

Opening Statement
Rep. Elijah E. Cummings, Ranking Member

Hearing on “FCC: Process and Transparency”
March 17, 2015

Thank you, Mr. Chairman. We are here today to discuss the “net neutrality” rule that was adopted last month by the FCC.

There are strong opinions on all sides of this issue. On one hand, Internet Service Providers (ISPs), including Comcast, AT&T, Verizon, and Time Warner, opposed the rule and lobbied against it. They argued that additional regulation would increase fees, reduce investment, slow network upgrades, and reduce competition and innovation.

On the other hand, supporters of this new rule contend that ISPs should not be allowed to discriminate based on content. They believe ISPs should be required to act like phone companies—controlling the pipes that make up the Internet, but not what flows through them. Consumers, social media entities, and companies like Facebook, Netflix, and Google favor open Internet policy because they do not want to be charged higher prices to provide their services.

The question before the Committee is not which policy we may prefer, but whether the process used by the FCC to adopt the rule was appropriate.

Republicans who oppose the new rule allege that President Obama exerted undue influence on the process, but we have seen no evidence to support this allegation. Instead, the evidence before the Committee indicates that the process was thorough, followed the appropriate guidelines, and benefitted from a record number of public comments.

I welcome Chairman Wheeler here today to discuss the process used by the FCC, and I would like to make several points for the record.

First, the FCC received more comments on this rule than any other rule in its history. As I understand it, the FCC received about 4 million comments. This grassroots movement was highlighted when John Oliver, a popular late night talk show host, encouraged his viewers to go on to the FCC website to comment on the proposed rule.

The number of comments was also extremely high because the FCC established a 60-day comment period—twice as long as required by the Administrative Procedures Act.

In addition, the President has a right to express his position on proposed rules, and he did so forcefully in this case. In November, he made remarks in support of an open Internet rule, arguing that it is “essential to the American economy.” He said the FCC “should create a new set of rules protecting net neutrality and ensuring that neither the cable company nor the phone company will be able to act as a gate keeper, restricting what you can do or see online.”

When he gave this speech, the President also ensured that his office submitted the appropriate “ex parte” filing through the National Telecommunications and Information Agency, which is tasked with providing the FCC with information about the Administration’s position on policy matters.

Presidents routinely make their positions known to independent agencies regarding pending rules. Presidents Reagan, George H.W. Bush, Clinton, and George W. Bush all expressed opinions on FCC regulations during their presidencies.

In fact, for this net neutrality rule, there were more than 750 ex parte filings from individuals, public interest groups, lobbyists, corporations, and elected officials—all of whom had an opportunity to make their views known.

Finally, if the Committee is going to examine the actions of Chairman Wheeler and his communications with supporters of the rule, then we must also examine the actions of Republican Commissioners Pai, O’Reilly, and others who opposed the rule. Multiple press accounts indicate that they have been working closely with Republicans on and off Capitol Hill to affect the FCC’s work, and we should review their actions with the same level of scrutiny.

Chairman Wheeler, thank you again for appearing before our Committee, and I look forward to your testimony. Thank you, Mr. Chairman.