



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

November 13, 2018

The Honorable Sheila Jackson Lee
U.S. House of Representatives
2187 Rayburn House Office Building
Washington, D.C. 20515

Dear Congresswoman Jackson Lee:

Thank you for your letter regarding the *Restoring Internet Freedom Order*, which reestablished the authority of the Federal Trade Commission to oversee the network management practices of Internet service providers while returning to the light-touch legal framework that governed such practices for almost twenty years.

At the dawn of the commercial Internet in 1996, President Clinton and a Republican Congress agreed that it would be the policy of the United States “to preserve the vibrant and competitive free market that presently exists for the Internet . . . unfettered by Federal or State regulation.” This bipartisan policy worked. Encouraged by light-touch regulation, the private sector invested over \$1.5 trillion to build fixed and mobile networks throughout the United States. Innovators and entrepreneurs grew startups into global giants. America’s Internet economy became the envy of the world.

Then, in early 2015, the FCC jettisoned this successful, bipartisan approach to the Internet and decided to subject the Internet to utility-style regulation designed in the 1930s to govern Ma Bell. This decision was a mistake. For one thing, there was no problem to solve. The Internet wasn’t broken in 2015. We weren’t living in a digital dystopia. To the contrary, the Internet had been a stunning success.

Not only was there no problem, this “solution” didn’t work. The main complaint consumers have about the Internet is not and has never been that their Internet service provider is blocking access to content. It’s that they don’t have access at all or enough competition between providers. The 2015 regulations took us in the opposite direction from these consumer preferences. Under Title II, annual investment in high-speed networks declined by billions of dollars—the first time that such investment has gone down outside of a recession in the Internet era. And our 2018 Broadband Deployment Report shows that the pace of both fixed and mobile broadband deployment declined dramatically in the two years following the *Title II Order*.

Returning to the legal framework that governed the Internet from President Clinton’s pronouncement in 1996 until 2015 has not destroyed the Internet. It has not ended the Internet as we know it. It has not undermined the free exchange of ideas or the fundamental truth that the Internet is the greatest free market success story of our lifetimes.

By returning to the light-touch Title I framework, we are helping consumers and promoting competition. Broadband providers now have stronger incentives to build networks,

especially in unserved areas, and to upgrade networks to gigabit speeds and 5G. This means there will be more competition among broadband providers. It also means more ways that companies of all kinds and sizes can deliver applications and content to more users. In short, it's a freer and more open Internet.

The *Restoring Internet Freedom Order* also promotes more robust transparency among ISPs than existed three years ago. It requires ISPs to disclose a variety of business practices, and the failure to do so subjects them to enforcement action. This transparency rule ensures that consumers know what they're buying and that startups get information they need as they develop new products and services.

Moreover, we have reestablished the Federal Trade Commission's authority to ensure that consumers and competition are protected. Two years ago, the Title II Order stripped the FTC of its jurisdiction over broadband providers by deeming them all Title II "common carriers." But now we have put our nation's premier consumer protection cop back on the beat. The Commission is grateful to all commenters who engaged the legal and public policy questions presented in this rulemaking. These comments ensured that the Commission considered all important aspects of its proposal to reclassify broadband Internet access service as an "information service" and restore the "light-touch" regulatory framework that fostered a free and open Internet in the United States prior to 2015.

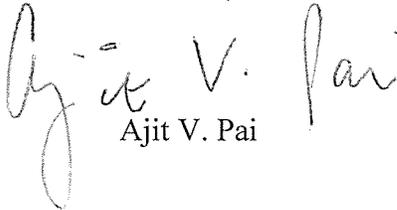
To be sure, this proceeding carried the potential for advocates on either side to abuse the process to create an appearance of numerical advantage. But the Commission does not make policy decisions merely by tallying the comments on either side of a proposal; were it otherwise, agency decisions would require not Commissioners exercising reasoned judgment but calculators performing a simple count. Nor does the Commission attribute greater weight to comments based on the submitter's identity. Accordingly, the Commission has never burdened commenters with providing identity verification or expended the massive amount of resources necessary to verify commenters' identities. Rather than dwell on how well automated or form submissions reflect actual popular support, the Commission has instead focused on encouraging robust participation in its proceedings and ensuring that it has considered how the substance of submitted comments bear on the legal and public policy consequences of its actions.

I understand that you share former Attorney General Schneiderman's concerns about the the comments filed in the docket from a single address in Russia. Please be assured that these comments in favor of Title II did not raise any substantive arguments not otherwise addressed. Activity like this did not affect the Commission's actual decision-making—that is, the agency's ability to review the record, respond to comments that raised significant issues, and make a reasoned judgment. I am not aware of any evidence to the contrary. Indeed, any reasonable review of the *Order* would demonstrate precisely the opposite—that the Commission painstakingly engaged with the voluminous public record in this proceeding (namely, the many substantive comments that meaningfully grappled with the policy issues raised in the Notice of Proposed Rulemaking) in reaching its conclusions.

In sum, Americans are still able to access the websites they want to visit. They still are able to enjoy the services they want to enjoy. There still is regulation, and regulators guarding a free and open Internet. This is the way things were prior to 2015, and this is the way they will be in the future.

I appreciate your interest in this matter. Your views are important and will be entered into the record of the proceeding. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink that reads "Ajit V. Pai". The signature is written in a cursive style with a large initial "A" and a long tail on the "i".

Ajit V. Pai