

June 24, 2016

Chairman Tom Wheeler  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Dear Chairman Wheeler:

I write regarding the FCC Wireline Competition Bureau's recent decision to extend the reply period on the FCC's privacy NPRM to July 7, 2016. The original deadline given by the FCC for replies was June 27. This extension was authorized "[i]n order to allow interested parties to respond to the voluminous record in this proceeding."

As you recall, Sen. Boozman and I wrote to you on May 19 requesting that you extend the initial comment period "by a reasonable period of time, but not less than 45 days." We made this request because of the length and complexity of the NPRM and because, at the time, a bipartisan majority of the FCC agreed that the comment period should be extended.

In your response to us, you observed that the Wireline Competition Bureau "explained in its Order denying various [extension] requests that it is the policy of the Commission that extensions of time shall not be routinely granted." You continued, "Commission proceedings often involve novel and important issues, yet granting an extension is not favored, in order to keep timely resolutions of proceedings." You lumped this action with the Commission's E-Rate, Inmate Calling, and Consumer Video Navigation Choices proceedings as ones where "the Commission has set similar comment deadlines in comparable proceedings[.]" But now it seems one of these proceedings is not like the others.

I therefore request your prompt response to the following questions.

1. Did the FCC receive any formal or informal requests from interested parties to extend this reply period? If so, please identify them.
2. The Wireline Competition Bureau previously asserted that it is "the policy of the Commission that extensions of time shall not be routinely granted."
  - a. Is that still the policy of the Commission?
  - b. If so, why is this situation not "routine[]"?

- c. If this situation is not “routine[],” what distinguishes it from the presumably “routine[]” earlier comment deadline?
  - d. Is it “routine[]” for a bipartisan majority of the FCC to publicly call for a comment-period extension?
- 3. In your letter to Sen. Boozman and me, you pointed to E-Rate, Inmate Calling, and Consumer Video Navigation Choices as “comparable proceedings.”
  - a. Did the FCC receive any requests to extend the comment period in those “comparable proceedings”?
    - i. If so, did the FCC grant any such requests? When?
    - ii. If so, what, if anything, distinguished those “comparable proceedings” from this one?
  - b. Did the FCC receive any requests to extend the reply period in those “comparable proceedings”?
    - i. If so, did the FCC grant any such requests?
    - ii. If not, what, if anything, distinguished those “comparable proceedings” from this one?

Please respond to these questions by June 30, 2016. If you are unable to do so, please inform my office if an extension or additional time is necessary.

Sincerely,



Jeff Flake  
Chairman  
U.S. Senate Committee on the Judiciary  
Subcommittee on Privacy, Technology & the Law