

United States Senate

WASHINGTON, DC 20510-4305

May 16, 2016

Chairman Tom Wheeler
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Wheeler:

I seek information about the Administration's reported efforts to direct the outcome of a Federal Communications Commission (FCC) rulemaking proceeding. On April 15, 2016, President Obama launched a "new initiative" to encourage the FCC to implement a new technology mandate on the development and use of set-top boxes in the nation's multi-channel video marketplace. The Administration also issued a pro-competitive executive order to that emboldens the FCC to regulate this issue.

Irrespective of the underlying merits of the FCC's proposal, I am troubled by claims that Administration officials are inappropriately pressuring the FCC to pick winners and losers in the marketplace. Just last year, concerns about undue political influence by the White House in the FCC's rulemaking process triggered multiple congressional investigations. Recently, the Homeland Security and Governmental Affairs Committee of the U.S. Senate concluded that the White House "bowled over" the FCC's independence and overrode the FCC's normal decision-making apparatus in order to engineer an outcome for regulating the Internet.¹ The Senate Homeland Security and Governmental Affairs Committee also found that the FCC refused to provide key responsive documents, which suggests that the FCC may have been hiding embarrassing information. Furthermore, earlier this year, the Oversight and Government Reform Committee of the U.S. House of released a report that highlighted serious concerns with the lack of transparency at the FCC.

To better understand the mitigating factors of this situation, I request the FCC's timely response to the following requests for documents and information. In addition, because of the FCC's recent record of failing to provide full and complete access to information, I request your commitment that the FCC will provide timely access to all responsive documents, including:

1. All records of communications (including, but not limited to: emails, emails with attachments, text messages, voice mails, notes, etc) between FCC personnel and officials of the National Economic Council, the Council of Economic Advisors, the Office of Science and Technology Policy (OSTP), or other offices in the Executive Office of the President relating to how consumers access multichannel video programming, set-top boxes, including the commercial availability of video navigation

¹ REGULATING THE INTERNET: HOW THE WHITE HOUSE BOWLED OVER FCC INDEPENDENCE, A Majority Staff Report of the Committee on Homeland Security and Governmental Affairs, United States Senate (Feb. 29, 2016).

devices, the multichannel video programming market, FCC dockets on this issue (e.g., MB Docket No. 16-42, CS Docket No. 97-80), or Section 629 of the Communications Act between November 1, 2015, and the present. The FCC should include but not limit its response to all such records of communications to or from OSTP official R. David Edelman.

2. All calendar appointments, visitor logs, or meeting minutes referring or relating to any and all meetings between FCC personnel and personnel of the National Economic Council, the Council of Economic Advisors, the Office of Science and Technology Policy, or other offices of the Executive Office of the President that relates in any way to the issue of how consumers access multichannel video programming between November 1, 2015, and the present, including any appointments related to meetings or communications with R. David Edelman.
3. Any and all FCC records discussing, referring, or relating to the views, preferences, recommendations, or advice of the personnel working at the White House, the National Economic Council, the Council of Economic Advisors, the Office of Science and Technology Policy, or other offices in the Executive Office of the President concerning the issue of how consumers access multichannel video programming for the period November 1, 2015, through the present.
4. The FCC visitor logs for the period November 1, 2015, through the present.
5. The travel records (including reimbursements for the use of taxi cabs or other local transportation within the Washington, DC metropolitan area) for all travel conducted on or after November 1, 2015, for all FCC personnel who have worked on the issue of how consumers access multichannel video programming in any way since November 1, 2015.
6. All records pertaining to the use of the FCC's vehicles, including logs maintained by the vehicle drivers, for the period November 1, 2015, through the present.

We appreciate your attention to this matter and look forward to your response no later than May 26, 2016, as this is an extremely time-sensitive matter. If you have questions, please contact Claire Sanderson in my office at (202) 224-2934.

Sincerely,


JOHN CORNYN
United States Senator