

QUESTIONS FOR THE RECORD

U.S. Senator Brian Schatz

Senate Committee on Commerce, Science, and Transportation Hearing
“Oversight of the Federal Communications Commission”

August 16, 2018

Chairman Pai:

Phantom DDoS Attack

1. What specific steps, if any, did the FCC take to prepare when it was informed in advance by a producer from the John Oliver show that they planned to run a new episode on net neutrality on May 7, 2017? If it did not take any steps, why not?
2. At the hearing you stated that you relied on assurances given by your staff on July 24, 2017, that the May 7, 2017, incident was a DDoS attack and not merely the result of excessive traffic from the John Oliver show. What questions did you ask those individuals at that time that gave you confidence in their assurances? What facts and documentation did they present to you that was so convincing? What steps did you take at that time to ensure that criminal law enforcement authorities had been properly engaged to investigate what you apparently had been assured was an unprecedented criminal act? What steps did you take once you became aware that you had been misled about the nature of the May 7th event, including disciplinary action against the individuals who provided you with false information and those who supervised them?
3. At the hearing you testified as follows: “On January 23 of 2018, I was informed by my Chief of Staff, who’d been informed by the Office of the Inspector General, that they had suspicions that the former Chief Information Officer’s statements to us and to Congress were inaccurate. The OIG then requested, because they had referred this matter for potential criminal prosecution to the Department of Justice, do not say anything to anyone.” Did the OIG direct you not to inform Sen. Wyden and me that you had provided an incorrect and misleading account of the events of May 7, 2017, to us in your letter response dated June 15, 2017? Did you ask the IG if it would be permissible to inform us? Did you consult with the FCC General Counsel about the appropriate course of action in this regard and what was his advice? Why didn’t you inform us as soon as you learned that the USAO-DC declined prosecution on June 7, 2018?
4. What specific upgrades and modifications did the FCC make to the ECFS system after the 2014 John Oliver incident and prior to the 2017 incident to improve the integrity and stability of the system?

Unlicensed Spectrum

How is the FCC working to identify and make available sufficient unlicensed spectrum to keep up with demand and to comply with the RAY BAUM’S Act of 2018? Be specific.

Commissioner Carr:

Connected Care Pilot Program

Thank you for your leadership on the “Connected Care” pilot program. Improving telehealth is a bipartisan issue. I have worked to advance telehealth with Senators Thune and Wicker,

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among others, because I have seen firsthand how telemedicine can make it easier for patients to see their doctors, bring specialized care to more places, and literally save lives. Telemedicine doesn't work if patients can't access the internet or afford it, so this trial will be important. Do you commit to an open and fair process for the pilot program and to test it across the country, including in insular, urban as well as rural areas?

Commissioner O’Rielly

USF Contribution Methodology Reform

At the hearing you testified that contribution methodology reform “has been stuck for quite a while” because a proposal by the state members of the Federal-State Joint Board on Universal Service is not “viable amongst the members” of the full board. Explain specifically what the state members’ plan proposes and why you think it is not viable? What other proposals have been put forward by you or any other Joint Board members? How many meetings did the Joint Board hold to discuss the state members’ proposal? How many times has the Joint Board met this year and last year to discuss contribution methodology reform, and when was the last meeting? Has the plan submitted by the state members been put to a formal vote by the Joint Board and rejected by a majority of the members? If it has not been put to a vote, why not?