

United States Senate

April 24, 2020

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Pai:

We write in regard to the comment period that the Federal Communications Commission (FCC) opened in response to the issues that the D.C. Circuit Court of Appeals remanded in the Commission's net neutrality repeal. While that comment period closed on April 20, 2020, we understand that multiple local governments from our states asked for, yet were denied, a further 60-day extension of the comment period given that they are currently fully engaged in the response to the crisis created by the COVID-19 worldwide pandemic. We ask you to reconsider this position and further extend the comment period so that the public safety agencies in these localities, important stakeholders in the remanded issues, can provide their expertise and insight to the Commission.

When it remanded parts of the net neutrality repeal last year, the D.C. Circuit found that the Commission had failed to adequately consider how the repeal could negatively impact public safety, among other considerations. In fact, recent emergencies have made it vividly clear how diminished communications tools for our public safety agencies can hamper an effective response in times of disaster. During the 2018 Mendocino Complex Fire in California, the Santa Clara County Central Fire Protection District experienced throttling of its broadband service, which interfered with its ability to respond to the largest recorded fire complex in state history.¹ This is precisely the type of situation where it is unclear how the Commission intends to ensure that critical public safety operations are not inhibited, given its now-relinquished regulatory control. Public safety agencies should have an opportunity to provide comments to the Commission about how they are directly impacted by situations such as this - situations which could be occurring during the ongoing COVID-19 pandemic.

Today, public safety agencies in California, New York, and every corner of the country are responding to the COVID-19 pandemic. On April 16, 2020, the City of Los Angeles, the County of Santa Clara, the Santa Clara County Central Fire Protection District, and the City of New York all requested that the Commission's Wireline Competition Bureau issue a 60-day extension of the comment period.² In their request for an extension, the localities noted that they "remain in

¹ Stevens, M. (2018, August 22). Verizon Throttled California Firefighters Internet Speeds Amid Blaze. *The New York Times*: <https://www.nytimes.com/2018/08/22/us/verizon-throttling-california-fire-net-neutrality.html>.

² Letter from Danielle L. Goldstein, Deputy City Attorney, City of Los Angeles, et al. to Annick Banoun, FCC, WC Docket Nos. 17-108, 17-287 & 11-42 (filed Apr. 16, 2020) (Request for Further Extension).

the thick of responding to the current public health emergency” and further noted that “this is exactly the sort of emergency that was at the center of the concerns local governments articulated in the original record in these proceedings – concerns that the Commission failed to consider.”

We appreciate that the Commission had previously provided a 21-day extension to the comment period in these proceedings. However, our country remains in the middle of a critical public health emergency with shelter-in-place orders implemented across the country and our first responders actively involved in responding to this pandemic. The comments that these localities’ public safety personnel have to offer are critical to the refreshed record that the Commission is seeking in these proceedings. The Commission should not be sending the signal that these cities need to choose between participating in this comment period and responding to this public health crisis.

We ask that the Commission grant the request for a 60-day extension of the comment period so that public safety personnel from the localities we represent may both provide their expertise which is essential to Commission’s consideration of these proceedings and perform the heroic work that is needed right now to contain the COVID-19 pandemic and save lives.

We thank you for your attention to this important matter and request a response by Wednesday, April 29, 2020.

Sincerely,



Kamala D. Harris
United States Senator



Kirsten Gillibrand
United States Senator



Charles E. Schumer
United States Senator



Dianne Feinstein
United States Senator

Cc: Kris Anne Monteith, Bureau Chief, Wireline Competition Bureau