

**Media Contact:**

Matthew Berry, (202) 418-2005  
matthew.berry@fcc.gov

**For Immediate Release****STATEMENT OF FCC COMMISSIONER AJIT PAI*****On the Release of Senate Report on How the White House Bowled Over FCC Independence***

WASHINGTON, March 1, 2016.—The report released yesterday by Chairman Ron Johnson of the Senate Committee on Homeland Security and Government Affairs paints a devastating portrait of the process that led to the adoption of President Obama’s plan to regulate the Internet on February 26, 2015. It explains in painstaking detail how the FCC succumbed to White House pressure and forfeited its independence by agreeing to apply Depression-era rules to the Internet.

Over a year ago, *The Wall Street Journal* reported that President Obama’s plan was devised through “an unusual, secretive effort inside the White House” that functioned as a “parallel version of the FCC.” Now we have confirmation, based on internal FCC documents, that this report was accurate.

The report finds that as of October 2014, the FCC’s aim was regulation of a very different kind. FCC career staff were drafting an order that would not have adopted heavy-handed Internet regulation, relying instead on the so-called “hybrid” approach that Chairman Wheeler began to socialize with stakeholders at the end of that month. As Halloween passed, the plan was set: Staff would work through the weekend of November 8 and 9. A draft would be ready for Chairman Wheeler on November 10. The other Commissioners would get the document on November 20, the requisite three weeks before a public vote in December.

But the report confirms that the President’s November 10 announcement of his own plan to regulate the Internet threw off this carefully orchestrated timetable. The drafting process was first “delay[ed],” then “pause[d]” as Commission leadership considered how to address the substantial differences between Chairman Wheeler’s hybrid approach and the utility-style regulation sought by President Obama.

Two days later, on November 12, the Chairman’s Office directed staff to identify those areas where pursuing the President’s plan would create a “serious . . . problem” in complying with the Administrative Procedure Act. The staff obliged on November 17 with a draft public notice outlining *nine* separate aspects of the President’s plan on which the agency itself thought the public had not had a chance to offer input. Inside the building, the Chief Technology Officer complained that “the notice is fairly poor” on several fronts, and draft talking points explained that the “use of Title II authority . . . raises questions that are less than fully developed in the record.”

By November 21, the plan to issue a public notice seeking further comment was abandoned. Despite the plea from one member of the FCC’s media team to get “more on why we no longer think the record is thin in some places,” the Chairman’s Office directed staff to start over and draft an order dutifully implementing President Obama’s plan. The FCC then invited select groups of politically connected special interests and lobbyists to help “beef up the record” for the inevitable appeal.

It's been said that sunlight is the best disinfectant. That's certainly true here. The searing light shone by the Committee's careful, meticulous report wipes away the flimsy defenses that net neutrality activists offered last year. Did the FCC treat President Obama's directive "just as" it treated congressional input? No. Was reclassification still "on the table prior to the President's statement"? No. Did the FCC reverse course based on the "collective findings of the public record" or concerns about how a future FCC might interpret the rules? Of course not. Was this proceeding "one of the most open and transparent in Commission history"? Not in the least.

Whether you support or oppose Internet regulation, this has been a sad chapter in the history of the FCC. Moving forward, the Commission must recommit itself to being a truly independent agency that makes decisions based on the facts and the law, not on the whims of any White House.

###

**Office of Commissioner Ajit Pai: (202) 418-2000**

**Twitter: @AjitPaiFCC**

**[www.fcc.gov/leadership/ajit-pai](http://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).*