

Full Committee Hearing
Senate Committee on Commerce, Science, and Transportation
Written Questions for the Record from Chairman John Thune for Chairman Ajit Pai

Question 1. Millions of rural Americans lack access to broadband, and bridging the digital divide is a priority for me and the Committee. As traditional fiber, cable, and 4G broadband is deployed throughout the country, policymakers must nevertheless be creative and open-minded when exploring all options to achieving universal service. What role do you see for unlicensed spectrum (Wi-Fi, TV White Spaces, millimeter wave, etc.) in connecting unserved rural households with broadband internet access?

Response: I strongly believe that unlicensed spectrum should play an important role in providing broadband service to rural areas, and I am committed to moving ahead expeditiously to achieve this goal. We can and should build on earlier successes in this area. For instance, wireless Internet Service Providers (WISPs) already are providing broadband service in many rural areas using unlicensed spectrum, particularly in the 2.4 GHz and 5 GHz “Wi-Fi” bands.

Also, several years ago, the FCC developed rules for providing broadband service on an unlicensed basis in the TV white spaces. I supported the Commission’s decision in 2015 to revise the TV white space rules to facilitate deployments in rural areas by allowing for higher power to serve longer distances. And last year, we provided additional spectrum for unlicensed in the millimeter wave bands, doubling the available spectrum to cover 57–71 GHz.

It is essential that we move ahead with a renewed sense of purpose to bring broadband to every American. That’s why the Commission is actively considering different methods for expanding access to spectrum, including unlicensed spectrum. For instance, we teed up a Notice of Inquiry on mid-band spectrum for Commission consideration at our August open meeting that, among other things, explores how we can make more mid-band spectrum available for unlicensed use.

Full Committee Hearing
Senate Committee on Commerce, Science, and Transportation
Written Questions for the Record from Senator Roger Wicker for Chairman Ajit Pai

Question 1. Chairman Pai, there has been a lot of discussion recently about using TV white spaces to help deliver rural broadband. Can you comment on the challenges and opportunities of potentially using TV white spaces to deliver broadband to rural areas?

Response: The Commission's rules provide for unlicensed operation in TV white spaces, including in rural areas. In 2015, we revised the TV white space rules to facilitate deployments in rural areas, such as by allowing for higher power to serve longer distances. This spectrum offers excellent properties for delivering broadband over the distances typically needed to serve rural areas. For example, the signals travel long distances and overcome obstacles such as trees and rolling terrain.

One challenge is that the Commission must balance wider deployment of white space broadband services and the availability of channels for low power TV stations and translators that are displaced by the TV incentive auction. Moreover, as is the case for many nascent services, the early equipment involving TV white spaces is costly.

Question 2. Within the USF Program, the annual budget for the high cost program is \$4.5 billion, the annual budget for the E-Rate program is \$3.99 billion, and the annual budget for the low-income program is \$2.25 billion, increasing to \$2.28 billion for 2018. In light of these funding levels, and the nation's challenges in managing the cost and quality of health care, the FCC's rural health care annual budget of \$400 million, minus USAC administrative expenses, which has not been changed in nearly 20 years, appears woefully inadequate. Will you work to ensure that rural health care support is adequate to meet the needs of the nation?

Response: The rural healthcare program provides important funding to eligible health care providers (HCPs) for telecommunications and broadband services necessary for the provision of health care. I deeply appreciate the importance of these HCPs serving rural communities and the need for universal service funding in making sure all Americans have access to state-of-the-art healthcare. As the son of a doctor in Kansas who often travelled many miles to see his patients, I am well aware of the difficulty so many in rural America have in getting adequate healthcare.

I have long made ensuring the viability of the RHC program for rural participants a priority. When the FCC created the Healthcare Connect Fund in 2012, I pushed the Commission to make sure that the majority of the funds were targeted at rural healthcare providers. And last December, I pushed the agency to crack down on waste, fraud, and abuse in the program to ensure sufficient funding for the many good actors that need it. I have asked Commission staff to look closely at the RHC program and to consider ways to strengthen it.

Full Committee Hearing
Senate Committee on Commerce, Science, and Transportation
Written Questions for the Record from Senator Roy Blunt for Chairman Ajit Pai

Question 1. Are you considering major changes to the E-Rate program and, if so, can you elaborate how any changes may impact rural schools and libraries that depend on the program for connectivity?

Response: I am deeply committed to doing everything within the FCC’s power to close the digital divide. I believe an effective E-rate program—one that promotes better connectivity for students and library patrons alike—can be a powerful tool to help bridge that divide. That is why, four years ago, I said that “E-rate is a program worth fighting for.”

Unfortunately, there have been serious flaws in the administration of the E-rate program, specifically related to the process by which schools and libraries apply for E-rate funding, that are preventing many schools and libraries from receiving that funding. I have asked USAC, which administers the program on the FCC’s behalf, to provide a detailed report on plans to fix existing problems so that the program is in full compliance with our rules and works for applicants and participants. And in general, I believe that we must focus on cutting unnecessary red tape and making the E-rate application process easier for schools and libraries.

Question 2. Will you commit to ensuring the E-Rate program remains strong in rural Missouri?

Response: Yes.

Question 3. During the broadcast television incentive auction, the FCC paid 28 UHF television stations more than \$984 million to relocate to a VHF channel. Is the UHF discount is still necessary?

Response: In April, the Commission voted to reinstate the UHF discount until it could review in a more holistic proceeding later this year both the discount and the FCC’s national television multiple ownership rule. This action returned the marketplace to the status quo that existed before October 2016. As you know, last year, the previous Commission voted to eliminate the UHF discount. However, it did so without simultaneously considering whether the national ownership cap should be modified. As the UHF discount and national television cap are inextricably linked, this decision was made in error. The national cap establishes a national ownership limit, and the discount is used to calculate whether the limit has been reached. Because of this connection, eliminating the UHF discount substantially tightened the national cap without any analysis of whether this tightening was in the public interest given current marketplace conditions.

Later this year, the Commission will launch a new proceeding that will broadly consider both whether the national ownership cap should be modified and whether the UHF discount should be retained. Any decision on whether the UHF discount remains necessary will be based on the facts compiled in that proceeding along with the relevant law.

Net Neutrality

So called “net neutrality” as implemented in former FCC Chairman Tom Wheeler’s Open Internet Order was a bureaucratic power grab that took the Internet which has long been a transformational tool that has allowed innovation and creativity and created new economic opportunities for all Americans and turned the Internet into a regulated public utility under Title II of the Communications Act. Title II gives the government new authority over the Internet which could be used to determine pricing and terms of service.

What’s concerning about the Title II debate is the influence that edge providers such as Google, Facebook and Netflix had with the Obama White House. For example, *The Intercept* has reported that between January 2009 and October 2015, Google staffers gathered at the White House on 427 separate occasions. *The Intercept* further notes that the frequency of the meetings increased from 32 in 2009 to 97 in 2014. This is concerning given that President Obama released a video on November 10, 2014 weighing into the net neutrality debate and advocated that the FCC regulate the Internet as a public utility. Not only did the Commission move forward and implement Title II but edge providers like Google were exempted from Title II.

Question 1. Were you concerned with the influence that the Obama White House had with the FCC in advocating for Title II?

Response: Yes.

Question 2. Building off the previous question, as you know, the FCC is funded by fees paid by those it regulates. Google, Microsoft, Facebook, and Amazon collectively have a market capitalization in excess of two trillion dollars. Are you troubled by the fact that not only did these companies have a cozy relationship with the Obama White House but that they use the regulatory process to seek the regulation of their competition- broadband providers, yet they contribute very little if anything towards offsetting the cost of the FCC’s operations? Do you have thoughts on how we might remedy this inequity?

Response: Unfortunately, it is a common practice for companies to lobby government officials to either seek regulatory largesse and/or impose burdensome regulations on their competitors so that they can gain a competitive advantage. I have seen this practice during my time at the Commission and am troubled by it. In my view, the best way to remedy this problem is for the Commission to embrace a philosophy of regulatory parity and not use the regulatory process to reward favored industries and punish disfavored industries.

5G Wireless Technology Deployment

We are on the cusp of the wireless industry introducing the next generation of technology – 5G. That upgrade to our existing networks is expected to bring us higher data speeds, lower latency, and the ability to support breakthrough innovations in transportation, healthcare, energy and other sectors. And as recent studies have shown, 5G is expected to provide significant benefits to state and local governments, allowing them to become smart cities. However, those networks will also require many more antenna sites than we have today – they will increasingly rely on small cell technologies. To recognize these benefits, a study performed by Deloitte shows that several steps are necessary to remove impediments to antenna siting. Texas is leading the way, as evidenced by recent legislation (Texas Senate Bill 1004)

signed into law just last month that streamlines the deployment of next-generation 5G networks. It's also my understanding that the Commission has initiated a proceeding designed to evaluate whether some of those obstacles can be removed.

Question 1. Can you tell me what you hope to achieve in the ongoing proceeding and when it might be concluded?

Response: The Wireless Infrastructure Notice of Proposed Rulemaking (NPRM) and Notice of Inquiry (NOI), adopted on April 20, 2017, was intended to take a comprehensive look at the federal, state, and local regulatory requirements that affect the speed with which, and cost at which, wireless networks can be deployed and modernized. The Commission also adopted the same day a Wireline Infrastructure NPRM seeking comment on barriers to the deployment of wireline infrastructure (including the fiber that is critical to carrying wireless traffic).

In the wireless item, the Commission sought comment on regulatory impediments to wireless network infrastructure investment and deployment and on how to remove or reduce such impediments, consistent with the law and the public interest. The NPRM/NOI seeks comment on measures to streamline state and local government review of proposed infrastructure deployments and asks, for instance, about the timelines for local zoning reviews, the remedies available to applicants for missed deadlines, and the reasonableness of fees. In addition, the proceeding is examining how we might revise the Commission's rules and procedures for complying with the National Historic Preservation Act and the National Environmental Policy Act in ways that might help reduce the costs and delays associated with those review processes, while still satisfying our legal obligations and protecting important resources. Our objective is to facilitate and accelerate the deployment of the infrastructure needed to meet the country's needs for advanced wireless service and to make next-generation technologies available to all Americans. The comment cycle in this proceeding closed on July 17, 2017, and we are in the process of reviewing the record that's been compiled.

FCC Priorities

Question 1. My top priority is regulatory reform. Please identify three meaningful regulations that you are interested in repealing during your tenure at the FCC.

Response: (1) I am interested in repealing the copper retirement rules that the Commission adopted in 2015 so that carriers can spend less money maintaining the fading copper networks of yesterday and more money building and expanding the next-generation networks of tomorrow.

(2) I am interested in repealing the main studio rule, which appears to be an outdated regulation that imposes unnecessary costs on radio and television broadcasters.

(3) I am interested in repealing the outdated requirement that carriers completing payphone calls conduct annual audits of their payphone call tracking systems and file annual audit reports with the Commission, since these audits often cost more than the amount of the compensation being reviewed.

ICANN

Question 1. Last year the previous administration allowed the Federal Government's contract with ICANN to expire. Do you think that was a wise and prudent decision?

Response: I spoke out against that decision at the time. For instance, over three years ago, I wrote about my "serious doubts" in *National Review*, arguing that "[t]he current model of Internet governance has

been a tremendous success. It's allowed the Internet to remain free and operate reliably. If America steps back, foreign governments will be all too eager to step forward. . . . [T]he United States should not apologize for its leadership in promoting a free Internet." See "Giving Up the Internet: Still Risky," *National Review* (Apr. 23, 2014), available at <http://www.nationalreview.com/article/376384/giving-internet-still-risky-ajit-pai>.

Question 2. Microsoft and Facebook and YouTube, which is owned by Google, all of whom supported President Obama's Internet transition, have signed a code of conduct with the European Union to remove so-called hate speech from European countries in less than 24 hours. Do you think these global technology companies have a good record of protecting free speech? And what can be done to protect the First Amendment rights of American citizens?

Response: I am always concerned by the impulse to censor unpopular speech, whether at home or abroad. During my tenure at the Commission, I have consistently spoken out about the importance of protecting free speech. If I am fortunate enough to be confirmed, I will continue to do whatever I can to safeguard the First Amendment rights of the American people.

Full Committee Hearing
Senate Committee on Commerce, Science, and Transportation
Written Questions for the Record from Senator Jerry Moran for Chairman Ajit Pai

Question 1. The Government Accountability Office (GAO) recently made a recommendation in a May 2017 report that the Universal Service Fund should be moved from a private bank into the U.S. Treasury. What are your thoughts on this proposal? Do you foresee such action having an impact the long-term solvency of the fund as it relates to the federal government’s future efforts to reduce the national deficit?

Response: I agree with this recommendation, and the Universal Service Administrative Company is actively working in coordination with the FCC and the Treasury to transfer the USF funds as recommended by GAO. I have not seen any evidence that moving the funds to the U.S. Treasury would affect the long-term solvency of the USF, nor am I aware of potential, specific impacts on the national deficit. Indeed, moving these funds to the U.S. Treasury will give the federal government the greatest ability to protect these funds from improper use and safeguard their important role in ensuring that every American gets connected.

Full Committee Hearing
Senate Committee on Commerce, Science, and Transportation
Written Questions for the Record from Senator Dan Sullivan for Chairman Ajit Pai

I want to thank you and the current FCC Commissioners for working with my staff to help alleviate some of the burden that the reduction in reimbursement from the Rural Health Care program placed on Alaskan health care providers.

In my state, the price of telecommunications services is so expensive that many rural health care providers cannot afford them without support from the Rural Health Care program. Telemedicine services in Alaska are essential for many of our villages, and they are only possible if a health facility has connectivity.

In enacting the Telecommunications Act of 1996, Congress specifically directed the FCC to ensure that rural health care providers have access to telecommunications services at rates that are reasonably comparable to those for similar services in urban areas of the State. As you are aware, for the first time the demand for funding from the Rural Health Care program exceeded the \$400 million cap.

Question 1. Will you work to ensure the sustainability of the Rural Health Care Program as the FCC moves forward to review further reforms to universal service programs?

Response: Yes.

Question 2. If confirmed, what steps would you take to address this funding issue?

Response: The rural healthcare program provides important funding to eligible health care providers (HCPs) for telecommunications and broadband services necessary for the provision of health care. I deeply appreciate the importance of these HCPs serving rural communities and the need for universal service funding in making sure all Americans have access to state-of-the-art healthcare. As the son of a doctor in Kansas who often travelled many miles to see his patients, and as a regulator who has seen firsthand the healthcare challenges in Alaska, I am well aware of the difficulties so many Americans have in getting adequate healthcare.

I have long made ensuring the viability of the RHC program for rural participants a priority. When the FCC created the Healthcare Connect Fund in 2012, I pushed the Commission to make sure that the majority of the funds were targeted at rural healthcare providers. And last December, I pushed the agency to crack down on waste, fraud, and abuse in the program to ensure sufficient funding for the many good actors that need it. I have asked Commission staff to look closely at the RHC program and to consider ways to strengthen it.

Question 3. Will you consider beginning a rulemaking proceeding to evaluate the changes necessary to ensure that the program budget is sufficient to fulfill the purposes of the program?

Response: Yes, as noted above, I have asked Commission staff to look closely at the RHC program and to consider ways to strengthen the program.

Question 4. What steps do you plan to take to increase the transparency and accountability of USAC?

Response: I agree with you that USAC must be more transparent and accountable than it's been in the past. That's why in my first week on the job, my office directed the Office of the Managing Director and the Wireline Competition Bureau to more actively oversee how USAC conducts its duties.

And I myself have directly intervened when necessary. For example, serious flaws in the administration of the E-rate program have prevented many schools and libraries from getting that funding. I have asked USAC to provide a detailed report on plans to fix the existing problems so it can administer the E-rate program in a manner that is fully compliant with our rules and that works for applicants and participants.

Similarly, after the Government Accountability Office (GAO) recently released a report confirming that waste, fraud, and abuse are still all too prevalent in the Lifeline program, I directed USAC to take immediate action to stop this abuse of the program and establish procedures for ongoing vigilance to protect the Fund.

Last Congress, I questioned the previous chairman, Chairman Wheeler, about a constituent of mine who had license renewal applications pending at the FCC for more than 13 years, which I find unacceptable. At my urging, the FCC acted on some of those pending applications, but requested more information which my constituent submitted and continues to wait for an answer.

Question 5. What type of action do you plan to take, or have you taken, to improve the timeliness of FCC action on items submitted for approval or for review?

Response: I agree that it is important for the FCC to act on matters in a timely manner. That's why, for instance, I have made clear that section 7 of the Communications Act will be enforced during my tenure as Chairman. That provision states that the Commission will decide within one year whether any petition for a new technology or service is in the public interest. Unfortunately, the Commission has failed to abide by this deadline in the past. I have placed the Commission's Office of Engineering and Technology in charge of enforcing compliance with section 7.

I also believe that the Commission should consider establishing deadlines for resolving applications for review, petitions for reconsideration, and waiver requests.

Question 6. Will you commit to acting on the applications pending at the FCC for Peninsula Communications, Inc. as soon as possible?

Response: Yes.

It is my understanding that environmental assessments (EAs), when required under the FCC's rules, are currently not subject to any processing timelines or dispute resolution procedures. As a result, environmental assessments for new facilities can languish for an extended period of time—sometimes years. This is an unfortunate barrier to feeding our nation's hunger for expanded wireless broadband. Given my seat on this committee and on EPW, I have a particular interest in finding ways to streamline these procedures.

Question 7. Will you commit to finding ways to streamline the FCC's review of environmental assessments, including through the adoption of "shot clocks" to resolve environmental delays and disputes, in addition to working on additional infrastructure reforms?

Response: Yes, I commit to seeking ways to streamline the Commission's environmental review process consistent with the public interest and our obligations under the National Environmental Policy Act and other environmental statutes. The Commission opened a rulemaking proceeding in April of this year seeking comment broadly on how we can improve and streamline our environmental review, in the context of a broader examination of regulatory impediments to wireless infrastructure deployment. The record in that proceeding closed in July, and staff are currently reviewing comments.

Full Committee Hearing
Senate Committee on Commerce, Science, and Transportation
Written Questions for the Record from Senator Dean Heller for Chairman Ajit Pai

Question 1. Chairman Pai, some incumbent spectrum users have made private capital investments – hundreds of billions of dollars over decades – because of the certainty of and their reliance on existing spectrum usage rules. Will you ensure that these incumbent users are treated fairly should you consider changing existing spectrum usage rules?

Response: Yes. The Commission is committed to policies that promote investment, encourage innovation, and foster next generation networks. Our work toward such policies includes a commitment to fair treatment of incumbent licensees that have already built out their networks.

Full Committee Hearing
Senate Committee on Commerce, Science, and Transportation
Written Questions for the Record from Senator Mike Lee for Chairman Ajit Pai

Question 1. I've heard from concerned constituents that some of the FCC's proposals in its AM radio proceeding could cause them to lose access to certain stations. I know FEMA has also raised concerns that these proposals could even impact the reception of Presidential alerts in times of crisis. As the Commission noted earlier in this proceeding, the issues surrounding AM radio interference protections are highly technical and necessitated additional study, yet in the Further Notice of Proposed Rulemaking, the Commission tentatively proposed rule changes to reduce interference protections for AM stations. *Could you tell me what studies the Commission has done during the proceeding to support the Commission's tentative conclusions to reduce interference protections, or are more studies required?* We want to be sure that the proposals do not harm but rather revitalize AM radio.

Response: The Commission's tentative conclusions were premised on the goal of improving AM facilities. The Commission did not undertake its own studies prior to seeking input on the proposals. As part of the record, commenters have provided studies, and other commenters have provided comments about those studies. The Commission will continue to analyze the docket, including these studies, as it considers whether to craft final rules regarding this proposal. We have not yet reached any determination as to whether additional studies are required.

Question 2. There is currently a 180-day "shot clock" that limits the length of time the FCC has to review a transaction. Unfortunately, the FCC's review in several high-profile transactions in recent years have taken longer than 180 days. The AT&T/DirecTV deal took 412 days; Comcast/Time Warner took 381 days; Sinclair/Allbritton took 361 days; and Charter/Time Warner Cable took 314 days. In each of those cases, the FCC was able to "pause" its shot clock – although in a few of those deals, the FCC *still* exceeded 180 days, even taking account of the paused shot clock. Those deals were ultimately approved. But if the FCC waits too long to complete its review, it may effectively kill a deal. *Do you agree it's concerning that a deal could die because FCC exceeds the 180-day limit on its review?*

Response: Yes, I do.

Follow up: Would you support legislation that required the FCC to complete review within 180 days or else seek an extension in court, and do you commit to working with my staff as they develop this type of legislation?

Response: I have supported codifying the 180-day shot clock in the Commission's rules, and I would be happy to work with you on legislation to enshrine it in a statute.

Full Committee Hearing
Senate Committee on Commerce, Science, and Transportation
Written Questions for the Record from Senator Ron Johnson for Chairman Ajit Pai

Question 1. As the expert agency, rather than have 50 different standards for measuring broadband speeds, isn't the FCC in the best position to determine how broadband speeds should be measured in the United States?

Response: Yes, I believe the FCC has the most technical expertise in that area.

Question 2. Doesn't the Commission already do this through its annual Measuring Broadband America Report?

Response: Yes, although I should note that not all Internet service providers participate in that program.