

HOUSE COMMITTEE ON FINANCIAL SERVICES

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SUBCOMMITTEE ON OVERSIGHT AND  
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The Honorable Ajit Pai  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Dear Chairman Pai:

I am writing on an issue of local importance to my constituents in Montgomery County, Maryland. The county has received nearly 300 applications to build small cell antennas on the county's right-of-ways through various communities. These applications reflect the increasing demand for wireless services locally and the beginning of the facilitation of next generation wireless technologies across the U.S.

Over the past few months, I have heard concerns from my constituents across Montgomery County about the possible aesthetic impact and health risks associated with these installations. In working with the county on addressing these constituent concerns, I am requesting guidance on local zoning flexibility where aesthetic concerns are raised and am asking the Federal Communications Commission (FCC) to complete its study on radio frequency (RF) health risks associated with high levels of exposure.

### **Local Municipalities' Zoning Flexibility**

Considering the quantity and proximity to residences of these small cell antenna applications, I am inquiring as to whether federal law would support denial of these small cell antenna applications based on aesthetic concerns. The Telecommunications Act of 1996 requires that any state or local government or municipality thereof that denies a request to place, construct or modify a personal wireless service facility must do so in writing and be supported by substantial evidence. Case law indicates that the county has flexibility to deny requests in this way based on aesthetic concerns. As you know, aesthetic concerns are often linked to possible decreased home values, which is of concern to my constituents. That is why I am seeking clarification on the extent of flexibility local municipalities have in negotiations with these companies to deny applications for aesthetic concerns.

## **Complete The Study On RF Health Impacts**

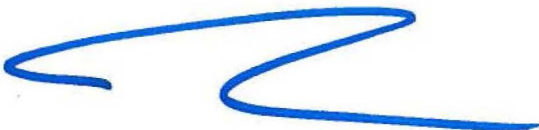
Additionally, I am writing to ask the FCC to complete its rulemaking process related to RF radiation exposure. I am aware that the Commission adopted a *Report and Order Further Notice of Proposed Rulemaking and Notice of Inquiry* on March 29, 2013 to develop a better understanding of possible RF radiation issues. However, the Commission has yet to complete this important process. While proposed small cell antennas appear to operate in a frequency with little or no health effects, possible RF exposure is of large concern to my constituents who will be living and working in close proximity to these small cell antennas; such concerns of RF could be properly assuaged with the conclusion of study. I understand these issues are complex and involve cooperation with several other agencies including the Environmental Protection Agency (EPA), the Food and Drug Administration (FDA) and the Occupational Safety and Health Administration (OSHA), but I believe addressing these safety concerns is important for constituents to be comfortable with the installation and implementation of these new technologies.

Finally, I believe it would be beneficial to your overall effort to advance wireless technology if the FCC took action to educate the public, particularly those in areas likely to be first affected, of the benefits of such technology and the rights of impacted communities. Such dialogue will be helpful in bridging concerns and advancing infrastructure desired by communities.

I urge the Commission to take these concerns into consideration and provide guidance on these issues as I believe they will continue to be of concern to states, local governments and municipalities and our constituents as the implementation of next generation wireless technologies moves forward.

Thank you for your consideration and we look forward to your response.

Sincerely,



John K. Delaney  
Member of Congress