

Congress of the United States
Washington, DC 20515

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December 11, 2017

The Honorable Ajit V. Pai
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Received & Inspected
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FCC Mail Room

Dear Chairman Pai:

We are extremely disappointed that you have failed to follow through on your repeated commitments to provide us with documentation relating to the May 7, 2017 alleged distributed-denial-of-service (DDoS) attacks on the Federal Communications Commission's (FCC) Electronic Comment Filing System (ECFS). During the time of the alleged attacks, the public was unable to submit comments on your proposal to roll back net neutrality protections. The public deserves to know what interfered with its ability to weigh in on this proposal.

At a FCC oversight hearing on July 25, 2017 before the House Energy and Commerce Committee, Subcommittee on Communications and Technology, you were asked if you would commit to turning over any reports, requests, memoranda, and server logs related to the alleged DDoS attacks on the FCC's ECFS.¹ You said that you had hoped to consult with the IT staff and attorneys to see if there are any applicable technical or legal prohibitions to sharing this information.² You then committed to sharing the requested information with us to the extent that you could do so.³ However, we did not receive a single document or an explanation for the refusal to produce any documents.

At a second FCC oversight hearing on October 25, 2017 before the House Energy and Commerce Committee, Subcommittee on Communications and Technology, you were again asked about the alleged DDoS attacks and for the documents that were requested at the July 25 hearing.⁴ You mentioned that your office got in touch with the Committee about this issue and you once again promised to provide us with this information.⁵ Yet, we never heard anything further from your office and neither the Republican nor Democratic Committee staff has received any documents from your office relating to the alleged DDoS attacks.

¹ Preliminary Transcript from House Energy and Commerce Committee, Subcommittee on Communications and Technology Hearing on "Oversight and Reauthorization of the Federal Communications Commission," p. 96-97, available at <http://docs.house.gov/meetings/IF/IF16/20170725/106312/HHRG-115-IF16-Transcript-20170725-U90.pdf>.

² *Id.* at 97.

³ *Id.*

⁴ Preliminary Transcript from House Energy and Commerce Committee, Subcommittee on Communications and Technology Hearing on "Oversight of the Federal Communications Commission," p. 55, available at <http://docs.house.gov/meetings/IF/IF16/20171025/106534/HHRG-115-IF16-Transcript-20171025-U5461165.pdf>.

⁵ *Id.*

Following the October 25 hearing, we also submitted a question for the record to you—asking by what date we can expect you to fulfill your July 25 commitment to produce for our offices any and all reports, requests, memoranda, and server logs related to the alleged DDoS attacks. We still have not received a response, even though the deadline has now passed.

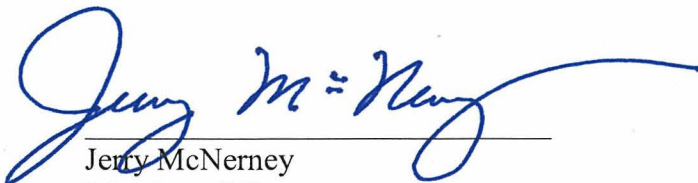
Given your high regard for transparency, we would expect that you would have disclosed to us by now the requested documents or an explanation of technical or legal prohibitions for your refusal to do so. Shortly after being appointed FCC Chairman, you stated that “[o]ne of my priorities as Chairman of the Federal Communications Commission (FCC) will be to make the agency’s operations more transparent.”⁶ In fact, even your proposal to dismantle net neutrality protections—the proceeding at issue here—calls for transparency.⁷ Transparency is important, even when it’s not convenient. We expect you to live up to your commitment to transparency.

Many unanswered questions remain about the motive behind the alleged attacks, the response of the FCC, and whether the outage had a major impact on the ability of the American people to comment on the proceeding to eliminate net neutrality protections. We ask that you please follow through on your commitments and respond as soon as possible. Per our prior requests and the commitments you have made, please include the following information in your response:

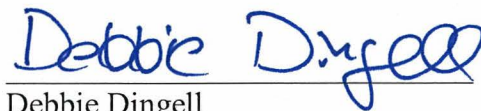
1. Any reports, requests, memoranda, and server logs related to the alleged May 7 DDoS attacks on the FCC’s electronic systems.
2. The FCC’s protocol for documenting DDoS attacks.
3. What steps the FCC has taken to mitigate DDoS attacks.

The Commission should be transparent about any potential issues with the factual record on a proceeding of this magnitude, and should not move forward with a vote until the American people know what happened.

Sincerely,



Jerry McNerney
Member of Congress



Debbie Dingell
Member of Congress

⁶ Statement of FCC Chairman Ajit Pai, February 2, 2017, available at https://apps.fcc.gov/edocs_public/attachmatch/DOC-343303A1.pdf.

⁷ Restoring Internet Freedom: Declaratory Ruling, Report and Order, and Order, WC Docket No. 17-108, available at http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db1122/DOC-347927A1.pdf.



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

October 10, 2018

The Honorable Debbie Dingell
U.S. House of Representatives
116 Cannon House Office Building
Washington, D.C. 20515

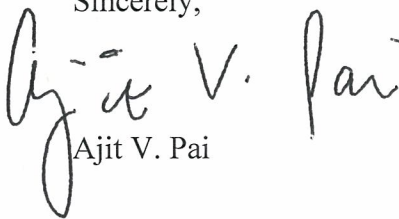
Dear Congresswoman Dingell:

Thank you for your letter regarding documentation you have requested related to the incident on May 7, 2017.

As I indicated when you made your initial request, I could not commit to a document production absent a consultation with our legal staff. And as I stated in my response to your question for the record for the oversight hearing held on October 25, 2017, I have since been advised by our Office of General Counsel that many of the materials you are requesting are non-public and confidential, because they contain personally identifiable information or information about the FCC's information security practices. The Commission has a strong interest in protecting this information from public release—such as a roadmap regarding the security of the Electronic Comment Filing System. Indeed, last month, the U.S. District Court for the District of Columbia in the *Prechtel* decision recognized that these documents contained sensitive information that could “expose both general security measures and specific steps [the Commission] has taken to fend off past cyber-attacks.” As a result, before the Commission could consider sharing these documents, I would need an official letter from the full Committee clearly describing the scope of the material that is being requested as well as the methods that would be used to protect the confidentiality of this information.

I appreciate your interest in this matter.

Sincerely,


Ajit V. Pai



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

October 10, 2018

The Honorable Jerry McNerney
U.S. House of Representatives
2265 Rayburn House Office Building
Washington, D.C. 20515

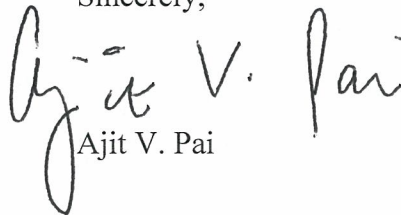
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Sincerely,


Ajit V. Pai