

United States Senate

WASHINGTON, DC 20510

August 28, 2018

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

Dear Chairman Pai:

Thank you for following up, as requested, with a written summary of your recent contact with the White House regarding Sinclair Broadcast Group's (Sinclair) proposal to acquire Tribune Media. We understand that the Federal Communications Commission's (FCC) Office of the Inspector General (OIG) has interviewed you regarding this contact, and their investigation to date has not revealed any evidence of improper conduct. We are also aware that OIG has reopened its investigation to determine whether any other communications took place between your office and any member of the Executive Branch regarding this proposed merger.

We appreciate the information you provided and the update from FCC's OIG. However, in light of your commitments to the Senate Committee on Commerce, Science, and Transportation, we remain concerned that you may not have been forthright and fully transparent regarding your interactions with the White House over the past year. As members of the Committee, we have an obligation to conduct oversight to ensure decisions at the FCC are transparent and accountable to the public.

During this month's hearing in the Senate Committee on Commerce, Science, and Transportation on oversight of the Federal Communications Commission (FCC), we and the public first learned that a senior White House official had in fact contacted you to talk about Sinclair's proposal to acquire Tribune Media. We also learned that this call took place the day after you circulated the order designating Sinclair's proposed merger for a hearing—a decision which was widely covered by the media. Although you characterized the call as a “status inquiry,” the timing of this call—between circulation and adoption of the order—raises heightened questions about the nature and intent of the contact.

Given your clear commitment to communicate such interactions with us proactively, we were troubled to only learn of this exchange in response to questioning by Senator Blumenthal. As you have already acknowledged, at the last FCC oversight hearing on March 8, 2017, you committed in an exchange with Senator Udall that you would inform Congress if the White House or anyone on behalf of the White House ever contacts you or your staff about taking any favorable or negative action regarding any media or communications business.¹ This

¹ United States. Cong. Senate. Committee on Commerce Science, and Transportation. Hearing on Oversight of the Federal Communications Commission. March 8, 2017. 115th Cong. 1st session. (exchange between Senator Tom

commitment was reinforced in your succinct “Yes” response to a question in a letter signed by all thirteen Senate Commerce Committee Democrats, which asked you²:

[W]ill you commit to inform us and the public of any attempt by the White House or by any executive branch official to influence your decision-making or direct you to take or not take any action with respect to media interests within your jurisdiction, including the license renewal applications for broadcasters (whether or not such contacts fall under the ex parte rules or other legal or ethical rules applicable to the FCC)?

Accordingly, we are asking you to respond fully and individually to the questions below:

- 1) Please provide the following additional information regarding your phone call with White House Counsel Donald McGahn regarding the Sinclair-Tribune merger: time of the call; identity of any other participants or witnesses to the call; any transcript of the conversation; any contemporaneous notes, recordings, or other documentation related to the call; and any email or other internal or external correspondence related to the call or to the preparation of your August 22 letter to Senator Blumenthal.
- 2) In your August 22 letter, you state that your discussion with White House Counsel McGahn was “consistent with and largely tracking the public statement” you made on July 16, 2018. Please explain how it was inconsistent or diverged from your public statement.
- 3) Please explain why, given your commitments, you did not report White House Counsel McGahn’s call to this Committee when it occurred or within the following 29 days?
- 4) Did White House Counsel McGahn’s phone conversation and the White House’s interest in the Sinclair-Tribune matter suggest to you any particular outcome?
- 5) You have recently asserted that status calls on FCC actions from the White House are common. How many such status calls have you or your staff received in your time as Chairman? Please provide details of all such calls. If you have not received any to date, then doesn’t the fact the call happened at all suggest that the White House was trying to influence your decision (especially in light of subsequent comments by the President)?
- 6) As you know, the FCC’s Inspector General has been investigating allegations that you may have had improper interactions with Sinclair regarding their proposed merger with Tribune. According to the Report of Investigation released yesterday, you told OIG, during an August 8, 2018 interview, that you received a “status inquiry” in the form of a phone call from White House Counsel McGahn on July 16, 2018. However, in a letter to

Udall and Ajit Pai, Chairman, Federal Communications Commission). <https://www.gpo.gov/fdsys/pkg/CHRG-115shrg28380/pdf/CHRG-115shrg28380.pdf>

² Ajit Pai, Chairman, Federal Communications Commission, wrote a response on March 17, 2018 to United States Senate Democrats sitting on the Senate Committee on Commerce, Science, and Transportation in response to a letter sent by Senate Committee Democrats on March 10, 2017.

Senator Blumenthal dated August 22, 2018, you describe a phone call from White House Counsel McGahn as taking place on July 17, 2018.

- a. Please explain this inconsistency.
 - b. Were there two calls?
 - c. Did you proactively inform the FCC's Inspector General that White House Counsel McGahn called you regarding the Sinclair-Tribune merger after the July 16, 2018 and/or July 17, 2018 call?
- 7) Identify and provide a summary of all other instances in which you or your staff, or other FCC staff members have been contacted by, or on behalf of, the White House, regardless of whether such contacts fall under the *ex parte* rules or other legal or ethical rules applicable to the FCC.
- 8) Will you re-commit to informing us and the public of any attempt by, or on behalf of, the White House to influence you or the FCC staff's decision-making or direct you or the FCC staff to take or not take any action with respect to media interests within your jurisdiction (whether or not such contacts fall under the *ex parte* rules or other legal or ethical rules applicable to the FCC)?

Please provide your responses no later than Friday, September 7, 2018. We look forward to your cooperation with this request.

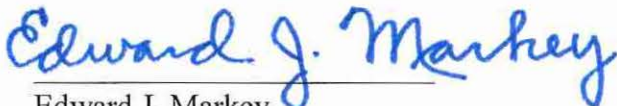
Sincerely,



Richard Blumenthal
United States Senator



Tom Udall
United States Senator



Edward J. Markey
United States Senator



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

January 3, 2019

The Honorable Richard Blumenthal
United States Senate
706 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Blumenthal:

On August 28, you wrote regarding my interactions with the White House concerning the Sinclair-Tribune transaction. I am pleased to report that the Commission's independent Office of Inspector General issued a report on November 26 on this very matter. In that report, the Office wrote:

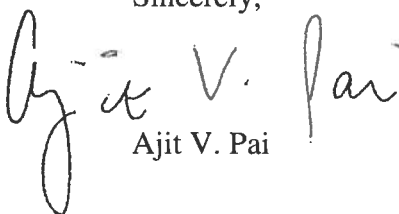
Our investigation did not reveal evidence that Chairman Pai acted improperly with respect to the request from Congress that he disclose information related to his interactions with the White House regarding the proposed merger, nor did he make material omissions at the July 25, 2018, House Energy and Commerce Committee hearing or at any other time related to the proposed Sinclair-Tribune merger. Further, our investigation did not reveal evidence of any other White House communications with FCC staff.

I have attached a copy of that report for your review as well, and I address your specific questions in turn below.

1. With respect to the call I received from former White House Counsel Don McGahn regarding the transaction, the call took place on July 17. To the best of my knowledge, no one else participated in the call nor was any transcript, recording, or other documentation made of the call, and my description of the contents of the conversation as relayed in my prior letter is accurate. As previously relayed, Counsel McGahn expressed no view on the merits of the transaction, either directly or by implication, on Mr. McGahn's behalf or on behalf of anyone else, and accordingly the Committee had not asked me to disclose contacts such as this status inquiry. The report of the Office of Inspector General further explains that neither the Commission's *ex parte* rules nor any other Commission rules required disclosure of this conversation. Nonetheless, I freely disclosed the conversation when asked at the August 16 hearing.
2. It was not inconsistent.
3. Please see my response to question 1; at no time did Counsel McGahn express any view on the transaction. Again, as found in the Office of Inspector General's report on this very matter, I fully complied with all rules and requirements and answered truthfully and forthrightly the question you posed.
4. No, this was simply a status inquiry; he did not suggest that the Commission take any action or reach any decision.

5. On August 21, I said during an appearance at the Technology Policy Institute's Aspen Forum that this "was the first time we had received a status inquiry of that kind" regarding a deal. However, as I have relayed before, the call was simply a status inquiry, and at no time was any view expressed regarding the transaction or the draft order I had circulated to my colleagues.
6. I only had one conversation with Counsel McGahn regarding this matter, and it took place on July 17. To the extent that I told the Office of Inspector General that it occurred on July 16, I misspoke (and have informed the Office of Inspector General of such). I disclosed this conversation to the Office of Inspector General during an interview.
7. As explained in the attached report, the Office of the Inspector General "did not identify any other conversations between the White House and the Commission (Office of the Chairman and Offices of the Commissioners) related to the Sinclair-Tribune merger," and I am unaware of any such conversations or communications with other FCC staff.
8. I will continue to abide by all applicable rules and requirements as well as previous commitments made to the Committee.

Sincerely,

A handwritten signature in black ink, appearing to read "Ajit V. Pai". The signature is fluid and cursive, with the first name "Ajit" being the most prominent part.

Ajit V. Pai



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

January 3, 2019

The Honorable Tom Udall
United States Senate
531 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Udall:

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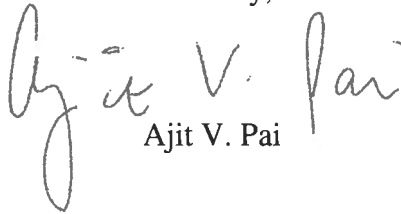
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Ajit V. Pai



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

January 3, 2019

The Honorable Edward J. Markey
United States Senate
255 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Markey:

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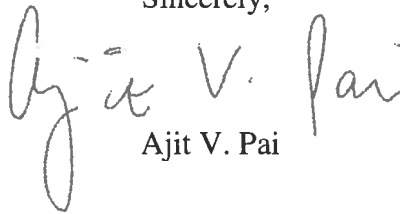
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Ajit V. Pai