petition for rulemaking.

Question 2. Do you believe that the FCC has the currently authority to write rules for tech platforms and to revise CDA 230 as the President has insisted?

Answer. As I have previously stated publicly, while I have deep reservations regarding whether the FCC has rulemaking authority in this area, I am open to considering whether Congress intentionally or unintentionally gave the FCC jurisdiction to issue regulations pursuant to Section 230. Specifically, I am carefully examining the substantive arguments already presented by individuals on both sides of the debate over Commission authority, including arguments involving agency consistency.

Question 3. What do you believe the FCC should do with the President’s E.O. and an anticipated NTIA petition to rewrite CDA 230?

Answer. As I stated in my testimony, I believe the Commission should seek public comment on any petition filed by the NTIA on this matter and develop a fulsome record from a wide range of experts, on issues such as the FCC’s jurisdiction and the First Amendment implications of any actions under consideration, prior to considering any specific rulemaking action. I commit to reviewing the record in any future proceeding and fully examining all the relevant issues prior to voting to adopt any new rules under the section.

Blumenthal: The Coronavirus pandemic and social distancing are a resounding demonstration of the importance of Lifeline. In normal times, Lifeline is underfunded. During a pandemic – when schools are shut down and businesses are shuttered – it is more essential than ever. There are now tens of millions of people that are newly unemployed as a result of the Coronavirus. They need the internet to get back to normal, to find new employment, and to find help.

Question 1. Do you agree Lifeline needs more funding during this crisis?

Answer. Unlike some conservatives, I believe that Lifeline can be an important part of meeting the Commission’s Universal Service obligations, and it is critical that the program be sufficiently funded, especially during the current COVID-19 crisis. The Lifeline program has been operating significantly under its budgetary target in recent years; as such, in the absence of data quantifying whether, or by how much, current program funding is insufficient, I cannot definitively state whether more funding is needed. That being said, I am certainly open to providing more funding to the program should there be a need to do so.

Question 2. Do you have an estimate about how much money it will take to support Lifeline? What considerations do we need to take into account in determining the amount of funds required?

Answer. I cannot currently provide such an estimate without consultations with experts within the agency and USAC to ascertain the existence and extent of recent increases in take rates and projected program needs. Without intending to avoid the question in any way, the fact of the matter is that the Chair is in a better position to provide a more comprehensive estimation. To the extent that the Lifeline program needs additional funding to meet the economic circumstances facing our nation, I would be supportive of steps to address such requirements.

Question 3. What changes would you recommend to improve the services offered under Lifeline to meet the public’s needs?

Answer. To ensure that the program meets the needs of low-income Americans and that participation remains affordable for both providers and subscribers, two changes come to mind: 1) halt the scheduled increase to the minimum scheduled standards for December 2020; and 2) stop the phase-down of support for voice service, also scheduled for December 2020. These two changes would help provide more certainty to subscribers, as well as ensure that the Lifeline program’s benefits remain accessible.

Questions Submitted by the Hon. Brian Schatz to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Question 1. The COVID-19 pandemic has demonstrated important role broadband plays in our lives today. Whether it is used to engage in distance learning or consult with a doctor via telehealth, this pandemic has shown that broadband has become essential to participate in today’s society. Unfortunately, the pandemic has shown that previous efforts to deploy universal broadband have not worked, as the digital divide continues to exist. As an FCC Commissioner, what will you do differently over the next five years to ensure that all Americans have access to high capacity broadband?

Answer. I have worked hard, during this Commission and the last, to modernize our subsidy programs, and I firmly believe progress has been made in reducing the number of unserved Americans. However, despite our best efforts and the ratepayer dollars spent to provide universal broadband access, significant gaps in coverage remain. During my tenure, I have focused primarily on bringing service to the unserved, rather than duplicating service where it already exists, and using technology neutral market mechanisms to stretch funding as far as possible. While I plan to continue abiding by these principles should I be confirmed for an additional term, I believe more can be done to eliminate inefficiencies and waste in the USF, and in turn ensure scarce funding goes to those who need it most. For example, I plan to focus on eliminating wasteful overbuilding within the USF and promoting better coordination among the USF and other programs. From a broader perspective, I also believe we need to re-examine and reform the USF collection mechanisms and consider whether a large injection of Federal funds could be effective and properly managed to address the unserved population.

Question 2. The COVID-19 pandemic has shown that we, as a nation, have much work to do close the digital divide in our country. The universal service fund is a critical tool to support this work. However, for years the FCC has neglected to fix the current contribution methodology so that there are more funding sources available for broadband buildout in unserved areas. Instead, the Commission has proposed capping programs to depress demand and lower the contribution factor. You have been the Chair of the Federal State Joint Board on Contributions for the last three years. Do you have any updates on the status of contribution reform? Do you support any proposals to update the current contribution methodology? If not, why not? Outside of capping the universal service programs, how can the Commission ensure that the funding needs of all of our universal service programs are met?

Answer. I fully agree that the current trajectory of USF spending is unsustainable. At the same time, the Federal-State Joint Board on Universal Service has been at a standstill due to internal disagreement over how to reform USF contributions. Certain state members have been adamant that the only path forward is to assess a tax on broadband service, a position with which I fundamentally disagree. I am open to any and all other ideas to keep the USF sustainable, but I believe that imposing taxes on broadband would be harmful, regressive, and unequivocally the wrong answer.

Question 3. Last year the FCC sought comment on a proposal to combine the Rural Health Care and E-Rate programs into a single program with a unified spending cap. If the Commission goes forward with this plan to combine the caps of these programs, increased demand in one program could lead to both programs becoming underfunded, which would pit schools and libraries and healthcare providers against each other in an unnecessary competition for funding. How would having programs compete against each other for funding ensure that our health care providers and schools have the connectivity they need to provide telehealth and distance learning? Wouldn't the uncertainty caused by these programs competing for funding conflict with the Commission's duty under the law to provide "specific, predictable, and sufficient" support for universal service participants?

Answer. While I strongly supported the broader item and have long-advocated for the adoption of an overall USF budgetary cap, I would have preferred if the proposal to combine the budgets of the Rural Health Care and E-Rate programs was not included in the larger budgetary USF cap item. However, one of my colleagues required its inclusion and I thought it sufficiently mature to receive public comments and criticism. In addition to other concerns raised, I worry that combining the Rural Health Care and E-Rate budgets would be used to indirectly overrun the individual program caps and bypass a direct vote by the Commission to increase spending. That is not fiscally responsible.

Question 4. During a FCC press conference in March 2016, when discussing the outcome of an FCC decision on Lifeline, you stated "Never trust a democrat." In 2018, the Office of Special Counsel concluded that you violated the Hatch Act when you urged the election of conservatives at the Conservative Political Action Conference that year. Two months ago you sent a letter to President Trump praising his "extraordinary leadership ... on all communications policy matters, especially regarding 5G advanced wireless services..." This record of partisanship is disconcerting, particularly since your job is to work on important telecom issues that impact our country in a bi-partisan way. How can we ensure that you will be able to work with your fellow Commissioners on telecom policy who may have different political viewpoints than you?

Answer. In all fairness, these three incidents come with extenuating circumstances and require further explanation, which I am more than happy to provide to you or your staff. More importantly, however, my extensive record during my entire time at the Commission should distinguish me as perhaps one of the more bipartisan Commissioners among recent members. I have worked extensively with Commissioner Rosenworcel on a number of initiatives, including to free up additional spectrum bands for unlicensed services, culminating most recently with the 6 GHz order, and we have worked together on 5.9 GHz and other bands. Further, Chairman Wheeler and I worked together on multiple projects, including modernizing our High Cost program, and in fact, he and I participated in joint briefings on Capitol Hill, where together we discussed and briefed proposed changes with Members of Congress. Moreover, I previously worked extensively with Commissioner Clyburn on several projects, including means testing the USF High Cost program. While most observers would describe all of my colleagues as passionately committed to our respective approaches, we have been able to find ways to keep the lines of communication open, work through the issues, and, if we disagree, move on to the next

project. This is the approach I have maintained with everyone I've worked with on both sides of the aisle.

In sum, I came to the Commission to get policies enacted that would improve the lives of Americans, and if I am privileged to continue to serve, I intend to work with all my colleagues on this effort, regardless of their party affiliation.

Questions Submitted by the Hon. Jon Tester to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Question 1. The 5G Fund proposal, which you supported, lays out a false choice between speed and accuracy, and suggests waiting for new maps would delay awards until at least 2023. How would “Option A” in the 5G Fund proposal, which moves ahead with awards based on inaccurate maps, avoid the pitfalls that doomed the Mobility Fund?

Answer. I appreciate your view and raised similar concerns when the item was adopted. While I voted for the Chairman’s proposal because I believed it was worthy of debate and public comment, I agree that it is necessary to produce more accurate wireless coverage maps prior to the expenditure of new funding. Accordingly, I made a public commitment in response to Chairman Wicker’s question at the hearing not to support moving forward with “Option A” of the 5G Fund proposal, phase II of RDOF, or any other new USF subsidy mechanism without new, accurate maps based on corresponding reliable and granular data — a position that I believe to be consistent with the recently enacted Broadband DATA Act.

Question 2. Even if accurate maps are not available in 2021, why should we consider spending the entire 10-year Fund based on maps that we know to be inaccurate, and which will soon be replaced?

Answer. As pertaining to the 5G Fund “Option A” proposal, I agree and will not support doing so.

Question 3. I understand the FCC is considering a proposal that would establish a cap on the overall USF budget and combine the E-rate and Rural Health Care programs under a single sub-cap. I hear from educators and health care providers in my state that worry this proposal will force them to compete against each other for funding. What is the status of this proposal?

Answer. As I stated in my answer to Subcommittee Ranking Member Schatz’s question on the same topic, this proposal was not advocated by my office and I would have preferred if it had not have been included in the larger USF cap item. The proposal served as an unnecessary distraction from the valid and broader effort to establish an overall USF budget and was poorly thought out. At this time, the public comment period has expired on the Notice of Proposed Rulemaking, and the Commission is reviewing the record prior to taking any further action.

Question 4. Given the connectivity issues highlighted by COVID-19, do you still support capping these programs?

Answer. Yes, as a matter of fiscal responsibility and offering protection for ratepayers, I believe an overall cap could help to increase the transparency of the Commission. In fact, most of the programs already have individual caps, and an overall cap would not prevent the Commission from voting to increase the topline or individual caps at any point in the future, should the

demand for the funding reach those levels. Currently, spending within the four existing programs combined remains more than a billion dollars below the proposed cap.

From: [Arielle Roth](#)
To: [Mike O'Rielly](#)
Cc: [Joel G. Miller](#)
Subject: Q's for USTA event tomorrow
Date: Wednesday, June 10, 2020 12:29:08 PM

Joel and I spoke to Kristine from USTA this morning and these are roughly the topics they plan to ask about tomorrow:

1. Following up from Silicon Flatirons speech, you had interesting ideas re future technology. Many projections have come to fruition. How do you see virtual meetings happening through pandemic and in long term? Relatedly, changing university learning model: how is tech helping education? Can E-Rate program support this? How can it evolve to support remote education?
2. Digital divide. What are biggest obstacles to overcome for broadband for all? Will require Congressional involvement? What do you want to see from private sector?
3. Follow up on letter to Energy Secretary last week. Importance of agencies working together. Which other agencies should FCC be working with?
4. Blog post from 2018 on reforms for FCC. Team Telecom reforms and impact of April EO.
5. Might ask question about robocalls and USTA ITG. How to strike appropriate balance to ensure legal calls not blocked?
6. Section 230. How to maintain free speech protections while responding to discrimination on online platforms.

Arielle Roth
Wireline Legal Advisor
Office of Commissioner Mike O'Rielly
(202) 418-2859

From: [Linda Hardesty](#)
To: [Mike O'Rielly](#)
Cc: [Susan Fisenne](#)
Subject: Questions for FierceWireless CBRS panel
Date: Friday, May 8, 2020 3:46:41 PM

Hi Commissioner O'Rielly,

We're looking forward to having you participate in our FierceWireless virtual event about CBRS on Monday, May 18.

Below is my list of questions for our interview. Susan, could you please confirm receipt of these questions? Thank you!

Questions for Michael O'Rielly:

Interested parties in the PALs auctions have already been required to send in their Short Form 175, so you know who the bidders likely will be. Who is interested? If you can't say specifically, can you say by category: Tier 1 wireless providers, MSOs, big cloud companies, industries such as utilities, venue owners, spectrum brokers?

How much are you hoping the PALs auction raises? I've heard estimates of between \$3.5 billion to \$4 billion.

Do you think the PALs licenses are more valuable in the hands of service providers as opposed to enterprises?

Given that C-Band will offer much more spectrum than CBRS (280 MHz vs. 70 MHz), do you think carriers will wait for that C-Band auction in December?

How might carriers such as Verizon and T-Mobile use CBRS? Will it just be a bridge on macro towers to C-Band?

There were a lot of moving parts to bring this CBRS spectrum to auction, between working with the DoD, determining the market size of the PAL licenses, making sure the SAS and ESC work and so forth. What was the most challenging part?

Aside from service providers, there's a feeling that a lot of organizations don't have CBRS on their radar. If they don't, how will they be able to benefit from it later after the July PALs auctions? The spectrum sharing capabilities built into the CBRS rules should help. Can you explain?

I think it's assumed a lot of PALs won't be purchased. Is there likely to be a second round of PALs auctions?

You've said the power limit restrictions on PALs and GAA are woefully inadequate. Are you concerned about Tier 1's use of CBRS in macro environments or the use of CBRS for smaller players such as WISPS for fixed wireless access deployments? If power limits were increased wouldn't that cause interference problems?

You recently sent a letter to President Trump imploring him to help with more mid-band spectrum, specifically 3.1-3.55 GHz spectrum that is allocated to the Department of Defense. Have you gotten a response from President Trump? Is this the United States' best shot at allocating more mid-band spectrum for 5G?

What do you think are the unknowns in terms of the auction and how this all unfolds?

Linda Hardesty

Editor-in-Chief | FierceTelecom Group
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From: [Joel G. Miller](#)
To: [James O'Connor@commerce.senate.gov](mailto:James_O'Connor@commerce.senate.gov)
Cc: [Mike ORielly](#)
Subject: RE: 6.16.2020 Hearing Transcript
Date: Tuesday, July 14, 2020 6:57:18 PM
Attachments: [92755 \(O'Rielly Office transcript redline\).doc](#)

Mr. O'Connor – please find a lightly edited transcript attached. Let me know if you have any questions.

Best,

--

Joel Miller
Chief of Staff
Office of Commissioner Michael O'Rielly
(330) 204-9022 mobile

From: "O'Connor, James (Commerce)" <James_O'Connor@commerce.senate.gov>
Date: Wednesday, July 8, 2020 at 9:23:07 AM
To: "Mike ORielly" <Mike.ORielly@fcc.gov>
Subject: 6.16.2020 Hearing Transcript

Commissioner O'Rielly,

Please see attached PDF and Word versions of the transcript for the Committee's 6.16.2020 nominations hearing. You or your team can use track changes to correct any errors in your testimony or responses to member questions. Please let me know if you have any questions.

Thanks,

James O'Connor
Committee on Commerce, Science, and Transportation
512 Dirksen Senate Office Building
Washington, D.C. 20510
(202)-308-5111

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NOMINATIONS HEARING

Tuesday, June 16, 2020

U.S. Senate
Committee on Commerce,
Science, and Transportation
Washington, D.C.

The committee met, pursuant to notice, at 2:30 p.m. in Room SD-G50, Dirksen Senate Office Building, Hon. Roger Wicker, chairman of the committee, presiding.

Present: Senators Wicker [presiding], Thune, Blunt, Cruz, Fischer, Moran, Sullivan, Blackburn, Capito, Lee, Young, Scott, Cantwell, Blumenthal, Udall, Peters, Baldwin, Duckworth, Tester, Sinema, and Rosen.

Index: Senators Wicker, Cantwell, Blunt, Moran, Udall, Blumenthal, Lee, Baldwin, Thune, Tester, Rosen, Capito, and Sullivan.

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OPENING STATEMENT OF HON. ROGER WICKER, U.S. SENATOR
FROM MISSISSIPPI

The Chairman: The hearing will come to order.

Today the committee will consider five nominations to important positions across the jurisdiction of the committee. The nominees before us today are: Joel Szabat, to be Under Secretary of Transportation Policy; Michael O’Rielly, who has been nominated for a new term as Commissioner at the Federal Communications Commission; Nancy Beck, who has been nominated to be a Commissioner and Chairman of the Consumer Product Safety Commission; Michael Walsh, nominated to be General Counsel of the Department of Commerce; and Mary Toman, the nominee to be Under Secretary of Commerce for Economic Affairs.

Mr. Szabat has been known and respected by the members of this committee for many years. He has held key positions in the transportation sector, including his service as Deputy Assistant Secretary for Transportation Policy, Deputy Assistant Secretary for Management and Budget, and Executive Director of the Maritime Administration.

Mr. Szabat was previously considered by this committee

1 and unanimously confirmed by the full Senate in January
2 2019 to the position of Assistant Secretary for Aviation
3 and International Affairs. In recent months, he has also
4 served as the Acting Under Secretary of Transportation for
5 Policy and has performed the duties of this position,
6 giving him valuable experience for future continued service
7 in this role for which he has been nominated.

8 Commissioner Michael O’Rielly has served as a member
9 of the FCC since 2013, having been unanimously confirmed
10 twice by the full Senate. He has now been nominated to
11 serve a new term at this agency. During his tenure, he has
12 been a leader on spectrum and video policy issues and has
13 made other important contributions to the work of the
14 commission. Prior to his service at the FCC, Commissioner
15 O’Rielly held a number of staff positions in the U.S.
16 Congress, including service with the House Committee on
17 Energy and Commerce and on the staffs of a number of
18 Senators, including former and current members of this
19 committee.

20 Dr. Nancy Beck has been nominated to serve as
21 Commissioner and as Chairman of the Consumer Product Safety
22 Commission. She has an accomplished academic record,
23 demonstrated by her bachelor’s degree in microbiology from
24 Cornell University and her master’s and doctorate degrees

1 in environmental health from the University of Washington.
2 Dr. Beck has gained broad career experience in the private
3 sector with the Washington State Department of Health, the
4 Office of Management and Budget, the American Chemistry
5 Council, and her current position as Principal Deputy
6 Assistant Administrator for the Office of Chemical Safety
7 and Pollution Prevention with the U.S. Environmental
8 Protection Agency. Recently she completed a detail as a
9 policy advisor with the National Economic Council.

10 Michael Walsh has built an impressive legal career,
11 beginning with his law degree from Columbia Law School and
12 continuing through associate, counsel, and partner
13 positions at respected firms. Mr. Walsh began his service
14 at the Department of Commerce as Deputy General Counsel
15 before becoming Chief of Staff. Additionally, he has been
16 performing the delegated duties of the General Counsel for
17 almost a year, and he appears before this committee today
18 as the nominee for this role.

19 And then appearing remotely by video is Mary Toman.
20 Her educational and career background are part of her
21 strong record of achievement, which has resulted in her
22 nomination to serve as Under Secretary of Commerce for
23 Economic Affairs. She holds a degree in economics from
24 Stanford University and an M.B.A. from Harvard Business

1 School. Earlier in her career, she was a Deputy Assistant
2 Secretary of Commerce, and she also was the Deputy
3 Treasurer of the State of California. Her current private
4 sector position focuses on the creation and management of a
5 successful stock and real estate portfolio.

6 I would like to thank all the nominees for testifying
7 today and for your willingness to serve in these key roles
8 in our government.

9 And I will now turn to Ranking Member Cantwell for her
10 opening remarks. Senator Cantwell?

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STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM
WASHINGTON

Senator Cantwell: Thank you, Mr. Chairman.

Today we have five nominees for key positions at several agencies. Let me start first with the nominee for Chairman and Commissioner of the U.S. Consumer Product Safety Commission.

The Consumer Product Safety Commission has jurisdiction over thousands of consumer products, including toys and many other products used by infants and small children. The agency is literally the last line of defense against defects and toxic hazards in consumer products that can kill and cause serious injuries.

Unfortunately, Dr. Beck's record is clear. She has repeatedly sided with an industry to represent the American Chemistry Council over the safety of American families. I

1 believe that she has a glaring failure in the lack of
2 meaningful address to the health risk posed by a class of
3 highly persistent chemicals referred to, PFAS.

4 PFAS are a class of toxic chemicals that have been
5 linked to cancers, thyroid disease, decreased response to
6 vaccines, birth defects, and immune system disorders.
7 These chemicals are found in many consumer products like
8 carpets, clothing, paint, nonstick cookware, as well as
9 fire fighting foam that is used at military bases. In
10 fact, they have contaminated over 300 military
11 installations across the country, including several in the
12 State of Washington.

13 Just last week, the Agency for Toxic Substances and
14 Disease Registry, which is part of the Centers for Disease
15 Control and Prevention, released PFAS exposure assessments
16 for 333 people living near Fairchild Air Force Base in
17 Spokane. The assessment showed that almost all the people
18 studied had PFAS levels higher than the national average.

19 Washington has been a leader in the nation in dealing
20 with PFAS. It was the first State to ban the use of the
21 fire fighting foam containing PFAS, as well as PFAS in food
22 packaging, but it will cost billions of dollars to clean up
23 the mess, much of that federal dollars, and millions of
24 people will continue to be harmed from the exposures for

1 years to come.

2 Dr. Beck has repeatedly stood in the way of progress
3 on this issue. At EPA, Dr. Beck assisted in delaying the
4 release of a government study which found that the EPA's
5 current health advisory for PFAS in drinking water was too
6 weak to protect the public. The propose health advisory
7 would show that PFAS is dangerous at a much lower level
8 than previously thought.

9 And as a White House official in an email to the
10 Office of Management and Budget, deemed the report a public
11 relations nightmare, impervious to the public health
12 nightmare that was unfolding around the country with PFAS.

13 In fact, the final report is still stuck at the White
14 House where Dr. Beck was detailed to work on environmental
15 regulations for the National Economic Council.

16 This is one of the reasons why the Secretary of the
17 Washington State Department of Health where Dr. Beck has
18 worked sent me a letter yesterday strongly opposing her
19 nomination. The International Association of Fire Fighters
20 also strongly oppose her nomination, stating, quote, her
21 record promoting the interests of the chemical industry at
22 the expense of workers' health and safety makes her ill-
23 suited for this position. I will put these two letters,
24 Mr. Chairman, in the record.

1 The Chairman: Without objection, they will be placed
2 in at this point.

3 [The information follows:]

4 [COMMITTEE INSERT]

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13 Senator Cantwell: Thank you, Mr. Chairman.

14 We cannot afford to go backwards on regulation of
15 toxic chemicals like PFAS which are often found in consumer
16 products. And PFAS is not the only safety issue that I am
17 concerned about.

18 Dr. Beck's efforts to implement overwhelming --
19 efforts to implement the overwhelming bipartisan reform of
20 the Toxic Substances Control Act led to the Ninth Circuit
21 saying that the Trump administration was ignoring clear
22 requirements of the law. And rather than addressing the
23 science evidence showing that a toxic chemical, TCE, caused
24 birth defects, Dr. Beck simply directed the Trump EPA to

1 delete that evidence from the risk evaluation in the first
2 place.

3 The Associated Press reported that at OMB, Dr. Beck
4 was involved in a push to block the release of Covid-19
5 safety guidance to States and localities from the Centers
6 of Disease Control.

7 Now, last December, we released a report about the
8 serious recall process at the Consumer Product Safety
9 Commission, including issues about strollers and serious
10 injuries from infant sleepers. So I want to see someone at
11 the leadership of the Consumer Product Safety Commission
12 that will help us in protecting the public.

13 So, Mr. Chairman, I know we will hear from the
14 witness, and I look forward to hearing what comments and
15 having a chance to ask questions about these very important
16 issues.

17 In addition, Michael Walsh is here to serve as the
18 General Counsel at the Department of Commerce. He has
19 previously served as the Department Deputy General Counsel
20 and the Chief of Staff and has now moved to Acting General
21 Counsel.

22 Mr. Walsh appears to have been involved in efforts
23 last summer to stifle career National Weather Service staff
24 who attempted to correct President Trump's erroneous

1 statements about Hurricane Dorian.

2 Just yesterday, NOAA released the findings of an
3 independent review of allegations of misconduct related to
4 Dorian, and two officials were found to have knowingly and
5 willfully or with reckless disregard violate NOAA's own
6 scientific integrity policy, and unnamed officials at the
7 Department of Commerce were also implicated.

8 So, Mr. Chairman, I ask that the assessment and that
9 NOAA's responses of the IG be listed in the record.

10 The Chairman: Without objection.

11 [The information follows:]

12 [COMMITTEE INSERT]

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17 The Chairman: I know the Department of Commerce
18 Inspector General is currently also looking into this
19 matter, so we will get the additions.

20 Mr. Walsh was apparently involved in efforts to
21 obscure the origins of the ill-fated citizenship question
22 on the 2020 Census from Secretary Ross and the White House,
23 and so I look forward to asking questions about that.

24 Next, Mr. Chairman, we have Mary Toman, who was

1 nominated to serve as Under Secretary of Commerce for
2 Economic Affairs. This position oversees both the U.S.
3 Census Bureau and the Bureau of Economic Analysis, which
4 puts critical information like the Gross Domestic Product
5 report.

6 And as you mentioned, Joel Szabat to serve as the
7 Under Secretary of Policy for the Department of
8 Transportation. If confirmed, he would have a key position
9 in dealing with matters like ensuring the safety of our
10 transportation networks in the wake of Covid-19 and working
11 on the surface transportation reauthorization bill.

12 And finally, Mr. O'Rielly, to serve as Commissioner of
13 the FCC. Welcome back. We have a lot to talk about,
14 everything from the Ligado decision to your views on the
15 5.9 megahertz to media ownership and many, many other
16 issues. So we will look forward to a chance to ask you
17 questions.

18 Again, Mr. Chairman, thank you for the time. I look
19 forward to hearing from the witnesses.

20 The Chairman: Thank you, Senator Cantwell.

21 To our witnesses, your full written statements will be
22 admitted into the record, and we ask each of you to
23 summarize your testimony at this point in 5 minutes or
24 less. So we will begin down at this end of the table with

1 Mr. Szabat. You are recognized, sir, for 5 minutes.

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20 STATEMENT OF JOEL SZABAT, OF MARYLAND, TO BE UNDER
21 SECRETARY OF TRANSPORTATION FOR POLICY, U.S. DEPARTMENT OF
22 TRANSPORTATION

23 Mr. Szabat: Chairman Wicker, Ranking Member Cantwell,
24 members of the committee, thank you for the opportunity to

1 appear before you today and thanks to President Trump and
2 Secretary Chao for their continuing confidence in me. I am
3 grateful that this committee and your Senate colleagues saw
4 fit to confirm me in my current position as Assistant
5 Secretary for Aviation and International Affairs. I look
6 forward to continuing to work with each of you and your
7 staff to strengthen our nation's transportation system.

8 Since June of 2019, I have additionally been
9 performing the duties and responsibilities of the Under
10 Secretary of Transportation for Policy, for which position
11 I have been nominated. If confirmed, I will be the seventh
12 Under Secretary of Transportation for Policy since the post
13 was created in 2002.

14 As a measure of my tenure in the Department of
15 Transportation, specifically in the Policy Office, I have
16 served under four of the six prior Under Secretaries. My
17 experience runs across each of the last three
18 administrations, including the first Under Secretary and
19 the most recent. At various times, I have run three of the
20 four components that comprise the Office of the Under
21 Secretary: the Office of Aviation and International
22 Affairs; the Office of Policy; and the first multimodal
23 discretionary grant program, TIGER, which has since morphed
24 into the Build America Bureau.

1 Over the course of the last 12 months, I have tried
2 leading the Office of the Under Secretary on a path
3 consistent with Secretary Chao's vision and our statutory
4 mandate. The Department of Transportation is, first and
5 foremost, a transportation safety agency.

6 The release of the President's budget on February 10th
7 previewed the administration's upcoming surface
8 transportation reauthorization proposal. Longer
9 authorizations provide more certainty to local governments
10 and drive down construction costs. The President's budget
11 announced a \$1 trillion 10-year plan. The primary theme
12 will be improvements that benefit safety.

13 Since the coronavirus arrived in America earlier this
14 year, the Department's major focus has been battling the
15 disease and ensuring that our transportation systems
16 support the ongoing economic rebound. That has also become
17 my primary concern as one of the original members of the
18 White House Coronavirus Task Force.

19 Following the advice of our nation's health
20 professionals, the Department coordinated flight
21 restrictions to slow the spread of the virus. We adjusted
22 hazardous material regulations to allow the seamless
23 delivery of testing kits and supplies.

24 As the Centers for Disease Control publishes

1 guidelines for safely reopening the economy, we are
2 securing tens of millions of face coverings for
3 transportation passengers and workers, truck and bus
4 drivers, transit and train operators, pilots and flight
5 attendants, air traffic controllers, and many more. These
6 critical transportation workers are unsung heroes in the
7 front lines of fighting the disease. It is an ongoing
8 honor to be able to support them.

9 Prior to the coronavirus, we were already grappling
10 with the impact of the accelerating rate of technological
11 change across all modes of transportation. As technology
12 rapidly alters the face of transportation, it is our duty
13 to keep pace as a transportation safety agency. A priority
14 of mine, in support of Secretary Chao's vision, is to
15 continue to work to safely integrate emerging technologies,
16 including drones and other autonomous vehicles, into our
17 existing and national aviation and surface transportation
18 networks.

19 Nobody yet knows what the new normal will be when the
20 immediate threat of the coronavirus recedes. Changes in
21 how we live and work will also drive changes in
22 transportation. The Office of the Under Secretary oversees
23 or coordinates the work of hundreds of outstanding research
24 scientists, engineers, statisticians, and economists. Some

1 of them are already looking into what changes might emerge,
2 so we are better prepared for them if they do.

3 Because of necessary social-distancing requirements, I
4 cannot be joined today by family, mentors, or colleagues.
5 Since she cannot join me, I would like to acknowledge my
6 wife, Chiling Tong, in absentia. A prominent Asian Pacific
7 American activist, she worked with a group of mostly
8 Chinese American organizations that have collectively
9 purchased and distributed over 10 million masks and other
10 protective gear for hospitals and emergency services in the
11 greater New York City and Washington, D.C. areas. This
12 kind of citizen activism makes Americans and America great.

13 Nearly 40 years ago, I began my public service as a
14 United States Army cavalry scout and tanker, patrolling the
15 East-West German border. All of us who have worn our
16 country's uniform well remember the camaraderie of being in
17 a close-knit group sharing a common mission. That spirit
18 still animates us today. When I tried to thank our
19 transportation coronavirus team in early March for working
20 their 21st straight day, a senior career executive would
21 have none of it. "Most of us chose public service because
22 we wanted to help people," he said. "Now is our time." I
23 try to live up to that ethos daily.

24 Thank you again for the opportunity to appear before

1 you today. I am happy to take your questions.

2 [The prepared statement of Mr. Szabat follows:]

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The Chairman: Thank you, Mr. Szabat.
Commissioner O’Rielly?

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STATEMENT OF MICHAEL P. O'RIELLY, OF NEW YORK, TO BE A
MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION

Mr. O'Rielly: Chairman Wicker, Ranking Member
Cantwell, and members of the committee, I sincerely
appreciate the opportunity to appear before you to discuss
my nomination for a new term at the Federal Communications
Commission.

During my tenure, I have absolutely loved serving the
American people and will be honored to continue in my
position at the commission, if you deem it appropriate.
FCC work is both challenging and rewarding, and I believe
that there is so much more that I can accomplish to improve
the communications landscapes in the years to come.

Nearly 7 years ago during my original confirmation
hearing, I promised the committee that I would seek to work
with my fellow colleagues, to the extent possible, to find
common ground. I think my record since suggests that I
have kept my word. In sum, my commitment has been to find
and support good ideas and sound policy outcomes no matter
where or from whom they originate.

Throughout, I have tried to stay true to my original

1 commitments in approaching my role as a commissioner. My
2 principles are used as an important prism that guides me in
3 my review of the issues, and I have focused on limiting the
4 costs and burdens on the American people from new
5 regulations and eliminating existing regulations that are
6 no longer necessary. Regardless of my personal views on a
7 particular matter, however, I am always beholden to the
8 will of Congress.

9 Substantively, one area on which I have spent
10 considerable attention and energy is FCC process reform,
11 which gets few headlines and little attention from
12 practitioners. I firmly believe that transparency,
13 accountability, and responsiveness of the commission can be
14 improved for the betterment of our decision-making and the
15 American people.

16 On policy matters, there is much work ahead. The
17 biggest issue facing the commission is how to bring
18 broadband to those Americans without service. I am
19 painfully aware of this demographic despite our poor
20 mapping and related data. It is indisputable that
21 broadband brings many benefits to those who are able to
22 obtain it. Having traveled the nation and heard from
23 American families and businesses that do not have access, I
24 am as committed as ever to shrinking this population as

1 fast as possible in a thoughtful way.

2 Secondly, and on a related note, since wireless
3 broadband is a key part of solving this problem, the
4 commission must identify and reallocate additional
5 spectrum bands for new wireless services, including 5G, 6G,
6 and beyond. It is essential that the mid-band pipeline,
7 which lies mostly empty, be replenished in the very near
8 term. Absent this, we face the real risk that the U.S.
9 will lose its preeminent position in global wireless
10 leadership.

11 Finally, there has been considerable debate in
12 Congress and elsewhere about the regulatory treatment of
13 the U.S. high technology community. Recently, the
14 conversation has focused on the legal liability protections
15 provided to high-tech companies and others offering
16 applications or platforms for third party content. If
17 asked to intervene, I intend to fully explore all of the
18 extremely complex and relevant issues involved. Like my
19 practice of reading every item on which I am asked to vote,
20 you can be assured that I will do my homework on this
21 important subject as well.

22 I thank the committee for its consideration of my
23 nomination and stand ready to answer any questions you may
24 have.

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

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9 The Chairman: Thank you, Commissioner O'Rielly.

10 And now, Ms. Beck, you are recognized.

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10 STATEMENT OF DR. NANCY B. BECK, OF NEW YORK, TO BE A
11 COMMISSIONER AND CHAIRMAN OF THE CONSUMER PRODUCT SAFETY
12 COMMISSION

13 Dr. Beck: Good afternoon, Chairman Wicker, Ranking
14 Member Cantwell, and members of the committee. Thank you
15 for the opportunity to appear before you today as you
16 consider my nominations to the Consumer Product Safety
17 Commission. I would also like to thank the President for
18 nominating me. I am humbled by this opportunity, and if
19 confirmed, I will look forward to working with all of you
20 to advance public health and safety and engaging on any
21 issue of particular interest to you.

22 While my family is not here with me today due to the
23 Covid pandemic, I would like to acknowledge all the love
24 and support they have provided to me. They are watching

1 from their homes in New York. I have six unique and
2 wonderful nieces and nephews and they are with me in spirit
3 as they always are.

4 Now more than ever, it is imperative that we ensure
5 that the American public is protected from the myriad of
6 consumer risks encountered on a daily basis. Our homes and
7 our recreational environments must be safe spaces where we
8 can relax and not have to worry about encountering harmful
9 risks.

10 If confirmed to work at the CPSC, I would continue to
11 pursue my lifelong commitment to promoting public safety
12 through policies supported by objective and transparent
13 science. My career, which has spanned State government,
14 federal government, and the private sector, has been driven
15 by my commitment to public health.

16 My career in public health started when I worked at a
17 cosmetics company as a microbiologist, ensuring that
18 cosmetics were safe for our daily use. While in graduate
19 school at the University of Washington, I volunteered for a
20 program run through the American Lung Association that
21 helped the residents of Seattle identify and address
22 contaminants such as lead, mold, and other indoor
23 pollutants in the household. The satisfaction that came
24 from working to keep consumers and homeowners safe inspired

1 me to devote my career to furthering public protection.

2 My interest in public health was solidified while I
3 was working for the Washington State Department of Health.

4 There, I conducted the risk evaluation that led to the
5 closure of a paint shop in a low-income residential
6 community. The growth of this facility had put the
7 community at risk. This experience demonstrated to me the
8 important role that data and analysis can play in improving
9 communities throughout our country. Additionally, engaging
10 at the community level, protecting children and the
11 elderly, was highly motivating.

12 I moved to Washington, D.C. to pursue opportunities
13 that advanced my interests, knowledge, and experience. I
14 participated in a respected science policy fellowship
15 program, and through this fellowship program working at the
16 EPA, I advanced my knowledge regarding how science informs
17 policy and focused on health issues related to protecting
18 those most at risk.

19 My fellowship was followed by almost a decade at the
20 OMB, working under both President Bush and President Obama.
21 As a career civil servant, I worked to establish science as
22 a pillar of good regulation. At OMB, I honed my experience
23 in risk assessment and regulatory policy, and I advanced
24 public health by ensuring that regulations were grounded in

1 objective science.

2 I have also had the privilege of serving in a
3 leadership role at EPA in the Office of Chemical Safety and
4 Pollution Prevention overseeing the pesticides and
5 chemicals program. While there, I worked to implement the
6 bipartisan Frank R. Lautenberg Chemical Safety Act as EPA
7 put in place a framework to ensure that future chemical
8 assessments are grounded in science, accountability, and
9 transparency.

10 The mission of the CPSC is to protect the public
11 against unreasonable risks of injury and death associated
12 with consumer products. This mission continues to be of
13 utmost importance. Having dedicated my career to
14 protecting and improving public health, I am well equipped
15 to help the CPSC advance its essential mission.

16 If confirmed, my priorities will include ensuring
17 three things.

18 One, we must ensure that the CPSC takes appropriate
19 and timely action to protect the public from risks,
20 consistent with the CPSC statutory mandates.

21 Two, we must ensure that CPSC has effective
22 communication and outreach tools. In particular, we must
23 address the changing ways through which consumers purchase
24 products and receive important information.

1 And three, it is important that we ensure that the
2 CPSC has the full confidence of the American public. This
3 means that the CPSC programs must be run as effectively as
4 possible to provide the highest level of protection to
5 consumers and families. This includes hiring a chief
6 technologist, as recommended by this committee, to make
7 certain that CPSC decisions are informed by the best
8 available data and information.

9 If confirmed, I will look forward to working with each
10 of you, as well as CPSC's dedicated staff, to fulfill the
11 commission's essential mission.

12 I will be happy to answer any questions you have for
13 me today. Thank you.

14 [The prepared statement of Dr. Beck follows:]

15 The Chairman: Thank you very much, Dr. Beck.

16 And now Mr. Walsh.

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16 STATEMENT OF MICHAEL J. WALSH, JR., OF VIRGINIA, TO
17 BE GENERAL COUNSEL OF THE U.S. DEPARTMENT OF COMMERCE

18 Mr. Walsh: Chairman Wicker, Ranking Member Cantwell,
19 and members of the Commerce, Science, and Transportation
20 Committee, thank you for considering my nomination to be
21 General Counsel at the U.S. Department of Commerce.

22 It is a privilege to appear before you today.

23 Thank you too to the staff of the committee for all
24 the work that you have done in preparing for this hearing.

1 I am especially grateful to President Trump for
2 nominating me to this position and for the continued
3 support of Commerce Secretary Wilbur Ross.

4 And though they are not able to be here, I must also
5 thank my wife Emily and my children, Charlotte, Michael,
6 Francis Xavier, and Nicholas, who are watching on the Web
7 stream right now, for all the sacrifices that they have
8 made during my tenure in public service.

9 I also want to thank my parents, my sister, her
10 family, and all of my family members and friends who are
11 watching from Connecticut, Massachusetts, New York, and
12 Virginia.

13 Finally, I would like to thank my wonderful colleagues
14 at the Department of Commerce with whom I have enjoyed
15 working over the past 2 and a half years.

16 Prior to joining the Commerce Department as Deputy
17 General Counsel in early 2018, I was a partner at an
18 international law firm where I litigated complex class
19 action cases.

20 Since my arrival at the Department, I have been
21 involved in many of the issues that encompass our agency's
22 broad mission, including those associated with NIST, NOAA,
23 trade enforcement, the protection of intellectual property,
24 patents, and trademarks, and economic and minority business

1 development and the Census Bureau, which announced this
2 morning that retail sales were up 17.7 percent.

3 I have also supported the Bureau of Industry and
4 Security's initiative to secure our nation's defense
5 industrial base and to carefully and thoughtfully
6 administer our nation's export control laws.

7 I understand the importance of compliance with the
8 laws that dictate every aspect of the Commerce Department's
9 operations. If confirmed, I will ensure that these laws
10 are upheld and are being applied with the greatest
11 programmatic integrity and transparency.

12 I also look forward to working with all of the members
13 of this committee on your ideas for new programs and
14 policies aimed at rebuilding our industrial base, reshoring
15 essential industries, protecting American intellectual
16 property from foreign predation, and creating millions of
17 great jobs that will provide every American with the
18 opportunity to pursue the American dream.

19 I look forward to answering any questions and, again,
20 I sincerely thank you for your consideration.

21 [The prepared statement of Mr. Walsh follows:]

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The Chairman: Thank you very, very much, Mr. Walsh.

And now remotely by video, the chair recognizes Mary
Toman.

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21 STATEMENT OF MARY A. TOMAN, OF CALIFORNIA, TO BE UNDER
22 SECRETARY OF COMMERCE FOR ECONOMIC AFFAIRS, U.S. DEPARTMENT
23 OF COMMERCE

24 Ms. Toman: Good afternoon. Mr. Chairman, Ranking

1 Member Cantwell, and distinguished members of the
2 committee, thank you for inviting me today.

3 What a great country that someone like me, the first
4 in my family to speak English as a native language, could
5 be at a hearing in front of such a distinguished Senate
6 committee. I am grateful to President Donald Trump,
7 Secretary of Commerce Wilbur Ross, and many others for
8 having the confidence in me to nominate me for Under
9 Secretary for Economic Affairs at the Department of
10 Commerce. I am deeply humbled and honored.

11 I am grateful to my family and friends: my very
12 supportive husband of 31 years, Milt Miller; my daughter
13 Mary Ann, whom I respect for balancing law school and child
14 care for her young daughter; and my mother, energetic at
15 96.

16 One reason for my interest in returning to public
17 service is my strong desire to give others the
18 opportunities I have had. New prospects for economic
19 growth must be identified and communicated to all.

20 If confirmed, I would oversee an important
21 constitutional responsibility, the 2020 Decennial Census.
22 I will do everything in my power to ensure that everyone is
23 counted. I would work with Congress and your staffs to
24 ensure that the Census is completed fully and accurately.

1 Data security, privacy, and confidentiality are paramount.

2 The Bureau of Economic Analysis calculates our
3 country's GDP and other key economic indicators. This
4 treasure trove of data must become increasingly accessible
5 to all users to identify new jobs. That is how to expand
6 our manufacturing services and exports.

7 The Under Secretary is also responsible for
8 macroeconomic and fiscal policy analyses. Regaining the
9 momentum that prevailed in our economy as recently as
10 February is key. We must use our resilient economic engine
11 to restore employment through the innovation that drives
12 America's growth.

13 The digital data world is upon us and can boost
14 productivity. We must reflect innovation in our analyses
15 and communications. The Commerce Department is at the
16 forefront of these government-wide efforts, serving as a
17 lead for the federal data strategy and the implementation
18 of the Foundations for Evidence-Based Policymaking Act.
19 The Under Secretary's office drives this for the
20 Department, using data to do its decision-making and
21 increase data access for American businesses and
22 households.

23 In my previous position as Deputy Assistant Secretary
24 of the Commerce Department, we produced key industrial

1 statistics for over 120 industries. Much of this directly
2 complemented the data produced by Commerce's Bureau of
3 Economic Analysis. I led trade negotiations with the
4 Government of Japan that significantly increased U.S.
5 exports and brought more jobs to America. Encouraging job
6 growth is a key goal for the Commerce Department. If
7 confirmed, I will take that objective to heart daily to
8 produce incisive economic information as data opens doors.

9 In my time as Deputy Treasurer of the State of
10 California, we used Commerce data extensively. We managed
11 about \$200 billion, including the CalPERS and CalSTRS
12 pension funds. That experience would be relevant as the
13 Under Secretary advises the Secretary of Commerce in his
14 role as a member of the Pension Benefit Guarantee
15 Corporation board.

16 My career has been balanced between government public
17 service and the private sector. At Procter & Gamble, we
18 used Commerce statistics daily for forecasts and new
19 product markets. As a commissioner of the City of Los
20 Angeles, we relied on Commerce data too. So I understand
21 the practical side of how Commerce data is used.

22 If reported favorably by this committee and confirmed
23 by the full Senate, I look forward to working with you and
24 your staffs. I will always be interested in hearing about

1 your priorities and working with you cooperatively.

2 Working together, anything is possible in America.

3 Thank you for this opportunity and I look forward to
4 answering any questions.

5 [The prepared statement of Ms. Toman follows:]

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3 The Chairman: Well, thank you very, very much. And
4 the remote testimony went very nicely.

5 We now begin questions under the 5-minute rule.

6 Mr. Szabat, the U.S. Department of Transportation is
7 expected to release a detailed reauthorization plan in the
8 near future. Do you have an update on the reauthorization
9 of the surface transportation programs? We need to act on
10 this, and I am hoping that the Department's plan will be
11 released soon. What can you tell us about that?

12 Mr. Szabat: Thank you, Senator. I believe if not for
13 Covid-19, I believe the administration's plan, the entire
14 \$1 billion 10-year plan, would have been released in full
15 by now. Currently my hope is that we will have the plan
16 out before the members of this committee have an
17 opportunity to ask me questions for the record, and I am
18 confident that we will have the plan out before I have an
19 opportunity to answer those questions for the record.

20 The Chairman: Okay, all right. So, well, thank you
21 very much.

22 Let me move on then to the Consumer Product Safety
23 Commission. Dr. Beck, thank you for being with us.

24 Let me ask about an investigation last June. The

1 committee conducted an investigation into unauthorized
2 disclosure of the confidential manufacturer information in
3 violation of section 6(b) of the Consumer Product Safety
4 Act. The investigation found that a lack of formal
5 training, ineffective management, and poor information
6 technology implementation at the CPSC contributed to the
7 disclosures. If confirmed, how will you work to address
8 these issues to improve the functioning of the commission
9 and ensure that incidents like the unauthorized disclosures
10 do not happen again?

11 Dr. Beck: Senator, thank you for that question.

12 I am aware of the report and the investigation from
13 this committee.

14 First and foremost, it is important that CPSC follow
15 all the statutory requirements, and one of those includes
16 protecting important confidential business information. If
17 confirmed to the CPSC, I will make it a priority to ensure
18 that that part of the statute is followed to make sure that
19 everyone at the CPSC, including myself, is appropriately
20 trained on a regular basis so that releases such as this
21 will not happen again.

22 The Chairman: Okay. Well, let us see. But they also
23 found that lack of formal training was a problem and
24 ineffective management. Could you comment on those

1 findings, since you are familiar with the report? What
2 about the ineffective management aspect of it?

3 Dr. Beck: So not being at the CPSC, it is hard for me
4 to comment on that aspect. I believe it was related to the
5 managers and the training and the oversight of the training
6 and the processes and procedures. So it is really
7 important that every manager, including the commissioners,
8 be trained on the appropriate statutory requirements, be
9 trained on the processes and procedures throughout the
10 organization. Everyone needs to be aware of the
11 appropriate practices.

12 The Chairman: All right. Thank you very much.

13 Senator Cantwell?

14 Senator Cantwell: Thank you, Mr. Chairman.

15 And I thank the witnesses. I have a lot of questions
16 and not probably enough time to go through all of them. So
17 if you could be succinct on your answers, I would certainly
18 appreciate it.

19 I want to start with you, Dr. Beck. Obviously, the
20 Consumer Product Safety Commission and its important
21 responsibility is to protect the public. I mean, literally
22 these rules are about life and death.

23 And overwhelming bipartisan 2016 Toxic Substances
24 Control Act reform, TSCA, requires the EPA to study the

1 risk of chemicals and then step up to protect people
2 against those risks. One of those chemicals being studied
3 is TCE, a chemical used for decades as a grease remover and
4 dry cleaning solvent. It was found at hundreds of Super
5 Fund sites in every single State and drinking water all
6 across America. It was poisonous.

7 Documents and other Trump reports show that the Trump
8 administration EPA rejected industry science designed to
9 downplay the risk of birth defects and those chemical
10 causes and the White House overruled EPA's own scientists.

11 So, Dr. Beck, yes or no. Were you involved or
12 responsible for the direction of the White House that it
13 gave EPA to edit the risks of TCE to remove the cardiac
14 birth defects from those documents?

15 Dr. Beck: Senator Cantwell, I think you are referring
16 to an interagency review process, which is standard
17 practice. During that process, the lead agency has the
18 authority and they have the pen. They decide which
19 comments are accepted, which comments are rejected, and
20 whether or not any changes are made to the assessment. So
21 the draft assessment that was released is a reflection of
22 the EPA.

23 Senator Cantwell: So did you advocate for removal of
24 cardiac birth defect risk from those documents? Did you

1 advocate for that?

2 Dr. Beck: So the interagency review process, which I
3 participated in for many years, 15 years now, is a very
4 important process that allows for frank and candid and
5 deliberative discussion within an agency and across an
6 agency.

7 Senator Cantwell: Yes or no. Did you advocate? Yes
8 or no. That is all I am asking.

9 Dr. Beck: Senator, what you are asking for is
10 deliberative information.

11 Senator Cantwell: So you are saying at this point you
12 do not know whether you believe that TCE information about
13 cardiac birth defects is important?

14 Dr. Beck: Information about cardiac birth defects
15 with TCE or with any chemical is very, very important.

16 Senator Cantwell: And so did you participate, you
17 personally, in asking for that to be removed?

18 Dr. Beck: So the interagency process is designed to
19 protect deliberative information --

20 Senator Cantwell: Okay. We are going to go on to the
21 next question.

22 Senator Carper has been a lead obviously in his EPA
23 role. In 2015, the Obama administration proposed a rule
24 that was designed to restrict the use of the most dangerous

1 PFAS chemicals in consumer products. And Senator Carper
2 has indicated that you personally tried to delay and weaken
3 a proposed rule. Senator Carper -- as part of the White
4 House review, when you left EPA, you tried repeatedly to
5 weaken the rule by allowing companies that continued to
6 include PFAS chemicals in consumer products have a safe
7 harbor from enforcement if they said they did not know they
8 were supposed to have ensured that PFAS was removed. So
9 yes or no. Did you participate in that process?

10 Dr. Beck: Senator, I can assure you that I did not
11 weaken or delay any PFAS rules. The PFAS -- I think it is
12 the SNUR that you are referring to, is a draft document
13 that was released by EPA. EPA has the pen on that
14 document, and EPA decides what is in and what is not in
15 that draft document.

16 Senator Cantwell: So do you believe that the company
17 should have a safe harbor?

18 Dr. Beck: I am not prepared to answer that question.

19 Senator Cantwell: Okay. Well, here is what my
20 constituents are prepared for, this report, this report
21 that basically is from the Agency for Toxic Substances and
22 Disease Registry. And it is about the assessment in the
23 Spokane community about the unacceptable levels of PFAS.
24 That is what is beyond acceptable. I cannot support your

1 nomination when you cannot answer these questions. When I
2 go to this report and I look on page 4 of the report and it
3 says PFAS levels in tap water, collected and tested water
4 samples from participating households, the PFAS levels for
5 all 19 tap water samples were below all federal and
6 applicable State guidelines for PFAS in drinking water. I
7 cannot tell my constituents that I supported you because
8 you cannot tell me about this important thing did not have
9 a safe harbor for these people. So, listen, this issue is
10 well known in Spokane. It is well known at Fairchild Air
11 Force Base. I know our colleagues have tried to deal with
12 this issue.

13 But I have to just bring up the Ligado issue, if I
14 could, really quickly because it is such an important
15 issue. And we have three people here that also could say
16 something about it.

17 Obviously, the Ligado issue -- you know, with the
18 FCC's recent approval, you are putting into competition in
19 my mind this GPS system which threatens the safety and
20 security from civil aviation and military operations to
21 weather forecasting. And I just want to know what the
22 witnesses, Mr. Szabat, Walsh, and Toman, whether you have
23 any comments about that, and Mr. O'Rielly, if I have a
24 minute left or have a few comments. I guess I could wait

1 another round.

2 Mr. Szabat: Thank you, Senator, for the question.

3 The Ligado issue and its predecessor, the LightSquared
4 issue, was in fact a very difficult issue to grasp with.

5 The Department of Transportation -- I think we have an
6 easier way forward than our colleagues do at the FCC. Our
7 mandate is to look out for the interests of the GPS system,
8 as you have pointed out. Our testing has indicated that
9 the Ligado system, if deployed, would interfere with GPS,
10 and therefore we have been remaining opposed to its
11 deployment.

12 Senator Cantwell: Okay. My time has run out, Mr.
13 Chairman. So I will put in for the record, if I could, to
14 let the rest of the witnesses answer that question.

15 But I am also going to put into the record a question
16 to Ms. Beck about Covid-19 guidelines for the White House.

17 There are also questions about your role in basically
18 trying to deny the release of information that would have
19 been helpful in a horrific accident in Washington as people
20 conveyed in Skagit County to sing in a choir, and so many
21 people from that event got Covid. So I want to understand
22 whether you participated in anything and suppressing
23 information that would have been helpful in that.

24 So thank you, Mr. Chairman.

1 Senator Blunt [presiding]: Thank you, Senator
2 Cantwell.

3 Senator Moran?

4 Senator Moran: Let me turn my attention first to Ms.
5 Beck. Ms. Beck, I chair the Subcommittee on Consumer
6 Protection with jurisdiction over the CPSC, and I want to
7 see that agency is managed in a way and that there is
8 camaraderie and good will among the members. And I would
9 love to hear your assurance that as we have hearings in our
10 subcommittee that deal with the commissioners, that you
11 move the commission in the direction of transparency, fair
12 process, bipartisanship in every way possible. Can you
13 assure me of that?

14 Dr. Beck: Yes, Senator, I can. There is no place for
15 bipartisanship when it comes to public health and consumer
16 protection.

17 I have already spoken with all the sitting
18 commissioners, both Democratic and Republican, and if
19 confirmed, I would look forward to working with all of
20 them. Each one brings a unique background and experience to
21 the commission, and we can only really truly be effective
22 if we work together towards a common goal.

23 Senator Moran: Do you see impediments towards that
24 happening?

1 Dr. Beck: I certainly hope not, no.

2 Senator Moran: Ms. Beck, Chairman Wicker asked you
3 about this topic, about the release of information that was
4 inappropriately released. He asked you about management.

5 I just want to also reiterate the importance of that issue.

6 Senator Wicker and I wrote inquiring about this topic. I
7 want to make sure you will use your chairmanship to address
8 those concerns and make certain that the individuals are
9 educated, trained, and have the right approach and attitude
10 toward protecting the privacy as required by law. Is that
11 something you can assure me of?

12 Dr. Beck: Yes, Senator. I would be happy to make
13 that a priority, and if confirmed, I will look into it and
14 I would be happy to report back to you.

15 Senator Moran: Thank you very much.

16 Let me turn to Commissioner O'Rielly. Commissioner,
17 it is nice to see you again. This morning I was with
18 Chairman Pai in an Appropriations subcommittee hearing.

19 You wrote an interesting blog, a post on an issue
20 related to prohibiting presale or conditional sale radio
21 frequency devices that caught my attention. And are there
22 other similar consumer good marketing prohibitions that you
23 are aware of outside this issue of radio frequency devices
24 that we ought to be paying attention to?

1 Mr. O'Rielly: None off the top of my head that come
2 to mind. I spent a good deal of time working on the
3 presale issue and the importation issue, both that I ~~both~~
4 wrote about. But I am happy to review to make sure that we
5 have not missed anything.

6 Senator Moran: Do you think that the FCC has the
7 ability to change what you find flawed?

8 Mr. O'Rielly: I do, yes. We do have within our
9 rights to change our process. We always look to Congress,
10 to your leadership if you so would choose.

11 Senator Moran: Let me ask you a question that I asked
12 Chairman Pai this morning. Keep America Connected Pledge.
13 The result of that pledge, abiding by that pledge would
14 have caused a number of companies, providers, to lose
15 income related to those who are unable and have not paid
16 their bills or unable to pay late charges. So as we try to
17 make certain that those companies remain in existence to
18 provide broadband services to Americans, particularly rural
19 Americans, what is in the works to see that there is the
20 actual capability of doing so, sufficient revenue in light
21 of the fact that people are not or cannot pay bills? I
22 asked the Chairman this morning if the FCC has any numbers
23 about lost revenue, which I was informed does not exist.
24 But do you have any understanding of what the magnitude of

1 this problem is?

2 Mr. O'Rielly: I do not have any better data. I would
3 have to defer to the Chairman on his program in terms of
4 its establishment.

5 But your point is well taken. I am concerned about
6 the lost revenue and the potential -- it would not just be
7 the late fees but also the underlying revenue from the
8 service. And it is ~~a~~ one thing to pledge if it is a month
9 or 2 months, but now we are talking 6 months or 9 months.
10 And that is going to be problematic for a lot of small
11 providers.

12 Now, when I talk to providers and representatives of
13 them, their interest is to keep people connected and do
14 everything they need to make sure, . ~~W~~ whether it be
15 deferral payments or to try and work out payment plans, and
16 I ~~would~~ certainly appreciate that. And then Congress
17 itself has a number of programs that may be applicable,
18 already in the CARES Act, . depending on the size of the
19 company. But I certainly would look to the guidance of the
20 committee or the Congress in terms of if it decides to
21 allocate additional resources or funding for this purpose.

22 Senator Moran: If you have suggestions in that
23 regard, please let me know.

24 Mr. Szabat, I have 22 seconds in my allocation. I

1 appreciate the time you spent with me by phone considering
2 essential air service and the response under the CARES Act.
3 I would ask you for airports, the EAS and non-essential air
4 service airports -- they continue to feel the impact of
5 Covid-19 -- what else can we be doing to support them?

6 Mr. Szabat: Senator, thank you for the question and
7 for your interest and concern for essential air service
8 because they are, in fact, essential for the rural
9 communities that they serve.

10 Right now, the single most important thing you have
11 already done, which is through the CARES Act, that you have
12 ensured funding to keep all of those services operating
13 through the end of this fiscal year, well into next fiscal
14 year. I would ask only that we are able to continue to
15 have contact with you, your staff, the other members of
16 this committee as we identify going into next year what the
17 overall effects of the coronavirus will be and what
18 alterations and changes we have to make in policy and
19 funding to keep EAS performing.

20 Senator Moran: Mr. Szabat, thank you for your answer
21 and thank you for working with me earlier this year in this
22 regard. Thank you.

23 Senator Blunt: Thank you, Senator Moran.

24 Senator Udall?

1 Senator Udall: Thank you, Mr. Chairman.

2 Dr. Beck, I think members of this committee should
3 oppose your nomination. You have taken actions that
4 demonstrate a real disregard for public health and safety.

5 And we are talking about a position that is supposed to be
6 one of our nation's preeminent consumer watchdogs.

7 Why should members of this committee place their trust
8 in you when your record has been one of constantly
9 blocking, weakening, and delaying public health protections
10 proposed by our nation's top scientists and regulators? I
11 think if they hear from people like Wendy Hartley, they
12 will have trouble putting their trust in you. Wendy's son
13 Kevin lost his life using a dangerous chemical in paint
14 strippers, methylene chloride, while you stalled the effort
15 to remove this chemical from store shelves. Drew Wynne
16 lost his life as well and many others that we know of.

17 As you know, I was the lead author of the chemical
18 safety reform effort in the Senate. We worked very hard to
19 move forward with a very protective law. But your
20 implementation of the law has been anything but protective.
21 Shortly before your arrival at the EPA, the agency proposed
22 regulating methylene chloride in paint strippers. EPA had
23 been reviewing this chemical for many years, and our
24 legislation explicitly protected that work. But after your

1 arrival, we saw nothing but blocking, weakening, and
2 delaying, and that resulted in the loss of Kevin's life,
3 Drew's life and several others.

4 According to the "New York Times," you questioned the
5 proposed ban on methylene chloride, suggesting that only a
6 small number of users are harmed by it. It is 1 percent.
7 You purportedly asked an EPA colleague, is that report true
8 or false, and is the 1 percent an acceptable rate of injury
9 when those injuries include a risk of death?

10 Dr. Beck: Senator Udall, thank you for your question.

11 My heart goes out to the Hartley family and the Wynne
12 family. The acute fatalities were tragic that we saw with
13 methylene chloride. This is why there is now a ban in
14 place so that methylene chloride can no longer be
15 manufactured, processed, distributed to retailers or by
16 retailers to consumers. It is effectively removed from the
17 big box stores and from the local hardware stores, and I am
18 confident that we have effectively blocked any further
19 acute fatalities. Protection of public health is first and
20 foremost.

21 Senator Udall: You are not answering my question. I
22 asked you specifically is the report true and is this 1
23 percent figure an acceptable rate of injury. What is the
24 answer to those two questions?

1 Dr. Beck: Senator, before answering a specific
2 question like that, I would like to see the report that you
3 are referring to. But I do not believe that we can put a
4 number or a percentage on the value of a life.

5 Senator Udall: This was an esteemed EPA Deputy
6 Administrator, longtime career employee, that says that you
7 made that quote. And I think Wendy Hartley and Brian Wynne
8 would strongly object if their loved ones are just a minor
9 statistic. It is unacceptable that it took 2 years and a
10 lawsuit for you to finalize this regulation, and you still
11 managed to put out a less protective rule which allows the
12 use of methylene chloride in paint strippers for commercial
13 use by workers. This is despite the EPA's own conclusions
14 that workers are at much greater risk from exposure than
15 consumers. And in fact, its use by workers also endangers
16 bystanders. EPA had already considered and rejected the
17 extra training as insufficient to protect workers and
18 bystanders from the unreasonable risk, including a quick
19 death posed by methylene chloride.

20 Did you know that Kevin Hartley was professionally
21 trained to use this product and he wore gloves and a
22 ventilator mask and still this chemical infiltrated his
23 mask and the heavy fumes killed him? Did you know those
24 facts? It is a yes or no question.

1 Dr. Beck: Senator, I was aware of the tragic
2 circumstances that surrounded his death. I was not aware
3 of the particular type of respirator that he was wearing.

4 But the evaluation that was done --

5 Senator Udall: Okay.

6 Had you and the EPA not delayed banning methylene
7 chloride, Kevin would be alive today. Drew would be alive
8 today, and others would still be alive. For a scientist
9 charged with protecting public health, we should expect
10 better. Your training gave you the tools to fully assess
11 risk and exposure to toxic chemicals. Instead, you go
12 against peer-reviewed science and consistently favor
13 industry without a solid scientific basis. Your entire
14 career has been less like a toxicologist conducting
15 rigorous, unbiased science and more like a defense attorney
16 zealously defending guilty chemical clients.

17 Mr. Chairman, in my work to reform the chemical safety
18 law, I spent years working hard to reform a badly broken
19 law, but with Nancy Beck at the EPA, we have seen chemical
20 safety reform fail us time and time again. In the 4 years
21 since it passed, Nancy Beck and the EPA have blocked,
22 weakened, and delayed protections from PFAS, from lead,
23 from TCE, and so many other dangerous chemicals. In these
24 4 years, the only ones who have been protected by her

1 leadership have been chemical companies, not workers
2 exposed to dangerous toxins at work, not the public who
3 purchases dangerous products at the store.

4 That is why I am so concerned to see her nomination to
5 chair the very organization charged with protecting
6 consumers. The American consumer is entitled to leadership
7 at the Consumer Product Safety Commission that will protect
8 their health, safety, and lives. This nominee fails this
9 test, and I urge this committee to oppose.

10 Mr. Chairman, I would ask to enter into the record a
11 list of dangerous and unprotected measures that Nancy Beck
12 has taken during her tenure at EPA, along with a letter
13 from over 100 national and State organizations that have
14 joined to oppose this nomination, and a statement from
15 Brian Wynne, Chairman of the Drew Wynne Foundation. In his
16 statement, it starts, this nominee delayed a ban on the
17 toxic chemical that killed my brother.

18 I yield back, Mr. Chairman.

19 Senator Blunt: Thank you, Senator Udall. Without
20 objection, those will be entered into the record.

21 [The information follows:]

22 [COMMITTEE INSERT]

23

24 Senator Blunt: I want to recognize myself for two

1 questions before we go to Senator Blumenthal.

2 Mr. Szabat, in the FAST Act, I was able to secure a
3 provision in the FAST Act where existing railroad right-of-
4 way would be treated like we had decided in a previous law
5 to treat existing interstate right-of-way as it related to
6 historic preservation and the impact an existing railroad
7 would have had if you made changes in that existing
8 railroad bed.

9 I think the Federal Railroad Administration and the
10 Advisory Council on Historic Preservation have been working
11 together to implement this provision. It has not been
12 implemented yet, though I think most of them have done what
13 they needed to do. I understand there remains a concern
14 about a property-based approach included in program
15 guidance.

16 So I have written a letter on this issue to both the
17 FRA and the Advisory Council on Historic Preservation in
18 November. I recently received a response.

19 I want to use this opportunity to raise this issue
20 with you since you will be overseeing the Federal Railroad
21 Administration. I hear that some of the railroads -- there
22 remain concerns about the direction you are headed here.
23 Would you talk to me a little bit about that? So what we
24 are asking is you need to do the historic preservation

1 effort you would need to do in an entirely new place if you
2 are working where the railroad has always been. We made
3 that decision on interstate highways. The Congress made
4 the same decision for railroads, but it has not been
5 implemented yet. And I would like to ask what you are
6 going to do about that.

7 Mr. Szabat: Senator Thune, thank you for the question
8 and for your interest in this issue that is important both
9 for historic preservation --

10 Senator Blunt: It is actually Senator Blunt. I got
11 out of the line here when Senator Thune was not here.

12 Mr. Szabat: My apologies, Senator. Thank you,
13 Senator Blunt.

14 This is an issue that is important, both to historical
15 preservationists and, as you point out, also to our
16 railroad stakeholders.

17 My understanding of the challenge is, as you
18 mentioned, on the highway side the statutory provisions
19 that were put in the regulations make it clear that the
20 historical preservation, the section 160, provisions do not
21 apply except for those instances that are explicitly
22 spelled out. And the draft proposal that we have right now
23 that we are working with the preservationist community and
24 with the FRA flips that and says that on the railroad side,

1 all the grade crossings would be affected by the 160's
2 unless they are explicitly exempted.

3 So there is clearly some work to do, as you point out,
4 for us to square the circle to ensure that we are not doing
5 this inconsistently. You have my commitment that I work
6 with the stakeholders, also with you, your staff, and the
7 members of this committee to hopefully get us to a happy
8 place where the interests of all of the stakeholders will
9 be addressed.

10 Senator Blunt: Well, that would be good, and I would
11 be glad to help with that as I could.

12 Commissioner O'Rielly, you have been a vocal and
13 vigorous member of the commission. I admire what you have
14 done there.

15 There are a lot of consumers who are looking at the
16 choices they have for content now, the competition that is
17 out there. Would you share with me some of your goals for
18 working to update how the FCC views what competition means
19 in our current media marketplace from an antitrust
20 perspective?

21 Mr. O'Rielly: Well, I believe that our current rules
22 and those of the Department of Justice are problematic—
23 ~~don't~~ reflect what is happening in the marketplace today.

24 There are a number of video providers offering services to

1 consumers that are regulated by no entity beyond -- there
2 are just general practices ---, but they are not governed by
3 the FCC. The legacy providers are, whether they are
4 broadcasters or cable ~~for~~providers. And the dichotomy
5 between the two is incredibly problematic.

6 We have done good work at the FCC, in my opinion, to
7 modify our rules to reflect that situation. I have run
8 into a roadblock in my interpretation with the Department
9 of Justice who refuses to change its perspective on ~~how~~
10 broadcasters and who they compete with. It is very
11 problematic from my viewpoint that they believe that
12 broadcasters only compete with broadcasters in a select
13 market at a select time for select advertising. And I have
14 tried to figure out how best to change that. We have done
15 good work at the FCC. As the circumstance may be, I was
16 hoping to work with the Department of Justice, but we ran
17 into this -- the pandemic has certainly changed the
18 dynamic.

19 Senator Blunt: Well, I think, Commissioner, on
20 ownership issues and other issues, not recognizing how big
21 the competitive field is, it makes a big mistake as we move
22 into the future. And I hope you continue to vigorously
23 pursue that discussion.

24 Senator Blumenthal?

1 Senator Blumenthal: Thanks, Mr. Chairman.

2 To Nancy Beck, you have been nominated for one of the
3 most significant positions in our Federal Government.
4 Fewer people have heard of the Consumer Product Safety
5 Commission than maybe the Department of Defense or Veterans
6 Affairs or some of the others, but this agency makes a life
7 or death difference in the lives of literally hundreds of
8 millions, maybe all Americans. And there is no better
9 illustration of it than two letters that I have here, one
10 from Crystal Ellis, the other from Janet McGee who lost
11 children as a result of furniture tipping over on them. I
12 ask that they be made part of the record, Mr. Chairman.

13 Senator Blunt: Without objection.

14 [The information follows:]

15 [COMMITTEE INSERT]

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6 Senator Blumenthal: So let me just ask you right from
7 the start. All four current CPSC commissioners have said
8 that the furniture stability standard is inadequate. Do
9 you agree? Yes or no.

10 Dr. Beck: Senator, thank you for your question.

11 I agree with you about the essential and important
12 mission of the CPSC.

13 Regarding the tip over standard, I believe that is
14 something that needs to be a priority. I am aware that
15 CPSC is doing essential and important research on this now.

16 Not being at the CPSC, I do not have access to all the
17 data that the other commissioners have. If confirmed, I
18 would be happy to get back to you.

19 Senator Blumenthal: You know, I am giving you a
20 chance, in effect, to show us that you are on the side of
21 consumers. I believe that your record to date is
22 disqualifying for this position. And I am really giving
23 you a chance to show that you would take vigorous and
24 aggressive action to protect the consumers like Ms. McGee

1 and Ms. Ellis and their families and children. And that
2 answer is simply inadequate. I am not a member of the
3 commission either.

4 Dr. Beck: Senator, my heart goes out to those
5 families.

6 Senator Blumenthal: Well, I know your heart goes out
7 to them, and I believe you.

8 My time is limited, so I am going to move on. Tell me
9 about your role at the CDC in blocking the scientific
10 guidance that it wanted to issue regarding Covid-19
11 standards.

12 Dr. Beck: Thank you for that question.

13 I can assure I did not block any CDC guidance. At the
14 OMB, OMB plays an essential and important role in
15 coordinating interagency review of thousands of regulations
16 and guidance documents every year. I was helping to
17 coordinate the review of the CDC guidance document, and my
18 role was to make sure that all the decision-makers have an
19 opportunity to comment on the document --

20 Senator Blumenthal: Is it a fact that you blocked the
21 issuance of the guidance?

22 Dr. Beck: Senator, I coordinated the interagency
23 review to ensure that all the comments were received and
24 considered by the CDC. That was essentially my only role.

1 Senator Blumenthal: Well, in coordinating it, you
2 prevented it from being released. Correct?

3 Dr. Beck: The OMB process requires that all the
4 decision-makers have an opportunity to review and comment
5 on the document.

6 Senator Blumenthal: Let me ask you about a separate
7 issue, PFAS. As you know I am sure, a review from the
8 United States Centers for Disease Control and Prevention,
9 CDC, outlined a host of hazardous health effects associated
10 with PFAS exposure, including cancer, liver damage,
11 decreased fertility, increased risk of asthma, and thyroid
12 disease. Connecticut had a major pollutant release of PFAS
13 recently. These chemicals do not break down over time.
14 They are forever chemicals. Do you agree that PFAS poses a
15 significant health threat and should be removed from all
16 household items?

17 Dr. Beck: Senator, the Federal Government is working
18 very hard to understand the science and to take appropriate
19 regulatory action to address PFAS.

20 My understanding is that the companies that used the
21 long chain PFAS compounds, which were the ones that were
22 going in consumer products, have essentially been phased
23 out since, I think, 2008 or 2009. The problem is that we
24 have these older rugs and carpets that were made before

1 that period of time.

2 Senator Blumenthal: Well, would you support removing
3 PFAS from fire fighting chemicals that endanger the lives
4 of those fire fighters?

5 Dr. Beck: Senator, I believe the National Defense
6 Authorization Act requires the DOD to remove PFAS
7 chemistries --

8 Senator Blumenthal: The DOD, yes. And by the way --

9 Dr. Beck: And they are working hard.

10 Senator Blumenthal: -- I was one of the principal
11 supporters --

12 Dr. Beck: Great.

13 Senator Blumenthal: -- of that amendment, as you may
14 know. But I am talking about the countless fire service
15 departments around the nation, including Connecticut, where
16 PFAS flame retardants and chemicals are still in use.
17 Would you support removing them and substituting other
18 kinds of materials?

19 Dr. Beck: Senator, I am sure that once there is an
20 appropriate -- there is plenty of research going on, FAA,
21 DOE, DOD, to help find an effective replacement to the PFAS
22 chemistries for fire fighting foam, and I am confident that
23 once that replacement is found, there will be a broad
24 transition in the marketplace.

1 Senator Blumenthal: And you would support a ban.

2 Dr. Beck: I support a transition away from the PFAS
3 foams. Absolutely.

4 Senator Blumenthal: I have no further questions right
5 now because my time has expired. Thanks, Mr. Chairman.

6 Senator Blunt: Thank you, Senator Blumenthal.

7 Senator Lee?

8 Senator Lee: Thank you very much, Mr. Chairman.

9 Mr. Szabat, I would like to start with you, if that is
10 okay.

11 Navigable airspace is defined as the minimum altitude
12 at which safe flight is possible. I understand that to be
13 generally 500 feet. Does that sound about right to you?

14 Mr. Szabat: Yes, Senator.

15 Senator Lee: Drones, of course, create a special set
16 of circumstances because they really fall into a different
17 category. A drone, if it goes to your house, can hover
18 just inches above the blades of grass on your front yard,
19 and that is a feature, not a bug. That is considered the
20 safe, effective zone for a drone to operate, whereas with
21 an aircraft, that would be unsafe. That is not a safe
22 place to operate that. You are at that altitude only for a
23 millisecond as you are taking off and as you are landing.

24 But the FAA believes that because drones can hover

1 inches above the blades of grass in the front yard, the
2 agency can, therefore, control that airspace in front of
3 your front yard.

4 Now, do you agree with the FAA's current legal
5 interpretation on that point?

6 Mr. Szabat: Well, Senator, what I would agree with is
7 to say that the Federal Government has authority over the
8 national airspace for obvious reasons. You have to have
9 one overriding standard. There are a lot of issues that
10 are playing out right now regulatorily over who has what
11 say for drones in that lower airspace, and we know that
12 there is an awful lot of room for local law enforcement,
13 State and local governments, emergency services, for
14 example, to have their say as well.

15 So I would say for the higher airspace, yes. The FAA
16 has -- after a plane has taken off, after you are into the
17 national airspace, the overriding consideration, except for
18 the security agencies, is FAA. In the lower airspace, we
19 are still frankly working out some of those issues.

20 Senator Lee: So what would you say to those property
21 owners who are struggling to understand where their rights
22 end and where they begin and what that means?

23 Mr. Szabat: So, Senator, I would say the obvious.
24 This is a complicated, difficult issue. This is a new

1 emerging technology. And one of the reasons that we have
2 been so hesitant to step in with new regulations right off
3 the bat is because it is complicated and we want to get it
4 right.

5 Senator Lee: Mr. O'Rielly, let us go to you for a
6 moment.

7 Spectrum is a finite resource and it is one that is
8 extremely valuable. Spectrum access both in the licensed
9 realm and in the unlicensed realm is essential for any
10 future U.S. efforts there might be to develop IOT devices
11 and lead in the race toward 5G and eventually 6G networks
12 or whatever comes after that.

13 Now, the FCC with your support has taken a number of
14 very admirable efforts to find inefficiencies in commercial
15 bands. What is the current state of our commercial
16 spectrum pipeline?

17 Mr. O'Rielly: So we have a number of auctions that
18 are coming up for mid-band spectrum that will be key for 5G
19 services. But post those, in both the C band and CBRS,
20 with the premier being C band and CBRS, ~~and~~ then 3.1 to
21 3.55 has been identified as a possibility. Beyond that,
22 the pipeline in my opinion is fairly bare.

23 Senator Lee: Do we have enough commercial spectrum
24 being made available to meet the future needs of the United

1 States, and if not, how much time do you think we have?

2 Mr. O'Rielly: I would say no.

3 Senator Lee: So you described the cupboard as being
4 bare, meaning there is just nothing in there.

5 Mr. O'Rielly: Well, we have not identified new bands
6 that we should be trying to reallocate for commercial
7 services, whether they be from commercial services today or
8 from Federal Government agencies. That needs to be done
9 immediately because it takes quite a number of years to
10 clear a band. Even C band where providers are willing to
11 change, it is still a number of years to make that happen.

12 Senator Lee: And we talk a lot, of course, about
13 reallocating commercial spectrum, which is a good thing.
14 We also cannot forget that there are large swaths of
15 spectrum, really valuable beachfront spectrum that are in
16 the possession of various government agencies. And
17 everything affects everything else, and those agencies
18 sitting on that spectrum to whatever degree they might not
19 need it has a significant cost attached to it.

20 Would you agree that part of keeping the United States
21 competitive in the tech space is going to require an all-
22 of-the-above approach, one that will objectively consider
23 both federal and commercial spectrum allocation for future
24 needs?

1 Mr. O'Rielly: Oh, absolutely. I think in terms of
2 acquiring or making available new mid-band spectrum for
3 commercial services, 5G, 6G, et cetera, we are going to
4 need an all-of-the-above strategy, but that certainly means
5 the federal agencies are going to need to shrink their
6 footprint. That is, they hold the most ideal bands in mid-
7 band. And it is a very difficult challenge, I admit, but
8 that is part of our job.

9 Senator Lee: Thank you very much.

10 Senator Blunt: Thank you, Senator.

11 Senator Baldwin?

12 Senator Baldwin: I want to direct my question first
13 to Mr. Szabat.

14 In 2018, the Trump administration released an
15 infrastructure plan that did not mention Buy America once
16 despite the President's executive order to buy American and
17 hire American which, by the way, he announced and signed in
18 Kenosha, Wisconsin.

19 With 21 million people currently unemployed, it is
20 really more important than ever that we use taxpayer
21 dollars spent on infrastructure to support the American
22 workforce. Will you commit that any infrastructure
23 proposal that comes out of the Trump administration in your
24 jurisdiction contains strong Buy America language?

1 Mr. Szabat: Yes, Senator. I can go beyond that to
2 say that all of the proposals that have come out of the
3 Department, at least since I have had the honor of serving
4 as the Acting Under Secretary, have reinforced the
5 importance of Buy America or Buy American.

6 Senator Baldwin: And then President Trump also
7 promised bold new steps on Buy America when he was in
8 Kenosha 3 years ago. If confirmed as Under Secretary for
9 Transportation Policy, what bold, new steps would you be
10 recommending for Buy America at the Department of
11 Transportation?

12 Mr. Szabat: Thank you, Senator, for the question. I
13 will always continue to support strong efforts for Buy
14 America as I did in my previous job as Executive Director
15 of the Maritime Administration where those Buy America
16 provisions are so important for the maritime industry. I
17 am not in a position to say specifically what I will be
18 able to offer in the future because, of course, whatever I
19 offer in the future has to be supported by my superiors in
20 the administration.

21 Senator Baldwin: I appreciated the chance to speak
22 with you by telephone last week, and one of the things we
23 discussed was the increasing frequency of flooding and
24 extreme weather events. And certainly these events are not

1 going to stop because Congress and our State and local
2 partners are focused on the Covid-19 pandemic. They are
3 still going to continue.

4 So as Congress works on surface transportation
5 reauthorization, in my view it is imperative that we invest
6 in climate-resilient infrastructure and ensure that State
7 and local governments have the resources they need to do
8 the same.

9 For example, my bipartisan Rebuilding Stronger
10 Infrastructure Act was included in the EPW Committee's
11 reauthorization legislation, and that bill requires the
12 Federal Highway Administration to provide States and
13 localities with the tools that they need to rebuild
14 infrastructure that can withstand the next storm or flood.

15 So I am looking forward to working with this committee to
16 ensure that our reauthorization legislation similarly
17 includes strong resiliency measures.

18 Now, I understand that the administration is working
19 to release its own reauthorization proposal, and I will be
20 looking closely at how that proposal prioritizes
21 infrastructure resilience.

22 If confirmed, what would you do to ensure
23 transportation infrastructure across DOT is more resilient
24 to climate change and extreme weather events?

1 Mr. Szabat: Again, Senator, thank you for your
2 question but also for your focus on this important issue.

3 We will, as you say, be rolling out very shortly the
4 administration's surface transportation reauthorization
5 bill.

6 My commitment to you is if you find that it falls
7 short in the resiliency aspect, that we look forward to
8 working with you, the other interested members of this
9 committee, and the staff to make sure it reflects those
10 priorities.

11 In a different context, General Darren McDew, the
12 former, now retired, head of the U.S. Department of
13 Defense's Transportation Command, testified that his
14 concern was the nation was sacrificing too much resiliency
15 for the sake of efficiency.

16 I think the same thing can be said for transportation,
17 and to your point, the standards that we have for the next
18 round of infrastructure that we build have to be something
19 that can deal with the challenges 40 and 50 years from now,
20 not just the standards that we had a decade ago.

21 Senator Baldwin: And on a closely related topic, what
22 more could you do, would you do to ensure that our State
23 and local partners receive the technical support and
24 funding that they need to build and rebuild more resilient

1 infrastructure?

2 Mr. Szabat: Senator, thank you. That is always an
3 issue that we have to grapple with anytime that we are
4 posing new programs or funding for our current programs is
5 what is that right local-federal match. Certainly right
6 now we are seeing this as we go through the Covid-19
7 period. There are stress points for local governments where
8 we cannot expect them to pitch in as much as they would
9 have when the economy is in a better spot. And that is
10 going to be one of the issues we are going to have to work
11 through in consultation with the Congress as we discuss the
12 various surface transportation reauthorization proposals.

13 Senator Baldwin: Thank you, Mr. Chairman.

14 Senator Blunt: Thank you, Senator Baldwin.

15 Senator Thune?

16 Senator Thune: Thank you, Mr. Chairman.

17 Commissioner O’Rielly, welcome back to the committee.
18 We look forward to confirming you to another term of the
19 FCC.

20 As we have discussed before in this committee in the
21 past, mid-band spectrum is crucial to 5G deployment. My
22 question is how important is it that the FCC meet its
23 planned auction in December to make C band spectrum
24 available for commercial use?

1 Mr. O'Rielly: I think it is critical. It is the only
2 band identified that will make such a block available for
3 5G services in mid-band. The 280 megahertz is critically
4 needed. The CBRS spectrum, which we are going to auction
5 off in, give or take, 6 weeks, is not comparable because of
6 some of the power limits and other things ~~to~~with it. This
7 is the only band we have in the pipeline that is ready to
8 go, and anything that delays that in my opinion would be
9 extremely harmful.

10 Senator Thune: I agree, and I hope you guys can
11 expedite that process.

12 The coronavirus pandemic has highlighted the need for
13 reliable broadband networks, particularly in the most rural
14 areas of the country. If nothing else, what this pandemic
15 has taught us is how important the investments we make in
16 that infrastructure -- how much they pay off particularly
17 at a time like this.

18 Would you support setting aside a portion of the
19 auction proceeds for the build-out of broadband networks in
20 unserved areas?

21 Mr. O'Rielly: I appreciate anytime Congress dedicates
22 additional funding for this purpose. This idea has been
23 out there for a little bit and I think it is very
24 favorable.

1 The only caveat I would say is sometimes our spectrum
2 auctions can be a little -- we have some ups and downs in
3 terms of when we hold our auctions. So we can be flush
4 this year with some auctions held, but then we have a
5 dearth. When I got there in 2013, it had been awhile. So
6 it is a little bit unpredictable, and maybe there is a way
7 to figure out how to resolve that issue.

8 But in terms of additional funding for building out
9 broadband services to the millions of Americans who need
10 it, absolutely.

11 Senator Thune: Mr. Szabat, I have consistently asked
12 the Department to thoroughly consider comments from rural
13 States to ensure that these regions are adequately
14 represented in the final national multimodal freight
15 network. Can you provide an update on the Department's
16 efforts to finalize the national multimodal freight
17 network, specifically the evaluation of comments from
18 States?

19 Mr. Szabat: Senator, I can, and thank you for your
20 interest in this issue.

21 So we got through a big hurdle at the end of last
22 summer when finally we received all 51 of the State plans,
23 which were a precursor before we went out for public
24 comment. Those comments are now in, and the Department is

1 in the process of evaluating and assessing and responding
2 to each of those comments. And we are confident that we
3 will, in fact, have the plan out this year.

4 Senator Thune: Good.

5 Another question for you. The Department of
6 Transportation has already made important strides toward
7 safely testing and deploying automated vehicles, including
8 granting exemption petitions and working with other federal
9 agencies to develop the AV 4.0 guidance document.

10 Could you speak more to the department's current
11 efforts to safely test and deploy automated vehicles,
12 particularly the testing partnership announced by NHTSA
13 yesterday?

14 Mr. Szabat: Yes, Senator.

15 So as I said in my opening statement, safety, both for
16 drivers and pedestrians, remains the Department's number
17 one priority. The automated driving systems offer
18 significant safety enhancement opportunities.

19 You mentioned AV 4.0. We did. We rolled that out in
20 January. This is consistent with our government-wide
21 approach for AV technologies that we want to support U.S.
22 leadership in AV technology research, deployment, and
23 integration. So this follows the release of our 2018 AV
24 3.0, which establishes voluntary guidance and outlines our

1 multimodal approach towards tackling these issues.

2 And also, as you have mentioned, Senator, yesterday we
3 rolled out the automatic vehicle transparency and
4 engagements for safe testing, which is a mouthful, so we
5 call it AV TEST. And this, again, is a voluntary, non-
6 regulatory partnership to provide an online public-facing
7 platform for sharing automated systems information. So
8 eight States and nine companies are participating in this
9 initiative, including some of the largest automotive
10 companies and some of the most innovative companies that
11 are working in this space.

12 Senator Thune: Well, and I thank you for the work you
13 are doing. We had hoped, I think as you know, to have
14 legislative direction originating in this committee,
15 working with other committees and through Congress, that
16 would help advance the cause of automated vehicles. But it
17 is, as always, much harder to thread that needle than it
18 should be. But I am pleased that you and your team are
19 moving forward with that because it is critically
20 important. It is a technology that I think will offer
21 enormous benefits to people across this country, and we
22 want to make sure that it proceeds in a safe way.

23 I guess I am out of time, Mr. Chairman. I will submit
24 maybe another one for the record.

1 The Chairman [presiding]: Thank you very much,
2 Senator Thune.

3 Senator Tester?

4 Senator Tester: Thank you, Mr. Chairman, and thank
5 you, Ranking Member Cantwell.

6 I am going to start with you, Dr. Beck.

7 The Chairman: Senator Tester, could you move just a
8 little closer to the microphone?

9 Senator Tester: Okay. I can holler a little louder.

10 I will start with you, Dr. Beck.

11 Asbestos is a known carcinogen and it was one of the
12 drivers behind TSCA. And quite frankly, the people of
13 Libby, Montana know just how dangerous asbestos is and what
14 kind of legacy it can leave behind.

15 Can you shed some light as to why the EPA has not
16 completed its evaluation yet of asbestos?

17 Dr. Beck: Senator, thank you for that question.

18 When the Lautenberg Act was passed, the EPA had to
19 prioritize 10 chemicals that would move first through the
20 process. Asbestos was one of those chemistries.

21 EPA has met all the deadlines so far and has released
22 a draft risk evaluation for asbestos. My understanding is
23 that it has undergone peer review. I think that was last
24 week, and I believe EPA intends to finalize that risk

1 evaluation by the end of the year.

2 Senator Tester: Okay. So, you know, it has been 4
3 years I think since we passed -- I mean, Frank has been
4 dead a long time, quite frankly. So it has been a number
5 of years since we passed it. It takes that long to do a
6 review on a known carcinogen?

7 Dr. Beck: The Lautenberg amendments required that EPA
8 do the robust risk evaluation before taking risk management
9 action, and they gave us very rigorous deadlines
10 considering the complexity of the science and the extent of
11 the evaluation that EPA is conducting.

12 But I will say that EPA has also taken other action
13 under this administration to strengthen protections on
14 asbestos. Last year, EPA finalized a significant new use
15 rule which essentially blocks new uses of asbestos that had
16 not been banned in 1989. So the agency is trying to move
17 aggressively.

18 Senator Tester: Let me ask you this. Is asbestos
19 banned today?

20 Dr. Beck: I am sorry. I could not hear your
21 question. Would you mind repeating it?

22 Senator Tester: Is asbestos banned today?

23 The Chairman: He is asking if asbestos is banned
24 today.

1 Senator Tester: Thank you.

2 Dr. Beck: Certain uses of asbestos are banned today,
3 but in 1989 when the ban was passed, there were ongoing
4 uses.

5 Senator Tester: But stop.

6 Dr. Beck: Those ongoing uses are what EPA is
7 evaluating now.

8 Senator Tester: Ma'am, just for a second. In 1989,
9 they were supposed to evaluate on basic cost. The TSCA
10 that we passed that Lautenberg pushed out and that Udall
11 had such a big role on was supposed to deal with evaluating
12 from health and safety standpoints. So the question is, 4
13 years later, if my math is right -- and it could be off 6
14 months -- is asbestos banned today?

15 Dr. Beck: There are still existing uses of asbestos
16 today, and EPA is working aggressively under the Lautenberg
17 requirements to conduct the risk evaluation that are
18 required.

19 Senator Tester: I would say this. I do not know what
20 your definition of "aggressive" is, but with a known
21 carcinogen such as asbestos is, it would appear to me that
22 it has not been very aggressive from my perspective.

23 Dr. Beck, you were given a lot of opportunities, as I
24 have been watching this entire hearing, to answer questions

1 when people asked you direct questions. Senator Cantwell
2 did on a chemical that causes birth defects. I listened to
3 your opening statement and I listened to it very carefully
4 because you talked about your whole career has been
5 advancing public health and safety. You talked about the
6 myriad of consumer risks that are out there. You talked
7 about science informing policy. You talked about science
8 as a pillar of good regulation.

9 I am going to tell you I have studied your record, and
10 it does not bear out what you said in your opening
11 statement unfortunately. And what is curious to me is not
12 only why anyone on this committee would vote for your
13 confirmation, but why you would want the job as Chairman of
14 the Consumer Product Safety Commission when your career
15 does not bear out anything about safety for consumers. And
16 the truth is you could get a great job with a corporation
17 doing what you have done your whole career, which is
18 protecting those corporations.

19 I have one last question. And, by the way, O'Rielly,
20 you get off easy this time because I will put some in the
21 record for you. This is for Mary Toman.

22 Mary, my question deals with the 2020 Census and
23 Covid-19. How do you plan to overcome those challenges
24 that Covid-19 has presented for an accurate Census,

1 particularly in Indian Country, particularly in the areas
2 that are impacted by poverty?

3 Ms. Toman: Thank you, Senator Tester, for this very
4 important question.

5 As I said in my opening statement, that is my first
6 priority to count everywhere everyone. And I know that
7 this is going to be very difficult with Covid in certain
8 areas that you have just discussed. When I had some
9 meetings last week with some staff, they asked me what the
10 first thing I would do in this position. I said the first
11 thing I would do is to go to people of consensus and say
12 what can we do to make sure more people are counted. That
13 is my first priority and my second priority and my third
14 priority.

15 There have got to be more creative ways that we can
16 always think about if we all put our heads together. I
17 also would look forward to talking to your staff and staff
18 for any States that face these issues because if there are
19 community organizations that we can work with to learn from
20 and work with immediately, we would very much like to work
21 with you if you think that anything is being missed. This
22 is a very, very serious question, very, very important.

23 Senator Tester: I am way over time. I just want to
24 say that I never heard the plan. And so if you can get

1 that to me in writing, I would really appreciate it.
2 Either my staff or I would be more than happy to talk with
3 you about what needs to be done from our perspective. But
4 we really need to have plan or this thing is going to be a
5 fiasco.

6 Thank you.

7 The Chairman: Thank you, Senator Tester.

8 Senator Rosen?

9 Senator Rosen: Can everyone hear me? Yes.

10 Thank you, Ranking Member Cantwell, of course, to our
11 nominees here today.

12 I want to talk about consumer confidence in air
13 travel. So, Mr. Szabat, I am going to direct my questions
14 to you because in Nevada, our economy depends on travel and
15 tourism for motels, casinos, restaurants on the Las Vegas
16 strip to outdoor recreation businesses near Lake Tahoe and
17 everywhere in between. As a State where travel and tourism
18 supports one in every three jobs, is \$20 billion in wages
19 and salaries annually, and generates \$75 billion in annual
20 economic output, Nevada now, unfortunately, has the highest
21 unemployment rate in the nation, 28 percent, as a result of
22 Covid-related slowdown in travel.

23 So the pandemic has been especially challenging for
24 our aviation industry. In 2019, Las Vegas McCarran Airport

1 saw over 50 million passengers, and in the wake of the
2 pandemic, passenger totals have dropped precipitously down
3 to about only 150,000 people in April, a 96.4 percent drop
4 from last year.

5 It is clear that reinstilling confidence in air
6 travel, that it is safe, is going to be key to bringing
7 back the industries that support Nevada. We have to bring
8 back travel and tourism to revive our economy.

9 So, Mr. Szabat, in your current position as Assistant
10 Secretary for Aviation and International Affairs, you are
11 very familiar with the devastating impact Covid-19 has had
12 on aviation. So if you are confirmed as Under Secretary,
13 you would be responsible for developing policies across all
14 modes of transportation, including aviation, and I have to
15 imagine that mitigating impacts of Covid-19, well, if it is
16 not, it should be a top priority.

17 So let me ask you this. Is the Department working
18 closely with the Centers for Disease Control and Prevention
19 on science-based steps that you can take to protect the
20 health of passengers and employees at the airports and in
21 the air? And how else might these agencies work together
22 to collaborate to protect public health as our travelers
23 venture out again? They are not going to go out if they do
24 not have confidence.

1 Mr. Szabat: Senator, thank you for the question.

2 And this is, indeed, an issue of our time. You are
3 exactly correct. If we are going to reinstall a sense of
4 confidence in the public for flying, the very first thing
5 that we have to do is to demonstrate that it is safe to
6 fly, not to make claims but to actually show that.

7 But to your specific question, yes. We are working
8 very closely with the CDC and with the other public health
9 agencies in the administration to develop the guidelines
10 and requirements for the air carriers, for the airports,
11 for the traveling public, and also in several levels to
12 come up with common international standards for the
13 resumption of international travel between the United
14 States and other countries.

15 Senator Rosen: Well, thank you.

16 I am going to also ask you, if you are confirmed, what
17 other policies, what ideas do you have, what might you
18 recommend based on the advice that you have received from
19 medical and transportation efforts, particularly because
20 many Covid-19 patients are asymptomatic. So what would you
21 do in that regard? I think people are worried about the
22 asymptomatic carriers.

23 Mr. Szabat: Senator, again a great question.

24 The first and foremost thing in the transportation

1 sphere is wherever you cannot social distance, people
2 should be wearing face coverings. Secretary Chao has kind
3 of made this a tenet of what we are doing in the Department
4 in our discussions with other federal agencies and also in
5 our public-facing comments as well.

6 Just yesterday, you saw the association covering the
7 largest air carriers in the United States carrying the bulk
8 of the passengers. They have all agreed that they will set
9 a common industry standard to require all passengers to
10 wear face coverings. We encourage that. We encourage all
11 other air carriers to follow that. And we will have the
12 back of the air carriers, and, of course, their frontline
13 employees, the flight attendants, will deliver that message
14 to the passengers and are delivering that message both for
15 the safety of the passengers and also for the safety of the
16 crew.

17 Senator Rosen: Thank you. I appreciate that.

18 I think I am just about done with my time, so I will
19 yield back. Thank you.

20 The Chairman: Thank you very much, Senator Rosen.

21 Let me check with staff just a moment.

22 [Pause.]

23 The Chairman: Commissioner O'Rielly, this committee
24 on a bipartisan basis sent to the Senate and to the House

1 and to the President the Broadband Data Act. It has been
2 signed into law by President Trump. This law requires the
3 FCC to collect more precise, granular data from broadband
4 providers so it can develop more accurate broadband
5 availability maps. Those maps are, of course, not developed
6 yet since the law is so new on the statute. But the FCC's
7 notice of proposed rulemaking for the new 5G fund raises
8 the possibility that it may begin distributing money to
9 support the 5G deployment before the new maps are
10 completed.

11 Commissioner O'Rielly, if confirmed, will you commit
12 not to support moving forward the 5G fund until the FCC
13 completes the new maps as required by statute?

14 Mr. O'Rielly: I looked at the statute closely. I
15 have serious concerns and have raised them regarding moving
16 forward without new maps and would certainly want to listen
17 to this committee and its views on the matter. And I
18 certainly would be hesitant to move forward in any capacity
19 without addressing the issue of mapping.

20 The Chairman: But you stop short of an absolute
21 commitment?

22 Mr. O'Rielly: Well, if you are saying that that was
23 what your position is, since you were an author, then I
24 would agree with you.

1 The Chairman: Well, okay.

2 Mr. O'Rielly: Then yes.

3 The Chairman: All right. So we have moved from
4 serious reservations to you would commit not to support
5 moving forward until we get the maps.

6 Mr. O'Rielly: Yes.

7 The Chairman: And when do you think we are going to
8 be able to see those maps? When do you think this might be
9 completed? And is there anything this committee or this
10 Congress can do to assist that, Mr. Commissioner?

11 Mr. O'Rielly: It is my understanding the Chairman has
12 been advocating for additional funding for the issue, some
13 amount of money that would help implement the mapping
14 program needed. That would certainly be supportive from my
15 viewpoint. I think we certainly could do some things in
16 the meantime. We have staff that could certainly start
17 work. So we should not be at zero right now. But I have
18 to defer to the Chairman exactly where we are on the bigger
19 picture.

20 The Chairman: Okay. Well, it is a concern. I wish
21 the Congress could move instantaneously. But we are
22 fulfilling the Founders' desires for lawmaking to be slow
23 and cumbersome, and we got it done and got it signed by the
24 President. So I guess it is unfair for us having taken as

1 long as the Congress takes to want to speed up the
2 implementation. But we really do think the money should be
3 distributed according to accurate maps, and that is why it
4 passed on a bipartisan basis.

5 Let us talk about RDOF, Rural Digital Opportunity
6 Fund, auction. Phase one of the auction is scheduled for
7 October. There are some folks around the country, including
8 in my home State of Mississippi, who would certainly like
9 to move that auction earlier than October. We have
10 received information from Chairman Pai that as much as we
11 might like to do that, it is simply unworkable to do so.

12 Why is that the case, Commissioner O'Rielly?

13 Mr. O'Rielly: I do not know what the Chairman
14 provided you, but I would argue that we have difficulty
15 running -- I have made this case in this committee before.

16 We cannot run two auctions at the same time. And so we
17 have a full summer and fall already scheduled, CBRS for
18 July. The RDOF is in October, and then we have C band for
19 December. And so they are planned out, and there is a
20 timing in terms of the short forms and the long forms and
21 everything that goes into scheduling.

22 I would say part of the difficulty with -- and I
23 appreciate that people would like to bypass the timing that
24 we are talking about and expedite things. But what it does

1 do is put some of these companies that would like to do
2 this at the forefront and say we would like our money up
3 front, and in doing so, they bypass the benefits of the
4 auction process and the efficiencies that we get from that.

5 And then two, it potentially allows those entities to
6 go into areas where there is already an existing
7 competitor. And then to me overbuilding would be incredibly
8 problematic given that we have such finite resources in
9 this program.

10 The Chairman: Does an important part of this RDOF
11 begin next month, July 2020?

12 Mr. O'Rielly: There are pieces. We just did one in
13 our last meeting. There are pieces coming up in terms of
14 the -- next week I think is the timing of some of the
15 bidding -- the final payments or payments are due -- excuse
16 me -- next week. And so we will see where that stands.

17 The Chairman: If I could snap my fingers and pass a
18 law today trying to speed up the auction, would there be
19 notice and comment requirements that we would still have to
20 fulfill?

21 Mr. O'Rielly: Yes, and there are just so many steps
22 to our auction process. If you want to throw the auction
23 process away, which I would not recommend at all, that can
24 help do some of those things. And that is the thing.

1 There are so many things that we go through that are
2 intentionally beneficial to our programs that take time.
3 And getting to October -- and the Chairman rushed really
4 hard to get the timing right on this. So I appreciate what
5 he has done.

6 Could it be expedited with the right incentives?
7 Maybe you could pick up some time here, but I do not know.
8 It might be more to expedite on the building side versus
9 in terms of the auction side.

10 The Chairman: Okay. Now you have really -- I think
11 you have hit on something there. Senator Capito has been
12 patient, but I am going to come back to this after she and
13 other members who have not been recognized take their
14 round. But this point I will reserve for round three and
15 recognize my friend from West Virginia.

16 Senator Capito: Thank you, Mr. Chairman, and thank
17 all of you for being here today and for your willingness to
18 serve.

19 Dr. Beck, we had a telephone conversation last week,
20 and I found I did not get the clarity really in your
21 answers that I was hoping we could get to. So I wanted to
22 talk about your role in possible bureaucratic delays when
23 it comes to PFAS. We talked about that. As I mentioned to
24 you, this is a priority to me both out of respect for my

1 State but also because we face challenges both in our
2 industry but also in our military installations and for our
3 future generations.

4 So I had received assurances -- and I mentioned this
5 to you -- from then-EPA Administrator Scott Pruitt and then
6 acting and now Administrator Andrew Wheeler that EPA would
7 be advancing its PFAS action plan, and that would include
8 an MCL, or maximum containment level, for PFAS in drinking
9 water. The day of Mr. Wheeler's confirmation hearing, a
10 politically timed press report stated that EPA and the
11 administration actually had no plans to regulate PFAS in
12 drinking water, which came as quite a shock to me.

13 The EPA has belatedly advanced its PFAS action plan
14 and the regulatory process to examine MCL for PFOA and PFAS
15 in no small part due to my and others' insistence that we
16 get this done. But valuable time has been lost, almost a
17 year, due to this interagency dithering. At every turn,
18 your name has been implicated in the media in the slow
19 walking of the federal response.

20 So in the interest of time -- and I know you have been
21 asked some yes/no questions to this point. I have not been
22 able to see the whole hearing, but I did see part of this.

23 I would like to ask you some yes or no questions to
24 outline your involvement in this area.

1 So, yes or no. During your time at the EPA's Office
2 of Chemical Safety, were you consulted on the EPA's draft
3 PFAS action plan?

4 Dr. Beck: Yes, but the Office of Chemical Safety and
5 Pollution Prevention had a section in the PFAS action plan.

6 Senator Capito: Okay. So was it your view then that
7 PFAS should be examined for potential regulation when you
8 were in that office?

9 Dr. Beck: Yes.

10 Senator Capito: Yes.

11 Dr. Beck: -- chemistry across many offices.

12 Senator Capito: Okay. So in that capacity, were you
13 consulted on the promulgation of an MCL for PFAS, including
14 PFOA and PFAS?

15 Dr. Beck: No. That was the Office of Water. That
16 was not something from the Office of Chemical Safety and
17 Pollution Prevention.

18 Senator Capito: So those are two separate offices
19 that were dealing with the same substance, but Water was
20 dealing with the --

21 Dr. Beck: MCL.

22 Senator Capito: MCL.

23 Once you moved over to the NEC, did you handle
24 oversight of interagency coordination on any PFAS policies?

1 Yes or no.

2 Dr. Beck: No, I did not handle oversight. I assisted
3 with some coordination of information across agencies.

4 Senator Capito: So did you work with the PFAS action
5 plan in that capacity?

6 Dr. Beck: Only in the sense that if EPA had
7 information they wanted to share with the interagency, we
8 facilitated those discussions.

9 Senator Capito: And did that include setting an MCL
10 for drinking water out of the Office of Water? Are you
11 familiar with that?

12 Dr. Beck: Yes. The MCL, since it is a regulatory
13 determination, was handled by OMB in the Office of OIRA.
14 So I did not coordinate that.

15 Senator Capito: So basically kind of what you are
16 telling me on the answers to the two questions on MCL is
17 you have not had any involvement on setting an MCL for PFAS
18 at all?

19 Dr. Beck: I am not a decision-maker in the Office of
20 Water, and that is where those decisions are being made.

21 Senator Capito: Did you advocate for slowing or
22 halting the interagency review of the EPA's action plan in
23 your role at the NEC?

24 Dr. Beck: No.

1 Senator Capito: Did you oppose setting an MCL for
2 PFAS while at the NEC?

3 Dr. Beck: I was not a decision-maker at the NEC. So
4 that was not something I commented on.

5 Senator Capito: So if you have had no role in this
6 slow policy response, which has been your response to this
7 point, why do you think your name is continually implicated
8 in this slowing of the regulatory agenda even well before
9 your consideration before this nomination became public?

10 Dr. Beck: I could only speculate. My speculation is
11 that because I spent some time in industry, in addition to
12 my time in government, they want to -- I do not know. I
13 think there is a concern that I spent time in industry so
14 they want to say that industry is holding things up. But
15 in my case, that has not been the case because I am not,
16 for instance, a decision-maker on the MCL. I am not a
17 decision-maker on the Super Fund standard.

18 Senator Capito: But you were in a position at your
19 Office of Chemical Safety to, obviously, have PFAS directly
20 in your portfolio. Correct?

21 Dr. Beck: Through the new chemical program, yes.

22 Senator Capito: And what was your involvement in
23 that?

24 Dr. Beck: Making sure that the new chemicals program

1 runs effectively to review and evaluate new chemicals
2 before they come to the market.

3 Senator Capito: So were you reviewing at that point
4 the legacy chemicals of these original chemicals?

5 Dr. Beck: So currently the new chemicals program
6 reviews new chemicals when they come in. So the legacy
7 PFAS are not part of the new chemicals review.

8 Senator Capito: They are not.

9 Dr. Beck: I am sorry. It is confusing.

10 Senator Capito: Yes, that is confusing.

11 Dr. Beck: There is a new chemicals program and an
12 existing chemicals program.

13 Senator Capito: So if you have a new chemical that
14 comes from a legacy chemical that possibly caused damage,
15 which we know these have, they would come in under the
16 existing chemical protocol?

17 Dr. Beck: Yes, because it would be a breakdown
18 product of an existing chemical. Yes.

19 Senator Capito: All right. Thank you.

20 The Chairman: Thank you, Senator Capito.

21 Senator Sullivan?

22 Senator Sullivan: Thank you, Mr. Chairman.

23 And there are so many nominees who have so many
24 important issues before them that deal with my State that I

1 could take 50 minutes here, but I am going to try and be
2 succinct, which is not one of my strong suits, but I will
3 try anyway.

4 Mr. Walsh, I really appreciated the issues that you
5 and I talked about yesterday and just want to get your
6 commitment on the record here. I pretty much got it
7 yesterday, but I just want to do it for the official
8 record. The NOAA hiring issue, the migration of people,
9 scientists who work for NOAA, a great agency, but who have
10 Alaska-oriented missions almost exclusively and are in
11 other States. Can you work with me on that issue and also
12 the issue of 100 vacancies that we have in Alaska and we
13 need to get those filled soon?

14 Mr. Walsh: Yes. Thank you, Senator. I can make that
15 commitment. I look forward to working with you and your
16 staff on those issues.

17 Senator Sullivan: Excellent.

18 And then the fish surveys, as we talked about
19 yesterday, a huge issue in my State. I am very
20 disappointed that -- you know, look, we all got to be
21 careful with regard to the pandemic and Covid-19, but it
22 cannot be used by federal agencies to say we are not going
23 to do the work. The surveys are super important to my
24 State. I think they are important to most Americans. Can

1 I get your commitment to work with me on making sure that
2 we have robust surveys for our fishing fleet next year?

3 Mr. Walsh: Yes, Senator. I appreciated our
4 conversation yesterday. I have already begun making some
5 inquiries, and I look forward to getting back to you in the
6 near term.

7 Senator Sullivan: Excellent. Thank you.

8 And then the home-porting of the NOAA vessel
9 Fairweather in Ketchikan. I think my State, my
10 legislature, the people of Alaska have bent over backwards
11 on that one. We would like to close the deal on that
12 finally, working together with NOAA and contributing our
13 own resources as a State. Can I get your commitment to
14 work with me on that one as well?

15 Mr. Walsh: Yes, Senator. I look forward to working
16 with you.

17 Senator Sullivan: And then finally, the very illegal
18 Russian embargo of seafood for not just Alaskan exporters
19 but all Americans. The Russians have embargoed any seafood
20 exports from America into Russia since 2014, and we let
21 their seafood in and it is dominating. It is ridiculous.
22 We got to change it. As the President has been focused on
23 promoting and Secretary Ross has been promoting American
24 seafood exports, can I get your commitment to work with my

1 office and this committee to take a hard look at this very
2 unfair, non-reciprocal approach that is really hurting the
3 fishermen of the great State of Alaska, but really
4 Mississippi, everywhere?

5 Mr. Walsh: Yes, Senator.

6 Senator Sullivan: Great. Thank you. I really
7 appreciate that. I look forward to strongly supporting
8 your nomination.

9 Mr. Szabat, I appreciated our discussion on the phone
10 as well. I am also a strong supporter of yours. I do want
11 to get your commitment again in this hearing to work with
12 my office and this committee on the issue of Alaska
13 aviation safety and maybe even looking at the establishment
14 of a safety office or an Alaska FAA czar. You saw the NTSB
15 report where, once again, it says that the fatality rates
16 in the great State of Alaska are much too high and we need
17 a strategy with the FAA to address that.

18 Can I get your commitment to work with this committee,
19 the FAA, and the Department of Transportation on
20 addressing, which is really a matter of life and death
21 issue for my State?

22 Mr. Szabat: Senator, yes, you have my commitment.

23 Senator Sullivan: Great. I appreciate that very much
24 and I look forward to working with you not only on that but

1 on roads. You know, every now and then, you have one of my
2 Senate colleagues, unfortunately usually from the other
3 side of the aisle, who cares all about roads in my State
4 and essentially wants to stop building roads in my State
5 because radical extreme environmental groups do not like
6 roads in Alaska. It is ridiculous. I wish my Senate
7 colleague could focus more on Massachusetts and New Mexico
8 and other places like that, take care of their own States,
9 not my State.

10 But I need you to help me build roads. Can you help
11 me build roads in the great State of Alaska? Every other
12 State gets to build roads, but my State, for some reason,
13 does not. You got radical guys on the other side saying do
14 not build roads in Alaska. Can you help my State build
15 roads?

16 Mr. Szabat: Senator, yes, we can help your State
17 build roads.

18 Senator Sullivan: A strong commitment on that,
19 please.

20 Mr. Szabat: Yes, Senator.

21 Senator Sullivan: Thanks.

22 And then finally, Mr. O'Rielly, I am very strongly
23 supportive of your re-nomination to be the Commissioner.
24 And again, I appreciated our discussion yesterday.

1 I would like to just get your honest assessment of
2 what has happened, unfortunately, with the current Chairman
3 of the FCC where they clawed back, no transparency,
4 opaqueness with regard to the Universal Services Fund,
5 telehealth programs in my State. Our State was the State
6 that invented that. And yet, we have a Chairman of the FCC
7 that seems hell-bent on collapsing that system in Alaska.

8 Can I get your views on whether you think that has
9 been fair, whether you think that has been transparent,
10 whether you think that has actually helped the people of my
11 State, but also ways in which we can improve that going
12 forward perhaps with a new Chairman?

13 Mr. O'Rielly: So you got a lot there about my good
14 friend, the Chairman.

15 But to your point, I was not exactly fully supportive
16 of the actions the commission took. I did not have all
17 the --

18 Senator Sullivan: Do you think they were fair? Do
19 you think they were transparent? Do you think the rules
20 are even still understood by industry?

21 Mr. O'Rielly: No.

22 Senator Sullivan: It is unbelievable.

23 Mr. O'Rielly: Yes.

24 Senator Sullivan: Unbelievable. We have 2 years

1 going the Chairman made commitments to me on expediting
2 appellate reviews. That has been ignored. They have made
3 stuff up as they have gone along. It is really harming not
4 just the people who deliver but some of the most needy
5 people in America from some of the most, you know,
6 economically disadvantaged communities in the country, and
7 they do not seem to get it. But I would like you to
8 comment, what we can do about it.

9 Mr. O'Rielly: Well, I have seen personally the
10 benefits of telehealth in your State, and they should be
11 the model. I have written a blog about this particular
12 topic. It should be the model for the rest of the United
13 States and how efficiently they were able to offer the
14 services. I think there should be an opportunity to
15 resolve any past disputes with the providers in Alaska.

16 Senator Sullivan: In an expeditious manner. Correct?

17 Mr. O'Rielly: Absolutely.

18 Senator Sullivan: Not 2 and a half years of
19 opaqueness and rope-a-doping my State.

20 Mr. O'Rielly: Those words are yours, not mine, but I
21 understand the point you are making. It should be done
22 expeditiously.

23 Senator Sullivan: Well, I look forward to working
24 with you and all of you.

1 And thank you very much, Mr. Chairman.

2 The Chairman: Thank you.

3 Mr. O'Rielly, those questions were coming so rapid
4 fire from my friend from Alaska. You may want to
5 supplement those on the record.

6 Senator Sullivan: We welcome that too.

7 The Chairman: Thank you so much, Senator.

8 Let us get back to where I think you were getting to
9 on the RDOF fund, the Rural Digital Opportunity Fund.

10 Mr. O'Rielly: And can I correct one thing I said
11 before, ~~?~~ I apologize, ~~to~~ on the timing. ~~—?~~ I said we are
12 getting close to a deadline. I have the CBRS deadline of
13 June 19th ~~on~~ in my head. The short form for RDOF phase one
14 is July 1st. It opens up the short window, and that runs 2
15 weeks to July 15th. So I apologize for confusing the two
16 issues. We are 2 weeks away. The short form does have
17 financial information.

18 The Chairman: So the process with regard to the forms
19 really begins next month.

20 Mr. O'Rielly: July 1st we will open up the window.
21 Right.

22 The Chairman: Okay. So I think the point you were
23 trying to get to, though, Mr. Commissioner, is that it is
24 not so much when the auction is but when the deployment of

1 high-speed fixed broadband networks in rural America
2 occurs. And so I am going to pick up where we left off
3 there.

4 Once the auction is done -- this is phase one of the
5 auction, and there are other phases. But I was
6 disappointed to learn recently how time-consuming the
7 build-out of the actual networks would be once the auction
8 is over. Can you discuss that?

9 Mr. O'Rielly: Well, the build-outs -- you know, we
10 have milestones in our rules in terms of how much and how
11 quickly you are to build out to be able to continue to
12 receive funding or if there are penalty obligations. We
13 have tried to match them up with what we think that a
14 provider can actually do. There are certainly some that
15 are able to move faster and get their build-out done
16 quicker.

17 The Chairman: Okay. Well, just give us an idea,
18 though, Commissioner O'Rielly, about the time frame because
19 I do not want to raise the expectations of the consumer,
20 raise the expectations of the public.

21 Mr. O'Rielly: The program, as I remember -- it is a
22 6-year total build-out. You have time to get to all the
23 areas within the winning portions in 6 years. You have
24 milestones to meet in terms of percentages along the way to

1 get there. It is a 10-year funding. I will be corrected,
2 I am sure, by my good staff, but I believe it is a 6-year
3 build-out. There may be a mechanism and a way to expedite
4 some of that build-out time, and that would be something I
5 would be happy to work with you on.

6 The Chairman: You know, I think there is, but I think
7 you have answered correctly under what we have now and how
8 much we have now. I think members of the public are going
9 to be disappointed at the 10-year period and the 6-year
10 build-out.

11 Mr. O'Rielly: Let me give you an example of an issue.
12 So I was reading -- Mississippi -- the ~~neighbor~~ NARUC
13 gentleman, Mr. Preissley, was talking about a pilot program
14 from the co-op in Mississippi that they are going to try.
15 And then his point was that if they found that it was
16 beneficial, their build-out would be 4 to 6 years to get
17 fiber. So it does take a while physically to get out the
18 broadband to consumers, but there may be a way to shorten
19 that window.

20 The Chairman: Okay. Well, I think there is.

21 Mr. O'Rielly: Okay.

22 The Chairman: And I may have a proposal. I think
23 this is going to require more resources. But frankly, this
24 is the important aspect of it. The auction in October, the

1 process of which has already sort of begun, is apparently
2 what we are saddled with. But once the phase one auction
3 occurs, I think we can help you with some extra funds and
4 some incentive from the administration on a bipartisan
5 basis to move this ahead. So I hope you will work with us
6 there and the rest of the commission on a bipartisan basis.

7 I think you will be interested in some ideas that we have.

8 Go ahead and say what you would like to say about
9 that, and then we will move on to one other topic.

10 Mr. O'Rielly: I would say I certainly commit to you.
11 Absolutely.

12 The Chairman: Good, good, because we need to move it
13 faster once the auction is over. The build-out is the key.

14 But Senator Cantwell I think realized she was about to
15 get into a lengthy process on asking about Ligado, and so I
16 think that is probably worth talking about. And perhaps
17 Mr. Szabat had made a comment, but Commissioner O'Rielly
18 and Mr. Walsh had not. So I am going to let both of you
19 comment on this, and this may be an opportunity to do what
20 we have had a frustration about in other forums and that is
21 hear both sides sitting at the same table.

22 Bands like 24 gigahertz and spectrum assigned to
23 Ligado have generated high profile disputes within the
24 administration at the highest levels, you know, cabinet

1 secretaries on different sides of this issue.

2 In order to achieve widespread 5G deployment, the FCC
3 will likely have to continue to seek ways to increase
4 spectrum efficiency and reallocate spectrum to federal and
5 non-spectrum uses.

6 So let us begin with you, Commissioner O'Rielly. Talk
7 about what you have done on a 5 to 0 vote with regard to
8 Ligado. And what assurance can you give us that this is
9 not going to interfere with GPS? And that those entities
10 that have had to change their equipment and undergo an
11 expenditure there will be made whole by the amended use of
12 the spectrum by Ligado.

13 Mr. O'Rielly: Well, I appreciate the views of my good
14 friend, Mr. Szabat. We actually -- the commission -- have
15 to balance all those points, which I think he said. We
16 have to balance all of the record and all of the different
17 concerns. We do not advocate on behalf of one equity.

18 And I think what the commission did in Ligado -- and
19 though I was not the lead voice or the lead supporter of
20 the issue -- I think the commission put forward a license
21 modification that is well defended by the record that is
22 presented of a 17-year legal battle. And I think -- I
23 believe by reading the document, it provides sufficient
24 protections on the front end, in the middle, and at the end

1 to address the concerns that have been raised.

2 I was concerned about the hearing that I watched on
3 this issue in a different committee when they started
4 talking about what bands or what protections were needed
5 for what pieces, and they were far outside of the GPS
6 licenses where they thought the protection was needed. And
7 that is a concern for me because that is not what the
8 licenses provide for. And so what Ligado was trying to do
9 was defended by the record and supported by the information
10 that we ~~made~~had a-to vote on. We have difficulty finding
11 commonality on a lot of issues, but here we were able to do
12 so.

13 The Chairman: Okay. Is this going to interfere with
14 GPS or not?

15 Mr. O'Rielly: I do not believe, based on the
16 recommendations that have been provided in the materials~~s~~,
17 that it will lead to interference with GPS to the degree
18 that it would cause a harmful interference. I do think
19 that the mitigation tools that we put in the item will be
20 helpful if absolutely necessary. So I think it is a
21 situation where we addressed it up front and in the middle
22 and at the end. And so the end has a number of mechanisms,
23 including Ligado doing street drives to make sure, to do
24 sensing to see if it causes interference.

1 The Chairman: And at that point then, would we know
2 who would be entitled to compensation from Ligado for any
3 expenditures that would need to be made?

4 Mr. O'Rielly: The item does go through that issue in
5 terms of who would be eligible, and we would have to see
6 exactly who -- if it were to come to ~~ease~~this, which I hope
7 not to be the case -- if it were to come to that case, we
8 would have to see who -- for lack of a better word, whose
9 ox is being gored. I do not think that is going to be a
10 circumstance that is going to happen, but we would have to
11 see when the information and data ~~is~~are presented.

12 The Chairman: Mr. Walsh, would you like to comment on
13 this issue?

14 Mr. Walsh: Certainly. Our NTIA has long expressed
15 the widely held view across the executive branch that
16 Ligado's proposed terrestrial operations in historically
17 satellite spectrum bands pose an unacceptable risk to the
18 critical GPS service that is relied upon for our national
19 defense, homeland security, aviation safety, public safety,
20 and economic growth.

21 NTIA in May did file two petitions with the FCC
22 requesting a stay and reconsideration of the decision to
23 conditionally grant Ligado's applications. NTIA's
24 positions at a high level contend on behalf of the

1 executive branch that Ligado's prospective operations
2 threaten to harm Federal Government users of GPS, along
3 with a variety of other public and private stakeholders.

4 The Chairman: How will that harm manifest itself?

5 Mr. Walsh: I am sorry. I missed that, Senator.

6 The Chairman: How will the harm occur? What will the
7 harm be?

8 Mr. Walsh: Interference, Senator.

9 The Chairman: Okay.

10 Well, let me ask you both. I am sitting here in this
11 room today and I hear the air conditioning whirring a
12 little bit. I think all of you can do that. I am told
13 that is interference, but according to the FCC, we are
14 still able to have this hearing and it is not harmful
15 interference. Mr. Walsh, am I getting somewhere in the
16 distinction between interference and harmful interference?

17 I will let you go first and then the commissioner after
18 that.

19 Mr. Walsh: Certainly, Senator, there is a distinction
20 between interference and harmful interference. It is
21 NTIA's -- on behalf of the executive branch, NTIA has filed
22 their petition stating that there is harmful interference.

23 The Chairman: Okay. So in practical terms so the
24 listening public can know what we are talking about, what

1 would that be? Who would be a user and what would be the
2 harmful interference, and how would that affect the user
3 and the American public?

4 Mr. Walsh: Senator, most of that is set forth in the
5 petition. I would be happy to take that question for the
6 record and give you a detailed, technical answer.

7 The Chairman: Oh, dear. Okay. And I realize I did
8 not notice both of you that we would get into a back and
9 forth on that.

10 Commissioner O'Rielly, what response would you have to
11 that?

12 Mr. O'Rielly: Two parts.

13 One, you are absolutely right on the harmful
14 interference.

15 Two, I am not sure that my fellow colleague at the
16 table is right to say that NTIA has been uniformly opposed
17 to the situation. My conversations with multiple people
18 suggest that NTIA has had a different viewpoint over the
19 time period, and it was not until the dismissal of an
20 administrator that the position was as it is now.

21 But to your point, I would say if harmful interference
22 is demonstrated, then the item has a requirement, actually
23 a kill switch, that the Ligado system be turned off.

24 The Chairman: How would that occur? Let us let the

1 public know what we are talking about. This may be the
2 first time some of our listeners have even heard this.

3 Mr. O'Rielly: Sure.

4 The Chairman: You have got somebody using GPS and it
5 is a very important part of our economy.

6 Mr. O'Rielly: And it is likely the device itself will
7 likely either have data missing, you know, not be
8 receptive, or the information will be inaccurate.

9 The Chairman: At what point will we know this?

10 Mr. O'Rielly: We should know -- you know, assuming
11 that Ligado actually does develop into something, which is
12 something for the markets to determine, but if it does
13 develop into what their plans say they would like to do, we
14 should know fairly soon the practical implications. We
15 believe that the data represented and presented does not
16 lead to that situation, but when it gets to sort of the
17 real-world circumstances, we will know pretty quickly given
18 all of the user community who has been so outraged by this
19 issue. There is not one of them that is not going to put
20 their hands up and say, I have got a problem.

21 The Chairman: Would this be done in a test run at the
22 outset there, or could someone be using GPS and be in a
23 life-threatening situation and the harmful interference
24 occur at that point and risk life or limb?

1 Mr. O'Rielly: Well, I think becoming operational will
2 be part of the last phase, which I talked about, all of the
3 different mitigation tools that we have, including the kill
4 switch.

5 The Chairman: So that is part of the rollout before
6 it is ever --

7 Mr. O'Rielly: The rollout is going to be the turning
8 on of the system, and you will know. You should know
9 fairly quickly whether there is an ongoing issue.

10 The Chairman: Well, I am going to let all three of
11 you -- okay, Mr. Szabat, do you want to weigh in? Because
12 I was not here when Senator Cantwell asked the question.
13 So I will let you respond if you would care to join in.

14 Mr. Szabat: Thank you, Senator Wicker.

15 The Chairman: And, Dr. Beck, I am going to leave you
16 off the hook on this one.

17 Dr. Beck: Thank you very much.

18 The Chairman: Mr. Szabat?

19 Mr. Szabat: Thank you, Senator, and I will try to be
20 brief.

21 From our testing, we see certainly that there is
22 harmful interference in at least three sub-categories of
23 GPS use: hyper vision surveying, anything space-based, and
24 the timing sector. So banks, locks and dams, a whole

1 subsector of the economy depends on accurate timing. These
2 things are most sensitive and would be most interfered with
3 most often and at the most harmful level from Ligado's
4 proposed deployment strategy.

5 At a middle level are what I call the general
6 navigation, you know, GPS in cars, general aviation. There
7 would be interference, and that may or may not be harmful
8 interference depending on how close they get to a
9 transmitter, which again by plan could be 433 meters apart,
10 and how close and how often they are in conjunction with
11 these transmitters.

12 And then finally, there are the areas that Ligado, to
13 their credit, has protected in their plan. So we believe
14 that cellular services and certified commercial aviation
15 services by our testing would not receive harmful
16 interference.

17 The Chairman: Okay. Well, what about, though, these
18 first things you mentioned? What about this guard band
19 that is part of the unanimous proposal of the FCC? Does
20 that not help in those three situations that you mentioned
21 initially?

22 Mr. Szabat: Senator, thank you.

23 We believe it helps but not enough. The challenge, as
24 Mr. O'Rielly has pointed out, is when GPS was deployed, it

1 took advantage of the adjacent quiet sector, which was used
2 for satellite communications. And so the most sensitive,
3 the most accurate GPS receivers receive signals from all
4 over that adjacent sector, which is now proposed to be sold
5 to Ligado for them to use for broadband. So even with the
6 guard band, those -- and ironically it is the most
7 expensive, most accurate of our GPS systems would, we
8 believe, not be able to operate.

9 The Chairman: So give me then of these first
10 instances you mentioned -- give us an example in practical
11 terms that even I could understand what might happen that
12 you are objecting to.

13 Mr. Szabat: So on the most sensitive side -- I will
14 just use a common example. On the most sensitive side, you
15 have surveying equipment that are used by companies, by
16 government agencies, and in the best case, they would be
17 jammed so you would get no signal. In the worst case,
18 there would be interference. And so they would be coming
19 back to say, you know, this pipeline is located here or
20 this road curve should be built here, and instead it would
21 be giving a false signal. It would be off by some number
22 of meters or hundreds of meters.

23 The Chairman: Now, would we be able to determine that
24 fairly early in the process?

1 Mr. Szabat: That I do not know, and I would defer
2 back to the engineers and technical experts.

3 The Chairman: Well, Commissioner O'Rielly, what about
4 that example? We finally got a real concrete example here,
5 surveying equipment.

6 Mr. O'Rielly: Right. If harmful interference is
7 causing the issues to surveying, that is what I mentioned
8 the mitigation techniques are intended to resolve fairly
9 instantaneous^{ly} to turning on the system. I think the
10 difficulty is that our experts did not agree with the
11 Department of Transportation's testing methodology, and
12 they think that they have properly set both the power
13 limits and the guard band to preserve the surrounding GPS.

14
15 I think my colleague at this table anyway makes the
16 point that they have taken advantage of neighboring
17 spectrum bands --

18 The Chairman: Yes. I did pick up on that.

19 Mr. O'Rielly: -- that are not part of their license.
20 And that is a problem. And we are trying to address
21 spectrum efficiency with what is our responsibility.

22 The Chairman: Mr. Walsh and Mr. Szabat, is there a
23 way to work this out? Is there a way for the experts -- as
24 you said, Mr. Szabat, the technical expertise -- to get

1 together and work this out? Because we need the 5G. And I
2 will let you go first, Mr. Walsh. Is there a way for
3 people of good will on both sides to sit down and resolve
4 this?

5 Mr. Walsh: I would hope so, Senator, but I will say
6 that the position of the executive branch on this, as
7 articulated by NTIA in its petition, was uniform. There
8 are critical military applications in GPS. So there is a
9 lot to be done, but we are always willing to work with our
10 colleagues.

11 The Chairman: Mr. Szabat?

12 Mr. Szabat: And, Senator, I would add I am an
13 optimist, but I regret to say in this case I believe that
14 physics stand between the people of good will. I do not
15 see a way in which anything approaching the Ligado proposal
16 can succeed without interference with GPS. So in this
17 case, again, I mentioned at the very beginning to Senator
18 Cantwell's question I do not envy the position that FCC is
19 in because at the end of the day, there is going to be a
20 winner or a loser. We are either going to have more
21 broadband at the expense of GPS, or we are going to protect
22 GPS at the expense of a fourth broadband system.

23 The Chairman: Mr. Walsh, what would the military
24 implications be? What would be an example?

1 Mr. Walsh: I would be hesitant to speak about that
2 here at this --

3 The Chairman: And, again, I have sprung this on you.

4 Somebody has got to wind this up. Mr. O'Rielly, it is
5 2 to 1. So I will give you the last word.

6 Mr. O'Rielly: And they are still outmatched. ~~R,~~
7 right?

8 [Laughter.]

9 Mr. O'Rielly: But to your point, look ~~it~~, I cannot
10 commit the commission's resources. I am merely a
11 commissioner. But if there is a way to resolve this issue,
12 if necessary, then I would think that would be
13 advantageous. After 17 years of working on this matter, I
14 think the commission came to a reasonable outcome that is
15 highly defensible.

16 I look forward to reading NTIA's petition, which I
17 have not done ~~so~~ yet. I will read the petition to see if
18 it presents new data or evidence that the commission should
19 consider as required under our rules for a recon petition.

20 I would like to believe that we can move forward, and
21 we have done so in a very thoughtful manner. The Office of
22 Engineering and Technology is highly regarded at the FCC.
23 There are many times that I would like to turn them in a
24 direction and go further, and they will stop me as well.

1 So their recommendation on a landing spot for this item
2 comes with heavy weight, in my opinion.

3 The Chairman: Well, thanks to all five of you.

4 And I am required by the committee to ask one final
5 question. To all of our nominees -- and I will need a yes
6 or no answer -- if confirmed, will you pledge to work
7 collaboratively with this committee and provide thorough
8 and timely responses to our requests for information as we
9 work together to address important policy issues.

10 Mr. Szabat?

11 Mr. Szabat: Yes.

12 The Chairman: Commissioner O'Rielly?

13 Mr. O'Rielly: Yes.

14 The Chairman: Dr. Beck?

15 Dr. Beck: Yes.

16 The Chairman: Mr. Walsh?

17 Mr. Walsh: Yes.

18 The Chairman: And Ms. Toman?

19 Ms. Toman: Yes.

20 The Chairman: Thank you very much.

21 And let me consult with staff.

22 [Pause.]

23 The Chairman: Let me also state that the hearing
24 record will remain open for 2 weeks. And you three

1 gentlemen who have commented on Ligado may very much want
2 to supplement your answers. The hearing record will remain
3 open for 2 weeks. During this time, Senators are asked to
4 submit any questions for the record with the final
5 submission deadline being close of business on Tuesday,
6 June 30, 2020. The committee asks the witnesses that upon
7 your receipt of any questions for the record, you submit
8 your written answers to the committee as soon as possible,
9 but no later than close of business on Tuesday, July 14,
10 2020.

11 And with that and with the thanks of the entire
12 committee, this hearing is adjourned.

13 [Whereupon, at 4:50 p.m., the hearing was adjourned.]

14

15

From: [Joel G. Miller](#)
To: [Mike O'Rielly](#)
Subject: Re: Draft
Date: Tuesday, August 4, 2020 12:34:12 PM

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b) (5)

[Redacted]

From: "Mike Orielly" <Mike.Orielly@fcc.gov>
Date: Tuesday, August 4, 2020 at 10:17:58 AM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>
Subject: Fwd: Draft

Edit this one.

From: "Mike Orielly" <Mike.Orielly@fcc.gov>
Date: Tuesday, August 4, 2020 at 9:01:49 AM
To: "Mike Orielly" <Mike.Orielly@fcc.gov>
Subject: Re: Draft

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b) (5)

[Redacted]

From: "Mike Orielly" <Mike.Orielly@fcc.gov>
Date: Tuesday, August 4, 2020 at 8:53:46 AM
To: "Mike Orielly" <Mike.Orielly@fcc.gov>
Subject: Re: Draft

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b) (5)

From: "Mike Orielly" <Mike.Orielly@fcc.gov>
Date: Tuesday, August 4, 2020 at 8:45:29 AM
To: "Mike Orielly" <Mike.Orielly@fcc.gov>
Subject: Re: Draft

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b) (5) [Redacted]

From: "Mike Orielly" <Mike.Orielly@fcc.gov>
Date: Tuesday, August 4, 2020 at 8:40:05 AM
To: "Mike Orielly" <Mike.Orielly@fcc.gov>
Subject: Re: Draft

(b) (5) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(b) (5)

From: "Mike Orielly" <Mike.Orielly@fcc.gov>

Date: Tuesday, August 4, 2020 at 8:07:24 AM

To: "Mike O'Rielly" <(b) (6)>

Subject: Draft

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

From: [Beowulf ROCHLEN](#)
To: [Mike O'Rielly](#)
Cc: beowulf@twosquaredmediaproductions.com
Subject: Re: FOR TUESDAY Global TV Interview Request: Impact of Social Media on Elections/ 10 min. by Skype or Zoom
Date: Monday, October 5, 2020 12:55:37 PM
Attachments: [ICON_19X19_WEB_da8453d8-15e5-4269-8a0d-aa34326f5800.jpg](#)
[ICON_19X19_YOUTUBE_c24221d2-0f98-4804-994d-e0392b3a0d21.jpg](#)
[ICON_19X19_FACEBOOK_78226783-072b-46e4-9739-74f38ce232eb.jpg](#)
[ICON_19X19_TWITTER_c19878df-3a28-4faa-a2ab-f47439ce4a14.jpg](#)
[ICON_19X19_INSTAGRAM_7c44092c-e90b-48d9-876e-3edba5146fb3.jpg](#)
[feb-gen-2020_24c5a2a9-6bdf-428d-948c-bc3c33a2113e.jpg](#)

Let me know if this might work - thanks!

Beowulf Rochlen

[Interview Producer](#)



O - (202) 656-6271

C - (541) 631 9176

Beowulf ROCHLEN

[Interview Producer](#)



TRT WORLD Channel,
1819 L Street, Suite 700
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From: Beowulf ROCHLEN
Sent: Friday, October 2, 2020 11:53 AM
To: Mike.O'Rielly@fcc.gov
Cc: beowulf@twosquaredmediaproductions.com
Subject: Re: FOR TUESDAY Global TV Interview Request: Impact of Social Media on Elections/ 10 min. by Skype or Zoom

We've moved the date of this show forward a week - any chance you might be available for the same topic on Tuesday, October 13th?

Beowulf Rochlen

[Interview Producer](#)



O - (202) 656-6271
C - (541) 631 9176

From: Beowulf ROCHLEN
Sent: Friday, October 2, 2020 5:55 AM
To: Mike.O'Rielly@fcc.gov
Cc: beowulf@twosquaredmediaproductions.com
Subject: Re: FOR TUESDAY Global TV Interview Request: Impact of Social Media on Elections/ 10 min. by Skype or Zoom

Let me know if I can provide any more information on this - thanks for your help!

Beowulf Rochlen

Interview Producer



O - (202) 656-6271
C - (541) 631 9176

From: Beowulf ROCHLEN
Sent: Thursday, October 1, 2020 12:41 PM
To: Mike.O'Rielly@fcc.gov
Cc: beowulf@twosquaredmediaproductions.com
Subject: FOR TUESDAY Global TV Interview Request: Impact of Social Media on Elections/ 10 min. by Skype or Zoom

Hello

My name is Beowulf Rochlen, producer with **Inside America with Ghida Fakhry** on TRT World Television.

I'd like to see if Michael O'Rielly might be available as a guest on our program. It would be wonderful to have Mr. O'Rielly on an episode to discuss misinformation and the impact of social media on politics and elections. Our previous guests have included [Governor Mike Huckabee](#), [Trump 2020 Legal Adviser Jenna Ellis](#), and [HHS Director David Price](#).

The interview would be on Tuesday, October 6th via Skype or Zoom. Timing is flexible. We'd need just 10 minutes for the interview itself.

Inside America with Ghida Fakhry breaks down the week's major headlines and uncovers some of the unreported stories across the United States, with hard hitting interview with American

officials and decision makers. Ghida Fakhry is a veteran journalist who has covered national and international affairs for 20 years and has interviewed numerous heads of state and senior government officials.

TRT world is available around the world including the U.S, U.K and Australia. It reaches 288 million households and is available on Roku, Sling TV, and TRTWorld.com.

Let me know if this might work- thanks and talk soon!

Beowulf Rochlen

Interview Producer



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From: [Susan Fisenne](#)
To: [Joel G. Miller](#); [Mike Orielly](#); [Erin McGrath](#); [Arielle Roth](#)
Subject: RE: Majority QFRs - Oversight of the Federal Communications Commission - June 24, 2020
Date: Thursday, July 9, 2020 7:59:57 AM
Attachments: [Majority QFRs - O'Rielly - 06.24.20.docx](#)

(b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

From: Joel G. Miller <Joel.Miller@fcc.gov>
Sent: Wednesday, July 8, 2020 6:17 PM
To: Mike Orielly <Mike.ORielly@fcc.gov>; Erin McGrath <Erin.McGrath@fcc.gov>; Arielle Roth <Arielle.Roth@fcc.gov>; Susan Fisenne <Susan.Fisenne@fcc.gov>
Subject: Fwd: Majority QFRs - Oversight of the Federal Communications Commission - June 24, 2020

From: "Cook, Reed (Commerce)" <Reed_Cook@commerce.senate.gov>
Date: Wednesday, July 8, 2020 at 4:58:24 PM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>
Subject: RE: Majority QFRs - Oversight of the Federal Communications Commission - June 24, 2020

Please add the attached QFRs from Senator Sullivan.

Thanks,
Reed

From: Cook, Reed (Commerce)
Sent: Wednesday, July 8, 2020 5:04 PM
To: 'Joel G. Miller' <Joel.Miller@fcc.gov>
Cc: Olivia Trusty (Commerce) (Olivia_Trusty@commerce.senate.gov) <Olivia_Trusty@commerce.senate.gov>; Guyselman, Kelsey (Commerce) <Kelsey_Guyselman@commerce.senate.gov>; Lin, John (Commerce) <John_Lin@commerce.senate.gov>; Holmes, Kevin (Commerce) <Kevin_Holmes@commerce.senate.gov>
Subject: Majority QFRs - Oversight of the Federal Communications Commission - June 24, 2020

Mr. Miller—

Please find the Majority questions for the record (QFR) submitted in relation to Commissioner

O’Rielly’s testimony before the Senate Committee on Commerce, Science, and Transportation’s hearing entitled, “Oversight of the Federal Communications Commission,” on June 24, 2020.

Please complete responses to all QFRs **as soon as possible, but no later than COB Thursday, July 22, 2020**. We also request that the witnesses prioritize responses to questions submitted by our Minority counterparts.

You will find an unofficial transcript attached. Please have Commissioner O’Rielly review the transcript and propose any light grammatical edits he finds appropriate. The Committee asks witnesses to ensure that edits do not alter the meaning or the intent of the language in the transcript. The Committee reserves the right to accept or reject any proposed edits.

Please send responses via email to Olivia_Trusty@commerce.senate.gov, Kelsey_Guyselman@commerce.senate.gov, kevin_holmes@commerce.senate.gov, John_Lin@commerce.senate.gov, Reed_Cook@commerce.senate.gov, and docs@commerce.senate.gov.

Best,

Reed Cook
Professional Staff
U.S. Senate Committee on Commerce, Science, and Transportation
Chairman Roger F. Wicker

IMPORTANT -- PLEASE READ
DO NOT DETACH

United States Senate
Committee on Commerce, Science, and Transportation
Washington, D.C. 20510-6125

MEMORANDUM

Date: July 8, 2020

To: Commissioner Mike O’Rielly

Date of Hearing: June 24, 2020

Hearing: Oversight of the Federal Communications Commission

Thank you for your recent testimony before the Senate Committee on Commerce, Science, and Transportation. The testimony you provided was greatly appreciated.

Attached are **post-hearing questions** pertaining to the above-mentioned hearing. As a courtesy, please submit a single document consolidating the posed questions followed by your answers for insertion in the printed hearing record. Your responses can be e-mailed to Reed_Cook@commerce.senate.gov.

Should the committee not receive your response within the time frame mentioned below or if the committee staffer assigned to the hearing is not notified of any delay, the committee reserves the right to print the posed questions in the formal hearing record noting your response was not received at the time the record was published.

Committee staffer assigned to the hearing: Reed Cook

Phone: (202) 224-1251

Date material should be returned: July 22, 2020

Thank you for your assistance and, again, thank you for your testimony.

Written Questions Submitted by the Honorable John Thune to Mike O’Rielly

Question 1. Commissioner O’Rielly, you recently stated regarding the FCC’s action to facilitate the deployment of 5G networks across the United States that the ruling would “help entities like FirstNet meet their public safety obligations.” Can you speak more to why you think this action would help FirstNet’s Nationwide Public Safety Broadband Network buildout and why it is important to public safety responders?

Question 2. As you are aware, Congress passed and President Trump signed into the law the TRACED Act, legislation to aimed to help reduce illegal and unwanted robocalls. The law also improved the adoption of technical solutions for blocking illegal robocalls that are both harmful and bothersome to consumers. Additionally, the TRACED Act recognized the importance of legitimate calls, like financial institutions providing customers with important alerts. In addition to the TRACED Act, the Commission has taken several efforts to deter illegal robocalls. What steps has the FCC taken to ensure call blocking technologies do not adversely affect legal robocalls used by legitimate businesses to consumers?

Question 3. In your testimony, you briefly mentioned reforming the World Radio Conference (WRC) and certain international issues as they relate to the FCC. Do you have any specific suggestions for Congress on these matters?

Written Questions Submitted by the Honorable Todd Young to Mike O’Rielly

Question 1. The FCC is looking for additional spectrum to free up for 5G services. Are you reviewing the 500 megahertz of contiguous, terrestrial spectrum at 12 GHz?

Isn’t that band of spectrum one of the few – maybe the only – licensed spectrum block available for 5G use without Federal incumbents in it?

Assuming so, what are the Commission’s plans to examine how the spectrum can be used to support 5G?

Written Questions Submitted by the Honorable Dan Sullivan to Mike O’Rielly

Question 1. The 2.5GHz Rural Tribal Window is a unique opportunity to help bring greater internet connectivity to tribal entities through direct access to spectrum. The current pandemic is occupying many resources that would otherwise be available for applying for this program. Is the FCC considering extending the application deadline to accommodate the current crisis?

Question 2. How is the FCC preparing for the utilization of beam forming, beam steering, and Dynamic Spectrum Sharing in the next generation of transportation?

Question 3. What is the plan for spectrum allocation, aside from DSRC and 802.11P for the DOT, for being able to de-conflict all modes of transportation on the same network?

Question 4. Does the FCC support or see advantages in utilizing localized wireless networks that keep information as localized as possible and could serve educational or medical districts – especially in places that might not have extensive fiber infrastructure – that may allow more connectivity for children and the workforce?

Question 5. What is the FCC’s position on allowing the private management of publicly accessible government networks through spectrum sharing?

From: [Arielle Roth](#)
To: (b) (6); [Joel G. Miller](#); [Mike Orielly](#); (b) (6)
Subject: RE: MI speech
Date: Sunday, July 26, 2020 10:08:01 PM
Attachments: [Media Institute 2020 v6 copy ar.docx](#)

Some suggestions, mostly on last section.

From: Erin McGrath (b) (6) t>
Sent: Sunday, July 26, 2020 2:45 PM
To: Joel G. Miller <Joel.Miller@fcc.gov>; Arielle Roth <Arielle.Roth@fcc.gov>
Subject: MI speech

I accidentally sent to Mike only

Sent from my iPad

From: [Arielle Roth](#)
To: (b) (6); Joel G. Miller; Mike Orielly; (b) (6)
Subject: RE: MI speech
Date: Sunday, July 26, 2020 10:27:31 PM
Attachments: [Media Institute 2020 v6 copy ar.docx](#)

Found 2 more small nits. Use this instead.

From: Arielle Roth
Sent: Sunday, July 26, 2020 10:08 PM
To: Erin McGrath <(b) (6)>; Joel G. Miller <Joel.Miller@fcc.gov>; Mike Orielly <Mike.Orielly@fcc.gov>; Mikeorielly1 <(b) (6)>
Subject: RE: MI speech

Some suggestions, mostly on last section.

From: Erin McGrath <(b) (6)>
Sent: Sunday, July 26, 2020 2:45 PM
To: Joel G. Miller <Joel.Miller@fcc.gov>; Arielle Roth <Arielle.Roth@fcc.gov>
Subject: MI speech

I accidentally sent to Mike only

Sent from my iPad

From: [Joel G. Miller](#)
To: [Mike ORIelly](#); [Erin McGrath](#); [Arielle Roth](#)
Subject: RE: Minority QFRs for Commissioner Michael O'Rielly
Date: Monday, July 13, 2020 5:03:58 PM
Attachments: [Minority QFRs for Mr. Michael O'Rielly Completed.docx](#)

Great work everyone.

From: Mike ORIelly <Mike.ORielly@fcc.gov>
Sent: Tuesday, June 30, 2020 4:48 PM
To: Joel G. Miller <Joel.Miller@fcc.gov>; Erin McGrath <Erin.McGrath@fcc.gov>; Arielle Roth <Arielle.Roth@fcc.gov>
Subject: Fwd: Minority QFRs for Commissioner Michael O'Rielly

FYI.

From: "Day, Christopher (Commerce)" <Christopher_Day@commerce.senate.gov>
Date: Tuesday, June 30, 2020 at 5:31:01 PM
To: "Mike ORIelly" <Mike.ORielly@fcc.gov>
Cc: "Bobbink, Matthew (Commerce)" <Matthew_Bobbink@commerce.senate.gov>, "Branscome, John (Commerce)" <John_Branscome@commerce.senate.gov>, "Bone, Shawn (Commerce)" <Shawn_Bone@commerce.senate.gov>
Subject: Minority QFRs for Commissioner Michael O'Rielly

Commissioner O'Rielly:

Attached are questions for the record (QFRs) for you submitted by minority committee members from the June 16, 2020, Senate Commerce, Science, and Transportation Committee nominations hearing.

Please submit responses to these questions electronically — in both Word and PDF formats — to matthew_bobbink@commerce.senate.gov and Christopher_Day@commerce.senate.gov as soon as possible and no later than COB **Tuesday, July 14, 2020**.

As always, feel free to reach out to us with any questions.

Thank you –

Chris

Christopher Day
Chief Investigator and Senior Counsel (Minority)

**Questions for the Record for the Honorable Michael O’Rielly
U.S. Senate Committee on Commerce, Science, and Transportation
“Nominations Hearing”
June 16, 2020**

Questions Submitted by the Hon. Maria Cantwell to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Executive Branch Concerns with FCC’s Ligado Decision. The Departments of Commerce and Transportation (along with the entirety of the executive branch) believe that the Federal Communications Commission’s (“FCC’s”) recent approval of Ligado’s terrestrial wireless plans threatens the nation’s global positioning system (“GPS”) on which the safety and security of everything from civil aviation to military operations to weather forecasting rely. The FCC rejected the executive branch’s concerns and related technical studies both from the government and the private sector showing that the precision and effectiveness of GPS could be impaired. Instead, the FCC relied on competing technical studies (some of which were funded by Ligado), and its own conclusion that the government studies measured the wrong things, to allow Ligado to move forward with its plans. Yet in its decision to allow Ligado to move forward, the FCC acknowledged that its “analysis [in the order] should not be construed to say there is no potential for harmful interference to any GPS device currently in operation in the marketplace.”

Question 1. Did the FCC quantify the number of receivers that would be negatively impacted by its decision, or analyze the impact of its decision on the risk this interference could cause to safety of life or property?

Answer. The Commission based its decision on the information submitted into the record, as required by the Administrative Procedures Act. The Federal agencies, which relied on testing and analysis that the Commission concluded was not directly correlated to measuring harmful interference and was technically flawed, did not submit information that would permit a receiver-by-receiver analysis. Based on the information and technical analysis supplied, FCC staff concluded that the risk of potential harmful interference to GPS operations was low. To further ensure that GPS operations would not be harmed, however, the Commission also placed extraordinary conditions on the approval, including imposing power limits on Ligado’s operations, prohibiting the use of the 23 megahertz of spectrum closest to the GPS frequencies, ordering that Ligado replace affected Federal receivers, mandating drive testing to ensure compliance with the technical rules, requiring Ligado to adhere to reporting requirements, including disclosing the location of its facilities to the Federal agencies, and ensuring that Ligado deploy a “stop buzzer” to shut down its system if there is harmful interference to GPS, among others. While there is always a risk that a new service can unexpectedly cause harmful interference, the Commission believes these mitigation conditions will sufficiently protect safety of life and property.

Question 2. Did the Department of Transportation or Commerce provide data in its study on the percentage of GPS receivers that would suffer interference from Ligado's terrestrial operations at the power levels recently authorized by the FCC? Did the FCC ask for such information?

Answer. To the best of my knowledge, neither the Department of Transportation nor the Department of Commerce provided specific data on the percentage of deployed and operational GPS receivers that could allegedly be subject to harmful interference from Ligado's future terrestrial operations at the power levels authorized. Commission staff generally rely on the information submitted in the record by interested parties. I do not have insight into all of the conversations between staff and the Federal agencies, so I am unaware as to whether staff asked for additional information on this question.

Question 3. Do you agree that in high-profile spectrum decisions, particularly ones which create potential risk to safety of life, that it is in the greater public interest to reach consensus among and between the FCC and the expert federal agencies on aviation, transportation safety, and national defense?

Answer. Generally, yes. It is always advisable to gain consensus with all affected parties, especially Federal agencies, whenever possible. In certain circumstances, however, the Commission has to consider all the relevant facts and decide issues regarding spectrum bands allocated for commercial use notwithstanding the objections of any particular Executive Branch Department or agency.

Question 4. Given the potential risks to safety; the unprecedented and unified opposition of executive branch agencies to the FCC's decision; and the fact that a third of the U.S Senate, on a bipartisan basis, has asked you and your colleagues to take a step back and reexamine the decision, would you be willing to support a stay of the Ligado decision until the FCC can work with the federal expert agencies to reach a sustainable consensus that serves the greater public interest in terms of protecting aviation and transportation safety, national security and our 5G future?

Answer. My understanding is that FCC engineers are engaging with the engineering staff of affected Federal agencies on data points not previously disclosed to the Commission regarding the Ligado license modification item. As I have previously committed, I am willing to give due consideration to a stay, based on new data or evidence, if such an item is circulated by the Chairman. Under our current procedures, only the Chair can initiate a reconsideration order, and I do not get the impression that such an item is being drafted at the moment. Notably, I have made numerous recommendations and provided proposals to modify the Commission's procedures to increase efficiency and transparency, including a greater role for Commissioners to initiate, amend, or vote on items.

Sustaining Local Media Outlets. Local newspapers, radio, and television stations provide important local content that keeps their communities informed. People rely on local newspapers

and broadcasters to cover school and business closures, communicate public health guidance, and to combat life-threatening misinformation. It is for these reasons that journalism, as an industry, is considered critical infrastructure. The Department of Homeland Security and state governors have deemed journalists essential workers. The current COVID-19 related economic crisis has exacerbated and accelerated the decline in local news advertising while at the same time underscoring the unprecedented need for local news outlets to give consumers access to accurate and timely information about local community business and government operation and information to promote public health, safety and protect consumers from fraud and abuse. Some local broadcasters have reported as much as a 90 percent loss in advertising revenues due to the effects of the coronavirus. Nationwide, advertising losses for local TV and radio broadcasters are estimated to reach at least \$3 billion as a result of the current health crisis. From 2000-2018, local TV stations' advertising revenue fell by 40 percent. From 2003-2018, the ad revenues of FM stations dropped by 43.8 percent. In contrast, large online platforms have used their dominant market power to take a massive share of digital advertising revenue. Facebook and Google currently account for 58 percent of national digital advertising revenue, and 77 percent of local digital advertising revenue respectively. In the last several months, almost half of newspapers have had to lay-off or furlough employees according to the News Media Alliance. Industry analysts predict these trends to continue, with digital capturing 59.5 percent of overall U.S. advertising revenue by 2029. The total estimated local ad revenues for a single digital advertising competitor—Google—will roughly equal the total over-the-air ad revenues for all TV stations in the U.S. and will soon exceed total TV station ad revenues.

Question 1. Given the revenue trends for local news organizations, it is likely that when we emerge from this crisis we will have many fewer local news organizations. In this context, what is your view of the FCC's statutory obligations to promote localism? What regulatory levers can the FCC now use to address the current precipitous decline in localism that I have just outlined?

Answer. One of the most important things the FCC can do for local journalism is to formally acknowledge the very marketplace changes that you properly highlight and update our definition of what constitutes the relevant advertising market for purposes of Commission rules and policies. I completely agree that online advertisers are seizing a sizeable chunk of ad dollars that would otherwise, and in past eras did, go to local print and broadcast organizations. However, the failure of the FCC and DOJ to properly account for these changes in the market has played a significant role in undermining and preventing beneficial investments, partnerships, and in some cases, common ownership of local papers and television stations, which may help secure greater financial stability.

In fact, we have evidence that allowing certain transactions, subject to the Commission's thoughtful consideration and approval process, have beneficial effects for both the respective local news organizations, and more importantly, local communities. Specifically, in the Sioux Falls television market, the FCC last year allowed the combination of two television stations, of which one was clearly struggling, with a commitment that the owner would actually increase the amount of local news within the market. The two stations continue to operate under their respective banners, but combined have increased the amount of unique, local news being provided to the community by 35 percent. This is an exemplary case of how the FCC can facilitate an increase in localism and should serve as a model in other contexts as well.

**Questions Submitted by the Hon. Amy Klobuchar to the Hon. Michael O’Rielly,
Nominated to be a Commissioner of the Federal Communications Commission.**

Question 1. Last year, you voted to approve the proposed merger of T-Mobile and Sprint. As Ranking Member of the Antitrust Subcommittee, I repeatedly raised concerns about the harmful effects of eliminating one of the four largest wireless carriers, and I remain skeptical of the argument that the merger is necessary to maintain America’s leadership in deploying 5G.

Do you believe that it was in the public interest to approve a transaction that risks significant consumer harm for the promise of speculative benefits on 5G and rural wireless deployment that may not materialize?

Answer. Following a careful consideration of the record, extensive conversations with interested parties, and a review of the current marketplace, I decided to vote to approve the transaction. In weighing the various considerations, I was especially mindful of Sprint’s financial situation and diminished ability to be an effective competitor. I have never been one to artificially declare that having four providers is necessarily better than three, and I found merit in the argument that three strong wireless providers fighting for consumers is better than a market consisting of two strong competitors and two much smaller players. In terms of commitments made, I expect the Commission to fully enforce the obligations agreed to by representatives of T-Mobile and Dish.

In the end, only time will tell whether approving the transaction will ultimately prove the right decision, but I believe the Commission made the best judgment possible at that moment in time. Early indications suggest that the merger has been beneficial as new T-Mobile begins the integration of Sprint spectrum assets, enhancing its network and aiding the deployment of advanced wireless services for American consumers.

**Questions Submitted by the Hon. Richard Blumenthal to the Hon. Michael O’Rielly,
Nominated to be a Commissioner of the Federal Communications Commission.**

Blumenthal: On May 28, after being fact-checked for false tweets about mail-in voting, President Trump issued an executive order that directs Federal agencies to investigate and retaliate against online platforms over imagined political bias. The FCC is not an arm of the Presidency – it is an independent agency – it cannot be pressed into service to retaliate against Donald Trump's political rivals or to stifle critical speech.

Question 1. Will you commit to stand up to unconstitutional and bullying use of power by this President?

Answer. I have enormous respect for the FCC as an institution and the great people who work there. I will stand up against anyone seeking that the agency impose unconstitutional measures or abuse applicable statutes as enacted by Congress. In this case, the President is fully within his rights to seek an examination of this statute and any other he deems appropriate for purposes of carrying out his responsibilities. Clearly, certain high-technology companies apply content moderation in a way that is unfairly discriminatory to many groups, especially conservative Americans. While I have doubts as to the FCC’s statutory authority to issue rules in this area, I commit to carefully considering the record and all relevant issues should NTIA submit a petition for rulemaking.

Question 2. Do you believe that the FCC has the currently authority to write rules for tech platforms and to revise CDA 230 as the President has insisted?

Answer. As I have previously stated publicly, while I have deep reservations regarding whether the FCC has rulemaking authority in this area, I am open to considering whether Congress intentionally or unintentionally gave the FCC jurisdiction to issue regulations pursuant to Section 230. Specifically, I am carefully examining the substantive arguments already presented by individuals on both sides of the debate over Commission authority, including arguments involving agency consistency.

Question 3. What do you believe the FCC should do with the President’s E.O. and an anticipated NTIA petition to rewrite CDA 230?

Answer. As I stated in my testimony, I believe the Commission should seek public comment on any petition filed by the NTIA on this matter and develop a fulsome record from a wide range of experts, on issues such as the FCC’s jurisdiction and the First Amendment implications of any actions under consideration, prior to considering any specific rulemaking action. I commit to reviewing the record in any future proceeding and fully examining all the relevant issues prior to voting to adopt any new rules under the section.

Blumenthal: The Coronavirus pandemic and social distancing are a resounding demonstration of the importance of Lifeline. In normal times, Lifeline is underfunded. During a pandemic – when schools are shut down and businesses are shuttered – it is more essential than ever. There are now tens of millions of people that are newly unemployed as a result of the Coronavirus. They need the internet to get back to normal, to find new employment, and to find help.

Question 1. Do you agree Lifeline needs more funding during this crisis?

Answer. Unlike some conservatives, I believe that Lifeline can be an important part of meeting the Commission’s Universal Service obligations, and it is critical that the program be sufficiently funded, especially during the current COVID-19 crisis. The Lifeline program has been operating significantly under its budgetary target in recent years; as such, in the absence of data quantifying whether, or by how much, current program funding is insufficient, I cannot definitively state whether more funding is needed. That being said, I am certainly open to providing more funding to the program should there be a need to do so.

Question 2. Do you have an estimate about how much money it will take to support Lifeline? What considerations do we need to take into account in determining the amount of funds required?

Answer. I cannot currently provide such an estimate without consultations with experts within the agency and USAC to ascertain the existence and extent of recent increases in take rates and projected program needs. Without intending to avoid the question in any way, the fact of the matter is that the Chairman is in a better position to provide a more comprehensive estimation. To the extent that the Lifeline program needs additional funding to meet the economic circumstances facing our nation, I would be supportive of steps to address such requirements.

Question 3. What changes would you recommend to improve the services offered under Lifeline to meet the public’s needs?

Answer. To ensure that the program meets the needs of low-income Americans and that participation remains affordable for both providers and subscribers, two changes come to mind: 1) halt the scheduled increase to the minimum scheduled standards for December 2020; and 2) stop the phase-down of support for voice service, also scheduled for December 2020. These two changes would help provide more certainty to subscribers, as well as ensure that the Lifeline program’s benefits remain accessible.

Questions Submitted by the Hon. Brian Schatz to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Question 1. The COVID-19 pandemic has demonstrated important role broadband plays in our lives today. Whether it is used to engage in distance learning or consult with a doctor via telehealth, this pandemic has shown that broadband has become essential to participate in today’s society. Unfortunately, the pandemic has shown that previous efforts to deploy universal broadband have not worked, as the digital divide continues to exist. As an FCC Commissioner, what will you do differently over the next five years to ensure that all Americans have access to high capacity broadband?

Answer. I have worked hard, during this Commission and the last, to modernize our subsidy programs, and I firmly believe progress has been made in reducing the number of unserved Americans. However, despite our best efforts and the ratepayer dollars spent to provide universal broadband access, significant gaps in coverage remain. During my tenure, I have focused primarily on bringing service to the unserved, rather than duplicating service where it already exists, and using technology neutral market mechanisms to stretch funding as far as possible. While I plan to continue abiding by these principles should I be confirmed for an additional term, I believe more can be done to eliminate inefficiencies and waste in the USF, and in turn ensure scarce funding goes to those who need it most. For example, I plan to focus on eliminating wasteful overbuilding within the USF and promoting better coordination among the USF and other programs. From a broader perspective, I also believe we need to re-examine and reform the USF collection mechanisms and consider whether a large injection of Federal funds could be effective and properly managed to address the unserved population.

Question 2. The COVID-19 pandemic has shown that we, as a nation, have much work to do close the digital divide in our country. The universal service fund is a critical tool to support this work. However, for years the FCC has neglected to fix the current contribution methodology so that there are more funding sources available for broadband buildout in unserved areas. Instead, the Commission has proposed capping programs to depress demand and lower the contribution factor. You have been the Chair of the Federal State Joint Board on Contributions for the last three years. Do you have any updates on the status of contribution reform? Do you support any proposals to update the current contribution methodology? If not, why not? Outside of capping the universal service programs, how can the Commission ensure that the funding needs of all of our universal service programs are met?

Answer. I fully agree that the current trajectory of USF spending is unsustainable. At the same time, the Federal-State Joint Board on Universal Service has been at a standstill due to internal disagreement over how to reform USF contributions. Certain state members have been adamant that the only path forward is to assess a tax on broadband service, a position with which I fundamentally disagree. I am open to any and all other ideas to keep the USF sustainable, but I believe that imposing taxes on broadband would be harmful, regressive, and unequivocally the wrong answer.

Question 3. Last year the FCC sought comment on a proposal to combine the Rural Health Care and E-Rate programs into a single program with a unified spending cap. If the Commission goes forward with this plan to combine the caps of these programs, increased demand in one program could lead to both programs becoming underfunded, which would pit schools and libraries and healthcare providers against each other in an unnecessary competition for funding. How would having programs compete against each other for funding ensure that our health care providers and schools have the connectivity they need to provide telehealth and distance learning? Wouldn't the uncertainty caused by these programs competing for funding conflict with the Commission's duty under the law to provide "specific, predictable, and sufficient" support for universal service participants?

Answer. While I strongly supported the broader item and have long-advocated for the adoption of an overall USF budgetary cap, I would have preferred if the proposal to combine the budgets of the Rural Health Care and E-Rate programs was not included in the larger budgetary USF cap item. However, one of my colleagues required its inclusion and I thought it sufficiently mature to receive public comments and criticism. In addition to other concerns raised, I worry that combining the Rural Health Care and E-Rate budgets would be used to indirectly overrun the individual program caps and bypass a direct vote by the Commission to increase spending. That is not fiscally responsible.

Question 4. During a FCC press conference in March 2016, when discussing the outcome of an FCC decision on Lifeline, you stated "Never trust a democrat." In 2018, the Office of Special Counsel concluded that you violated the Hatch Act when you urged the election of conservatives at the Conservative Political Action Conference that year. Two months ago you sent a letter to President Trump praising his "extraordinary leadership ... on all communications policy matters, especially regarding 5G advanced wireless services..." This record of partisanship is disconcerting, particularly since your job is to work on important telecom issues that impact our country in a bi-partisan way. How can we ensure that you will be able to work with your fellow Commissioners on telecom policy who may have different political viewpoints than you?

Answer. In all fairness, these three incidents come with extenuating circumstances and require further explanation, which I am more than happy to provide to you or your staff. More importantly, however, my extensive record during my entire time at the Commission should distinguish me as perhaps one of the more bipartisan Commissioners among recent members. I have worked extensively with Commissioner Rosenworcel on a number of initiatives, including to free up additional spectrum bands for unlicensed services, culminating most recently with the 6 GHz order, and we have worked together on 5.9 GHz and other bands. Further, Chairman Wheeler and I worked together on multiple projects, including modernizing our High Cost program, and in fact, he and I participated in joint briefings on Capitol Hill, where together we discussed and briefed proposed changes with Members of Congress. Moreover, I previously worked extensively with Commissioner Clyburn on several projects, including means testing the USF High Cost program. While most observers would describe all of my colleagues as passionately committed to our respective approaches, we have been able to find ways to keep the lines of communication open, work through the issues, and, if we disagree, move on to the next

project. This is the approach I have maintained with everyone I've worked with on both sides of the aisle.

In sum, I came to the Commission to get policies enacted that would improve the lives of Americans, and if I am privileged to continue to serve, I intend to work with all my colleagues on this effort, regardless of their party affiliation.

Questions Submitted by the Hon. Jon Tester to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Question 1. The 5G Fund proposal, which you supported, lays out a false choice between speed and accuracy, and suggests waiting for new maps would delay awards until at least 2023. How would “Option A” in the 5G Fund proposal, which moves ahead with awards based on inaccurate maps, avoid the pitfalls that doomed the Mobility Fund?

Answer. I appreciate your view and raised similar concerns when the item was adopted. While I voted for the Chairman’s proposal because I believed it was worthy of debate and public comment, I agree that it is necessary to produce more accurate wireless coverage maps prior to the expenditure of new funding. Accordingly, I made a public commitment in response to Chairman Wicker’s question at the hearing not to support moving forward with “Option A” of the 5G Fund proposal, phase II of RDOF, or any other new USF subsidy mechanism without new, accurate maps based on corresponding reliable and granular data — a position that I believe to be consistent with the recently enacted Broadband DATA Act.

Question 2. Even if accurate maps are not available in 2021, why should we consider spending the entire 10-year Fund based on maps that we know to be inaccurate, and which will soon be replaced?

Answer. As pertaining to the 5G Fund “Option A” proposal, I agree and will not support doing so.

Question 3. I understand the FCC is considering a proposal that would establish a cap on the overall USF budget and combine the E-rate and Rural Health Care programs under a single sub-cap. I hear from educators and health care providers in my state that worry this proposal will force them to compete against each other for funding. What is the status of this proposal?

Answer. As I stated in my answer to Subcommittee Ranking Member Schatz’s question on the same topic, this proposal was not advocated by my office and I would have preferred if it had not have been included in the larger USF cap item. The proposal served as an unnecessary distraction from the valid and broader effort to establish an overall USF budget and was poorly thought out. At this time, the public comment period has expired on the Notice of Proposed Rulemaking, and the Commission is reviewing the record prior to taking any further action.

Question 4. Given the connectivity issues highlighted by COVID-19, do you still support capping these programs?

Answer. Yes, as a matter of fiscal responsibility and offering protection for ratepayers, I believe an overall cap could help to increase the transparency of the Commission. In fact, most of the programs already have individual caps, and an overall cap would not prevent the Commission from voting to increase the topline or individual caps at any point in the future, should the

demand for the funding reach those levels. Currently, spending within the four existing programs combined remains more than a billion dollars below the proposed cap.

From: [Joel G. Miller](#)
To: [Mike O'Rielly](#); [Susan Fisenne](#)
Cc: [Arielle Roth](#); [Erin McGrath](#)
Subject: RE: Pending matters...
Date: Friday, July 10, 2020 10:01:36 AM

(b) (5)

From: Mike O'Rielly <Mike.O'Rielly@fcc.gov>
Sent: Friday, July 10, 2020 8:19 AM
To: Susan Fisenne <Susan.Fisenne@fcc.gov>
Cc: Joel G. Miller <Joel.Miller@fcc.gov>; Arielle Roth <Arielle.Roth@fcc.gov>; Erin McGrath <Erin.McGrath@fcc.gov>
Subject: Re: Pending matters...

(b) (5)

From: "Susan Fisenne" <Susan.Fisenne@fcc.gov>
Date: Friday, July 10, 2020 at 8:43:25 AM
To: "Mike O'Rielly" <Mike.O'Rielly@fcc.gov>
Subject: Pending matters...

A couple of requests still pending....

1. Adam Bender Interview Request

From: Bender, Adam <abender@warren-news.com>
Sent: Thursday, July 9, 2020 11:16 AM
To: Susan Fisenne <Susan.Fisenne@fcc.gov>
Subject: RE: NJ/NY wireless webinar

Great, thanks On a separate matter, I am working on a story previewing NARUC later this month and its proposed telecom resolution that would oppose getting rid of the state ETC designation process (see below) The draft resolution appears to directly reference Commission O Rielly's comments on this subject Would he be available for a short phone interview, perhaps tomorrow morning, to respond to the NARUC draft resolution?

Thanks!

-Adam

NARUC Draft Resolution Would Ask to Keep State ETC Designation

STATES|8 Jul 2020|Ref: 2007070057

Don't stop states from designating USF eligible telecom carriers, said a proposed [resolution](#) by the NARUC Telecom Committee for the state utility regulator association's June 20-22 virtual meeting The draft responds to an idea supported by some industry and FCC Commissioner Mike O'Rielly that's raised state alarm (see [2006300010](#)) It would ask Congress to reject the Expanding Opportunities for Broadband Deployment Act by Rep G K Butterfield, D-N C , and amend the Accessible, Affordable Internet for All Act (HR-7302) by House Majority Whip James Clyburn, D-S C , to require providers seeking reimbursement be designated ETCs Despite "several disparaging remarks" by one FCC commissioner about states' role, the commission should cooperate with them, acknowledging their "significant role in closing the digital divide and in all Universal Service Fund programs," said the

proposed resolution A proposed resolution in NARUC's Electricity Committee would support FAA approving beyond visual line of sight waivers for utility drones

2. Google meeting request

From: "Scott Deutchman" <sdeutchman@google.com>
Date: Wednesday, July 8, 2020 at 12:41:36 PM
To: "susanne.fisenne@fcc.gov" <susanne.fisenne@fcc.gov>
Cc: "Joel G. Miller" <joel.miller@fcc.gov>
Subject: Google Meeting Request on Sec 230 EO

Hi Susanne,

I hope you are doing well. I'd like to request a videoconference with Commissioner O'Rielly on the importance of Section 230 and the President's Executive Order.

Representing Google would be Johanna Shelton, Austin Schlick, Nora Puckett and myself. We would be happy to find a time over the next two weeks based on the Commissioner's schedule.

Please let me know if you have any questions.

Best,
Scott

From: [Joel G. Miller](#)
To: (b) (6) (b) (6) [Mike O'Rielly](#)
Subject: RE: QFRs
Date: Tuesday, July 21, 2020 2:59:26 PM
Attachments: [Majority QFRs - O'Rielly - 06.24.20 v1 jm em jm.docx](#)

(b) (5)

From: Erin McGrath (b) (6) t>
Sent: Tuesday, July 21, 2020 2:09 PM
To: Mikeorielly1 <(b) (6)>; Mike O'Rielly <Mike.O'Rielly@fcc.gov>; Joel G. Miller <Joel.Miller@fcc.gov>
Subject: QFRs

(b) (5)

Sent from my iPad

IMPORTANT -- PLEASE READ
DO NOT DETACH

United States Senate
Committee on Commerce, Science, and Transportation
Washington, D.C. 20510-6125

MEMORANDUM

Date: July 8, 2020

To: Commissioner Mike O'Rielly

Date of Hearing: June 24, 2020

Hearing: Oversight of the Federal Communications Commission

Thank you for your recent testimony before the Senate Committee on Commerce, Science, and Transportation. The testimony you provided was greatly appreciated.

Attached are **post-hearing questions** pertaining to the above-mentioned hearing. As a courtesy, please submit a single document consolidating the posed questions followed by your answers for insertion in the printed hearing record. Your responses can be e-mailed to Reed_Cook@commerce.senate.gov.

Should the committee not receive your response within the time frame mentioned below or if the committee staffer assigned to the hearing is not notified of any delay, the committee reserves the right to print the posed questions in the formal hearing record noting your response was not received at the time the record was published.

Committee staffer assigned to the hearing: Reed Cook
Phone: (202) 224-1251
Date material should be returned: July 22, 2020

Thank you for your assistance and, again, thank you for your testimony.

Written Questions Submitted by the Honorable John Thune to Mike O’Rielly

Question 1. Commissioner O’Rielly, you recently stated regarding the FCC’s action to facilitate the deployment of 5G networks across the United States that the ruling would “help entities like FirstNet meet their public safety obligations.” Can you speak more to why you think this action would help FirstNet’s Nationwide Public Safety Broadband Network buildout and why it is important to public safety responders?

Answer: (b) (5)

A large black rectangular redaction box covers the entire answer to Question 1. The text "(b) (5)" is visible at the top left of the redaction.A second black rectangular redaction box covers the answer to Question 1, overlapping the first one.

Question 2. As you are aware, Congress passed and President Trump signed into the law the TRACED Act, legislation to aimed to help reduce illegal and unwanted robocalls. The law also improved the adoption of technical solutions for blocking illegal robocalls that are both harmful and bothersome to consumers. Additionally, the TRACED Act recognized the importance of legitimate calls, like financial institutions providing customers with important alerts. In addition to the TRACED Act, the Commission has taken several efforts to deter illegal robocalls. What steps has the FCC taken to ensure call blocking technologies do not adversely affect legal robocalls used by legitimate businesses to consumers?

Answer: (b) (5)

A large black rectangular redaction box covers the entire answer to Question 2. The text "(b) (5)" is visible at the top left of the redaction.A second black rectangular redaction box covers the answer to Question 2, overlapping the first one.

(b) (5)

Question 3. In your testimony, you briefly mentioned reforming the World Radio Conference (WRC) and certain international issues as they relate to the FCC. Do you have any specific suggestions for Congress on these matters?

Answer. (b) (5)

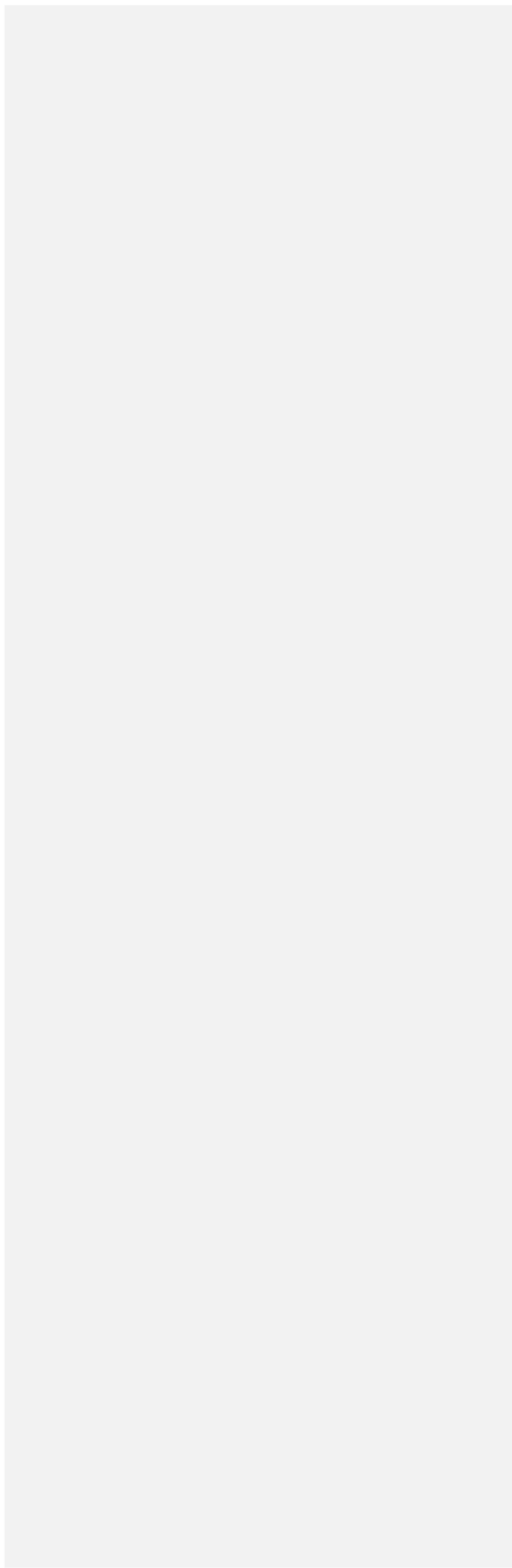
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(b) (5)

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[Redacted text block]

[Redacted text block]



Written Questions Submitted by the Honorable Todd Young to Mike O'Rielly

Question 1. The FCC is looking for additional spectrum to free up for 5G services. Are you reviewing the 500 megahertz of contiguous, terrestrial spectrum at 12 GHz?

Isn't that band of spectrum one of the few – maybe the only – licensed spectrum block available for 5G use without Federal incumbents in it?

Assuming so, what are the Commission's plans to examine how the spectrum can be used to support 5G?

Answer: (b) (5)

[Redacted]

[Redacted]

[Redacted]

Written Questions Submitted by the Honorable Dan Sullivan to Mike O'Rielly

Question 1. The 2.5GHz Rural Tribal Window is a unique opportunity to help bring greater internet connectivity to tribal entities through direct access to spectrum. The current pandemic is occupying many resources that would otherwise be available for applying for this program. Is the FCC considering extending the application deadline to accommodate the current crisis?

Answer. (b) (5)

Question 2. How is the FCC preparing for the utilization of beam forming, beam steering, and Dynamic Spectrum Sharing in the next generation of transportation?

(b) (5)

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Question 3. What is the plan for spectrum allocation, aside from DSRC and 802.11P for the DOT, for being able to de-conflict all modes of transportation on the same network?

(b) (5)

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(b) (5)

Question 4. Does the FCC support or see advantages in utilizing localized wireless networks that keep information as localized as possible and could serve educational or medical districts – especially in places that might not have extensive fiber infrastructure – that may allow more connectivity for children and the workforce?

(b) (5)

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(b) (5)

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Question 5. What is the FCC's position on allowing the private management of publicly accessible government networks through spectrum sharing?

Answer. (b) (5)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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(b) (5)

[Redacted text block]

[Redacted text block]

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From: [Susan Fisenne](#)
To: [Joel G. Miller](#); [Erin McGrath](#); [Arielle Roth](#)
Cc: [Mike ORielly](#)
Subject: RE: Questions for the Record -- 9/17/20 CAT Hearing
Date: Wednesday, October 7, 2020 7:23:33 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[ORielly QFRs 9.17.20 House Oversight Hearing.docx](#)

Good morning,

Attached are the QFRs for the 9.17 House Hearing. They are saved in the K drive here:

(b) (5)



From: Joel G. Miller <Joel.Miller@fcc.gov>
Sent: Tuesday, October 6, 2020 6:47 PM
To: Susan Fisenne <Susan.Fisenne@fcc.gov>
Subject: Fwd: Questions for the Record -- 9/17/20 CAT Hearing

Hey Susan - when you're "back in the office" could you save and send back to the three advisors with Mike cc'd? Thanks!

Hope you're having fun!

-Joel

From: "Orlando, Joe" <Joe.Orlando@mail.house.gov>
Date: Tuesday, October 6, 2020 at 5:32:25 PM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>
Cc: "Susan Fisenne" <Susan.Fisenne@fcc.gov>
Subject: Questions for the Record -- 9/17/20 CAT Hearing

Dear Commissioner O'Rielly:

Thank you for appearing before the Subcommittee on Communications and Technology of the Committee on Energy and Commerce on Thursday, September 17, 2020, to testify at the hearing entitled, "Trump FCC: Four Years of Lost Opportunities."

Pursuant to Rule 3 of the Committee on Energy and Commerce, members are permitted to submit additional questions to the witnesses for their responses, which will be included in the hearing record. In the attached documents, please find a transmittal letter from Chairman Pallone and additional written questions directed to you from certain members of the Committee. Instructions for responding to questions for the record are included in the text of the letter from Chairman

Pallone. **Witnesses are asked to provide their responses to the Committee by no later than close of business on Tuesday, October 20, 2020.**

Please do not hesitate to reach out to me directly if you have any questions. Thank you again!

Best,

Joseph Orlando

Policy Analyst

Committee on Energy and Commerce

U.S. House of Representatives

(202) 225-2927



Subcommittee on Communications and Technology
Hearing on
“Trump FCC: Four Years of Lost Opportunities”
September 17, 2020

The Honorable Michael O’Rielly, Commissioner
Federal Communications Commission

The Honorable Anna Eshoo (D-CA):

1. Political files submitted to the Federal Communications Commission (FCC) play an important role in ensuring the public knows how candidates, outside groups, and others are using the public’s airwaves for television and radio during an election. Unfortunately, the millions of documents the FCC manages are not machine readable, making meaningful analysis nearly impossible. Would you support a requirement for political files to be submitted to the FCC in a machine-readable format?
2. The FCC’s 2020 Broadband Deployment Report finds that “the current speed benchmark of 25/3 Mbps remains an appropriate measure by which to assess whether a fixed service is providing advanced telecommunications capability,” specifically citing the statutory definition of “advanced telecommunications capability” as services that “enable[] users to originate and receive high-quality voice, data, graphics, and *video* telecommunications.” (¶13; 47 U.S.C. § 1302(d)(1) (emphasis added)). However, when I look at the recommended bandwidth for Zoom, Google Meet, and Cisco WebEx, each requires upload speeds of 3 Mbps for high quality video.

Given that millions of households are juggling with parents participating in video calls at the same time as students are participating in class via video conference, does this speed threshold make sense today? What do you think is an appropriate threshold?

3. We often discuss the digital divide as if it’s only about access to broadband when we know our country also faces an affordability crisis. Yet the FCC doesn’t collect broadband pricing data.

Does the FCC have the legal authority to collect broadband pricing data? If so, why hasn’t it done so?

The Honorable Greg Walden (R-OR):

1. The FCC’s broadcast ownership regulations have long hampered traditional media outlets ability to compete with their digital counterparts that are completely unregulated. Before COVID-19, this type of outdated, asymmetrical regulation was simply a relic of a bygone era that four bipartisan Commissions have been unable to address. But now,

these regulations—in addition to the business impacts of COVID-19—are threatening one of the strongest antidotes to the misinformation spreading online: investments in real journalism.

Since the Commission is still awaiting to see if the Supreme Court will overturn the activist Third Circuit Court's blockade of updating its regulations, are there waivers or other tools the Commission could use that advance investments in local news, preserve the public interest, and promote the benefits of a transaction while also guarding against concerns such as a potential lack of viewpoint diversity?

From: [Erin McGrath](#)
To: [Joel G. Miller](#); [Mike Orielly](#)
Subject: Re: Quote for 3.5 GHz release
Date: Wednesday, July 22, 2020 11:32:37 AM

(b) (5)



From: "Joel G. Miller" <Joel.Miller@fcc.gov>
Date: Wednesday, July 22, 2020 at 9:55:29 AM
To: "Mike Orielly" <Mike.Orielly@fcc.gov>, "Erin McGrath" <Erin.McGrath@fcc.gov>
Subject: Re: Quote for 3.5 GHz release

(b) (5)



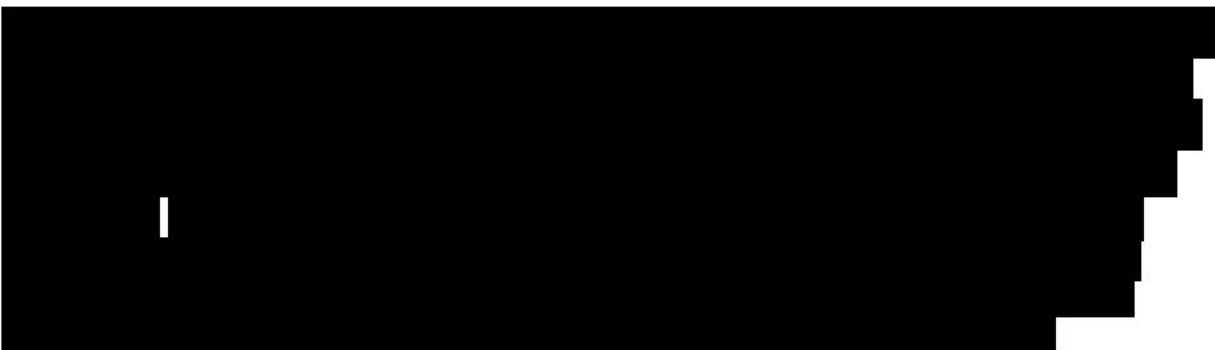
From: "Mike Orielly" <Mike.Orielly@fcc.gov>
Date: Wednesday, July 22, 2020 at 9:40:32 AM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>, "Erin McGrath" <Erin.McGrath@fcc.gov>
Subject: Re: Quote for 3.5 GHz release

(b) (5)



From: "Joel G. Miller" <Joel.Miller@fcc.gov>
Date: Wednesday, July 22, 2020 at 9:28:17 AM
To: "Mike Orielly" <Mike.Orielly@fcc.gov>, "Erin McGrath" <Erin.McGrath@fcc.gov>
Subject: Re: Quote for 3.5 GHz release

(b) (5)



From: "Mike Orielly" <Mike.ORielly@fcc.gov>
Date: Tuesday, July 21, 2020 at 7:01:21 PM
To: "Erin McGrath" <Erin.McGrath@fcc.gov>
Cc: "Joel G. Miller" <Joel.Miller@fcc.gov>
Subject: Re: Quote for 3.5 GHz release

(b) (5)





From: "Erin McGrath" <Erin.McGrath@fcc.gov>
Date: Tuesday, July 21, 2020 at 11:44:50 AM
To: "Mike Orielly" <Mike.ORielly@fcc.gov>
Cc: "Joel G. Miller" <Joel.Miller@fcc.gov>
Subject: Fwd: Quote for 3.5 GHz release

From: "Will Wiquist" <Will.Wiquist@fcc.gov>
Date: Tuesday, July 21, 2020 at 11:29:36 AM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>, "Erin McGrath" <Erin.McGrath@fcc.gov>
Cc: "Aaron N. Goldberger" <Aaron.Goldberger@fcc.gov>
Subject: Quote for 3.5 GHz release

(b) (5)




Will Wiquist
Associate Director of Communications & Policy Advisor
Office of Media Relations

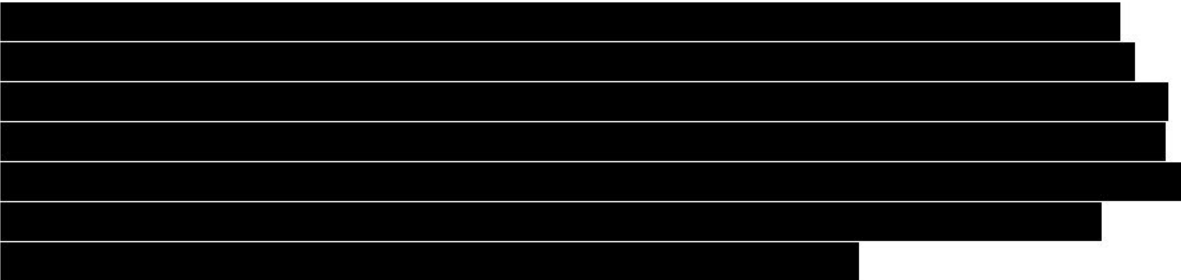
From: [Joel G. Miller](#)
To: [Erin McGrath](#); [Mike ORIelly](#)
Subject: Re: Quote for 3.5 GHz release
Date: Wednesday, July 22, 2020 1:18:17 PM

Sure. Looks good

From: "Erin McGrath" <Erin.McGrath@fcc.gov>
Date: Wednesday, July 22, 2020 at 1:16:52 PM
To: "Mike ORIelly" <Mike.ORIelly@fcc.gov>, "Joel G. Miller" <Joel.Miller@fcc.gov>
Subject: Re: Quote for 3.5 GHz release

(b) (5)





From: "Mike ORIelly" <Mike.ORIelly@fcc.gov>
Date: Wednesday, July 22, 2020 at 12:56:12 PM
To: "Erin McGrath" <Erin.McGrath@fcc.gov>, "Joel G. Miller" <Joel.Miller@fcc.gov>
Subject: Re: Quote for 3.5 GHz release

(b) (5)



From: "Erin McGrath" <Erin.McGrath@fcc.gov>
Date: Wednesday, July 22, 2020 at 12:52:34 PM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>, "Mike ORIelly" <Mike.ORIelly@fcc.gov>
Subject: Re: Quote for 3.5 GHz release

(b) (5)




(b) (5)
[Redacted]

From: "Will Wiquist" <Will.Wiquist@fcc.gov>
Date: Wednesday, July 22, 2020 at 12:14:44 PM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>, "Erin McGrath" <Erin.McGrath@fcc.gov>
Cc: "Aaron N. Goldberger" <Aaron.Goldberger@fcc.gov>
Subject: RE: Quote for 3.5 GHz release

(b) (5)
[Redacted]

From: Joel G. Miller <Joel.Miller@fcc.gov>
Sent: Wednesday, July 22, 2020 12:05 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Erin McGrath <Erin.McGrath@fcc.gov>
Cc: Aaron N. Goldberger <Aaron.Goldberger@fcc.gov>
Subject: RE: Quote for 3.5 GHz release

(b) (5)
[Redacted]

[Redacted]

From: Will Wiquist <Will.Wiquist@fcc.gov>
Sent: Wednesday, July 22, 2020 11:28 AM
To: Joel G. Miller <Joel.Miller@fcc.gov>; Erin McGrath <Erin.McGrath@fcc.gov>
Cc: Aaron N. Goldberger <Aaron.Goldberger@fcc.gov>
Subject: RE: Quote for 3.5 GHz release

(b) (5)
[Redacted]

From: Joel G. Miller <Joel.Miller@fcc.gov>
Sent: Tuesday, July 21, 2020 1:07 PM
To: Will Wiquist <Will.Wiquist@fcc.gov>; Erin McGrath <Erin.McGrath@fcc.gov>
Cc: Aaron N. Goldberger <Aaron.Goldberger@fcc.gov>
Subject: Re: Quote for 3.5 GHz release

(b) (5) [Redacted]

[Redacted]

From: "Will Wiquist" <Will.Wiquist@fcc.gov>
Date: Tuesday, July 21, 2020 at 11:29:36 AM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>, "Erin McGrath" <Erin.McGrath@fcc.gov>
Cc: "Aaron N. Goldberger" <Aaron.Goldberger@fcc.gov>
Subject: Quote for 3.5 GHz release

(b) (5) [Redacted]

[Redacted]

Will Wiquist
Associate Director of Communications & Policy Advisor
Office of Media Relations
Federal Communications Commission

From: [Joel G. Miller](#)
To: [Erin McGrath](#); [Mike ORIelly](#)
Subject: RE: Quote for 3.5 GHz release
Date: Wednesday, July 22, 2020 11:39:52 AM

(b) (5) [Redacted]

[Redacted]

From: Erin McGrath <Erin.McGrath@fcc.gov>
Sent: Wednesday, July 22, 2020 11:35 AM
To: Mike ORIelly <Mike.ORielly@fcc.gov>; Joel G. Miller <Joel.Miller@fcc.gov>
Subject: Re: Quote for 3.5 GHz release

(b) (5) [Redacted]

From: "Erin McGrath" <[Erin.McGrath@fcc.gov](#)>
Date: Tuesday, July 21, 2020 at 7:21:58 PM
To: "Mike ORIelly" <[Mike.ORielly@fcc.gov](#)>
Subject: Re: Quote for 3.5 GHz release

(b) (5) [Redacted]

[Redacted]

From: "Mike ORIelly" <[Mike.ORielly@fcc.gov](#)>
Date: Tuesday, July 21, 2020 at 7:01:21 PM

To: "Erin McGrath" <Erin.McGrath@fcc.gov>
Cc: "Joel G. Miller" <Joel.Miller@fcc.gov>
Subject: Re: Quote for 3.5 GHz release

(b) (5) [Redacted]

[Redacted]

[Redacted]

From: "Erin McGrath" <Erin.McGrath@fcc.gov>
Date: Tuesday, July 21, 2020 at 11:44:50 AM
To: "Mike O'Rielly" <Mike.O'Rielly@fcc.gov>
Cc: "Joel G. Miller" <Joel.Miller@fcc.gov>
Subject: Fwd: Quote for 3.5 GHz release

From: "Will Wiquist" <Will.Wiquist@fcc.gov>
Date: Tuesday, July 21, 2020 at 11:29:36 AM
To: "Joel G. Miller" <Joel.Miller@fcc.gov>, "Erin McGrath" <Erin.McGrath@fcc.gov>
Cc: "Aaron N. Goldberger" <Aaron.Goldberger@fcc.gov>
Subject: Quote for 3.5 GHz release

(b) (5) [Redacted]

[Redacted]

Will Wiquist

Associate Director of Communications & Policy Advisor
Office of Media Relations
Federal Communications Commission

From: [Joel G. Miller](#)
To: [Mike ORIelly](#)
Subject: RE: Reporter on deadline
Date: Wednesday, September 9, 2020 10:10:33 PM

(b) (5)



From: Mike ORIelly <Mike.ORielly@fcc.gov>
Sent: Wednesday, September 9, 2020 3:18 PM
To: Joel G. Miller <Joel.Miller@fcc.gov>
Subject: Fwd: Reporter on deadline

(b) (5)



From: "Moynihan, Lydia" <lydia.moynihan@FOXBUSINESS.COM>
Date: Wednesday, September 9, 2020 at 2:06:36 PM
To: "Mike ORIelly" <Mike.ORielly@fcc.gov>
Subject: Reporter on deadline

Hi Mike,

Hope you're well. Charlie Gasparino and I are reporting on section 230 today—seems it's become a litmus year for loyalty to Trump. Would love your thoughts and happy to speak on background. Can you give me a call in the next hour or so? Thank you!

Lydia Moynihan
FOX Business Network
1211 Avenue of the Americas 12th Floor
New York, NY 10036
Office: 212.601.1322
Cell: 917.593.2581
Lydia.Moynihan@foxbusiness.com

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From: [Arielle Roth](#)
To: [Joel G. Miller](#); [Mike ORIelly](#); [Erin McGrath](#)
Subject: RE: Speech
Date: Tuesday, October 6, 2020 6:39:33 PM
Attachments: [CTIA 2020 Speech v3 jm ar.docx](#)

Erin, I can go back in when you're done.

From: Joel G. Miller <Joel.Miller@fcc.gov>
Sent: Tuesday, October 6, 2020 4:33 PM
To: Mike ORIelly <Mike.ORielly@fcc.gov>; Erin McGrath <Erin.McGrath@fcc.gov>; Arielle Roth <Arielle.Roth@fcc.gov>
Subject: RE: Speech

(b) (5)

From: Mike ORIelly <Mike.ORielly@fcc.gov>
Sent: Tuesday, October 6, 2020 3:20 PM
To: Erin McGrath <Erin.McGrath@fcc.gov>; Joel G. Miller <Joel.Miller@fcc.gov>; Arielle Roth <Arielle.Roth@fcc.gov>
Subject: Speech

(b) (5)

From: [Joel G. Miller](#)
To: (b) (6); (b) (6); [Mike ORIelly](#); [Arielle Roth](#)
Subject: RE: Testimony
Date: Monday, September 14, 2020 7:01:30 PM
Attachments: [Hearing September 2020 v1 ar copy jm.docx](#)

(b) (5)

From: Erin McGrath <(b) (6)>
Sent: Monday, September 14, 2020 4:21 PM
To: Mikeorielly1 <(b) (6)>; Mike ORIelly <Mike.ORielly@fcc.gov>; Joel G. Miller <Joel.Miller@fcc.gov>; Arielle Roth <Arielle.Roth@fcc.gov>
Subject: Testimony

(b) (5)

Sent from my iPad

From: [Joel G. Miller](#)
To: [Susan Fisenne](#); [Mike Orielly](#)
Subject: Re: Trump and exec order to limit social media companies
Date: Thursday, May 28, 2020 12:19:13 PM

I'll send her the tweet.

From: "Susan Fisenne" <Susan.Fisenne@fcc.gov>
Date: Thursday, May 28, 2020 at 12:14:24 PM
To: "Mike Orielly" <Mike.Orielly@fcc.gov>, "Joel G. Miller" <Joel.Miller@fcc.gov>
Subject: FW: Trump and exec order to limit social media companies

From: Maggie Reardon <maggie.reardon@cbsinteractive.com>
Sent: Thursday, May 28, 2020 12:13 PM
To: Susan Fisenne <Susan.Fisenne@fcc.gov>
Subject: Trump and exec order to limit social media companies

Hi Susan,

Does Commissioner O'Rielly have a response to news that President Trump plans to issue an executive order calling for the FCC to propose rules about when and how social media companies may edit online content without forfeiting protections under Section 230 of the Communications Decency Act?

I know Commissioner Jessica Rosenworcel has already issued a statement. So I wanted to check to see if Com. O'Rielly had something to say, too.

Thanks,

--

Maggie Reardon
Senior Reporter
CNET/CBS Interactive
646-325-6613

From: [Robert Rutkowski](#)
To: [Ajit Pai](#); [Mike Orielly](#); [Brendan Carr](#); [Geoffrey Starks](#); [Jessica Rosenworcel](#)
Cc: (b) (6); [m; keith.abouchar@mail.house.gov](mailto:keith.abouchar@mail.house.gov)
Subject: Reject Trump-Administration Attack Against Social-Media Companies
Date: Friday, September 4, 2020 3:36:06 PM

Ajit Pai, Chairman
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Jessica Rosenworcel, Commissioner
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Geoffrey Starks, Commissioner
Geoffrey.Starks@fcc.gov

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Reject Trump-Administration Attack Against Social-Media Companies

Dear Chairman and Commissioners:

On Wednesday evening, Free Press filed comments in response to a White House executive order that seeks to punish social-media companies for fact checking President Trump's online posts.

Under the order, the administration's telecom arm at the NTIA was required to submit a petition for rulemaking to the FCC. The petition, filed in July, asks the FCC to craft a rule that would potentially exempt social-media companies from protections under Section 230 of the Communications Decency Act, a federal law that shields companies from legal liability for the material their users post online.

The FCC rulemaking is born from corrupt and ignoble impulses. The president, upset after Twitter fact-checked his statements regarding mail-in voting, promulgated an unlawful and unconstitutional executive order that seeks to use the power of the federal government to stifle, censor, and intimidate media companies that criticize him, and to force those same companies to carry and promote favorable content about him and his administration.

The FCC should decline to take up the Trump White House's effort to bully and silence online platforms. Moreover, the Trump order seeks to twist the law to force social-media sites to carry the president's lies and propaganda with little fact checking, contextualizing or other necessary editorializing.

Last week, Free Press joined a lawsuit challenging the May 28 executive

order. The suit asserts that the order effectively encourages the spread of harmful disinformation about voting rights, racial-justice protests, COVID-19 treatment and other vital issues.

It's no coincidence that this charade is happening in the months just before the 2020 presidential election. The Trump administration are trying to bully and intimidate social-media companies into rolling back their content-moderation efforts for political speech.

The FCC's GOP majority has been wildly inconsistent when it comes to questions about the scope of the agency's authority to regulate internet access or websites themselves. The three Republican commissioners voted in 2017 to jettison Net Neutrality rules that were based on solid congressional authority. But now some of these same commissioners are terribly excited about the administration's Section 230 proposal — even though they once said it was a mortal sin to 'regulate the internet,' and claimed falsely that the Obama administration had interfered with the FCC's independence. Now that a fellow Republican sits in the Oval Office, people like Commissioner Carr are singing an entirely different tune, directly orchestrated by Trump, about the agency's power to regulate internet platforms.

The fact remains that Section 230 greatly lowers barriers for third-party speech hosted on platforms, large and small. Its provisions are straightforward: An interactive website or service generally will not be subject to speaker or publisher liability simply because it hosts third-party content. The law strikes a balance that allows websites of all sizes and types that host user-generated content to flourish.

If the FCC grants the administration's proposal, no websites or platforms would be able to set their own standards for their online communities. It would seriously threaten the ability of marginalized groups to organize and express their views without the government forcing them to allow racist and sexist interlopers into every conversation. It would leave sites little choice but to drown in posts from bigots, propagandists, conspiracy theorists and trolls.

Section 230 enabled websites, regardless of their size, to tend to their own gardens and set standards for the kinds of discourse they allow without having to vet and vouch for every single comment.

This FCC proceeding is a cynical enterprise that threatens this online diversity, our fundamental freedoms and the rule of law. Skepticism about the wisdom and intellectual honesty of this project has already imperiled the career of one Republican commissioner, apparently as punishment doled out by the president as retribution for the fact that this independent agency commissioner would dare question Trump's understanding of these issues.

The FCC would be wise to follow the sound logic that created Section 230 under the law in the first place. The agency should respect its independence and reject this effort to press online platforms into service of the Trump administration.

Yours sincerely,
Robert E. Rutkowski

cc:

Representative Steny Hoyer
House Majority Leader
Legislative Correspondence Team
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Mignon Clyburn

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From: Robert Rutkowski
To: Ajit Pai; Mike O'Rielly; Brendan Carr; Geoffrey Starks; Jessica Rosenworcel
Cc: (b) (6); keith.abouchar@mail.house.gov
Subject: Reject Unlawful Trump Administration Request to Rewrite Section 230
Date: Wednesday, September 2, 2020 4:55:56 PM

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Jessica Rosenworcel, Commissioner
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Geoffrey Starks, Commissioner
Geoffrey.Starks@fcc.gov

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Reject Unlawful Trump Administration Request to Rewrite Section 230

Dear Chairman and Commissioners

Today, Public Knowledge filed comments on the Trump Administration's unlawful attempt to have the FCC assert jurisdiction over, and rewrite, Section 230 of the Communications Act.

Following a controversy over Twitter fact-checking one of the President's false tweets, the administration directed the National Telecommunications and Information Administration to file a petition for rulemaking with the FCC, which is an independent agency, asking it to curtail the liability shield that allows online services to host and moderate user posts. The scope of Section 230 is a topic of public and bipartisan concern, however, this petition has no legal basis and its policy recommendations are unsound.

The Trump Administration, via the NTIA, has put forward bad legal and policy arguments in a forum that has no authority to hear them. The NTIA petition's misrepresentations and misstatements of the law are pervasive. To the extent the administration disagrees with the law that Congress passed, it is free to say so, but the FCC must resist this call for it to expand its jurisdiction into regulating the content moderation and editorial choices of interactive computer services, while recognizing that the arguments NTIA put forward as to why the FCC has authority here are no better than the petition's specious and trivial mischaracterizations of the statute itself.

Full comments

https://urldefense.proofpoint.com/v2/url?u=https-3A_www.publicknowledge.org_documents_public-2Dknowledge-2Dfcc-2Dcomments-2Don-2Dntia-2Dpetition-2Dto-2Drewrite-2Dsection-2D230_&d=DwIDAQ&c=y0h0omCej0AUGr4gAQ02Fw&r=jZiKhnb7IHUwyBDFKcxvOUpG1JWWsEkzjDLuXSq60U&m=ZpWRf6dHhpA3da5qRhaEr6eHhp_zr17nb9bxnE5kPA&cs=hl4qffcjYgzsfjWPUF4J0024szFmMQg41TAcSCam3LY&e=

Yours sincerely,
Robert E. Rutkowski

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From: [Robert Rutkowski](#)
To: [Ajit Pai](#); [Mike O'Rielly](#); secretary@ftc.gov; [Brendan Carr](#); [Geoffrey Starks](#); [Jessica Rosenworcel](#)
Cc: (b) (6); keith.abouchar@mail.house.gov; [Elizabeth Strimer@mccconnell.senate.gov](mailto:Elizabeth.Strimer@mccconnell.senate.gov); [Dan George](#); rocint@schumer.senate.gov
Subject: Reject White House Executive Order Targeting Free Speech on Social Media Platforms
Date: Thursday, May 28, 2020 4:53:32 PM

Ajit Pai, Chairman
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Michael O'Rielly, Commissioner
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Brendan Carr, Commissioner
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Jessica Rosenworcel, Commissioner
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Joseph J. Simons, Chair
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Re: Reject White House Executive Order Targeting Free Speech on Social Media Platforms

Dear Chairmen and Commissioners:

Today, Trump will reportedly sign an Executive Order that would direct the Federal Communications Commission and Federal Trade Commission to regulate speech on social media platforms. Based on reporting, the Executive Order calls for the FCC to develop rules detailing how and when the law shields social media companies when they remove or moderate content on their platforms. This Administration's potential interference with free speech and abandonment of agency independence is alarming, neither the FCC nor the FTC have any authority to regulate social media.

The President does not have the power to rewrite the law, as this Executive Order attempts to do. Section 230 grants platforms the freedom to make editorial choices with respect to content posted by users — including senators and the President of the United States — according to the plain text of the statute, congressional intent, and every court decision on this matter. Along with the First Amendment itself, Section 230 gives platforms like Twitter the ability to adopt specific points of view and to make the kinds of editorial choices that Twitter has made. At the same time, Section 230 only shields platforms from liability for

user-posted content, not content the platform itself creates.

Anyone who disagrees with choices popular platforms make should support policies designed to empower users and increase competition — not unconstitutional policies designed to regulate speech and reduce the ability of platforms to remove or restrict access to content they find objectionable, as the President has proposed.

The FCC should reject this attempt to require it to regulate online platforms. If the FCC were to respond to the President's request, not only would it be acting without any statutory authority and contradicting its own recent holdings, it would be acting unconstitutionally and abandoning any pretense that it is an 'independent' agency. The FTC should likewise reject calls to transform its consumer protection and competition authorities into tools to pressure platforms into adopting politically favored points of view, or content moderation and editorial policies that those in power want them to have.

Of course platforms should act fairly and consistently, and afford their users transparent policies and due process. But the specific editorial choices that platforms make, and the content of their policies, are theirs alone to decide. A diverse and competitive media and online ecosystem, not government content regulation, is the best way to ensure that all voices are heard.

Yours sincerely,
Robert E. Rutkowski

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From: [Joy Medley](#)
To: [Joy Medley](#)
Subject: REMINDER: House Oversight Hearing - Thursday, Sept 17 @ 10am
Date: Thursday, September 17, 2020 9:13:55 AM
Importance: High

FYI –

Chairman and Commissioners are scheduled to testify this morning at 10 am before House Subcommittee Communications and Technology of the Committee on Energy and Commerce.

<https://energycommerce.house.gov/committee-activity/hearings/hearing-on-trump-fcc-four-years-of-lost-opportunities>

From: Joy Medley
Sent: Wednesday, September 16, 2020 3:13 PM
To: Joy Medley <Joy.Medley@fcc.gov>
Subject: House Oversight Hearing - Thursday, Sept 17 @ 10am

Chairman and Commissioners O’Rielly, Carr, Rosenworcel and Stark will testify tomorrow, September 17 on [oversight of the Federal Communications Commission](#) before the House Subcommittee on Communications and Technology of the Committee on Energy and Commerce. The hearing is scheduled to begin at 10am via Cisco Webex.

The live webcast as well as committee memo and witness testimony will be available at <https://energycommerce.house.gov/committee-activity/hearings/hearing-on-trump-fcc-four-years-of-lost-opportunities>.

Joy Medley
Office of Legislative Affairs
Federal Communications Commission
202.418.1907

From: [Moynihan, Lydia](#)
To: [Mike ORielly](#)
Subject: Reporter on deadline
Date: Wednesday, September 9, 2020 2:06:36 PM

Hi Mike,
Hope you're well. Charlie Gasparino and I are reporting on section 230 today—seems it's become a litmus year for loyalty to Trump. Would love your thoughts and happy to speak on background. Can you give me a call in the next hour or so? Thank you!

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From: [Joel G. Miller](#)
To: [Mike O'rielly](#); (b) (6); [Erin McGrath](#); [Arielle Roth](#)
Subject: rough draft
Date: Saturday, June 13, 2020 2:15:42 PM
Attachments: [Commerce Notes v1.docx](#)

(b) (5)

From: [David Honig](#)
To: [Mike ORielly](#)
Subject: Section 230 Comments - we cited your statement
Date: Thursday, September 3, 2020 8:39:29 AM
Attachments: [Section 230 Proponents Comments 090220.pdf](#)

Commissioner, good morning,

We thought you'd enjoy these Comments. They cite to your Media Institute address – see n. 4 (and thank you for that!)

David
9/3/20

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)
)
Section 230 of the)
Communications Act of 1934) RM-11862
)
To: The Commission)

COMMENTS OF THE SECTION 230 PROPONENTS

Maurita Coley
President and CEO
David Honig
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Marissa Zink, Florida International University
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MMTC Earle K. Moore Fellows

September 2, 2020

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Annex: The Section 230 Proponents

Certificate of Service

Summary and Introduction

The Commission has been called upon to decide whether one of the internet's most essential laws, 47 U.S.C. § 230 ("Section 230" of the Communications Decency Act) should be unilaterally re-interpreted to suit the President's internet agenda.¹ Certainly Section 230 is not perfect: it has failed to eliminate racial and gender discrimination, voter suppression, and other unacceptable inequities on the internet.² These illnesses should be cured, but the NTIA Petition does not do that; nor could it because Section 230 confers on the FCC no jurisdiction over the subject matter. Worse yet, the relief sought in the NTIA Petition would incentivize online racial and gender discrimination and hate speech online.

The NTIA Petition should be denied because (A) the FCC lacks the jurisdiction required to reform Section 230 as proposed in the NTIA Petition; and (B) even if the FCC had jurisdiction, implementation would (1) de-incentivize equitable and viewpoint-neutral content moderation by online platforms, (2) threaten small companies by creating a hostile regulatory environment, and (3) oppress marginalized peoples and activists by perpetuating discriminatory content moderation and hate speech.

For its part, Congress should take steps to better protect users from racial and gender discrimination and hate speech online.

¹ See *NTIA Petition for Rulemaking to Clarify Provisions of Section 230 of the Communications Act* ("NTIA Petition"), NTIA (filed July 27, 2020), available at https://www.ntia.doc.gov/files/ntia/publications/ntia_petition_for_rulemaking_7.27.20.pdf (last visited July 31, 2020), on file at the FCC as RM-11862. See Annex, *infra* (listing the Section 230 Proponents). These Comments are submitted pursuant to 47 C.F.R. §1.405.

² See Part III (E) and note 7, *infra* (referencing online platforms' liability for using or allowing third parties to use their products to discriminate against users on the basis of their sexual orientation, race, age, or gender).

The Section 230 Proponents³ support reforms that are made in good faith,⁴ in accordance with established law,⁵ by lawful authority,⁶ and in a way that recompenses past, present, and future victims of online racial and gender discrimination and hate speech.⁷ Unfortunately, the President has focused instead on weakening Section 230, including its imperfect but helpful incentivizing of content moderation.⁸

³ The six Section 230 Proponents include many of the nation’s leading multicultural advancement organizations, with collectively millions of members. Each of the Section 230 Proponents, and nearly all of their respective members, regularly engage in protected speech and advocacy online.

The views expressed in these Comments are the institutional views of the commenting organizations and are not intended to reflect the individual views of each officer, director, or member of these organizations.

⁴ Commissioner O’Rielly has called such opportunistic attacks on online freedom of speech “a particularly ominous development.” Hon. Michael O’Rielly, Remarks Before The Media Institute’s Luncheon Series at 5 (Jul. 29, 2020), *available at* <https://docs.fcc.gov/public/attachments/DOC-365814A1.pdf> (last visited Aug. 30, 2020) (“It is time to stop allowing purveyors of First Amendment gibberish to claim they support more speech, when their actions make clear that they would actually curtail it through government action. These individuals demean and denigrate the values of our Constitution and must be held accountable for their doublespeak and dishonesty.”)

⁵ *See* Part III (B), *infra* (outlining how the NTIA Petition advances changes in the law that are contrary to precedent).

⁶ The NTIA Petition should be denied on its face for want of jurisdiction. *See* Part III (A), *infra*.

⁷ *See, e.g., National Fair Housing Alliance v. Facebook*, No. 1:18-cv-02689 (S.D.N.Y. 2018); Determination, *Bradley v. Capital One*, Charge Number 570-2018-01036 (EEOC Jul. 2019) (finding that Capital One unlawfully discriminated by advertising jobs on Facebook while limiting the age of people who could see the advertisement); *Divino Group v. Google*, No. 5:2019cv04749 (N.D. Cal., filed Aug. 13, 2019) (alleging that YouTube discriminates against LGBTQ+ creators); *Bradley v. T-Mobile*, Case No. 17-cv-07232-BLF, 2019 WL 2358972 (N.D. Cal. 2020), *amended complaint filed* Jun. 11, 2020 (arguing that companies unlawfully discriminated by “us[ing] Facebook’s ad platform to limit the population of Facebook users who will receive their job advertisements or notices – for example, by changing the age range...from 18 to 64+...to 18 to 38”); Complaint, *Newman v. Google*, No. 5:20-cv-04011 (N.D. Cal., filed Jun. 16, 2020) (alleging that YouTube’s algorithms target Black creators). *See also* Part III (E), *infra* (outlining pre-existing discrimination by content moderators and moderation algorithms against communities of color).

⁸ *See* Bobby Allyn, *Stung By Twitter, Trump Signs Executive Order To Weaken Social Media Companies*, NPR (May 28, 2020), *available at* <https://www.npr.org/2020/05/28/863932758/stung-by-twitter-trump-signs-executive-order-to->

If the FCC were to grant the NTIA Petition and implement the President’s agenda – which would require jurisdiction that does not exist here – it would become more expensive and legally risky for platforms to neutrally moderate content shared by their users. Small internet companies would lack the capital to withstand those increased costs and regulatory changes. Therefore, the NTIA Petition should be denied because reinterpreting Section 230 according to the Petition – which would be facially unlawful⁹ – would promote and perpetuate race and gender discrimination and hate speech on the internet.

I. The History and Value of Section 230

Section 230 of the Communications Decency Act of 1996 limits the liability of online platforms for third-party content. Subsection 230(c)(1) states in part that, “No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.”¹⁰ This language creates a “Good Samaritan” protection under which interactive computer services, like Facebook, Twitter, and Instagram, are generally protected from liability should a user post anything offensive or illegal. There are

weaken-social-media-companies (last visited Sept. 2, 2020) (“President Trump signed [the] executive order . . . two days after he tore into Twitter for fact-checking two of his tweets.”)

⁹ See Parts III (A) and III (B), *infra*.

¹⁰ Codified at 47 U.S.C. § 230(c)(1) (1996).

specific exceptions for material related to sex trafficking,¹¹ violations of copyright,¹² and federal criminal law.¹³

Critically, while protecting online content providers from liability for third-party or user-generated content, Section 230 does not interfere with longstanding legal precedents holding content creators liable for their own content posted on online service platforms.¹⁴ For example, a Twitter user can still be liable for defamation resulting from a tweet of their own creation.¹⁵

Additionally, Subsection 230(c)(2) establishes an editorial discretion “safe harbor” for interactive computer service providers.¹⁶ This “Good Samaritan” clause encourages online

¹¹ *Id.* § 230(e)(5); *see also* Heidi Tripp, All Sex Workers Deserve Protection: How FOSTA/SESTA Overlooks Consensual Sex Workers in an Attempt to Protect Sex Trafficking Victims, 124 PENN ST. L. REV. 219 (2019) (“FOSTA/SESTA amends Section 230 of the CDA to create an exception to immunity for ISPs when content posted by third parties promotes or facilitates prostitution and sex trafficking or advertises sex trafficking.”)

¹² 47 U.S.C. § 230(e)(2); *see also* Madeline Byrd & Katherine J. Strandburg, *CDA 230 for A Smart Internet*, 88 FORDHAM L. REV. 405 (2019) (clarifying that online service providers are still liable for copyright infringement under the Digital Millennium Copyright Act’s (DMCA) notice-and-takedown regime for distributing material illegally copied by users).

¹³ 47 U.S.C. § 230(e)(1); *see also* Eric Goldman, *The Implications of Excluding State Crimes from 47 U.S.C. §230’s Immunity*, SANTA CLARA L. DIGITAL COMMONS (July 10, 2013), available at <https://digitalcommons.law.scu.edu/facpubs/793/> (last visited Aug. 20, 2020) (stating that Section 230 excludes all federal criminal prosecutions but preempts “any prosecutions under state or local criminal law where the crime is predicated on a website’s liability for [user-generated content]”).

¹⁴ *Liability for User-Generated Content Online: Principles for Lawmakers*, NAT’L TAXPAYERS UNION (July 11, 2019), available at <https://www.ntu.org/publications/detail/liability-for-user-generated-content-online-principles-for-lawmakers> (last visited May 14, 2020).

¹⁵ However, the nature of expression on social platforms can make it “nearly impossible” to decide whether speech, such as a tweet, is defamatory. *Boulger v. Woods*, No. 18-3170 1, 11 (6th Cir., 2019) (finding a tweet had no precise meaning and was thus not defamatory because it ended in a question mark).

¹⁶ 47 U.S. Code § 230(c)(2)(A)(2018) (stating “No provider or user of an interactive computer service shall be held liable on account of (A) any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected; or (B) any action taken to enable or make available to information content providers or others the technical means to restrict access to material described in paragraph (1).”)

service providers to moderate third-party content by immunizing restrictions on material considered “obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable.”¹⁷ This broad standard places full discretion in the hands of private technology companies and social media service providers. Companies and platforms need only show that their responsive actions (or the lack of them) were based upon moderating discretion absent some form of bad faith, such as a contractual breach or malicious intent.¹⁸ For example, when Facebook or Twitter independently identify and “flag”¹⁹ specific objectionable material, they also determine the process for taking down and reprimanding the responsible users.

Although technology companies and social media sites tend to voluntarily address such situations,²⁰ Section 230 does not explicitly impose any affirmative duty to take down content

¹⁷ *Id.*

¹⁸ *Id.* (establishing that “a platform exercising extreme editorial discretion (for example, by deliberately censoring vegans or climate change activists because it doesn’t like them) would still be protected – ‘good faith’ does not imply ‘good judgment’”). Indeed, liability shielding is a necessary element of a legal system encapsulating corporate actors – especially those providing consequential goods and services used by other people. *Compare* Section 230 *with* Bernard S. Sharfman, *The Importance of the Business Judgment Rule*, 14 N.Y.U.J.L & BUS. 27, 27-8 (Fall 2017) (arguing the business judgment rule, which limits liability for decisions made by corporate boards, is the “most . . . important standard of judicial review under corporate law.”)

¹⁹ *See generally* Kate Crawford & Tarleton Gillespie, *What is a flag for? Social Media reporting tools and the vocabulary of complaint*, NEW MEDIA & SOCIETY (Mar. 2016), available at <https://doi.org/10.1177/1461444814543163> (last visited Aug. 20, 2020) (“The flag is now a common mechanism for reporting offensive content to an online platform, and is used widely across most popular social media sites”); *see also* Kate Klonick, *The New Governors: The People, Rules, and Processes Governing Online Speech*, 131 HARV. L. REV. 1598, 1639–40 (2018) (“When content is flagged or reported, it is sent to a server where it awaits review by a human content moderator. At Facebook, there are three basic tiers of content moderators: ‘Tier 3’ moderators, who do the majority of the day-to-day reviewing of content; ‘Tier 2’ moderators, who supervise Tier 3 moderators and review prioritized or escalated content; and ‘Tier 1’ moderators, who are typically lawyers or policymakers based at company headquarters.”)

²⁰ *See* Evangeline Elsa, *Twitter to test new feature to let users rethink before posting “offensive or hurtful” tweets*, GULF NEWS (May 6, 2020), available at <https://gulfnnews.com/world/twitter-to-test-new-feature-to-let-users-rethink-before-posting-offensive-or-hurtful-tweets-1.1588763796071> (last visited Aug. 20, 2020) (describing Twitter’s

that does not fit a stated exception.²¹ Thus, providers cannot be held liable for content they either miss or choose to ignore. Section 230 also immunizes service providers' edits²² and promotions.²³ For example, an online platform may correct the spelling of a post, replace swear words with an asterisk, or delete a paragraph of a post, without forfeiting Section 230 immunity.²⁴

The "Good Samaritan" protection was influenced by prior case law that imposed liability upon online platforms for moderating objectionable content. In *Stratton Oakmont, Inc. v. Prodigy Services Co.*, the court held that a computer network that hosted online bulletin boards was strictly liable for defamatory statements made by a third-party user because it engaged in moderation by removing some offensive content on its boards.²⁵ Relying on this precedent, online platforms concluded that, to avoid liability for user content, it was best to not moderate

plan to test a new feature that will inform users prior to posting if their tweet replies contain offensive language).

²¹ *Barnes v. Yahoo!, Inc.*, 570 F.3d 1096, 1105 (9th Cir. 2009) (reasoning that, although Section 230 was designed to encourage sites to implement their own policing efforts, "[s]ubsection (c)(1), by itself, shields from liability all publication decisions, whether to edit, to remove, or to post, with respect to content generated entirely by third parties").

²² See John Bergmayer, *What Section 230 Is and Does—Yet Another Explanation of One of the Internet's Most Important Laws*, PUBLIC KNOWLEDGE (May 14, 2019), available at <https://www.publicknowledge.org/blog/what-section-230-is-and-does-yet-another-explanation-of-one-of-the-internets-most-important-laws/> (last visited Aug. 20, 2020) (explaining that, because editing is not equated with authorship, "a platform, after content is posted, can correct the spelling of a post, replace swear words with asterisks, and even delete a problematic paragraph" without incurring liability); see also Sara Gold, *When Policing Social Media Becomes A "Hassell"*, 55 CAL. W. L. REV. 445 (2019) (maintaining that "basic editing, formatting, and content screening do not jeopardize CDA immunity.")

²³ See Bergmayer, *supra* note 22 (stating that Section 230 protects platforms' editorial discretion in "*promoting a political, moral, or social viewpoint...*[thus,] if Twitter or Facebook chose tomorrow to ban all conservatives, or all socialists, Section 230 would still apply") (emphasis in original).

²⁴ *Id.*

²⁵ *Stratton Oakmont, Inc. v. Prodigy Servs. Co.*, INDEX No. 31063/94, 1995 N.Y. Misc. LEXIS 229 at *1 (Sup. Ct. May 24, 1995) (hereinafter "*Stratton*").

any content – an illustration of the “law of unintended consequences.”²⁶ Congress was encouraged to enact Section 230’s “Good Samaritan” provision to address the case law that discouraged online service platforms from engaging in content moderation, because moderation is socially beneficial.²⁷

II. The Current Debate Surrounding Section 230

Section 230 has generated calls for repeal or weakening. Critics have argued that the section should be eliminated altogether, reasoning that private technology companies should be held fully liable for content they allow to be posted on their platforms.²⁸ On the other hand, the Section 230 Proponents contend that such companies should not be expected to ceaselessly weed through the ever-compounding volume of user-generated content. Further, such companies do not operate only in America, and it may be difficult to impose legislation on companies with a global presence.

On May 28, 2020, President Trump issued an executive order (“E.O.”) in an attempt to bypass the legislative process to weaken Section 230.²⁹ The E.O. came just two days after Twitter began fact-checking the President’s tweets, labeling two of them as false and providing

²⁶ See *id.*; see also Robert K. Merton, *The Unanticipated Consequences of Purposive Social Action*, 1 AM. SOC. REV. 894 (Dec. 1936).

²⁷ Naturally, Section 230 has provided online platforms with the legal certainty needed to fairly moderate user content by precluding liability for any objectionable content that might slip through. See *Liability for User-Generated Content Online: Principles for Lawmakers*, *supra* note 13; *Section 230 as a First Amendment Rule*, *infra* note 58, at 2039 (“Various websites credit § 230 with their very existence.”). See also Patrick Kulp, *Airbnb Ad Touts New Anti-Discrimination Pledge* (Nov. 12, 2016), available at <http://mashable.com/2016/11/12/airbnb-ad-campaign-discrimination/#WtMrwpDfI5q7> (last visited Sept. 2, 2020).

²⁸ Madeline Byrd & Katherine J. Strandburg, *CDA 230 for A Smart Internet*, 88 FORDHAM L. REV. 405, 407-08 (2019) (identifying that “proponents of strong CDA 230 immunity now fear that service providers will engage in overly cautious ‘collateral censorship’”).

²⁹ Exec. Order No. 13,925, 85 Fed. Reg. 34,079 (May 28, 2020) (“E.O.”)

sources that refuted the President’s assertions.³⁰ In the E.O., President Trump referred to the “immense, if not unprecedented, power to shape the interpretation of public events” that Twitter, Facebook, and other major online platforms possess.³¹ The President maintains that platforms have engaged in selective proscription of speech by conservative speakers.³² The President also believes Section 230 should be reinterpreted or changed so that it no longer protects such platforms.³³

The E.O. contains four sections describing the actions to follow. First, the E.O. directs the head of each executive agency to review that agency’s spending on advertising on online platforms. The Department of Justice will then determine whether the online platforms identified in those reviews impose any “viewpoint-based speech restrictions,” but the E.O. does not define this critical term.³⁴ Second, the E.O. asks the Federal Trade Commission to act under its “unfair or deceptive acts” authority³⁵ to ensure that online platforms do not restrict speech in ways that violate their own terms of service. Third, the E.O. instructs the Attorney General to establish a working group to investigate enforcement and further development of state statutes that prohibit online platforms from engaging in deceptive acts or practices. Finally, the E.O. instructs the

³⁰ See Kate Conger & Mike Isaac, *Defying Trump, Twitter Doubles Down on Labeling Tweets*, N.Y. TIMES (May 28, 2020), available at <https://www.nytimes.com/2020/05/28/technology/trump-twitter-fact-check.html> (last visited June 3, 2020).

³¹ E.O., *supra* note 29.

³² *But see, e.g.*, Erik Lawson, *Twitter, Facebook Win Appeal in Anticonservative-Bias Suit*, BLOOMBERG (May 27, 2020), available at <https://www.bloomberg.com/news/articles/2020-05-27/twitter-facebook-win-appeal-over-alleged-anti-conservative-bias> (last visited Sept. 1, 2020). We are unaware of any evidence that supports the President’s assertion of anti-conservative bias.

³³ *Id.*

³⁴ *Id.*

³⁵ 15 U.S.C. § 45 (2006).

Secretary of Commerce, acting through NTIA, to file a petition for rulemaking (the “NTIA Petition”) with the FCC to clarify parts of Section 230.³⁶

The Section 230 Proponents recognize that online platforms have imperfectly moderated objectionable online content; the internet is host to discrimination, targeted suppression, and other unacceptable inequities between users.³⁷ It is not acceptable that adult internet users must still navigate hate speech or be targeted for voter suppression while browsing Facebook in 2020.³⁸ Here, Congress has the lawmaking authority, and it should exercise that power to bolster protections for multicultural and marginalized internet users.³⁹

³⁶ NTIA filed its Petition with the FCC on July 27, 2020. *See* NTIA Petition, *supra* note 1. In particular, the E.O. asks for clarification regarding (1) the interaction between subparagraphs (c)(1) and (c)(2), and (2) the conditions that qualify an action as “taken in good faith” as the phrase is used in subparagraph (c)(2)(A). *Id.* *See also* Part III (B) *infra*.

³⁷ *See National Fair Housing Alliance v. Facebook* and other cases detailed *supra* at note 7.

³⁸ Lawmakers must be cognizant of how historical forms of discrimination and racism have been hidden and worsened by technological progress. *See* Federal Trade Commission, *Big Data: A Tool For Inclusion Or Exclusion* (2016), available at <https://www.ftc.gov/system/files/documents/reports/big-data-tool-inclusion-or-exclusion-understanding-issues/160106big-data-rpt.pdf> (last visited September 2, 2020); CATHY O’NEIL, WEAPONS OF MATH DESTRUCTION: HOW BIG DATA INCREASES INEQUALITY AND THREATENS DEMOCRACY (2016); VIRGINIA EUBANKS, AUTOMATING INEQUALITY: HOW HIGH-TECH TOOLS PROFILE, POLICE, AND PUNISH THE POOR (2017). *Compare The Unexamined Mind*, ECONOMIST (Feb. 17, 2018), available at <https://www.economist.com/news/science-and-technology/21737018-if-it-cannot-who-will-trust-it-artificial-intelligence-thrive-it-must> (last visited Sept. 2, 2020) (highlighting risks associated with complicated decision-making algorithms that “no one truly understands”) *with supra* note 7 (outlining recent litigation involving algorithmic discrimination).

³⁹ *See especially* Spencer Overton, President, Joint Center for Pol. & Econ. Studies, Testimony of Before the Subcomm. On Comm’s & Tech. *et al.*, Hearing on *A Country in Crisis: How Disinformation Online is Dividing the Nation* at 2 (Jun. 24, 2020), available at <https://jointcenter.org/wp-content/uploads/2020/06/Overton-Final-Testimony-for-6-24-20-Disinformation-Hearing.pdf> (last visited Sept. 2, 2020) (“If legal reforms are needed, the debates should occur in Congress and should center the voices of people of color who have been disproportionately affected by the negative consequences of social media through targeted voter suppression and other disinformation campaigns.”)

III. The NTIA Petition Should Be Denied

There are at least five major issues that should preclude NTIA's Petition from being granted.

A. The FCC does not have the legal authority to issue any regulations or interpretations contemplated by the NTIA Petition.

At the threshold, the FCC lacks the jurisdiction required to reinterpret Section 230 as requested in the NTIA Petition.⁴⁰ The Congressional Research Service recently affirmed that the courts – not the Executive Branch and not the NTIA – would decide whether the FCC has the authority to issue binding interpretations of Section 230.⁴¹ No court has decided the issue of the FCC's authority to interpret Section 230,⁴² and the statute itself does not even mention the FCC.⁴³ The Executive Branch also has no legislative or judicial power – neither the President nor NTIA can grant the FCC authority to interpret Section 230, let alone unilaterally amend it.⁴⁴ And

⁴⁰ See Valerie C. Brannon *et al.*, Cong. Research Serv., *Section 230 and the Executive Order Preventing Online Censorship*, LSB10484 at 3, 4 (Jun. 3, 2020) (noting that it is unclear whether an FCC interpretation of Section 230, which is what the NTIA Petition seeks, would have “legal import”).

⁴¹ See *id.* at 4 (stating that even if a court found the FCC has jurisdiction to issue rules interpreting Section 230, the FCC's interpretation would be binding only to the extent it was consistent with Section 230). The FTC's authority would only derive from the FTC Act, which similarly grants no authority without changing Section 230 or a contrary court ruling. See *id.* (explaining that the FTC's authority to act to prevent “unfair or deceptive acts” by companies is limited by Section 230).

⁴² *Id.*

⁴³ *Id.* (noting that Section 230 does not mention the FCC, and that the statute's scope and meaning are generally determined without the FCC). To be sure, Section 230 is codified in Title 47, but its location in the U.S. Code does not confer jurisdiction on an agency the statute does not even name. We could place a ham sandwich in Title 47, but that would not license the FCC to eat it for lunch.

⁴⁴ Even if a court had previously held that the FCC has authority to issue binding interpretations of Section 230, that interpretation would be invalid where it was contrary to Section 230 itself. See, e.g., Ronald M. Levin, *Rulemaking and the Guidance Exception*, 70 ADMIN. L. REV. 264, 336-37 n. 336 (2018) (citing *U.S. Telecom Ass'n v. FCC*, 400 F.3d 29 (D.C. Cir. 2005) (refusing to accept an FCC interpretive rule construing a federal statute where the act of interpretation was contrary to the statute being interpreted). Commissioner Rosenworcel

even if lawful authority existed here and the NTIA Petition was granted, any resultant changes to Section 230 would be invalid because the Petition’s proposed interpretations of Section 230 are contrary to Section 230 and its related precedents.⁴⁵ Nonetheless, NTIA requested the FCC issue a binding interpretation of Section 230. That should facially preclude the Petition from being granted.⁴⁶

B. The relief sought in the NTIA Petition would incentivize deceptive and viewpoint-based content moderation.

Even if jurisdiction existed, which it does not, granting the NTIA Petition would handicap Section 230’s intended purposes by promoting deceptive practices and viewpoint-based content moderation.⁴⁷ NTIA proposes several express conditions for a platform to be shielded from liability, but hedges those conditions with “catch-all” exemptions; under this framework, the platforms are protected even if they patently violate Section 230 so long as their conduct is “consistent with [the platform’s] terms of service or use.”⁴⁸ Such changes would induce

commented that the Executive Branch’s attempt to change Section 230 “does not work.” Statement by FCC Commissioner Jessica Rosenworcel on Executive Order, FCC (May 28, 2020), *available at* <https://www.fcc.gov/document/statement-fcc-commissioner-jessica-rosenworcel-executive-order> (last visited Aug. 30, 2020) (declaring that the E.O. seeks to turn the FCC into “the President’s speech police.”)

⁴⁵ See Levin, *supra* note 44. See also Part III (B), *infra*.

⁴⁶ Even though the FCC lacks jurisdiction to issue binding interpretations of Section 230 as requested by the NTIA Petition, the language of the statute can be lawfully amended by the legislature. *But see Section 230 as a First Amendment Rule, infra* note 58, at 2028 (arguing the courts should recognize “§ 230’s more stable constitutional provenance,” by holding that the Section is rooted in the First Amendment). However, it would simply be unacceptable for the FCC in this case to issue a binding interpretation of Section 230 at the behest of NTIA, which issued its Petition at the behest of the President. *Accord* John A. Fairlie, 21 *The Separation of Powers*, MICH. L. REV. 393, 397 (1923) (“Wherever the right of making and enforcing the law is vested in the same man . . . there can be no public liberty.”)

⁴⁷ See NTIA Petition, *supra* note 1, at 53–55 (compiling the proposed amendments).

⁴⁸ *Id.* at 53 (“An interactive computer service is not a publisher or speaker of information provided by another information content provider solely on account of actions voluntarily taken in good faith to restrict access to or availability of specific material in accordance with subsection (c)(2)(A) or consistent with its terms of service or use.”)

platforms to broaden their terms of service – including their content moderation policies – to accommodate content moderation practices that would not be allowed under Section 230 without a catch-all exemption. It would be untenable to revise or interpret Section 230 in a way that gives platforms more power to delete truthful user content.⁴⁹

NTIA also recommends changes to Section 230(c)(1)⁵⁰ and (c)(2)⁵¹ that would give platforms open-ended authority to discriminate against content based on viewpoint *and* defy precedent.⁵² NTIA seeks to define “otherwise objectionable [content],” which platforms can currently moderate without incurring liability, as content that is “*similar in type* to obscene, lewd, lascivious, filthy, excessively violent, or harassing materials.”⁵³ That definition is legally erroneous in the face of precedent; no court has applied such a standard when interpreting “otherwise objectionable.”⁵⁴

And, as stated above, NTIA’s re-definition incentivizes viewpoint discrimination. Content moderators applying NTIA’s definition would have to decide – likely according to their

⁴⁹ See also Part III (E) *infra* (outlining how marginalized communities disproportionately have their content taken down when online platforms over-moderate content).

⁵⁰ Section 230(c)(1) (“No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.”)

⁵¹ Section 230(c)(2) (shielding providers and users for, *inter alia*, “any action voluntarily taken in good faith to restrict access to or availability of . . . obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable [content], whether or not such material is constitutionally protected.”)

⁵² See NTIA Petition, *supra* note 1, at 27 (arguing “Section 230(c)(1) applies to acts of omission—to a platform’s failure to remove certain content. In contrast, subsection 230(c)(2) applies to acts of commission—a platform’s decisions to remove content. Subsection 230(c)(1) does not give complete immunity to all a platform’s ‘editorial judgments.’”)

⁵³ *Id.* at 32 (emphasis supplied).

⁵⁴ See, e.g., *Domen v. Vimeo, Inc.*, 2020 U.S. Dist. L 7935 (S.D.N.Y. Jan. 15, 2020), appeal filed No 20-616 (Feb. 18, 2020) (“Section 230(c)(2) is focused upon the provider’s subjective intent of what is ‘obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable.’ That section ‘does not require that the material actually be objectionable; rather, it affords protection for blocking material “that the provider or user considers to be” objectionable.’”)

corporate terms of use – whether content is “similar in type” to NTIA’s listed content. The NTIA Petition would thus leave the onus of finding unacceptable content on platforms, but also force them to moderate content according to a discrete set of criteria.⁵⁵ When online content moderators do not have freedom to consider nuance when they judge user content, real-world biases are more likely to spread as online suppression.⁵⁶ The NTIA Petition should thus be denied because it proposes to saddle Section 230 with unsound,⁵⁷ unduly restrictive conditions.

C. The relief sought in the NTIA Petition would cause unnecessary harm to smaller online platforms.

Under NTIA’s proposed interpretations of Section 230, viewpoint-neutral content moderation would become inherently riskier and likely much more expensive for online platforms.⁵⁸ At the same time, the relief sought in the NTIA Petition would invite a flood of easily-pled claims that Section 230 was designed to prevent.⁵⁹ This new regulatory environment

⁵⁵ For example, platforms have to moderate seemingly benign content to prevent the spread of harmful health advice and information during the COVID-19 pandemic. At the same time, platforms that have to moderate content according to policy tend to perpetuate real-life discrimination online. See Kurt Wagner & Sarah Frier, *Twitter and Facebook Block Trump Video, Citing Covid Misinformation*, BLOOMBERG (Aug. 5, 2020), available at <https://www.bloomberg.com/news/articles/2020-08-06/twitter-blocks-trump-campaign-account-over-covid-misinformation> (last visited Aug. 28, 2020) (reporting how Twitter, Facebook, and YouTube blocked a video, shared by accounts associated with President Trump, claiming COVID “doesn’t have an impact on [children]”); see also Part III (E) *infra* (outlining how online content moderators tend to target marginalized communities when applying content moderation policies).

⁵⁶ See Part III (E) *infra* (outlining how online content moderators tend to target marginalized communities when applying content moderation policies).

⁵⁷ Such unsound amendments to consequential laws also portend circuit splits, overrulings, and judicial inefficiencies.

⁵⁸ See Note, *Section 230 as a First Amendment Rule*, 131 HARV. L. REV. 2027, 2036 (2018) (citing Aaron Perzanowski, Comment, *Relative Access to Corrective Speech: A New Test for Requiring Actual Malice*, 94 CALIF. L. REV. 833, 858 n.172 (2006)) (“[C]ontent moderation to cope with intermediary liability is difficult, and therefore costly.”)

⁵⁹ See Bobby Allyn, *As Trump Targets Twitter’s Legal Shield, Experts Have A Warning*, NPR (May 30, 2020), available at <https://www.npr.org/2020/05/30/865813960/as-trump-targets-twitters-legal-shield-experts-have-a-warning> (last visited Aug. 28, 2020) (stating that

would separate tech giants like Facebook from the majority of internet companies; the capital-rich giants can afford litigating, accounting for new costs, and changing their content moderation practices.⁶⁰ Conversely, small and new internet companies would be crushed without the requisite capital and experience to navigate complex litigation⁶¹ and withstand unexpected expenses.⁶²

Section 230 was designed to address the legal dilemma caused by the “wave of defamation lawsuits” facing online platforms that moderate user content); David S. Ardia, *Free Speech Savior or Shield for Scoundrels: An Empirical Study of Intermediary Immunity Under Section 230 of the Communications Decency Act*, 43 LOY. L.A. L. REV. 373, 452 (2010) (“Defamation-type claims were far and away the most numerous claims in the section 230 case law, and the courts consistently held that these claims fell within section 230’s protections.”)

⁶⁰ Specifically, platforms would be incentivized to either over-moderate to the point of discrimination or under-moderate to the point of non-moderation. *See Section 230 as a First Amendment Rule*, *supra* note 58, at 2047 (explaining further that “collateral censorship is a major threat to vulnerable voices online.”); *see also* Hon. Geoffrey Starks, *Statement on NTIA’s Section 230 Petition* (July 27, 2020), *available at* <https://docs.fcc.gov/public/attachments/DOC-365762A1.pdf> (last visited Aug. 30, 2020) (stating that “[i]mposing intermediary liability on [platforms]—or creating an environment in which [platforms] have an incentive not to moderate content at all—would prove devastating to competition, diversity, and vibrant public spaces online.”)

⁶¹ *See* Ron Wyden, *Corporations are working with the Trump administration to control online speech*, WASH. POST OPINIONS (Feb. 17, 2020), *available at* http://washingtonpost.com/opinions/corporations-are-working-with-the-trump-administration-to-control-online-speech/2020/02/14/4d3078c8-4e9d-11ea-bf44-f5043eb3918a_story.html (last visited Aug. 20, 2020) (“It’s the start-ups seeking to displace Big Tech that would be hammered by the constant threat of lawsuits”); *see also* Kate Klonick, *The New Governors: The People, Rules, and Processes Governing Online Speech*, 131 HARV. L. REV. 1598, 1635 (2018) (“Content moderation at YouTube and Facebook developed from an early system of standards to an intricate system of rules due to (1) the rapid increase in both users and volume of content; (2) the globalization and diversity of the online community; and (3) the increased reliance on teams of human moderators with diverse backgrounds.”)

⁶² *See Section 230 as a First Amendment Rule*, *supra* note 58, at 2038 (citing MATTHEW LE MERLE ET AL., BOOZ & CO., THE IMPACT OF U.S. INTERNET COPYRIGHT REGULATIONS ON EARLY-STAGE INVESTMENT 19 (2011); *see also* Jerry Berman, *Policy Architecture and Internet Freedom*, LAW.COM: THE RECORDER (Nov. 10, 2017, 3:53 AM), *available at* <https://www.law.com/therecorder/sites/therecorder/2017/11/10/policy-architecture-and-internet-freedom/> (last visited Sept. 2, 2020) (“[T]he anticipated costs of moderation and litigation could prevent” controversial, new, and emerging websites “from even securing capital or launching” if Section 230 protections were weakened). *See also* Berman, *supra* (“Without § 230 . . . speech

It is well documented that algorithms tend to drive users to “echo chambers” of content that reaffirm preexisting beliefs and sometimes push users to more extreme viewpoints through fringe content.⁶³ Platforms such as YouTube and Twitter have systems in place that attempt to curb this phenomenon by, for example, allowing users to report certain video content,⁶⁴ or fact-checking and labelling misinformation as false.⁶⁵ As stated in Section I, *supra*, the “Good Samaritan” clause encourages online service providers to moderate third-party content by immunizing restrictions on material considered “obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable.”⁶⁶ This broad standard already places full discretion in the hands of private technology companies and social media service providers.

However, the relief sought by the NTIA Petition would treat platforms – large and small – as publishers, revoking their liability shield for any content they present “pursuant to a reasonably discernible viewpoint or message,” or any content they “affirmatively vouc[h] for,

would be limited and new applications might never have emerged if required to finance costly legal overhead to do business on the Internet.”)

⁶³ See, e.g., Kevin Rose, *The Making of a YouTube Radical*, THE NEW YORK TIMES (June 8, 2019), available at <https://www.nytimes.com/interactive/2019/06/08/technology/youtube-radical.html> (last visited Aug. 30, 2020) (“Over years of reporting on internet culture, I’ve heard countless versions of Mr. Cain’s story: an aimless young man — usually white, frequently interested in video games — visits YouTube looking for direction or distraction and is seduced by a community of far-right creators. [...] The common thread in many of these stories is YouTube and its recommendation algorithm, the software that determines which videos appear on users’ home pages and inside the ‘Up Next’ sidebar next to a video that is playing. The algorithm is responsible for more than 70 percent of all time spent on the site.”)

⁶⁴ See, e.g., YouTube Community Guidelines, available at <https://www.youtube.com/howyoutubeworks/policies/community-guidelines/#community-guidelines> (last visited Aug. 30, 2020). See also Enforcing Policies, available at <https://www.youtube.com/howyoutubeworks/policies/community-guidelines/#enforcing-policies> (last visited Aug. 30, 2020).

⁶⁵ See, e.g., Yoel Roth and Nick Pickles, *Updating Our Approach to Misleading Information* (May 11, 2020), available at https://blog.twitter.com/en_us/topics/product/2020/updating-our-approach-to-misleading-information.html (last visited Aug. 30, 2020).

⁶⁶ 47 U.S.C. § 230 (c)(2)(A) (2018).

editorializ[e], recommend[d], or promot[e] ... on the basis of the content's substance."⁶⁷ This applies to platforms even if they deploy algorithms rather than humans to moderate content.⁶⁸ The cost to manually moderate all content on any internet platform would be astronomical.⁶⁹ At the same time, moderating content using algorithms requires capital, expertise, and also risks litigation involving under-adjudicated questions of law.⁷⁰ Either way, the financial cost and legal risk associated with viewpoint-neutral content moderation will have been expanded by the relief sought in NTIA's Petition.⁷¹ Content moderators and courts would face a wave of easily pled claims that would have to be adjudicated using under-developed law.

⁶⁷ NTIA Petition, *supra* note 1, at 53, 55 (further seeking public disclosure of platforms' "content moderation, promotion, and other curation practices.")

⁶⁸ *Id.* Such a modification would make YouTube liable for every word spoken in a video that ends up on a user's recommended videos list, which is algorithmically generated.

⁶⁹ See *Section 230 as a First Amendment Rule*, *supra* note 58, at 2037 (citing Lauren Weber & Deepa Seetharaman, *The Worst Job in Technology: Staring at Human Depravity to Keep It Off Facebook*, WALL ST. J. (Dec. 27, 2017, 10:42 PM), available at <https://www.wsj.com/articles/the-worst-job-in-technology-staring-at-human-depravity-to-keep-it-off-facebook-1514398398> (last visited Sept. 1, 2020) ("It would be even more difficult for artificial intelligence to properly identify defamation and quite costly to develop that software. And humans are not happy performing the task."))

⁷⁰ See *id.*; see also Ashley Deeks, *The Judicial Demand for Explainable Artificial Intelligence*, 119 Colum. L. Rev. 1829, 1831 (2019) (noting that there is presently little or no common law "sensitive to the requirements of" the adjudicative process). Compare Deeks, *supra*, with Aaron Klein, *Reducing bias in AI-based financial services*, BROOKINGS (July 10, 2020), available at <https://www.brookings.edu/research/reducing-bias-in-ai-based-financial-services/> (last visited Aug. 28, 2020) (stating that existing legal frameworks are "ill-suited" to address legal issues caused by big data and "significant growth in [machine learning] and [artificial intelligence]").

⁷¹ NTIA similarly seeks to have companies publicly disclose their moderation policies, which amplifies issues of litigation exposure. NTIA Petition, *supra* note 1, at 14, 55 (seeking public disclosure of platforms' "content moderation, promotion, and other curation practices" to promote competition). *But see Liability for User-Generated Content Online: Principles for Lawmakers*, *supra*, note 14; Part III (C), *supra* (explaining the difference between small and large internet companies' ability to withstand increased costs and navigate prolonged litigation); Part III (D) *infra* (discussing how a litigation flood would be a natural and detrimental consequence of granting the NTIA Petition). See also Elliot Harmon, *Changing Section 230 Would Strengthen the Biggest Tech Companies*, N.Y. TIMES (Oct. 16, 2019), available at

D. Content moderators and courts would face a wave of easily pled claims that would have to be adjudicated under under-developed law.

The increased costs and risks created by the NTIA Petition would catastrophically coincide with the flood of litigation guaranteed by NTIA’s recommendations.⁷² Common law precedent is difficult to properly apply to questions involving edge technology, yet litigants would have to apply dated case law to adjudicate the many new cases, or tangle courts in the development of new case law. Plaintiffs could rely on precedents like *Stratton* to file suits against online platforms for any defamatory statements that it hosts.⁷³ For example, in 2019 Congressman Devin Nunes filed a complaint against Twitter for \$250 million, alleging that Twitter hosted and facilitated defamation on its platform when parody Twitter accounts about Nunes published tweets he found insulting.⁷⁴

The scale⁷⁵ of litigation combined with the lack of clear legal outcomes would either force content platforms to disengage from moderation or over-moderate – otherwise, they would face

<https://www.nytimes.com/2019/10/16/opinion/section-230-freedom-speech.html> (last visited Sept. 2, 2020).

⁷² See Bobby Allyn, *As Trump Targets Twitter’s Legal Shield, Experts Have A Warning*, NPR (May 30, 2020), available at <https://www.npr.org/2020/05/30/865813960/as-trump-targets-twitthers-legal-shield-experts-have-a-warning> (last visited Aug. 28, 2020) (stating that Section 230 was designed to address the legal dilemma caused by the “wave of defamation lawsuits” facing online platforms that moderate user content).

⁷³ Compare *id.* with, e.g., Report, *Facebook by the Numbers: Stats, Demographics & Fun Facts*, Omnicore (Apr. 22, 2020), available at <https://www.omnicoreagency.com/facebook-statistics/> (last visited Aug. 28, 2020) (“Every 60 seconds, 317,000 status updates; 400 new users; 147,000 photos uploaded; and 54,000 shared links.”) Judicial economy concerns arise here as well, given that every status update would be a potential inroad for a defamation claim under a weakened Section 230.

⁷⁴ Daniel Victor, *Devin Nunes Sues Twitter for Allowing Accounts to Insult Him*, N.Y. TIMES (Mar. 19, 2019), available at <https://www.nytimes.com/2019/03/19/us/politics/devin-nunes-twitter-lawsuit.html> (last visited May 14, 2020).

⁷⁵ In 2019, there were more than 474,000 tweets posted per minute, and in 2016, there were over 3 million posts on Facebook per minute. Jeff Schultz, *How Much Data is Created on the Internet Each Day?* MICROFOCUS BLOG (Aug. 6, 2019), available at

the fatal combination of increased moderation cost and increased risk of litigation due to moderation,⁷⁶ which disproportionately impact smaller companies and controversial content platforms.⁷⁷ Any recommended new interpretations of Section 230 should take such possibilities into account and address them, such as the handling of parody accounts. The NTIA Petition's broad and sweeping approach fails to allow for any nuance or flexibility in solving the problems it attempts to address, throwing open the door for litigation.

E. Grant of the NTIA Petition would facilitate the silencing of minorities and civil rights advocates.

Most critically to us, weakening Section 230 would result in continued and exacerbated censorship of marginalized communities on the internet. NTIA's Petition would incentivize over-moderation of user speech; similar circumstances in the past have already been shown to promote, not eliminate, discrimination against marginalized peoples.⁷⁸ Given that marginalized groups were over-policed⁷⁹ by content moderators prior to NTIA's Petition, it follows that accepting NTIA's proposed interpretations of Section 230 would worsen online oppression on that front.

<https://blog.microfocus.com/how-much-data-is-created-on-the-internet-each-day/> (last visited May 15, 2020).

⁷⁶ Part III (E) *infra*.

⁷⁷ *Id.* See also Part III (C) *supra*.

⁷⁸ See Section 230 as a First Amendment Rule, *supra* note 58 at 2038, 2047 (citing *New York Times Co. v. Sullivan*, 376 U.S. 254, 279 (1964) (quoting *Speiser v. Randall*, 357 U.S. 513, 526 (1958))) (explaining how strict regulatory environments promote strict content moderation by humans and algorithms that disproportionately targets “groups that already face discrimination.”) See also Part III (E) *infra* (outlining examples of discriminatory outcomes resulting from online content moderation).

⁷⁹ See Section 230 as a First Amendment Rule, *supra* note 58.

When online platforms have implemented content moderation policies in line with NTIA’s proposals, minorities and civil rights advocates were oppressed, not empowered.⁸⁰ For example, in 2019 Facebook implemented a “real names” policy to make the platform safer by confirming user’s identities; however, the policy led to the deactivation of an account by a Native American with the real name of Shane Creepingbear.⁸¹ Further, in 2017 Google created an algorithm designed to flag toxicity in online discussions; however, legitimate statements like, “I am a black man” were flagged because the tool could not differentiate between users talking about themselves and users making statements about historically and politically-marginalized groups.⁸² Because minorities are more vulnerable to online defamation, content moderation tools disproportionately target and remove the speech of minorities based on the content of their speech.⁸³ Such oppressive content moderation that discriminates against marginalized groups will only worsen if Section 230 is weakened.

⁸⁰ *Id.* at 2047 (“[C]ollateral censorship is a major threat to vulnerable voices online.”) *See also* Maarten Sap *et al.*, *The Risk of Racial Bias in Hate Speech Detection*, 1 PROCEEDINGS OF THE 57TH ANNUAL MEETING OF THE ASSOCIATION FOR COMPUTATIONAL LINGUISTICS 1668 (2019), *available at* <https://homes.cs.washington.edu/~msap/pdfs/sap2019risk.pdf> (last visited Sept. 1, 2020) investigating how content moderators’ insensitivity to differences in cultural dialect can “amplif[y] harm against minority populations” online); *see also* Thomas Davidson *et al.*, *Racial Bias in Hate Speech and Abusive Language Detection Datasets*, 1 PROCEEDINGS OF THE THIRD WORKSHOP ON ABUSIVE LANGUAGE ONLINE 25 (2019), *available at* <https://www.aclweb.org/anthology/W19-3504.pdf> (last visited Sept. 1, 2020) (concluding that abusive language detection systems “may discriminate against the groups who are often the targets of the abuse” the systems seek to prevent). *See also* Julia Angwin, *Facebook’s Secret Censorship Rules Protect White Men From Hate Speech But Not Black Children*, PROPUBLICA (Jun. 28, 2017), *available at* <https://www.propublica.org/article/facebook-hate-speech-censorship-internal-documents-algorithms> (last visited Sept. 1, 2020).

⁸¹ *See* Harmon, *supra* note 71.

⁸² *See* Elliot Harmon & Jeremy Gillula, *Stop SESTA: Whose Voices Will SESTA Silence?* ELEC. FRONTIER FOUND. (Sept. 13, 2017), *available at* <https://www.eff.org/deeplinks/2017/09/stop-sesta-whose-voices-will-sesta-silence> (last visited May 14, 2020).

⁸³ *Section 230 as a First Amendment Rule*, *supra* note 58, at 2038, 2047 (citing Corynne McSherry *et al.*, *Private Censorship Is Not the Best Way to Fight Hate or Defend Democracy*:

Relatedly, the relief sought in the NTIA Petition would amplify preexisting risk of oppressive content moderation because it would effectively incentivize or induce online platforms to double-down on oppressive content moderation strategies.⁸⁴ Users of all backgrounds would more likely have their constitutionally protected speech removed because platforms will have to adjust their services and policies to account for increased liability.⁸⁵ Tweets, posts, videos, and more would be at risk of removal if the platform believed they *might* be defamatory, or if they were politically controversial to the point that the platform would rather block them than risk litigation.⁸⁶ Marginalized communities like ethnic minorities and political activists will carry the bulk of these harms because these communities are over-policed by content moderation tools and procedures even without any weakening of Section 230.⁸⁷

Here Are Some Better Ideas, ELECTRONIC FRONTIER FOUND. (Jan. 30, 2018), *available at* <https://www.eff.org/deeplinks/2018/01/private-censorship-not-best-way-fight-hate-or-defenddemocracy-here-are-some> (last visited Aug. 26, 2020) (“Content moderation has ‘shut down conversations among women of color about the harassment they receive online,’ ‘censor[ed] women who share childbirth images in private groups,’ and ‘disappeared documentation of police brutality, the Syrian war, and the human rights abuses suffered by the Rohingya.’”)

⁸⁴ And similarly, users on platforms that choose to under-moderate in response to increased cost and exposure will be silenced by clearly harmful content like hate speech.

⁸⁵ *Section 230 as a First Amendment Rule*, *supra* note 58, at 2027 (internal citation omitted) (explaining that Section 230 “encourages websites to engage in content moderation” without fear of exposure to “liability for defamatory material that slips through.”)

⁸⁶ *Id.* (stating that without Section 230’s protection, “websites would have an incentive to censor constitutionally protected speech in order to avoid potential lawsuits.”) Over half of internet users engage in politically controversial speech. Monica Anderson *et al.*, *Public Attitudes Toward Political Engagement on Social Media*, PEW RES. CTR. (July 11, 2018), *available at* <https://www.pewresearch.org/internet/2018/07/11/public-attitudes-toward-political-engagement-on-social-media/> (last visited Aug. 26, 2020) (reporting that over the span of one year 53% of American adults engaged in some form of political or social-minded activity, such as using a hashtag related to a political or social issue, on social media).

⁸⁷ *See Section 230 as a First Amendment Rule*, *supra* note 58 at 2047 (“Given the cost of litigation, our most marginalized citizens are the ones least likely to be able to take advantage of a new liability regime”); *see also* Parts III (C) and (E) *supra* (outlining how the increased costs and risks associated with content moderation will harm small and marginalized groups if the NTIA Petition were to be granted).

IV. Recommendations for Reform

A. Platforms should not be immune from liability when they let their users create and spread discriminatory content like racial hate speech.

If Section 230 needs to be improved, that is a task for Congress – not the Executive Branch.

The Section 230 Proponents encourage Congress to incentivize platforms to advance equity and anti-discrimination through their content moderation practices. We support reforming Section 230 to hold platforms more accountable when their products are used to violate users' civil rights.⁸⁸ Platforms should be protected when they moderate content to prevent such violations. In essence, the Proponents support protecting platforms when they moderate content to preserve equity and safety in their products, but also holding platforms liable when they negligently or purposefully allow their products to discriminate against users.

Platforms should not be immune from liability when they let their users create and spread discriminatory content like hate speech. Over the past few years, major online platforms have used Section 230 as a defense to a variety of civil rights lawsuits.⁸⁹ Social media giants, for example, have argued that Section 230 exculpates them even though companies used their products to prevent specific racial groups from seeing online job advertisements.⁹⁰ Similarly, platforms like YouTube have claimed Section 230 immunity when presented with evidence that their content-blocking algorithms targeted videos referencing Black culture.⁹¹ Congress should

⁸⁸ See Part III (E) and note 7 *supra* (discussing how online platforms have themselves or through their users facilitated civil rights violation in such fields as transportation, housing, and law enforcement).

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

amend Section 230, or adopt new legislation, to the extent that current law allows platforms to intentionally or irresponsibly foster such an oppressive environment.⁹²

That being said, Congress should broadly proscribe online platforms from engaging in or negligently facilitating online racial and gender discrimination, voter suppression, or hate speech. Section 230 is not the only law relevant to online platforms' influence of public discourse and communication between people.⁹³ Section 230 is one of many internet regulations; and internet regulations are but one genre of regulation in America's diverse legal library. Therefore, a complete reform process must consider how common law civil rights protections can be fully reflected in laws like Section 230.⁹⁴ Similarly, Congress should consider whether amending Section 230 itself is the best way to advance internet equity. There are many pathways that can be taken toward a more equitable and diverse internet.

B. Platforms should be immune from liability when they work to prevent users from creating and spreading discriminatory content like racial hate speech.

On the other hand, current law should be preserved when it shields platforms from liability for moderating content to foster user equity, equality, and safety online. Congress should craft new law to the extent that platforms in that context are unprotected. Because of liability shielding, platforms can confidently leverage their expertise to protect billions of people from harmful misinformation.⁹⁵ Relatedly, platforms can design their services to prevent hate speech by users; particularly innovative companies are deploying content moderation systems that not only have anti-discrimination policies in their terms of service, but actively look for evidence

⁹² *Id.* See also Overton, *supra* note 39.

⁹³ To the contrary, the regulatory and civil rights implications of platform-driven technology innovations are broad and too new to fully understand. See *supra* notes 38-39.

⁹⁴ *Accord.* Overton, *supra* note 39.

⁹⁵ See Wagner *et al.*, *supra* note 55.

that their services are being used in a discriminatory way.⁹⁶ Section 230 as it stands thus incentivizes platforms to obey the word and spirit of the law, in large part because it can grant platforms immunity when they moderate content.⁹⁷

Congress also should bolster immunity for content moderators, insofar as laws like Section 230 currently may discourage platforms from promoting equitable practice and freedom of expression online. If large and small internet companies are confident they can moderate user content without going bankrupt, organizations like the Section 230 Proponents will have more opportunities to participate in the internet economy. Relatedly, marginalized communities and activists online will be able to sing, speak, write, and type in celebration of their constitutional freedom to do so. Barring discriminatory expression like hate speech, America's philosophical bedrock is made of the collaboration, controversy, and indeed the truth, that is enabled by free expression. Internet companies are the architects and gatekeepers of history's largest public squares with history's biggest crowds. Those companies must be free to preserve that environment.

Conclusion

Even if the FCC had the requisite authority, the NTIA Petition lacks the precision required to amend or reinterpret Section 230 in a way that facilitates content moderation while protecting internet users from discrimination and hate speech. Critics of Section 230 have misstated the immense costs that would result from weakening or repealing Section 230 while failing to focus on the true needs for reform to prevent the internet from being misused to discriminate and intimidate. Reforms to Section 230, or new legislation, are needed to allow marginalized groups

⁹⁶ See Kulp, *supra* note 27.

⁹⁷ See *Liability for User-Generated Content Online: Principles for Lawmakers*, *supra* note 14; *Section 230 as a First Amendment Rule*, *infra* note 58, at 2039 (“Various websites credit § 230 with their very existence.”)

to have a place to engage in discussion, unrestricted by overbearing, or inadequate, content moderation policies that have a disproportionate harm on marginalized voices. Reform of Section 230 is a job for lawmakers who must craft internet laws that foster equity and equality. In the meantime, the NTIA Petition should be denied.

Respectfully submitted,

Maurita Coley

Maurita Coley
President and CEO

David Honig

David Honig
President Emeritus and Senior Advisor

Multicultural Media, Telecom and Internet Council
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MMTC Earle K. Moore Fellows

September 2, 2020

ANNEX: THE SECTION 230 PROPONENTS

The **Multicultural Media, Telecom and Internet Council (MMTC)** is a non-partisan, national nonprofit organization dedicated to promoting and preserving equal opportunity and civil rights in the mass media, telecom and broadband industries, and closing the digital divide. MMTC is generally recognized as the nation's leading advocate for multicultural advancement in communications.

The mission of the **Hispanic Federation** is to empower and advance the Hispanic community. Hispanic Federation provides grants and services to a broad network of Latino non-profit agencies serving the most vulnerable members of the Hispanic community and advocates nationally on vital issues of education, health, immigration, civil rights, economic empowerment, civic engagement, and the environment.

The **League of United Latin American Citizens (LULAC)** is the nation's largest and oldest Hispanic civil rights volunteer-based organization that empowers Hispanic Americans and builds strong Latino communities. Headquartered in Washington, DC, with 1,000 councils around the United States and Puerto Rico, LULAC's programs, services, and advocacy address the most important issues for Latinos, meeting the critical needs of today and the future.

The **National Coalition on Black Civic Participation (The National Coalition)** is a non-profit, non-partisan organization dedicated to increasing civic engagement and voter participation in Black and underserved communities. The National Coalition strives to create an enlightened community by engaging people in all aspects of public life through service/volunteerism, advocacy, leadership development and voting.

The **National Council of Negro Women (NCNW)**, founded 85 years ago by Dr. Mary McLeod Bethune, seeks to lead, advocate for and empower women of African descent, their families and communities. NCNW reaches more than two million persons through its 300 community and campus based sections in 32 states and its 32 affiliated women's national organizations. NCNW works to promote sound public policy, promote economic prosperity, encourage STEAM education and fight health disparities.

The **National Urban League (NUL)** is an historic civil rights organization dedicated to economic empowerment in order to elevate the standard of living in historically underserved urban communities. NUL reaches nearly two million people nationwide through direct services, programs, and research through its network of 90 professionally staffed affiliates serving 300 communities in 36 states and the District of Columbia.

Certificate of Service

Pursuant to 47 C.F.R. §1.405(b)), I hereby certify that I have on this 2nd day of September caused the foregoing “Comments of Section 230 Proponents” to be delivered by U.S. First Class Mail, Postage Prepaid, to the following:

Douglas Kinkoph, Esq.

Performing the Delegated Duties of the Assistant Secretary for Commerce for
Communications and Information

National Telecommunications and Information Administration

U.S. Department of Commerce

1401 Constitution Avenue NW

Washington, DC 20230

David Honig

David Honig

From: [Michael Up church](#)
To: [Geoffrey Starks](#)
Cc: [Jessica Rosenworcel](#); [Brendan Carr](#); [Mike ORIelly](#); [Ajit Pai](#)
Subject: Section 230 Petition
Date: Thursday, July 30, 2020 11:07:08 PM

Mr. Starks,

According to FCC's Mission Statement the FCC is an independent U.S. government agency, who regulates interstate and international communication by implementing and enforcing America's communications law and regulations. Your accusation of political bias in your response statement to NTIA'S SECTION 230 petition is not indicative of a US official who is independently mannered but exhibits a complete malicious unsophisticated ineptitude as a Commissioner. Please abandon your political irreverently for the media to champion.

You also state you believe communications technology has the potential to be one of the most powerful forces on Earth for promoting equality and opportunity. To unlock that potential, however, all Americans must have access yet you fail to grasp the magnitude of social media's power to devastate competition and diversity by de-platforming, censorship, removing content, shadow banning and outright banning. This is not the act of a platform but of a publisher and must be addressed directly.

Mr. Starks you state you are an advocate for consumer protection and accountability. I hope you unplug your myopic sight and keep politics from your decision making and become accountable to the American public, not just your segmented fairytale beliefs.

<https://docs.fcc.gov/public/attachments/DOC-365762A1.pdf>

Regards,
Michael Upchurch

Sent from my iPhone while traveling the world!

From: [Korey Smith](#)
To: [Ajit Pai](#); [Geoffrey Starks](#)
Cc: [Mike ORielly](#); [Brendan Carr](#); [Jessica Rosenworcel](#)
Subject: Section 230 Protections for Big Tech and Social Media Platforms...
Date: Wednesday, October 14, 2020 9:24:00 PM

To all concerned:

We need hard reform of Section 230 of the Communications Decency Act. Big Tech (i.e.: Facebook, Twitter, etc.) must respect the First Amendment rights of ALL AMERICANS. If they don't, they (Social Media) should lose protection under Section 230.

We live in the United States of America, NOT COMMUNIST CHINA!

Please reform or repeal Section 230 and hold Social Media companies responsible for their Anti-American actions!

Respectfully,
Korey Smith
ksmith56@yahoo.com

[Sent from Yahoo Mail on Android](#)

From: [Walt Piecyk](#)
To: [Mike ORIelly](#)
Subject: Section 230
Date: Friday, May 29, 2020 11:17:04 AM
Attachments: [image001.png](#)

I don't think anyone even knows what this is. Can we get you to do a zoom to better understand implications? We have 2 formats. Meeting style with small group and everyone's camera on and not recorded. Or Webinar style, opened up to industry executives and available for replay. Let me know cause obviously this is a hot issue with investors right now. I added some links below of examples of what we have done with webinar style. -w

[Jason Kilar, WarnerMedia CEO](#)
[Discussion With Mark Cuban](#)
[Daniel Ek, Spotify CEO](#)
[Jeffrey Katzenberg, Founder, Quibi](#)
[Pac-12's Larry Scott & SEC's Greg Sankey](#)

LightShed Logo - Sigs



Walter Piecyk
Partner, TMT Analyst
646-450-9258
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email: walt@lightshedtmt.com
www.lightshedtmt.com

From: [Shoshana Weissmann, Sloth Committee Chair \(via Twitter\)](#)
To: [Mike ORIelly](#)
Subject: Shoshana Weissmann, Sloth Committee Chair (@senatorshoshana) has sent you a Direct Message on Twitter!
Date: Friday, August 7, 2020 12:47:13 PM



Shoshana Weissmann, Sloth Committee Chair sent you a Direct Message.

Thank you SO MUCH for having the guts to stand up on 200. It means the world to me

Reply

[Settings](#) [Help](#) [Opt-out](#) [Download app](#)

Twitter, Inc. 155 Market Street, Suite 900 San Francisco, CA 94103

From: [Mateusz Andrzejczuk](#)
To: [Ajit Pai](#)
Cc: [Mike O'Reilly](#); [Brendan Carr](#); [Jessica Rosenworcel](#); [Geoffrey Starks](#)
Subject: Silicon Valley is Campaigning for CCP Censorship
Date: Tuesday, September 1, 2020 4:17:11 PM

Good afternoon Chairman Pai and Commissioners,

As someone who lived in Silicon Valley for over 4 years, I ended up in an email newsletter which gave me this link:

<https://act.accessnow.org/page/66490/action/1?ea.url.id=4887541&forwarded=true>

Please understand that those in Silicon Valley are pushing for more censorship so that we can end up with a CCP style'd censorship of "misinformation".

Since the banning of controversial talk show host "Alex Jones", platforms like YouTube, Twitter and Patreon have really stepped up the banning of other content creators openly due to the fact that they believe such content is "dangerous".

Although I disagree with content creators like InfoWars, this DOES NOT give companies the right to abuse section 230 just because they "feel" that his content is dangerous, misleading or what ever other grievance they have with people they disagree with.

As someone well over the age of 18, I should have the right to watch content, analyze the message, and reach my own conclusion.

Please don't allow these billion dollar companies to make this decision for me, the more they censor content creators, the greater the curiosity becomes for me and others to watch such "dangerous" content.

Personally, China seems to be a far greater cyber threat to us than Russia. It is the CCP that I cannot criticize online without risking a permanent ban for "racism" or "hateful speech". I have no allegiance to China, but in a terrifying way, more and more sites encourage all users to respect our unwelcome communist overlords. A Chinese take over of our cyberspace is not something that'll happen over night. This is something that has been going on for the last 8 years, slowly and slowly it's been getting worse.

YouTube shadow bans certain search terms, you can test this for yourself by clicking on the search bar, then entering search terms to see the "autocomplete" results appear. You'll notice that there is already a shadow ban on profanity (obviously) however, the same algorithm that blocks profanity is also applied to names, hashtags and other unique labels that are associated with political issues of today, and there are even non-elected people in Washington DC who've had their names removed completely by a human, not algorithm.

Read more about YouTube's autocompletion from the man himself who worked on it:

<https://marketinghy.com/2015/01/youtube-autosuggest-google-autocomplete-can-work-favor/>

The article very explicitly mentions how to prevent the following search results:

John Doe fraud

John Doe scam

John Doe business

and to have the results appear like this instead:

John Doe business

John Doe reviews

John Doe insurance

So long as we don't have the code for their search algorithms, we'll never know for sure if they'll abuse these systems to boost the reputation, or ruin the reputation of individuals, politicians, businesses or political movements. And I've noticed since the banning of Alex Jones that content from YouTube has gotten worse overtime since some changes were definitely made to prevent users from listening to someone's opinions and coming to their own conclusions as to what content they deem to be "dangerous" or "hateful".

We are seriously playing with fire if we allow unidentified people to protect us from "misinformation", we the people should be allowed to think for ourselves.
I hope this message reaches you.

Respectfully,

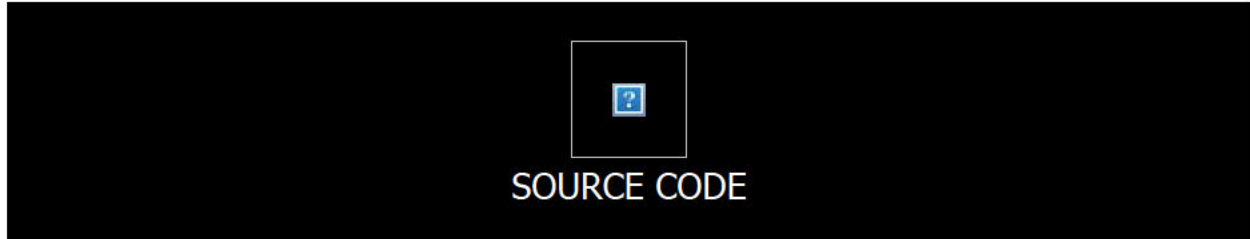
Matt Andrzejczuk
Software Developer
Chalfont, PA
USA

From: (b) (6)
To: (b) (6) [Mike O'Reilly](#)
Subject: Small suggestions
Date: Tuesday, October 6, 2020 11:52:45 AM
Attachments: [CTIA 2020 Speech v2 copy em.docx](#)

Sent from my iPad

From: [Protocol](#)
To: [Mike O'Reilly](#)
Subject: Source Code: The White House vision for Section 230
Date: Thursday, September 24, 2020 6:33:55 AM

[View email in your browser](#)



By David Pierce | September 24, 2020

Presented by



Good morning! This Thursday, the Justice Department laid out its plans to change Section 230, TikTok warned everyone about how bad a ban can be, Ridepanda wants to help you buy a scooter, and why Hulu shows you the same ad 100 times an hour.

(Was this email forwarded to you? [Sign up here](#) to get Source Code every day.)

 [Subscribe to the Source Code podcast](#)

THE BIG STORY

How the White House would change Section 230

Issie Lapowsky writes: The Department of Justice fired a warning shot against Section 230 on Wednesday, sending Congress [proposed legislation](#) that would limit platforms' protections under the law and create a carve-out for so-called "bad Samaritans" who purposely promote, solicit or facilitate criminal activity.

- The proposal was almost immediately met with confusion by even some Section 230 experts. "I think this proposal is a mess, and I don't know if that's on purpose," said Blake Reid, a professor of tech policy at Colorado Law. "That is not a great way to run the railroad for a statute that governs a huge swath of

activity that happens online."

The proposal is mostly just a rough sketch of what the DOJ wants out of Section 230 reform, but it's a useful guideline for future conversations on the subject. Here are some of the proposal's biggest asks:

- **Strict adherence to terms of service.** The DOJ's proposal attempts to get at supposed anti-conservative bias on social media by specifying that platforms can't be held liable for filtering content that violates their terms of service. Meaning that when a moderation decision doesn't precisely follow their terms of service, they *can* be held liable.
- **A new definition of "good faith."** The DOJ would create a definition that gives platforms precious little room for error. It would require them to publish their terms of service, restrict content only as it relates to their terms of service, give users "timely notice" about their content being taken down and, most importantly, not screw up.
- **Limits on content filtering.** As written, Section 230 says platforms won't be held liable for good faith efforts to restrict content that is "obscene, lewd, lascivious, filthy, excessively violent, harassing or otherwise objectionable." The DOJ's proposal would strike "otherwise objectionable" from the law and add some new categories, including content that promotes terrorism, violent extremism or self-harm. It would allow much less wiggle room for platforms.
- **Carve-outs for "bad Samaritans."** The DOJ's proposal would create a carve-out in Section 230 for platforms that purposely promote, solicit or facilitate material that they know or believe might violate federal criminal law. The DOJ can already go after platforms for actively participating in criminal activity, but this proposal would broaden that power by giving victims the ability to sue as well.

It seems wholly unlikely that Congress will move forward with these recommendations before the end of the session. But if the DOJ remains under Republican control, these issues aren't going to go away anytime soon.

Be sure to [read Issie's story on Protocol](#) for more analysis on what this all means, why it's so confusing and where we go from here.

SOCIAL

What a non-ban could do to TikTok

It's easy to think that the *possibility* of a TikTok ban — not the actual ban itself — might be good for TikTok, as everybody rushes to download the app before it's gone. But as TikTok continues to fight for its life in the U.S., [Vanessa Pappas laid](#)

[out yesterday](#) what harm the mere possibility of a ban could do to the platform. It's grim stuff:

- When Mike Pompeo first mentioned that president Trump was even considering a ban, back in July, Pappas wrote that TikTok "saw a significant drop" in its user base, with "a reduction of over 500,000 daily active users."
- Competitive apps simultaneously jumped in popularity, and started signing big TikTok stars away from the platform. That's been bad for TikTok's global growth, too, because so much content comes from U.S. creators.
- After Trump's executive order was issued, Pappas said about a dozen brands pulled out of ad deals for August, and TikTok lost \$10 million of revenue just in that month.
- "Since July 1, 2020," she wrote, "52 candidates have declined offers of employment with ByteDance and TikTok Inc. specifically due to the perceived uncertainty caused by the government's investigation of and threats against TikTok."

TikTok has been modeling what might happen if the app was banned, even temporarily, and it seems the point of no return comes really quickly. Pappas estimated that if TikTok were banned for two months, as many as half of TikTok's users would never come back; after six months, as many as 90% would never return. "Accordingly, even if the TikTok Ban is later lifted," Pappas wrote, "we would not be able to make up for lost ground."

- TikTok's [suing to block the ban](#), which is scheduled to come into effect this Sunday,

But this filing should scare every CEO in tech. In a time where everything about tech is political, nobody's safe from threats and bans and governmental interference. And the threats alone could kill a business.

MOBILITY

The new new bike shop

One thing Lime, Bird and others have done is show people how useful scooters and e-bikes can be for navigating a city. But the next step for many people actually seems to be to buy one for themselves. Even Bird is getting into the scooter-selling game!

- This was happening before the pandemic, but with people not wanting to touch what strangers have touched (or get in cars or on trains), it's accelerating.

- Which is why Ridepanda founders Chinmay Malaviya (a former Lime employee) and Charlie Depman (a former Scoot employee) think they're launching at the perfect time.

Basically, Ridepanda is a shop for e-bikes, scooters and mopeds. But it's also a guide, rating rides it sells for safety and helping users figure out which style is right for them. Because, as Malaviya put it, figuring out which one to buy is impossible.

- "There's tons of noise, right?" Malaviya said. "There is a lack of trust. There are a lot of good products, a lot of very bad products." We all know you can't trust regular online reviews, and the stakes here are super high both because these vehicles are relatively expensive and because buying the wrong one might literally kill you. (I've been trying to figure out which scooter to buy myself for months, and I can vouch for how awful this process is.)
- Ridepanda wants to be a car dealership for electric vehicles. It'll help you find one, pay for it, service it, everything. And it says it won't offer products that it doesn't stand behind.
- Depman said Ridepanda might someday build its own scooter or e-bike, but right now there are plenty of good options out there. Instead, it'll educate riders on the space, "sort of like the NerdWallet in our space," Depman said.

This is going to be a trend. It's the next phase of dropshipping, really: Name brands and retail stores are being replaced by huge marketplaces full of stuff supplied directly by manufacturers, and it's so hard to know what's good and what's junk. There's room for a whole class of companies just curating and recommending stuff, across every category. Earning trust can be just as valuable as making a product.

A MESSAGE FROM PHILIPS



Stronger care ... from more efficient operations

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PEOPLE ARE TALKING

ChinaDaily, a state-run publication, [had some choice words about the](#)

TikTok deal:

- "China has no reason to give the green light to such a deal, which is dirty and unfair and based on bullying and extortion. If the U.S. gets its way, it will continue to do the same with other foreign companies. Giving in to the unreasonable demands of the U.S. would mean the doom of the Chinese company ByteDance."

The U.S. has always played a primary role in the tech landscape, but Senator Mark Warner said that's slipping away:

- "We flooded the zone with engineers. We had the best schools, we had most of the companies. It got built in as an assumed advantage, and we kind of got lazy about it."

A group of civil-rights organizations filed an amicus brief saying Uber and Lyft have systematically failed to protect drivers of color:

- "It is critical to recognize the unjust class and race hierarchies that feed into illegal employer practices like misclassification. The reality is that ultra-powerful corporations like Lyft and Uber have amassed their incredible wealth precisely by denying basic protections to poor people of color excluded from decent jobs."

U.S. bans and rhetoric continue to hurt Huawei, chairman Guo Ping said:

- "Non-stop aggression from the U.S. government has put us under significant pressure. Right now, survival is the goal."

MAKING MOVES

Mike Morhaim has a new gaming company called **Dreamhaven**. The former Blizzard CEO also hired a number of Blizzard developers to run Dreamhaven's two internal studios, and said he wants to build a very different kind of development company.

Coinbase added to its executive ranks. It hired Shilpa Dhar from Venmo and Ravi Byakod from Adobe, and the two will run a new "Platforms" team at Coinbase. Frank Yoo also joined the company from Google, and will be Coinbase's VP of design and research.

Nilka Thomas is **Lyft's new Chief People Officer**. Thomas heads back to the company after leaving in February to be CPO at SeatGeek.

IN OTHER NEWS

- **Facebook will allow political ads again starting November 4**, following a pause during the run-up to Election Day. But it *won't* allow ones that claim victory before the final results are declared. That's if it can find them, at least: Avaaz found that super PACs have been able to **run hundreds of misleading ads** on Facebook recently. Meanwhile, Facebook's oversight board will reportedly **start accepting cases** in October, though it's unlikely that it will make any rulings before the election.
- **Don't miss these leaked audio recordings of Facebook's all-hands meetings**, published by The Verge. You can hear Mark Zuckerberg handle employees' criticism of Joel Kaplan, their requests for free food, and his enthusiastic support for sunscreen.
- **Facebook said it won't pull out of Europe**, after reports said it would if standard contractual clauses couldn't be used for EU-U.S. data transfers. But head of global policy Nick Clegg did say that the data transfer issue could have a "profound effect" on the company.
- **Gig economy companies have spent at least \$170 million backing Prop. 22**, about worker status, with Lyft's \$48 million leading the charge. Despite less than \$10 million spent campaigning against it, that makes it the most expensive ballot measure in California history.
- **California will ban new sales of gas-powered cars by 2035**. The news came just in time for Volkswagen's announcement of its **new Tesla competitor**, the ID.4.
- **Tesla sued the U.S. government over import tariffs on Chinese goods**. It said the imposition of the tariffs was "arbitrary and capricious."
- **Amazon will label certain products "Climate Pledge Friendly"**. They have to meet one of 19 sustainability certifications, and Amazon says over 25,000 products already qualify.
- **Echelon launched "Amazon's first-ever connected fitness product,"** the EX-Prime bike, which it said was "developed in collaboration with Amazon." But then Amazon said it had nothing to do with it, and told Echelon to stop selling it. Echelon clarified that it built the bike to sell exclusively on Amazon, which seems like a *very* different thing.
- **Two Shopify employees went rogue and stole customer data**, the company said. Between 100 and 200 merchants' customers were affected, with names and addresses stolen.
- **Four of the six eBay employees involved in the cyberstalking case** said they **would plead guilty**. The two executives allegedly involved — James Baugh and David Harville — continued to claim innocence.
- **Peter Thiel is launching a SPAC**. Bridgetown Holdings, created by Thiel and Richard Li, is looking to raise \$575 million to buy a tech, financial services

or media company in Southeast Asia.

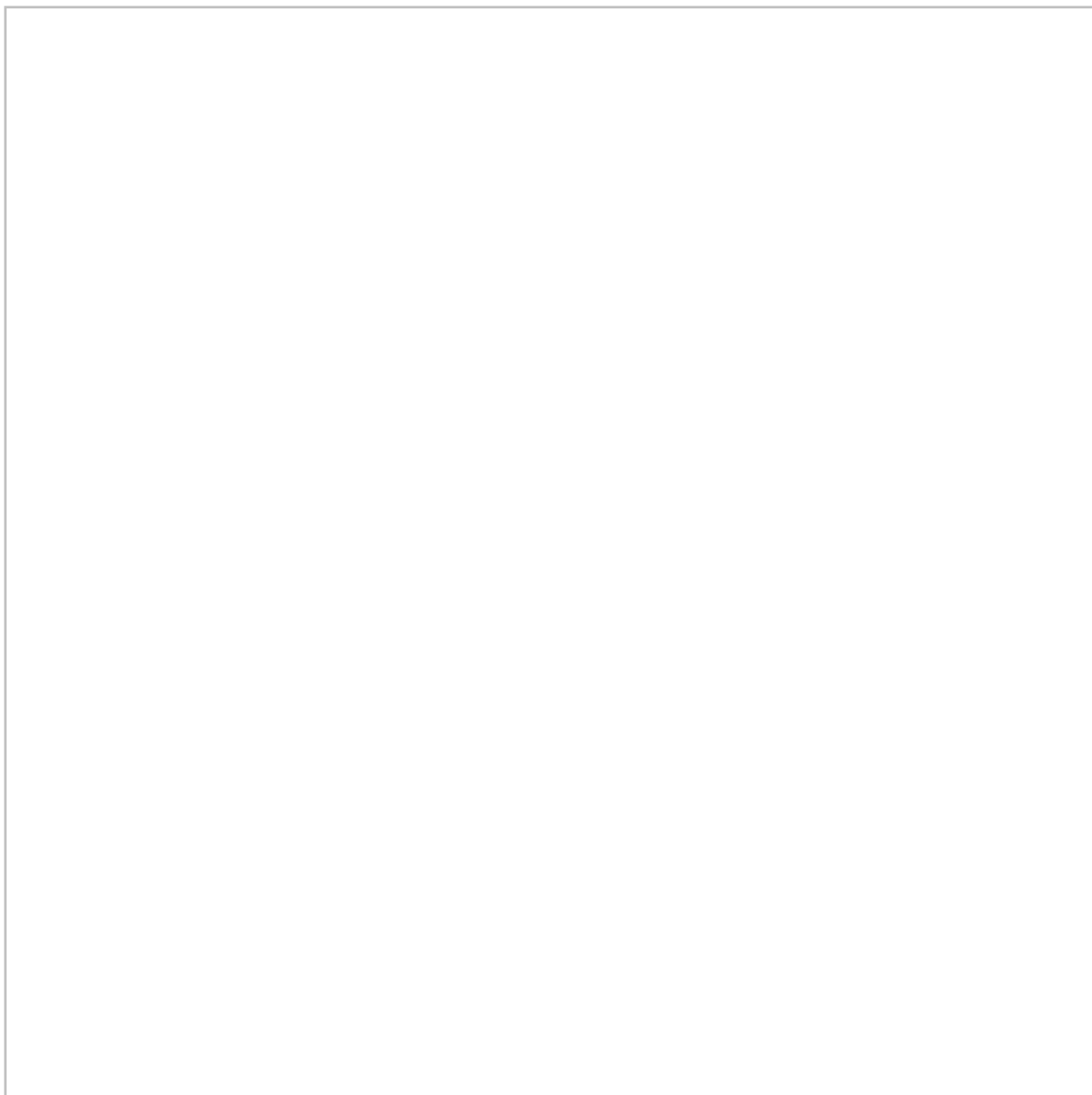
- **Microsoft has a smarter sync system for web apps** that it's calling [Project Nucleus](#). The company says it will improve filtering, sorting or scrolling of big data sets.
- **Apple launched its online store in India**, selling the "made in India" iPhone SE and 11. It's been a long time coming, and was only allowed after the Indian government relaxed regulations.

ONE MORE THING

And now, the same ad for the 550th time

My wife and I watch a lot of HGTV. And I swear to you, if I have to watch [that stupid AT&T 5G ad](#) one more time, I'm going to lose my mind. You may not know the ad, but you know the feeling, right? You're watching a show, and in every ad break, you get the same ad or two. Over and over and over and over again. Turns out, [The Wall Street Journal found](#), the entire streaming ad industry is to blame, because fragmentation ruined everything. Give me the old commercials!

A MESSAGE FROM PHILIPS



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Today's Source Code was written by David Pierce, with help from Shakeel Hashim. Thoughts, questions, tips? Send them to david@protocol.com, or our tips line, tips@protocol.com. Enjoy your day, see you tomorrow.

Protocol



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From: [FCC Office of Media Relations](#)
Subject: STATEMENT: Chairman Pai on Section 230
Date: Thursday, October 15, 2020 2:31:30 PM
Attachments: [image001.jpg](#)



Media Contact:

Brian Hart, (202) 418-0505
brian.hart@fcc.gov

For Immediate Release

STATEMENT OF CHAIRMAN PAI ON SECTION 230

WASHINGTON, October 15, 2020—Federal Communications Commission Chairman Ajit Pai issued the following statement today on Section 230 of the Communications Act:

“Members of all three branches of the federal government have expressed serious concerns about the prevailing interpretation of the immunity set forth in Section 230 of the Communications Act. There is bipartisan support in Congress to reform the law. The U.S. Department of Commerce has petitioned the Commission to ‘clarify ambiguities in section 230.’ And earlier this week, U.S. Supreme Court Justice Clarence Thomas pointed out that courts have relied upon ‘policy and purpose arguments to grant sweeping protections to Internet platforms’ that appear to go far beyond the actual text of the provision.

“As elected officials consider whether to change the law, the question remains: What does Section 230 currently mean? Many advance an overly broad interpretation that in some cases shields social media companies from consumer protection laws in a way that has no basis in the text of Section 230. The Commission’s General Counsel has informed me that the FCC has the legal authority to interpret Section 230. Consistent with this advice, I intend to move forward with a rulemaking to clarify its meaning.

“Throughout my tenure at the Federal Communications Commission, I have favored regulatory parity, transparency, and free expression. Social media companies have a First Amendment right to free speech. But they do not have a First Amendment right to a special immunity denied to other media outlets, such as newspapers and broadcasters.”

###

Office of Chairman Pai: (202) 418-1000 / Twitter: @AjitPaiFCC / www.fcc.gov/leadership/ajit-pai

*This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action.
See MCI v. FCC, 515 F.2d 385 (D.C. Cir. 1974).*

From: [Rocky Stone](#)
To: [Ajit Pai](#); [Mike Orielly](#); [Brendan Carr](#); [Jessica Rosenworcel](#); [Geoffrey Starks](#)
Subject: Stop the Censorship of Truth!
Date: Wednesday, September 16, 2020 5:24:32 PM

Dear Council Members,

I urge you to hold Google, Facebook, Twitter, Squarespace and other tech companies accountable. Google's CEO, Sundar Pichai, lied to Congress when he stated his company did not "manually intervene" on search results. Evidence now shows this to be false. These companies are only allowing their personal viewpoints to be expressed and censoring and silencing the free speech of Americans all across our nation.

These Big Tech companies are claiming they are "private companies" and can censor the viewpoints of other citizens, while they also claim to be a "public utility" and immune to lawsuits for the messages they do distribute. They cannot be both if our First Amendment freedoms are to be protected.

Our First Amendment freedom of speech must be protected in the 21st century. We ask Congress to repeal Section 230, which gives legal immunity to private Internet corporations, which should be reserved only for public utility companies like phone providers. In addition, we ask the FCC to regulate and protect First Amendment freedoms.

My First Amendment freedom cannot be dependent on the whims and wishes of a tech geek and whether he/she agrees with me. We respectfully urge you to act now to secure our constitutional freedoms in the face of unrestrained bias in tech corporations.

Sincerely,

Rocky Stone, Fort Lauderdale FL

In God We Trust - Don't Tread on Me - God Bless the USA!

"freedom is never more than a generation away from extinction," Ronald Reagan

I hope my ship comes in before my dock rots!

From: [Neil Fried](#)
To: [Mike Orielly](#)
Subject: Supreme Court May Be Ready to Reign In Section 230 Immunity
Date: Wednesday, October 14, 2020 2:12:32 PM



Supreme Court May Be Ready to Reign In Section 230 Immunity

14 Oct 01:59 PM



Neil Fried...[Read More](#)

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From: (b) (6)
To: (b) (6); [Mike O'Rielly](#); [Joel G. Miller](#); [Arielle Roth](#)
Subject: Testimony
Date: Monday, September 14, 2020 4:22:32 PM
Attachments: [Hearing September 2020 v1 ar copy.docx](#)

Take or leave suggestions mostly

Sent from my iPad

From: [Robert Rutkowski](#)
To: [Ajit Pai](#); [Mike O'Rielly](#); [Brendan Carr](#); [Geoffrey Starks](#); [Jessica Rosenworcel](#)
Cc: (b) (6); keith.abouchar@mail.house.gov
Subject: The Trump Administration's Section 230 Petition Is Confusing, Embarrassing and Just Plain Wrong on the Law
Date: Tuesday, July 28, 2020 3:33:49 PM

Ajit Pai, Chairman
Ajit.Pai@fcc.gov

Michael O'Rielly, Commissioner
Mike.O'Rielly@fcc.gov

Brendan Carr, Commissioner
Brendan.Carr@fcc.gov

Jessica Rosenworcel, Commissioner
Jessica.Rosenworcel@fcc.gov

Geoffrey Starks, Commissioner
Geoffrey.Starks@fcc.gov

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re:?? The Trump Administration's Section 230 Petition Is Confusing,
Embarrassing and Just Plain Wrong on the Law

Dear Chairman and Commissioners:

On Monday afternoon, the Trump administration formally asked the Federal Communications Commission to develop new regulations related to the way online platforms like Facebook and Twitter handle third-party content.

The petition for rulemaking stems from an executive order signed in May by Trump. The petition requires that the FCC craft a rule potentially eliminating protections under Section 230 of the Communications Act for social-media companies. That federal law generally shields companies from legal liability for the material their users post online. In the run-up to the 2020 election, Trump has sought to remove this protection as punishment for any social-media company that fact checks his online posts.

The FCC must now determine how to respond to Trump's call for FCC oversight and regulation of the internet and the platforms on it, using a law that does not give the FCC any such authority. Should the agency move forward with the administration's request, it could issue a notice of proposed rulemaking or other such inquiry, and would likely invite public comment.

The Senate Commerce Committee on Tuesday is convening a hearing on Section 230 to consider new legislation to modify the statute and examine the role it plays in promoting and disseminating speech online.

The Trump administration's petition to the FCC for a rulemaking on

Section 230 is a confused and embarrassing document ??? awful as a policy prescription and just plain wrong on the law. The government???s lawyers tried, but failed, to make sense of an executive order born from a Trump tantrum about Twitter???s mild and occasional fact checking.

Though Section 230 has been in the news for months, Trump cannot create by fiat a new ambiguity in that famously short law. He cannot direct the FCC to put words in a statute that weren???t there before, nor suddenly give the agency authority to regulate internet platforms ??? a power the FCC has never claimed and that even Chairman Ajit Pai rejected in his mistaken repeal of Net Neutrality.

And now, in a truly brazen act of hypocrisy, the administration that rejected Net Neutrality protections for broadband providers??? carriage of websites and other internet content is attempting to regulate platforms and speakers instead ??? mandating protections for the president???s speech on other people???s websites.

While based on legally dubious grounds, the executive order and now this petition still threaten free speech online. They represent another of the president???s attacks on the rule of law, free expression and the rights of people and companies to disagree with him. Trump???s naked attempt to bully Twitter and other companies into allowing his propaganda to go unchallenged would further divide our society and threaten a free and fair election in November.

And unfortunately, it???s not just Donald Trump. His sycophants at the FCC Commissioner Carr, like to wrap themselves in First Amendment principles, have been enthusiastic cheerleaders for this direct call to turn the FCC into the president???s speech police. They hold up the First Amendment as a prop only when it???s politically convenient to do so. They should join with Commissioners Rosenworcel and Starks, and immediately reject this unconstitutional attempt at censorship.

Changing Section 230 is the prerogative of Congress, where thoughtful and sincere debates about reform are already taking place among some members. This momentous and potentially dangerous decision can???t be left to a thin-skinned president and his fawning enablers at the FCC.

Yours sincerely,
Robert E. Rutkowski

cc:
Representative Steny Hoyer
House Majority Leader
Legislative Correspondence Team
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2527 Faxon Court
Topeka, Kansas 66605-2086

P/F: 1 785 379-9671

E-mail: r_e_rutkowski@att net

From: [Neil Fried](#)
To: [Mike O'Rielly](#)
Subject: Time for the Section 230 Pendulum to Swing
Date: Friday, September 18, 2020 4:38:46 PM



Time for the Section 230 Pendulum to Swing

18 Sep 03:48 PM



Neil Fried...[Read More](#)

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From: [PRESTON PADDEN](#)
To: [Mike ORIelly](#)
Subject: Trump Echoes Nixon In Targeting Twitter
Date: Sunday, May 31, 2020 5:26:06 PM

FYI at the link below is a guest column I wrote. It is also pasted below. This is up on the online WSJ site and will be in the print edition tomorrow.

It is just my opinion but I hope you come down on the side of principled conservatism and free speech in the tradition of Fowler and Patrick who faced WH pressure to go the other way.

I hope you and your family remain safe and well. I hope to see you someday, but given my age, I am not going anywhere anytime soon.

[Trump Echoes Nixon in Targeting Twitter](#)

Trump Echoes Nixon in Targeting Twitter

Last week's order is reminiscent of efforts against broadcasters.

By Preston Padden

President Trump signed an executive order Thursday that would have the Federal Communications Commission judge decisions made by Twitter, Facebook and others to moderate speech. Under Mr. Trump's order, the FCC could revoke liability protection if a social-media platform hasn't acted "in good faith." The order amounts to a content review and is reminiscent of past restrictions on broadcast networks.

The Fairness Doctrine, introduced in 1949, required broadcasters to air opposing views on issues of public interest. The FCC determined whether broadcast speech was fair to both political parties. In the 1980s, conservative FCC Chairmen Mark Fowler and Dennis Patrick worked to repeal the doctrine, overcoming opposition in both parties, and succeeded in 1987.

White House staff, Mr. Fowler recalled in 2009, argued to President Regan that "the only thing that really protects you from the savageness of the three networks . . . is the Fairness Doctrine, and Fowler is proposing to repeal it." But Messrs. Fowler and Patrick stood for principle, not politics. In 1987 Mr. Patrick said, "We seek to extend to the electronic press the same First Amendment guarantees that the print media have enjoyed since our country's inception."

President Nixon was obsessed with the networks' bias. In a 1972 White House memo, Nixon aide Pat Buchanan wrote: "Shall we acquiesce forever in left-wing control of communications media from which 50 percent to 70 percent of the American people derive their information and ideas about their national government? The interests of this country and the furtherance of the policies and ideas in which we believe demand that this monopoly, this ideological cartel, be broken up."

Nixon retaliated against the networks by supporting FCC rules to restrict their airtime

and ownership of programming. He directed the Justice Department to mirror the FCC rules, creating a double layer of restrictions.

Because Nixon taped his White House conversations, we don't need to speculate about his motives. "Our gain is more important than the economic gain," he said in 1971, brushing aside the legitimate complaints of program producers. "Our game here is solely political. . . . As far as screwing [the networks] is concerned, I'm very glad to do it."

In Nixon's railing against the liberal bias of the net-works, one can almost hear Mr. Trump railing against social-media companies. And the new executive order reads like the Buchanan memo. But what Nixon & Co. said behind closed doors, Mr. Trump says in public.

The bias was and is real. But the question is whether the First Amendment permits government leaders to judge private speech that irritates them. Mr. Trump's defenders argue that he is only conditioning online platforms' "unique" protections. But most media enjoy some unique protection: copyright licenses for cable systems, "must carry" rights for broadcast stations. Conditioning key protections on compliance with a government content review would be censorship by a different name.

Mr. Padden is a communications consultant who held executive positions at the Fox and ABC broadcast networks.

Preston Padden
Boulder Thinking, LLC
202-329-4750

From: [Robert Rutkowski](#)
To: [Ajit Pai](#); [Mike Orielly](#); [Brendan Carr](#); [Geoffrey Starks](#); [Jessica Rosenworcel](#)
Cc: (b) (6); keith.abouchar@mail.house.gov
Subject: Trump's Executive Order Seeks To Have FCC Regulate Platforms. Here's Why It Won't Happen
Date: Monday, June 1, 2020 4:48:12 PM

Ajit Pai, Chairman
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Jessica Rosenworcel, Commissioner
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Geoffrey Starks, Commissioner
Geoffrey.Starks@fcc.gov

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Trump's Executive Order Seeks To Have FCC Regulate Platforms. Here's Why It Won't Happen

Dear Chairman and Commissioners:

The inaptly named Executive Order on Preventing Online Censorship seeks to insert the federal government into private Internet speech in several ways. Through Section 2 of the Executive Order (EO), the president has attempted to demand the start of a new administrative rulemaking. Despite the ham-fisted language, such a process can't come into being. No matter how much someone might wish it.

The EO attempts to enlist the Secretary of Commerce and Attorney General to draft a rulemaking petition with the Federal Communications Commission (FCC) that asks it that independent agency to interpret 47 U.S.C. § 230 ("Section 230"), a law that underlies much of the architecture for the modern Internet.

Quite simply, this isn't allowed.

Specifically, the petition will ask the FCC to examine:

“(i) the interaction between subparagraphs (c)(1) and (c)(2) of section 230, in particular to clarify and determine the circumstances under which a provider of an interactive computer service that restricts access to content in a manner not specifically protected by subparagraph (c)(2)(A) may also not be able to claim protection under subparagraph (c)(1), which merely states that a provider shall not be treated as a publisher or speaker for making third-party content available and does not address the provider's responsibility for its own editorial decisions;

“(ii) the conditions under which an action restricting access to or availability of material is not “taken in good faith” within the meaning of subparagraph (c)(2)(A) of section 230, particularly whether actions can be “taken in good faith” if they are:

“(A) deceptive, pretextual, or inconsistent with a provider’s terms of service; or

“(B) taken after failing to provide adequate notice, reasoned explanation, or a meaningful opportunity to be heard; and

“(iii) any other proposed regulations that the NTIA concludes may be appropriate to advance the policy described in subsection (a) of this section.”

There are several significant legal obstacles to this happening.

First, the Federal Communications Commission (FCC) has no regulatory authority over the platforms the President wishes the agency to regulate. The FCC is a telecommunications/spectrum regulator and only the communications infrastructure industry (companies such as AT&T, Comcast, Frontier as well as airwaves) are subject to the agency’s regulatory authority. This is the position of both the current, Trump-appointed FCC Chair as well as the courts that have considered the question.

In fact, this is why the issue of net neutrality is legally premised on whether or not broadband companies are telecommunications carriers. While that question, whether broadband providers are telecommunications carriers under the law, is one where we disagree with current FCC leadership, neither this FCC nor any previous one has taken the position that social media companies are telecommunications carriers. So to implement regulations targeting social media companies, the FCC would have to explain how—under what legal authority—it is allowed to issue regulations aimed at social media companies. EFF doesn’t see it doing so.

But say the FCC ignores this likely fatal flaw and proceeds anyway. The EO triggers a long and slow process which is unlikely to be completed, much less one that results in an enforcement action, this year. That process will involve a Notice of Proposed Rules (NPRM), with the FCC issuing a statement explaining its rationale for regulating these companies, what authorities it has to regulate them, and the possible regulations the FCC intends to produce. The commission must then solicit public comment in response to its statement.

The process also involves public comment periods and agreement by a majority of FCC Commissioners on the regulations they want to issue. Absent a majority, nothing can be issued and the proposed regulations effectively die from inaction. If a majority of FCC Commissioners do agree and move forward, a lawsuit will inevitably follow to test the legal merits of the FCC’s decision, both on whether the government followed the proper procedures in issuing the regulation and whether it has the legal authority to issue rules in the first place.

Needless to say, the EO has initiated a long and uncertain process. Certainly one that will not be completed before the November election,

if ever.

Thank you for the opportunity to bring this EFF post to your attention.

Yours sincerely,
Robert E. Rutkowski

cc:
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Mignon Clyburn

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E-mail: r_e_rutkowski@att.net

From: [Marsha Cox](#)
To: [Mike Orielly](#)
Subject: Twitter and Facebook censorship
Date: Wednesday, October 14, 2020 11:41:09 PM

Will Facebook and Twitter be held accountable for their censorship? They suspend accounts and will not allow links to NY Post story regarding Hunter Biden, yet they allow negative stories about Trump And allowed stories about Trumps tax returns which were illegally obtained. This is censorship, election interference, and contribution in kind to the Biden campaign. The suppression of conservatives should be stopped and social media companies held accountable. If section 230 needs to be revoked, then so be it.

From: [Joel G. Miller](#)
To: [Mike O'Rielly](#); [Mikeorielly1](#)
Subject: two things
Date: Sunday, July 12, 2020 2:17:58 PM
Attachments: [Minority QFRs for Mr. Michael O'Rielly v4.docx](#)
[Leased Access v3.docx](#)

1. (b) (5) [Redacted]
[Redacted]
[Redacted]

2. (b) (5) [Redacted]
[Redacted]

Questions for the Record for the Honorable Michael O’Rielly
U.S. Senate Committee on Commerce, Science, and Transportation
“Nominations Hearing”
June 16, 2020

Questions Submitted by the Hon. Maria Cantwell to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Executive Branch Concerns with FCC’s Ligado Decision. The Departments of Commerce and Transportation (along with the entirety of the executive branch) believe that the Federal Communications Commission’s (“FCC’s”) recent approval of Ligado’s terrestrial wireless plans threatens the nation’s global positioning system (“GPS”) on which the safety and security of everything from civil aviation to military operations to weather forecasting rely. The FCC rejected the executive branch’s concerns and related technical studies both from the government and the private sector showing that the precision and effectiveness of GPS could be impaired. Instead, the FCC relied on competing technical studies (some of which were funded by Ligado), and its own conclusion that the government studies measured the wrong things, to allow Ligado to move forward with its plans. Yet in its decision to allow Ligado to move forward, the FCC acknowledged that its “analysis [in the order] should not be construed to say there is no potential for harmful interference to any GPS device currently in operation in the marketplace.”

Question 1. Did the FCC quantify the number of receivers that would be negatively impacted by its decision, or analyze the impact of its decision on the risk this interference could cause to safety of life or property?

Answer. (b) (5)



Question 2. Did the Department of Transportation or Commerce provide data in its study on the percentage of GPS receivers that would suffer interference from Ligado’s terrestrial operations at the power levels recently authorized by the FCC? Did the FCC ask for such information?

Answer. (b) (5)

[REDACTED]

Question 3. Do you agree that in high-profile spectrum decisions, particularly ones which create potential risk to safety of life, that it is in the greater public interest to reach consensus among and between the FCC and the expert federal agencies on aviation, transportation safety, and national defense?

Answer. (b) (5)

[REDACTED]

Question 4. Given the potential risks to safety; the unprecedented and unified opposition of executive branch agencies to the FCC’s decision; and the fact that a third of the U.S Senate, on a bipartisan basis, has asked you and your colleagues to take a step back and reexamine the decision, would you be willing to support a stay of the Ligado decision until the FCC can work with the federal expert agencies to reach a sustainable consensus that serves the greater public interest in terms of protecting aviation and transportation safety, national security and our 5G future?

Answer. (b) (5)

[REDACTED]

Sustaining Local Media Outlets. Local newspapers, radio, and television stations provide important local content that keeps their communities informed. People rely on local newspapers and broadcasters to cover school and business closures, communicate public health guidance, and to combat life-threatening misinformation. It is for these reasons that journalism, as an industry, is considered critical infrastructure. The Department of Homeland Security and state governors have deemed journalists essential workers. The current COVID-19 related economic crisis has exacerbated and accelerated the decline in local news advertising while at the same time underscoring the unprecedented need for local news outlets to give consumers access to accurate and timely information about local community business and government operation and information to promote public health, safety and protect consumers from fraud and abuse. Some local broadcasters have reported as much as a 90 percent loss in advertising revenues due to the effects of the coronavirus. Nationwide, advertising losses for local TV and radio broadcasters are estimated to reach at least \$3 billion as a result of the current health crisis. From 2000-2018, local TV stations' advertising revenue fell by 40 percent. From 2003-2018, the ad revenues of FM stations dropped by 43.8 percent. In contrast, large online platforms have used their dominant market power to take a massive share of digital advertising revenue. Facebook and Google currently account for 58 percent of national digital advertising revenue, and 77 percent of local digital advertising revenue respectively. In the last several months, almost half of newspapers have had to lay-off or furlough employees according to the News Media Alliance. Industry analysts predict these trends to continue, with digital capturing 59.5 percent of overall U.S. advertising revenue by 2029. The total estimated local ad revenues for a single digital advertising competitor—Google—will roughly equal the total over-the-air ad revenues for all TV stations in the U.S. and will soon exceed total TV station ad revenues.

Question 1. Given the revenue trends for local news organizations, it is likely that when we emerge from this crisis we will have many fewer local news organizations. In this context, what is your view of the FCC's statutory obligations to promote localism? What regulatory levers can the FCC now use to address the current precipitous decline in localism that I have just outlined?

Answer. (b) (5)

[REDACTED]

[REDACTED]

(b) (5)



**Questions Submitted by the Hon. Amy Klobuchar to the Hon. Michael O’Rielly,
Nominated to be a Commissioner of the Federal Communications Commission.**

Question 1. Last year, you voted to approve the proposed merger of T-Mobile and Sprint. As Ranking Member of the Antitrust Subcommittee, I repeatedly raised concerns about the harmful effects of eliminating one of the four largest wireless carriers, and I remain skeptical of the argument that the merger is necessary to maintain America’s leadership in deploying 5G.

Do you believe that it was in the public interest to approve a transaction that risks significant consumer harm for the promise of speculative benefits on 5G and rural wireless deployment that may not materialize?

Answer. (b) (5)

[Redacted]

[Redacted]

**Questions Submitted by the Hon. Richard Blumenthal to the Hon. Michael O’Rielly,
Nominated to be a Commissioner of the Federal Communications Commission.**

Blumenthal: On May 28, after being fact-checked for false tweets about mail-in voting, President Trump issued an executive order that directs Federal agencies to investigate and retaliate against online platforms over imagined political bias. The FCC is not an arm of the Presidency – it is an independent agency – it cannot be pressed into service to retaliate against Donald Trump's political rivals or to stifle critical speech.

Question 1. Will you commit to stand up to unconstitutional and bullying use of power by this President?

Answer. (b) (5)

[Redacted]

Question 2. Do you believe that the FCC has the currently authority to write rules for tech platforms and to revise CDA 230 as the President has insisted?

Answer. (b) (5)

[Redacted]

Question 3. What do you believe the FCC should do with the President’s E.O. and an anticipated NTIA petition to rewrite CDA 230?

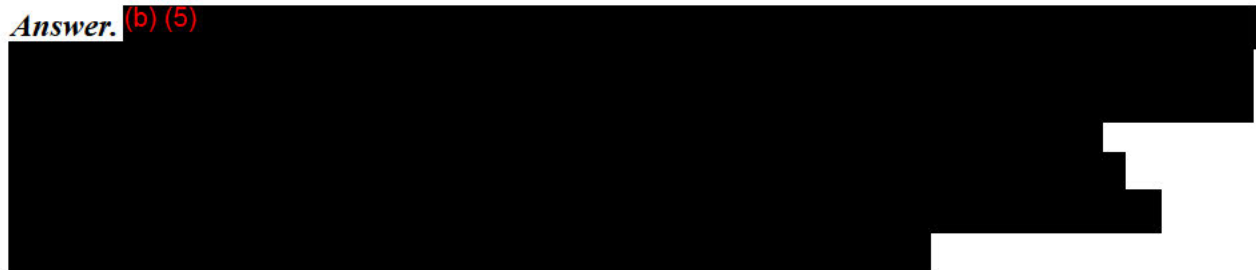
Answer. (b) (5)

[Redacted]

Blumenthal: The Coronavirus pandemic and social distancing are a resounding demonstration of the importance of Lifeline. In normal times, Lifeline is underfunded. During a pandemic – when schools are shut down and businesses are shuttered – it is more essential than ever. There are now tens of millions of people that are newly unemployed as a result of the Coronavirus. They need the internet to get back to normal, to find new employment, and to find help.


Question 1. Do you agree Lifeline needs more funding during this crisis?

Answer. (b) (5)



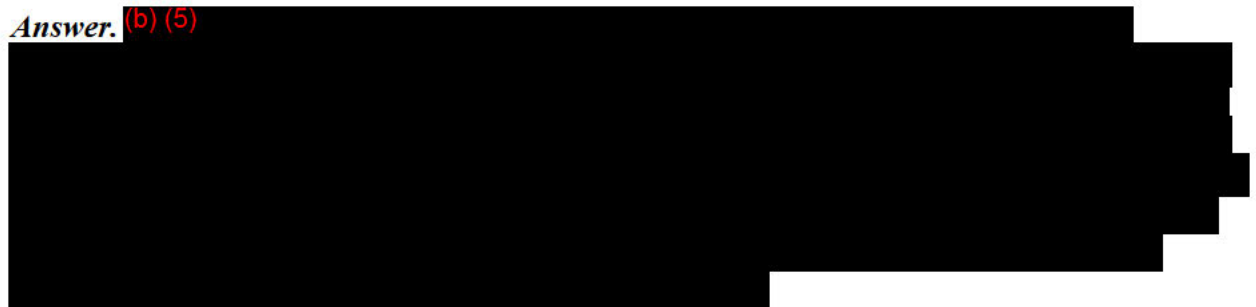
Question 2. Do you have an estimate about how much money it will take to support Lifeline? What considerations do we need to take into account in determining the amount of funds required?

Answer. (b) (5)



Question 3. What changes would you recommend to improve the services offered under Lifeline to meet the public's needs?

Answer. (b) (5)



Questions Submitted by the Hon. Brian Schatz to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Question 1. The COVID-19 pandemic has demonstrated important role broadband plays in our lives today. Whether it is used to engage in distance learning or consult with a doctor via telehealth, this pandemic has shown that broadband has become essential to participate in today’s society. Unfortunately, the pandemic has shown that previous efforts to deploy universal broadband have not worked, as the digital divide continues to exist. As an FCC Commissioner, what will you do differently over the next five years to ensure that all Americans have access to high capacity broadband?

Answer. (b) (5)

A large black rectangular redaction box covers the entire answer to Question 1. The text "(b) (5)" is visible at the top left of the redaction.


Question 2. The COVID-19 pandemic has shown that we, as a nation, have much work to do close the digital divide in our country. The universal service fund is a critical tool to support this work. However, for years the FCC has neglected to fix the current contribution methodology so that there are more funding sources available for broadband buildout in unserved areas. Instead, the Commission has proposed capping programs to depress demand and lower the contribution factor. You have been the Chair of the Federal State Joint Board on Contributions for the last three years. Do you have any updates on the status of contribution reform? Do you support any proposals to update the current contribution methodology? If not, why not? Outside of capping the universal service programs, how can the Commission ensure that the funding needs of all of our universal service programs are met?

Answer. (b) (5)

A large black rectangular redaction box covers the entire answer to Question 2. The text "(b) (5)" is visible at the top left of the redaction.

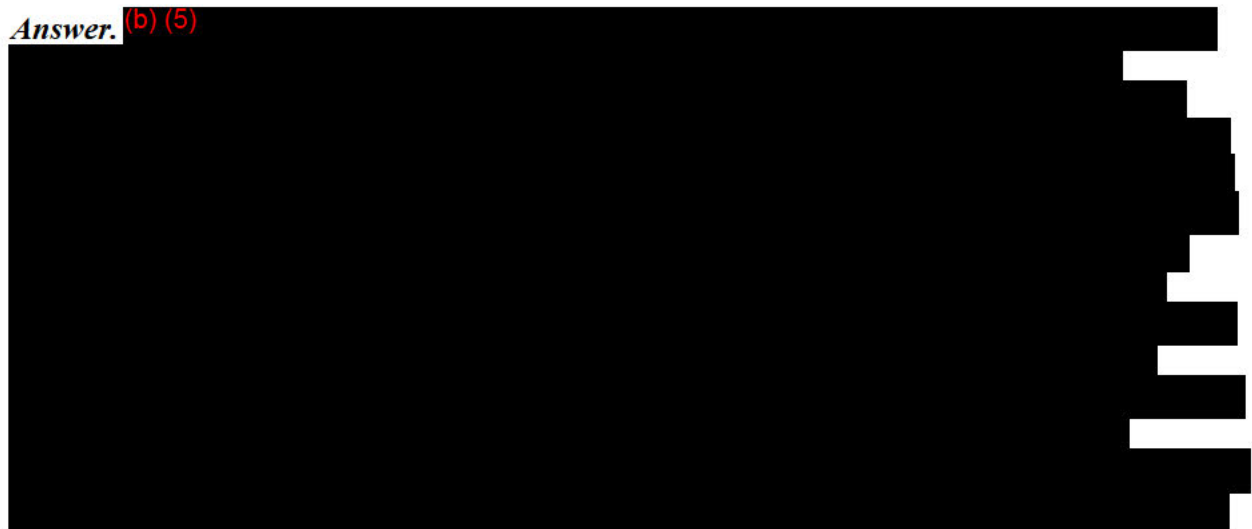
Question 3. Last year the FCC sought comment on a proposal to combine the Rural Health Care and E-Rate programs into a single program with a unified spending cap. If the Commission goes forward with this plan to combine the caps of these programs, increased demand in one program could lead to both programs becoming underfunded, which would pit schools and libraries and healthcare providers against each other in an unnecessary competition for funding. How would having programs compete against each other for funding ensure that our health care providers and schools have the connectivity they need to provide telehealth and distance learning? Wouldn't the uncertainty caused by these programs competing for funding conflict with the Commission's duty under the law to provide "specific, predictable, and sufficient" support for universal service participants?

Answer. (b) (5)



Question 4. During a FCC press conference in March 2016, when discussing the outcome of an FCC decision on Lifeline, you stated "Never trust a democrat." In 2018, the Office of Special Counsel concluded that you violated the Hatch Act when you urged the election of conservatives at the Conservative Political Action Conference that year. Two months ago you sent a letter to President Trump praising his "extraordinary leadership ... on all communications policy matters, especially regarding 5G advanced wireless services..." This record of partisanship is disconcerting, particularly since your job is to work on important telecom issues that impact our country in a bi-partisan way. How can we ensure that you will be able to work with your fellow Commissioners on telecom policy who may have different political viewpoints than you?

Answer. (b) (5)



(b) (5)

[Redacted text block]

[Redacted text block]

Questions Submitted by the Hon. Jon Tester to the Hon. Michael O’Rielly, Nominated to be a Commissioner of the Federal Communications Commission.

Question 1. The 5G Fund proposal, which you supported, lays out a false choice between speed and accuracy, and suggests waiting for new maps would delay awards until at least 2023. How would “Option A” in the 5G Fund proposal, which moves ahead with awards based on inaccurate maps, avoid the pitfalls that doomed the Mobility Fund?

Answer. (b) (5)

[REDACTED]

Question 2. Even if accurate maps are not available in 2021, why should we consider spending the entire 10-year Fund based on maps that we know to be inaccurate, and which will soon be replaced?

Answer. (b) (5)

[REDACTED]

Question 3. I understand the FCC is considering a proposal that would establish a cap on the overall USF budget and combine the E-rate and Rural Health Care programs under a single sub-cap. I hear from educators and health care providers in my state that worry this proposal will force them to compete against each other for funding. What is the status of this proposal?

Answer. (b) (5)

[REDACTED]

Question 4. Given the connectivity issues highlighted by COVID-19, do you still support capping these programs?

Answer. (b) (5)

[REDACTED]

(b) (5)

[Redacted text block]

**STATEMENT OF
COMMISSIONER MICHAEL O'RIELLY**

Re: *Leased Commercial Access*, MB Docket No. 07-42; *Modernization of Media Regulation Initiative*, MB Docket No. 17-105

(b) (5)



From: [Joel G. Miller](#)
To: [Mike O'rielly](#); (b) (6); [Arielle Roth](#); [Erin McGrath](#)
Date: Monday, June 15, 2020 3:34:31 PM
Attachments: [Commerce Notes v2.docx](#)

From: [Joel G. Miller](#)
To: [Mike O'Rielly](#); (b) (6)
Cc: [Arielle Roth](#); [Erin McGrath](#)
Subject: v4 clean (nearly final)
Date: Tuesday, September 15, 2020 1:41:33 PM
Attachments: [Hearing September 2020 v4.docx](#)

Only one or two things left for you to decide, rest ready for your final readthrough.

From: [Neil Fried](#)
To: [Mike O'Reilly](#)
Subject: When it Comes to Section 230, Something Must Change
Date: Thursday, September 3, 2020 2:29:36 PM



When it Comes to Section 230, Something Must Change

03 Sep 01:00 PM



Neil Fried...[Read More](#)



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From: [Robert Rutkowski](mailto:Robert.Rutkowski)
To: [Elizabeth Strimer@mccconnell.senate.gov](mailto:Elizabeth.Strimer@mccconnell.senate.gov); rocint@schumer.senate.gov; george.kundanis@mail.house.gov; dan.meyer@mail.house.gov; [Keith Abouchar](mailto:Keith.Abouchar); [Ajit Pai](mailto:Ajit.Pai); secretary@ftc.gov; [Mike O'Rielly](mailto:Mike.O'Rielly); [Brendan Carr](mailto:Brendan.Carr); [Jessica Rosenworcel](mailto:Jessica.Rosenworcel); [Geoffrey Starks](mailto:Geoffrey.Starks); (b) (6)
Subject: Why Trump's online platform executive order is misguided
Date: Thursday, June 4, 2020 8:39:17 AM

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Federal Communications Commission
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Re: Why Trump's online platform executive order is misguided

Dear Congressional Leaders, Chair, Chairman and Commissioners:

Last week, Donald Trump issued an executive order on preventing online censorship. The order argues that online platforms have dramatic power to influence the public's view and therefore should not be given the freedom from legal liability that comes with being a web-based publisher. Rather than being neutral arbiters, Trump claims the platforms moderate content based on political leanings and demonstrate bias in their dissemination of political speech. While there is some evidence for the existence of political bias, the executive order will create significant problems without achieving its purpose of promoting free speech or preventing censorship.

Section 230(c) liability protections CAME with no strings attached
The main focus of the executive order is the Communications Decency Act Section 230(c) which provides immunity from liability to interactive computer services (such as an online platforms) for the content created by their users. The executive order incorrectly states that the purpose of granting such immunity was “

Although 47 U.S.C. 230(c) provides legal protections to online platforms that no other industry enjoys, such favors were not provided in exchange of neutrality or promoting free speech. Congress did not provide liability protections because online platforms promised to be neutral and to not moderate their content.

U.S.Congress has provided these platforms liability protections because at the time, it decided that it was the best thing to do in order to allow these platforms to flourish and to maintain U.S. leadership in internet technology. Simply put, Congress decided to allow these platforms to grow without being limited by lawyers or politicians. Congress went out of its way to be crystal clear about its intent in the preamble of 47 U.S.C. 230(b), which reads:

“It is the policy of the United States (1) to promote the continued development of the Internet and other interactive computer services and other interactive media; (2) to preserve the vibrant and competitive free market that presently exists for the Internet and other interactive computer services, unfettered by Federal or State regulation; [and] (3) to encourage the development of technologies which maximize user control over what information is received by individuals, families, and schools

who use the Internet and other Interactive computer services”

Removing section 230(c) protections hurts American businesses

After more than two decades since passage of the Communications Decency Act, we can clearly observe how immensely it has benefited not only U.S. technology firms, but more broadly, the internet-using public. All major online platforms started and grew in the U.S. and helped to keep America the world leader in information technologies in part because no other developed market in the world provides such protections for these platforms. Removing such protections and regulating social media, would greatly diminish the competitive advantage of U.S. companies, something that is in stark contrast to the administration’s general approach towards deregulating industries.

Removing section 230(c) protections does not foster free speech

More importantly, repealing this section will not hinder the ability of the online platforms to moderate their users’ content, nor will it promote free speech. This is because users agree with the terms of service by these platforms in which they grant them every right to use and moderate their content as they wish. In other words, some companies can oppress certain messages, or suspend any of its users’ accounts because the users themselves have given it the right to do so when they signed-up.

It is impossible to treat social media as publishers because of the amount of content that users generate on these platforms. Interestingly, if these platforms were to be considered publishers and their moderation of content was considered a form of speech, they will have even stronger legal protections under U.S. strict libel laws.

More importantly, the First Amendment does not allow anyone, including the American president or even a democratically elected Congress, to determine what a private company can or can not express. That means, if the moderation of content is considered as a form of speech, then with First Amendment protections, social media companies can moderate the content of their users with no restrictions, just like all other news media in the United States. Fortunately, these protections are so strong, that even the most powerful and most litigious man on earth has not been able to sue any of the media that he argues to be “fake” and “enemy of the people”.

Section 230(c), along with the libel laws and the first amendment are quintessentially American. These are prime examples of the set of laws and regulations that have made America great, and it would be a major contribution for Donald Trump to keep it that way.

Thank you for the opportunity to bring this Brookings post to your attention.

Yours sincerely,
Robert E. Rutkowski

cc:

Mignon Clyburn

(b) (6)

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Topeka, Kansas 66605-2086
P/F: 1 785 379-9671
E-mail: r_e_rutkowski@att net

From: [Neil Fried](#)
To: [Mike ORIelly](#)
Subject: Wyden-Cox § 230 Filing Bolsters View FCC Can Restore Duty of Care
Date: Monday, October 5, 2020 4:02:28 PM



Wyden-Cox § 230 Filing Bolsters View FCC Can Restore Duty of Care

05 Oct 03:21 PM



Neil Fried...[Read More](#)

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From: [Tom Wheeler](#)
To: [Mike Orielly](#)
Subject: You deserve better
Date: Wednesday, August 5, 2020 8:40:33 AM

Mike -

I'm aghast at the pulling of your nomination.

Although we were seldom allies and our disagreements outnumbered our policy agreements, you always behaved honorably.

It appears, however, as though honor is no longer a relevant measure in Washington. And you are the victim.

If, indeed, 230 was the reason the president made this decision, your instincts were spot-on. While others kowtowed to POTUS, you stood on facts and principle...and your judgment was correct.

In whatever comes next for you, I wish you the best. Hopefully, our paths will cross again (and in a less adversarial manner).

(b) (6)

T

Tom Wheeler

(b) (6)

Brendan McTaggart

From: Joel G. Miller
Sent: Wednesday, June 24, 2020 4:40 PM
To: Mike O'Rielly; Erin McGrath; Arielle Roth
Subject: Fwd: NEWS: Schatz, Thune Introduce New Legislation To Update Section 230, Strengthen Rules, Transparency On Online Content Moderation, Hold Internet Companies Accountable For Moderation Practices

From: "Barnhart, Christianna (Schatz)" <Christianna_Barnhart@schatz.senate.gov>
Date: Wednesday, June 24, 2020 at 4:18:36 PM
To: "Barnhart, Christianna (Schatz)" <Christianna_Barnhart@schatz.senate.gov>
Subject: NEWS: Schatz, Thune Introduce New Legislation To Update Section 230, Strengthen Rules, Transparency On Online Content Moderation, Hold Internet Companies Accountable For Moderation Practices



For Immediate Release

June 24, 2020

Contacts:

Mike Inacay (Schatz), (202) 224-3123
Katie Lingle (Thune), (202) 202-224-2321

SCHATZ, THUNE INTRODUCE NEW LEGISLATION TO UPDATE SECTION 230, STRENGTHEN RULES, TRANSPARENCY ON ONLINE CONTENT MODERATION, HOLD INTERNET COMPANIES ACCOUNTABLE FOR MODERATION PRACTICES

Bipartisan PACT Act Repeals Immunity From Civil Actions Brought By Federal Agencies, Empowers State AGs To Enforce Section 230, Protect Consumers

WASHINGTON – U.S. Senators Brian Schatz (D-Hawai'i) and John Thune (R-S.D.), the Ranking Member and Chairman of the Subcommittee on Communications, Technology, Innovation and the Internet, introduced the [Platform Accountability and Consumer Transparency \(PACT\) Act](#), new bipartisan legislation to update Section 230 of the Communications Decency Act. The PACT Act will strengthen transparency in the process online platforms use to moderate content and hold those companies accountable for content that violates their own policies or is illegal.

"Section 230 was created to help jumpstart the internet economy, while giving internet companies the responsibility to set and enforce reasonable rules on content. But today, it has become clear that some companies have not taken that

responsibility seriously enough,” said **Senator Schatz, lead Democrat on the Senate Commerce Committee’s Communications, Technology, Innovation, and the Internet Subcommittee**. “Our bill updates Section 230 by making platforms more accountable for their content moderation policies and providing more tools to protect consumers.”

“There is a bipartisan consensus that Section 230, which governs certain internet use, is ripe for reform,” said **Senator Thune, chairman of the Senate Commerce Committee’s Communications, Technology, Innovation, and the Internet Subcommittee**. “There is also a bipartisan concern that social media platforms are often not transparent and accountable enough to consumers with respect to the platform’s moderation of user-generated content. That’s why I’m proud to join Sen. Schatz in introducing the PACT Act, which would strengthen online transparency, accountability, and consumer protection. It would, among other things, require technology companies to have an acceptable use policy that reasonably informs users about the content that is allowed on platforms and provide notice to users that there is a process to dispute content moderation decisions. The internet has thrived because of the light touch approach by which it’s been governed in its relatively short history. By using that same approach when it comes to Section 230 reform, we can ensure platform users are protected, while also holding companies accountable.”

Enacted in 1996, Section 230 of the Communications Decency Act of 1934 offers broad immunity to internet companies for hosting user-generated content and provides protection for platforms that take an active role moderating content on their sites. More than two decades later, while Section 230 has allowed the internet economy to thrive, these protections have led to inconsistent, opaque content moderation practices, a lack of online platform accountability, and an inability to enforce federal regulations in the digital world.

The Schatz-Thune PACT Act creates more transparency by:

1. Requiring online platforms to explain their content moderation practices in an acceptable use policy that is easily accessible to consumers;
2. Implementing a quarterly reporting requirement for online platforms that includes disaggregated statistics on content that has been removed, demonetized, or deprioritized; and
3. Promoting open collaboration and sharing of industry best practices and guidelines through a National Institute of Standards and Technology-led voluntary framework.

The PACT Act will hold platforms accountable by:

1. Requiring large online platforms to provide process protections to consumers by having a defined complaint system that processes reports and notifies users of moderation decisions within 14 days, and allows consumers to appeal online platforms’ content moderation decisions within the relevant company;
2. Amending Section 230 to require large online platforms to remove court-determined illegal content and activity within 24 hours; and
3. Allowing small online platforms to have more flexibility in responding to user complaints, removing illegal content, and acting on illegal activity, based on their size and capacity.

The PACT Act will protect consumers by:

1. Exempting the enforcement of federal civil laws from Section 230 so that online platforms cannot use it as a defense when federal regulators, like the Department of Justice and Federal Trade Commission, pursue civil actions for online activity;
2. Allowing state attorneys general to enforce federal civil laws against online platforms that have the same substantive elements of the laws and regulations of that state; and
3. Requiring the Government Accountability Office to study and report on the viability of an FTC-administered whistleblower program for employees or contractors of online platforms.

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