

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives

846

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

November 1, 2018

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

Dear Chairman Pai:

We are writing today in response to the recent Government Accountability Office (GAO) report titled "FCC's Data Overstate Access on Tribal Lands," and the lack of meaningful progress and/or tribal consultation to date in the development of the broadband access report. We are very concerned that based on GAO's findings, the FCC is not fulfilling its responsibility to address tribal broadband needs, and as a result, these communities do not have access to the educational, economic, medical, and social benefits that broadband provides. As part of our oversight responsibility, we therefore ask you to address several questions and outstanding issues.

The GAO report found that the FCC's broadband mapping data "do not accurately or completely measure broadband access on tribal lands." Individuals living on tribal lands suffer from some of the lowest rates of broadband access in the country, and it appears the problem is much larger than previously known.

In addition, the report found that the FCC does not maintain a formal consultation process for tribes and tribal stakeholders to provide input on the accuracy of maps in their regions. As a result, the risk that residents on tribal lands will continue to lack access to broadband has increased and efforts to obtain funding for building broadband networks have been undermined.

Currently, the FCC relies on data provided by providers through FCC Form 477 to map broadband availability. While the FCC has started to update and enhance its collection of FCC Form 477 data, it is unclear when the Commission's proceeding to do so will be completed, or if it will address the issues identified in the GAO report. We request that you provide us with an update on the process, as well as a date by which you plan to complete the proceeding.

The FCC must also complete a report evaluating broadband coverage on tribal lands by March 23, 2019, which is less than five months away, as required by the Tribal Digital Access Act within the RAY BAUM'S Act. We are concerned that given the conclusions of the GAO report—and the fact that the FCC's rulemaking to revise Form 477 remains stalled—the findings of this report will continue to fail to properly evaluate broadband access on tribal lands. Furthermore, as with any federal action impacting tribes, the FCC has a responsibility to engage in meaningful consultation with tribes in order to solicit their input.

We therefore request that you provide us with an update on the status of this study and how the FCC's methodology to conduct this analysis will differ from the present methods that have proven to be inaccurate.

Finally, the GAO found that the FCC has not established a formal process for conducting tribal consultation on the accuracy of broadband access data. Tribes are in the best position to provide accurate and substantive feedback on the availability of broadband services in their local area, and we believe the FCC would benefit from a formal consultation to verify the accuracy of tribal broadband maps. We are encouraged that the FCC agrees with the GAO recommendation, and we also request an update on the steps the FCC is taking to create such a process along with a timetable by which such steps will be implemented.

Democrats in Congress are committed to improving access to broadband on tribal lands, and one of the important steps in that process is ensuring that the FCC is able to accurately depict where service is of greatest need. We urge the Commission to fully embrace the GAO recommendations and enact reforms that will support the swift deployment of broadband to tribal lands. We request that you respond by November 30, 2018. We look forward to your response.

Sincerely,



Raul Ruiz, M.D.
Member of Congress



Frank Pallone, Jr.
Ranking Member



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

January 2, 2019

The Honorable Frank Pallone
U.S. House of Representatives
2322 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Pallone:

Thank you for your letter about the Government Accountability Office's (GAO's) September 2018 report regarding broadband access on Tribal lands. Closing the digital divide is the Federal Communications Commission's top priority. As you observe, nowhere is that divide more starkly pronounced than in Indian Country. This is a situation that needs to change, and I am committed to changing it.

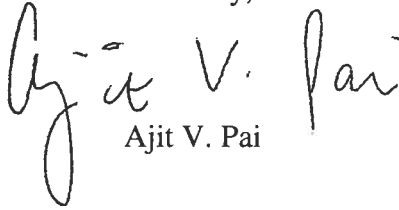
The Commission aims to ensure that we collect the best possible data with respect to broadband access on Tribal lands and is working to address each of the three recommendations advanced by the GAO. As described in their August 22, 2018 response to the GAO's draft report, the Chiefs of the FCC's Wireline Competition Bureau and Consumer and Governmental Affairs Bureau highlighted numerous efforts the Commission is already undertaking to develop better data on broadband service on Tribal lands. Central to these efforts is the Commission's ongoing rulemaking proceeding in which we are exploring revisions to our Form 477 collection of broadband deployment data in order to increase the accuracy and usefulness of that data. Recognizing the potential benefits of increased granularity, including those you point out, we sought input on revising our methodology for assessing service coverage. We are committed to making changes that will improve our understanding of broadband deployment across America, including in Tribal areas, and are analyzing various options for data collection with that goal in mind. We have also begun the process of compiling a report and starting a subsequent rulemaking on related issues, as required by RAY BAUM'S Act of 2018.

As we move forward with these efforts, I have asked staff to expand their ongoing engagement with Tribal stakeholders so that their views and insights more fully inform our efforts to identify and develop measures to address, unserved Tribal areas. I personally have participated extensively in such engagement, having consulted with Tribal officials everywhere from the Navajo Nation to the Rosebud Sioux Reservation to the National College of American Indians' Mid-Year Conference in Connecticut and met with numerous Tribal representatives at the FCC's headquarters (including, just a few weeks ago, the Native Nations Communications Task Force). In addition to that, the Commission's substantive decision-making has been meaningfully informed by Tribal participation. For example, Tribal governments were able to participate directly in the Mobility Fund Phase II challenge process—a process that is helping guide the FCC's determination of where to direct subsidies necessary for mobile broadband deployment. And as part of our ongoing engagement with Tribes, we plan to seek input from Tribes and service providers on the Commission's 2012 statement on Tribal engagement, consistent with the Report's recommendation.

Page 2—The Honorable Frank Pallone

I appreciate your continued interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink, reading "Ajit V. Pai". The signature is written in a cursive style with a large initial "A" and a long horizontal stroke extending to the right.

Ajit V. Pai



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

January 2, 2019

The Honorable Raul Ruiz
U.S. House of Representatives
1319 Longworth House Office Building
Washington, D.C. 20515

Dear Congressman Ruiz:

Thank you for your letter about the Government Accountability Office's (GAO's) September 2018 report regarding broadband access on Tribal lands. Closing the digital divide is the Federal Communications Commission's top priority. As you observe, nowhere is that divide more starkly pronounced than in Indian Country. This is a situation that needs to change, and I am committed to changing it.

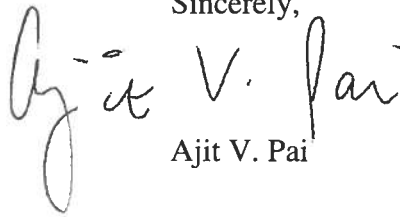
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Ajit V. Pai