

**DISSENTING STATEMENT OF
COMMISSIONER AJIT PAI**

Re: *Improving the Resiliency of Mobile Wireless Communications Networks*, PS Docket No. 13-239;
Reliability and Continuity of Communications Networks, Including Broadband Technologies, PS
Docket No. 11-60.

Americans want wireless services that work. And with four or more wireless providers competing throughout the country, it's no wonder that wireless "carriers are rushing to expand and upgrade their networks" to meet that demand.¹ Perhaps that's why they invested \$30.1 billion last year to improve their networks.² Perhaps that's why they've deployed 301,779 cell sites throughout the United States.³ Perhaps that's why they are exploring heterogeneous networks using small cells, distributed antenna systems, and macrocells with overlapping coverage (not to mention voluntary roaming agreements and Wi-Fi offload). They've done all these things to provide consumers the best network experience possible given the limited spectrum available for mobile broadband. To its credit, the Commission seems to appreciate these facts.

But despite acknowledging these realities, the Commission nevertheless insists today on proposing reporting requirements that would confuse and mislead consumers. Most consumers are bound to think that if the FCC requires wireless providers to report the percentage of out-of-service cell sites within a county during certain natural disasters, that information says something important about a network's reliability or resiliency. But it may not.

Just as Robert Griffin III's 63.3% completion rate doesn't tell you anything about the Washington Redskins' overall performance this year, there's no particular correlation between the percentage of inoperable cell sites and the coverage and capacity maintained by a provider during a disaster. For example, one macrocell going down can impair coverage far more than ten small cells that go out of service. So holding up percentages as a measure of reliability or resiliency is bound to mislead consumers into thinking that one provider is better than another even if, in reality, the converse is true. And not all emergencies are natural disasters—in fact, most are not. Thus, highlighting the performance of providers in select counties during only a few disasters each year sheds little light on the day-to-day reliability that may be more important for saving lives.

In short, I am disappointed that the Commission was not willing to first figure out what additional information about network reliability, if any, consumers really want and need to make informed decisions before proposing this mandate. I also have serious doubts about much of the analysis in the Notice of Proposed Rulemaking, especially in those sections addressing the costs and benefits of the proposal and the Commission's legal authority. For these reasons, I respectfully dissent.

¹ J.D. Power and Associates, Press Release, 2013 U.S. Wireless Network Quality Performance Study (Mar. 7, 2013), available at <http://www.jdpower.com/content/press-release/VF9361y/2013-u-s-wireless-network-quality-performance-study--vol-1.htm>.

² CTIA Semi-Annual Wireless Industry Survey, Semi-Annual Year-End 2012 Top-Line Survey Results (Chart titled "Cumulative Capital Investment Passes \$365 Billion"), available at http://files.ctia.org/pdf/CTIA_Survey_YE_2012_Graphics-FINAL.pdf.

³ *Id.* (Chart titled "Commercially-Operational Cell Sites in the U.S.>").