

**Congress of the United States**  
**Washington, DC 20515**

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January 16, 2019

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

Dear Chairman Pai:

On January 2, 2019, the Federal Communications Commission (FCC) released a Public Notice regarding the impact of the government shutdown on the agency's operations. One issue addressed in the letter is employment discrimination filings. The agency asserts that "to preserve the rights employees and other aggrieved individuals may have under Federal employment discrimination statutes, the agency will receive and record receipt of discrimination complaints. Any such complaint must be submitted within forty-five (45) days of the alleged discriminatory action."<sup>1</sup>

At a time when furloughed FCC employees are facing the stress and uncertainty of not knowing when they will receive their next paycheck, it is unreasonable that they might also lose employment discrimination protections if they do not file a complaint within this window. I urge you to consider, pursuant to federal regulations, waiving or extending the applicable complaint filing periods for the duration of the shutdown.<sup>2</sup> If you do not believe you have the authority to do so, please provide your legal analysis supporting that conclusion.

Thank you for your attention to this important matter. Please provide your response by Friday, January 18<sup>th</sup>, either stating why the FCC does not have the authority to waive or otherwise extend this filing deadline, or with an update with how you will notify employees and the public of the change to the information in the FCC's public notice on this issue. If you have any questions, please contact Charlyn Stanberry directly at 202.225.6231.

Sincerely,

  
Yvette D. Clarke  
Member of Congress

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<sup>1</sup> Federal Communications Commission, *Impact of Potential Lapse in Funding on Commission Operations*, Public Notice, DA 19-10 (Jan 2, 2019).

<sup>2</sup> See 29 C.F.R. §§ 1614.604(c) (2018).



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

February 6, 2019

The Honorable Yvette D. Clarke  
U.S. House of Representatives  
2058 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congresswoman Clarke:

Thank you for your letter about the impact of the recent lapse in funding on the Commission's operations. You expressed particular concern about the 45-day period in which a complaint alleging employment discrimination must be filed.

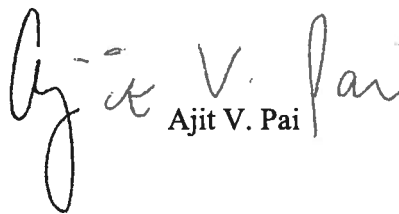
The FCC's Office of Workplace Diversity manages the Commission's Equal Employment Opportunity compliance program, which includes the processing of complaints alleging discrimination in employment matters. As such, the Commission adheres to Part 29 of the Code of Federal Regulations, which sets forth the principal set of rules and regulations governing discrimination in employment at federal agencies. Within those rules, section 1614.105(a)(2) provides that "the agency or the Commission shall extend the 45-day time limit when the individual shows that . . . despite due diligence he or she was prevented by circumstances beyond his or her control from contacting the counselor within the time limits, or for other reasons considered sufficient by the agency or the Commission." Under this provision, any FCC employee seeking to file a complaint could, if needed, seek a waiver of the 45-day deadline for "circumstances beyond his or her control," including a shutdown of the Commission's operations.

Moreover, section 1614.604(c) authorizes the Equal Employment Opportunity Commission (EEOC) to equitably toll all time limits. On January 31, 2019, the EEOC did so with the announcement that all deadlines falling between December 22, 2018 and January 25, 2019 would be extended for 40 calendar days.

The FCC is committed to ensuring for all of its employees a workplace free from unlawful discrimination. We provide equal employment opportunity for all persons regardless of race, color, religion, sex, age, disability, sexual orientation, or national origin.

Thank you for this opportunity to provide clarification regarding your inquiry about our handling of employment-related complaints.

Sincerely,

  
Ajit V. Pai