

**TESTIMONY OF FCC CHAIRMAN AJIT PAI
BEFORE THE SUBCOMMITTEE ON COMMUNICATIONS AND TECHNOLOGY
OF THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON ENERGY AND COMMERCE**

**“OVERSIGHT AND REAUTHORIZATION OF THE
FEDERAL COMMUNICATIONS COMMISSION”**

JULY 25, 2017

Chairman Blackburn, Ranking Member Doyle, and Members of the Subcommittee, thank you for giving me the opportunity to testify today. For over five years, it has been an honor to work with many of you on a wide variety of issues. Now, as Chairman, I look forward to continued collaboration as we strive to bring digital opportunity to all Americans.

I also want to pay tribute to a distinguished member of this Subcommittee, Representative Steve Scalise. I’ve had the chance to work with him over the past few years, and I’ve learned a truth known to many of you: to know him is to like him. My thoughts and prayers continue to be with him and his family during his recovery.

The agency has been busy these last few months. July marked Consumer Protection Month at the FCC. At our open meeting, we targeted a triad of consumer scourges—unlawful robocalls, slamming/cramming, and rural call completion—all on the heels of taking down the largest spoofer in our agency’s history. August will be Rural Broadband Month. At our open meeting on August 3, we will consider the next steps towards implementing the Connect America Fund and Mobility Fund reverse auctions. Together these auctions will allocate \$6.5 billion for rural broadband expansion over the next decade. We’ll also explore how to ensure that our ongoing collection of broadband deployment data is as accurate and efficient as possible.

There is of course much more that the agency is doing—and much more to be done. I look forward to continue working together on a bipartisan basis to close the digital divide, promote innovation, protect consumers and public safety, and improve the FCC’s processes and procedures.

My testimony this morning will focus on two issues that are ripe for legislative action: reauthorizing the agency and holding repacked broadcasters harmless after the incentive auction.

Reauthorization of the FCC.—First, I applaud the Subcommittee for promoting legislation to reauthorize the Federal Communications Commission for five years. Much of the legislation would improve the agency’s operations, from codifying our process reforms to giving the agency additional leeway to ensure application and regulatory fees keep pace with our work. I look forward to working with the Subcommittee to advance it.

I do want to highlight one particular provision: section 101(b), “Deposits of Bidders to Be Deposited in Treasury.” That provision is absolutely critical if our nation is going to lead the world in 5G. Because without it, the FCC won’t be able to launch large spectrum auctions for the foreseeable future.

Here’s the background. As it stands, the Communications Act requires that upfront payments made by bidders in spectrum auctions be deposited in “an interest bearing account at a financial institution designated . . . by the Commission (after consultation with the Secretary of the Treasury).” But recent regulatory requirements for the collateralization and capitalization of deposits have dissuaded private institutions from holding upfront payments. And public institutions have indicated going forward they have no interest in establishing the special purpose accounts that would be necessary to offer such

services. As a result, and despite the repeated efforts of FCC and Treasury staff, no financial institution is willing to accommodate the holding of upfront payments in an interest bearing account for a large spectrum auction after the incentive auction. Thus, the Commission currently has no way to comply with the law—and no way to move forward with any large spectrum auction.

That's why I appreciate the Subcommittee's willingness to work with us over the past several months to remedy this situation. With the simple fix contained in the draft reauthorization legislation, the Commission would again be able to schedule large spectrum auctions by allowing upfront payments to be deposited at Treasury. That means moving forward with the mid-band and high-band spectrum auctions that are necessary if the United States is to lead the world in 5G.

Post-Incentive Auction Transition Process.—Second, I would like to briefly update the Subcommittee on the current status of the post-incentive auction transition process and the path ahead. July 12 was the deadline for broadcast television stations that are going to be repacked during this process to submit construction permit applications and cost estimates to the Commission. And two days later, the FCC announced that the aggregate amount of the estimated costs reported by broadcast television stations and multichannel video programming distributors (MVPDs) eligible for reimbursement from the Commission was \$2.115 billion. In this announcement, we cautioned that we expected to receive additional estimates from MVPDs and a small number of stations.

In recent days, the Commission has received several additional estimates, and the aggregate total of estimated costs has increased by approximately \$24 million to \$2.139 billion. At this point, we only expect to receive additional cost estimates from some smaller MVPDs and eight broadcast television stations. These eight stations were granted waivers of the July 12 deadline because they are unable to construct at their current channel assignment and must apply to receive a new one. But extrapolating from the estimates that we have received to date, we are confident that once all initial estimates are received, the aggregate total will be below \$2.2 billion.

Looking beyond the initial round of estimates, the aggregate total of estimated repacking costs will continue to change as the post-incentive auction transition process proceeds. Many stations will end up amending their initial estimates. Additionally, both the Commission and its fund administrator will conduct reviews of those estimates, which will likely alter the aggregate number.

For these reasons, the FCC cannot definitively report today how much the repack actually will cost. The final number could be lower than the current \$2.139 billion. It could also be higher. But I can say right now that the agency expects the final number to be above the \$1.75 billion that Congress has provided the Commission to reimburse impacted broadcast stations and MVPDs. As a result, unless Congress acts to raise the \$1.75 billion cap, the substantial likelihood is that local broadcasters will be required to pay some portion of their repacking costs out of their own pockets. I would be happy to work with the Subcommittee to address this issue.

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Chairman Blackburn, Ranking Member Doyle, and Members of the Subcommittee, thank you once again for holding this hearing. I look forward to answering your questions and working with you to promote the public interest.