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

*Anna G. Eshoo
Eighteenth District
California*

November 15, 2017

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

Dear Chairman Pai,

I have twice written to you this year asking you to take seriously reports that Russian outlets have been and continue to broadcast propaganda over U.S. airwaves, and to take steps at the Federal Communications Commission (FCC) to address this matter. Your responses thus far have dismissed these concerns and failed to answer my questions satisfactorily. That's why I'm writing to you once again to urge you to (a) launch a long-overdue FCC investigation into the licensees that have facilitated the use of American airwaves to broadcast information by foreign agents without proper disclosure, (b) to apply any necessary enforcement actions to the fullest extent of your authority under the law, and (c) to evaluate whether current FCC rules merit an update to avoid future undermining of our communications systems by foreign agents.

The broadcast airwaves are a public trust that carry special obligations to the public and which the FCC oversees. As I noted in my letters on May 3rd and September 18th, it is imperative that the integrity of these communications systems are preserved. It is therefore incumbent upon your agency to investigate an ongoing matter of clear and widespread concern that those airwaves may have been compromised by foreign state-based actors intent on interfering in our democratic processes, and answer questions including but not limited to the following:

- (I) In your July 24, 2017 letter, you noted that under the Commission's sponsorship identification and public file ownership disclosure requirements, if RT or Sputnik compensated a broadcast radio or television station for transmitting RT or Sputnik programming, the sponsorship identification rules would apply and disclosure would be required. However, you did not note whether or not there was such compensation and if there was proper disclosure of any such identification. Were RT and Sputnik indeed doing so and were the broadcast stations in compliance with those disclosure rules at the time?

- (2) For what percentage of airtime were the broadcasters transmitting broadcasts from RT and Sputnik, respectively?
- (3) If the broadcasters were not in compliance under the FCC's foreign state sponsorship rules, what steps is the Commission taking to address those transgressions, including but not limited to the revocation of broadcast reauthorization of the U.S. stations that you describe in sub (4) of your October 23, 2017 response?
- (4) It is increasingly clear that the ability of RT and Sputnik to broadcast over public airwaves without disclosing the true sponsor of this programming had harmful effects on the public interest. Either the broadcaster licensee was in violation of FCC rules and that violation was overlooked, or there are gaps in the rules that have allowed this foreign intervention to occur. In either case, it seems the Commission's foreign ownership rules may deserve a reevaluation. Will the Commission commit to doing so?
- (5) What obligations and oversight authority does the FCC have with regard to oversight of broadcasters who are leasing U.S. airwaves to foreign agents that are registered with, or should have registered with, the Department of Justice under the Foreign Agents Registration Act?

American consumers have a right to know where their information is coming from, and whether the public interest is being compromised over the airwaves designated to serve them. It is the responsibility of the Commission to protect the public interest first, and I hope you will exercise your diligence by looking into these matters to prevent further subversion from taking place.

Sincerely,



Anna C. Eshoo
Member of Congress

cc: The Honorable Mignon Clyburn, Commissioner, Federal Communications
Commission
The Honorable Michael O'Rielly, Commissioner, Federal Communications
Commission
The Honorable Brendan Carr, Commissioner, Federal Communications
Commission
The Honorable Jessica Rosenworcel, Commissioner, Federal Communications
Commission



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

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.

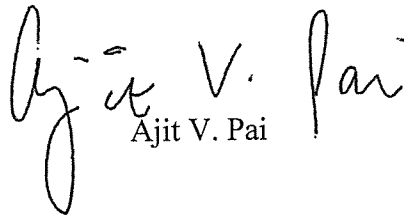
Your letters also raise the issue of whether the Commission's foreign ownership rules need review. Those rules have in fact been reviewed relatively recently; in September 2016, the previous Commission unanimously updated them. Additionally, these rules apply to the ownership and control of broadcast 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