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*Congress of the United States
House of Representatives
Washington, D.C. 20515*

*Anna G. Eshoo
Eighteenth District
California*

December 26, 2017

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

Dear Chairman Pai,

This is the fourth time I am writing to you this year asking that you take seriously the reports that Russian outlets have been and continue to broadcast propaganda over American airwaves. It has been over a month since I last wrote to you about this matter.

In your second response to me dated October 23, 2017, you said that the FCC would launch an inquiry if you were provided with credible allegations of violations of the statute. Here is what we know. We know that RT is a now-registered federal agent of the Russian government. We know that the Russian government has a well-established record¹ of using sophisticated methods to meddle in the affairs of other countries² and undermines the integrity of democracies world-wide. And we know that Russian media at large was distributing incendiary advertising and videos as part of misinformation campaign directed at the parties in the 2016 election.³

We know that our intelligence community issued a report (Jan. 7, 2017) stating it believes with "highest confidence" that Russia did in fact deliberately and systematically infiltrate our

¹ "Examining Russian Disinformation," NPR (Nov. 19, 2017)

<https://www.npr.org/2017/11/19/565153437/examining-russian-disinformation>.

² See, e.g., "The impact of Russian interference on Germany's 2017 election," Brookings Institution (June 28, 2017) <https://www.brookings.edu/testimonies/the-impact-of-russian-interference-on-germanys-2017-elections/> ;

"Here's the first evidence Russia used Twitter to influence Brexit," Wired (Nov. 10, 2017)

<http://www.wired.co.uk/article/brexit-russia-influence-twitter-bots-internet-research-agency>; Spain sees Russian interference in Catalonia separatist vote," Reuters (Nov. 13, 2017) <https://www.reuters.com/article/us-spain-politics-catalonia-russia/spain-sees-russian-interference-in-catalonia-separatist-vote-idUSKBN1DD20Y>;

"NSA confirms it: Russia hacked French election 'infrastructure,'" Wired (May 9, 2017) <https://www.wired.com/2017/05/nsa-director-confirms-russia-hacked-french-election-infrastructure/>.

³ See "Kremlin trolls burned across the Internet as Washington debated options," Washington Post (Dec. 25, 2017) https://www.washingtonpost.com/world/national-security/kremlin-trolls-burned-across-the-internet-as-washington-debated-options/2017/12/23/e7b9dc92-e403-11e7-ab50-621fe0588340_story.html?tid=pm_world_pop; see also "House Intelligence Committee Releases Incendiary Social Media Ads," New York Times (Nov. 1, 2017) <https://www.nytimes.com/2017/11/01/us/politics/russia-technology-facebook.html>.

communications networks to drive wedges into existing social and political divisions, and manipulate our election⁴; that the Department of Justice believed that intelligence to that end was credible enough to request RT to register as a foreign agent which Russia resisted for months from the highest levels until it finally acquiesced in November⁵; and that RT was leasing time over American broadcast airwaves in the months leading up to, during, and after the election.⁶

The Federal Communications Commission is responsible for protecting those very airwaves, has a duty to ensure that they are used to serve the public trust, and the broadcasters who lease them must act in accordance with the Commission's rules.⁷ I have thrice requested that you investigate whether that public trust has been violated by a foreign adversary through those broadcasters⁸; and so far you have declined to do so⁹.

To that end, I believe this remains your duty and that of the FCC to act *immediately* to address these issues, and I request that you respond to the following:

- (1) In your July 24, 2017 letter, you noted that under the Commission's sponsorship identification and public file ownership disclosure requirements, *if* RT compensated a broadcast radio or television station for transmitting Russian programming, the sponsorship identification rules would apply and disclosure would be required. Was RT indeed doing so, and were those broadcast stations in compliance at that time? Are they in compliance now? Have you directed agency resources to thoroughly investigate their compliance?
- (2) For what percentage of airtime were the broadcasters transmitting broadcasts produced or funded by, or produced or funded by others at the direction of, RT, and were they in compliance with the foreign media ownership rules?

⁴ "Assessing Russian Activities and Intentions in Recent US Elections," Office of the Director of National Intelligence (Jan. 6, 2017) https://www.dni.gov/files/documents/ICA_2017_01.pdf; see also "Declassified report says Putin 'ordered' effort to undermine faith in U.S. election and help Trump, Washington Post (Jan. 6, 2017) https://www.washingtonpost.com/world/national-security/intelligence-chiefs-expected-in-new-york-to-brief-trump-on-russian-hacking/2017/01/06/5f591416-d41a-11e6-9cbo-54ab630851e8_story.html.

⁵ "DOJ told RT to register as a foreign agent partly because of alleged 2016 election interference," Politico (Dec. 20, 2017) <https://www.politico.com/story/2017/12/21/russia-today-justice-department-foreign-agent-election-interference-312211>.

⁶ "Russia's RT: The Network Implicated in US Election Meddling," New York Times (Jan. 7, 2017) https://www.nytimes.com/2017/01/07/world/europe/russias-rt-the-network-implicated-in-us-election-meddling.html?_r=0.

⁷ "The Public Interest Standard in Television Broadcasting," Benton https://www.benton.org/initiatives/obligations/charting_the_digital_broadcasting_future/sec2.

⁸ "Eshoo Leads Effort for Transparency of Russian State-Sponsored Television" (May 8th, 2017) <https://eshoo.house.gov/issues/telecommunications/eshoo-leads-effort-for-transparency-of-russian-state-sponsored-television/>; "Eshoo, Pallone, Doyle to FCC: Russia May be Using our Country's Airwaves to Undermine Democracy," (Sept. 18th, 2017) <https://eshoo.house.gov/issues/telecommunications/eshoo-pallone-doyle-to-fcc-russia-may-be-using-our-countrys-airwaves-to-undermine-democracy/>; "Eshoo Calls for FCC Chairman to Investigate RT & Sputnik" (Nov. 16th 2017) <https://eshoo.house.gov/issues/telecommunications/eshoo-calls-for-fcc-chairman-to-investigate-rt-sputnik/>

⁹ Letter from FCC Chairman Ajit Pai to Congresswoman Anna G. Eshoo, dated October 23rd, 2017.

(3) RT is now registered as a foreign agent pursuant to the Foreign Agents Registration Act. What obligations and oversight authority does the FCC have with regard to broadcasters who are leasing U.S. airwaves to foreign agents that are registered with the Department of Justice under FARA? Are RT and any associated broadcasters in compliance?

(4) The DOJ FARA Unit seeks voluntary compliance with the statute, and the DOJ can bring criminal penalties for violation of the FARA. The FCC can revoke broadcast licenses for criminal activity. If the DOJ were to bring criminal penalties against a foreign entity that was leasing time from an American broadcaster, what measure could the FCC take to prevent continued broadcast of that illegal foreign content if the broadcaster did not immediately remove that content? Will you direct the FCC to open an investigation, and personally to see to its prompt conclusion, in the event of any further DOJ action?

(5) Beyond those obligations, what proactive steps will your agency take to monitor broadcast airwaves to ensure that broadcasters leasing to other foreign stations like RT with ties to foreign principals, registered or not, are complying with the sponsorship identification rules? Will you only act if a complaint is brought? *Can* the FCC act regardless of whether or not a complaint is brought, and be more proactive when it comes to foreign entities leasing American airwaves?

We are entering an election year. These issues have been before the FCC for months, without any action. To wait any longer to assess and address threats to the integrity of our democratic institutions is unacceptable.

I believe every American cares about the prospect of any foreign manipulation of our elections. It is an affront to our most fundamental principles and institutions. I look forward to your timely and detailed response to my inquiry, and to the FCC taking appropriate action in the near future.

Sincerely,



Anna G. Eshoo
Member of Congress

cc:

Commissioner Brendan Carr
Commissioner Mignon Clyburn
Commissioner Mike O'Rielly
Commissioner Jessica Rosenworcel



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

April 20, 2018

The Honorable Anna Eshoo
U.S. House of Representatives
241 Cannon House Office Building
Washington, D.C. 20515

Dear Congresswoman Eshoo:

Thank you for your letters concerning Federal Communications Commission (FCC) disclosure requirements for broadcast programming. I understand the importance of ensuring that consumers are aware of the sponsor of paid programming, and I am happy to address below the issues you have raised.

You ask that the Commission investigate FCC licensees to determine whether any may have aired broadcast programming by foreign agents—specifically, programming from RT and Sputnik—without proper sponsorship identification disclosure. You are correct that under our rules, broadcast stations must comply with the Commission's sponsorship identification rules. These rules generally require that when money or other consideration for the airing of program material has been received by or promised to a station, its employees, or others, the station must broadcast full disclosure of that fact at the time of the airing of the material, and identify who provided or promised to provide the consideration.

The Commission has not received any evidence that the stations that carry RT or Sputnik programming are in violation of those rules, beyond the references provided in your letters. (To be sure, the Commission has received a small number of complaints from listeners or viewers objecting to the broadcast of RT and Sputnik programming aired on FCC-licensed stations, but as you know, the First Amendment and the Communications Act generally bar the Commission from interfering with a broadcast licensee's choice of programming.)

Based on the information provided in your letters, I have instructed the Enforcement Bureau staff to contact the broadcast licensees that air RT and/or Sputnik programming to obtain additional information regarding any issue that may be within the FCC's jurisdiction. The Bureau will take the appropriate action depending on the facts that emerge during that inquiry. I would note that, without prejudging anything in the instant situation, violations of the sponsorship identification rules typically result in a forfeiture or fine for the licensee, as opposed to license revocation. Also, I should point out that the provisions of the Communications Act and the Commission's rules pertaining to sponsorship identification apply to broadcast station licensees and cable systems, but not to third-party programming providers.

I understand your request that the Commission take steps to monitor the airwaves for compliance with sponsorship identification rules, but I am unable to commit to doing so due to

resource constraints. Given its limited resources, the FCC historically has relied on a complaint-based system, rather than first-party monitoring, to help us detect potential violations. Dedicating a significant portion of enforcement resources solely to this issue would jeopardize our efforts to enforce our rules in several other areas. I can commit to you that we will review, and investigate as necessary, any complaints that are received on this issue.

Further, strong and recent agency action serves to put the entire broadcast industry on notice with respect to our sponsorship identification rules and our determination to enforce them. As you may be aware, we recently proposed a record fine for significant violations of our rules when paid programming lacked the required on-air disclosures. That decision incentivizes broadcast stations to ensure that all paid programming contains the disclosures required under Commission rules.

Incidentally, these same sponsorship identification rules apply to all broadcast licensees regardless of where the station gets its programming and whether or not the entity providing the content is a foreign agent under the Foreign Agents Registration Act (FARA). This sponsorship identification disclosure requirement applies to broadcast licensees and cable systems, and is distinct from FARA, which requires that registered foreign agents provide specific labels on any informational materials distributed by the foreign agent. The U.S. Department of Justice would be better suited to address how, and if, FARA's labeling requirements currently apply to the broadcast programming distributed by RT and Sputnik, as the FCC does not have separate enforcement authority over FARA requirements.

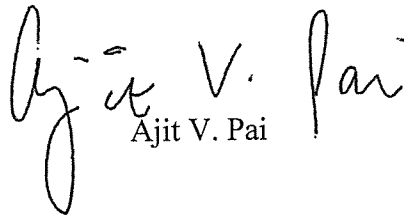
Your letters also raise the issue of whether the Commission's foreign ownership rules need review. Those rules have in fact been reviewed relatively recently; in September 2016, the previous Commission unanimously updated them. Additionally, these rules apply to the ownership and control of broadcast stations, not to the source of programming broadcast by such stations. Thus, it is unclear how such rules would be implicated based on the information currently available.

While the Commission's "secondary market" rules allow certain non-broadcast licensees to lease spectrum to third parties, these rules do not permit broadcast licensees to lease spectrum. In addition, Section 310(d) prohibits the de facto or de jure transfer of control of a broadcast licensee without the Commission's approval. This requires each licensee to retain control over essential station matters, such as personnel, programming, and finances. Although the Commission has authority to forbear from enforcing certain provisions of the Communications Act, this forbearance authority does not extend to broadcast licensees.

Finally, your January 30 letter proposes that the Commission require any foreign agents registered under FARA who seek time on broadcast and cable entities to file publicly with the FCC the same political file information currently required of broadcast and cable entities. However, as with sponsorship identification, the provisions of the Communications Act and the Commission's rules pertaining to political file information apply to broadcast station licensees and cable systems, but not to third-party programming providers.

I hope this has been helpful. Please let me know if I can be of further assistance.

Sincerely,


Ajit V. Pai