

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

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

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

June 4, 2014

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
Room: 8-B201
445 12th Street, S.W.
Washington, D.C. 20554

Dear Chairman Wheeler:

As part of its oversight of the Federal Communications Commission (FCC), the House Committee on Energy and Commerce has paid particular attention to FCC process and the need for reform. That oversight, reflecting bipartisan concern, is embodied by H.R. 3675, the Federal Communications Commission Process Reform Act, which passed the House on March 11, 2014. Our oversight work also includes previous inquiries into the FCC's backlog.

On December 12, 2013, you informed the Communications and Technology Subcommittee that you were committed to reform of the agency and had instructed your Special Counsel, Diane Cornell, to report on process reform at the FCC. That report was issued on February 14, 2014, and contains a number of reforms that, if implemented, will improve agency transparency, efficiency, and responsiveness. We applaud this commitment to improving the Commission and look forward to working together to improve the FCC's processes.

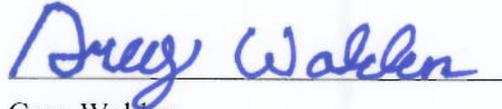
In order to better understand the scope of the Commission's challenge, we respectfully request that the Commission update the committee on current workload, the magnitude of the current backlog of issues pending before the Commission and its bureaus, and efforts to manage current and backlogged work. Consistent with the similar requests to your predecessor, we have attached a series of questions addressing those matters. We respectfully request that you provide a written response no later than close of business June 18, 2014.

If you have any questions, please don't hesitate to contact David Redl or Gene Fullano of the committee staff at (202) 225-2927.

Sincerely,

Letter to Chairman Wheeler

Page 2



Greg Walden
Chairman
Subcommittee on Communications
and Technology



Tim Murphy
Chairman
Subcommittee on Oversight
and Investigations

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Anna G. Eshoo, Ranking Member
Subcommittee on Communications and Technology

The Honorable Diana DeGette, Ranking Member
Subcommittee on Oversight and Investigations

Commissioner Mignon Clyburn

Commissioner Jessica Rosenworcel

Commissioner Ajit Pai

Commissioner Michael O'Rielly

Attachment

Attachment

NOTE: For questions 1-5, please provide data as of close of business on May 1, 2014.

1. To help the Committee better understand the FCC's current workload and backlog, please provide the total number of items currently pending. Please include all petitions, applications, complaints and requests pending before the FCC, including petitions for waiver, petitions for stay, petitions for declaratory ruling, applications for license renewal, applications for transfer of lines, applications for review, requests for review, etc. Please categorize these items by the Bureau primarily responsible for action and the amount of time that has elapsed since each item was filed with the FCC using the following table.

	< 6 mos.	6 mos. – 2 yrs.	2 yrs. – 5 yrs.	> 5 yrs.
Consumer & Gov't (CGB)				
Enforcement Bureau				
International (IB)				
Media (MB)				
Public Safety (PSHSB)				
Wireless (WTB)				
Wireline (WCB)				
OGC				
Other (OET, OSP, etc.)				

2. License applications, and especially renewals, are often a routine process. How many license applications and renewals are currently pending at the Commission? How many license applications or renewals have been pending for six months, two years, and five years? Please provide this data for each of the Commission bureaus and offices.
3. We understand that the Commission receives tens of thousands of complaints from consumers each year. We are interested in how the Commission processes these complaints, and the subject matter of these complaints. Please provide the number of consumer complaints currently pending before the FCC, categorized using the table provided in question 1. How many complaints involve the do-not-call list? How many involve junk faxes? How many involve calls to wireless devices?
4. By definition, a petition for reconsideration or an application for review asks the FCC to reconsider a decision it has already made. As such, the FCC should be able to review and act on such petitions and applications relatively quickly. Moreover, parties often cannot obtain judicial review of an FCC decision while a petition for reconsideration or application for review is pending. Please provide the number of petitions for

- reconsideration and applications for review currently pending before the FCC, categorized based on the docketed bureau or office using the table provided in question 1.
5. How many dockets are currently open at the Commission? How many of these dockets have pending items in them that the Commission has not yet addressed? How many dockets have been inactive for more than six months? Two years? Five years?
 6. We are interested in tracking the Commission's progress on resolving its backlog. Please update the Committee with the information requested in questions 1 through 5 every three months for the remainder of your chairmanship.
 7. In the Fiscal Year 2009 Annual Performance Report detailing the Commission's performance toward fulfilling its strategic goals and meeting its performance commitments, then Chairman Genachowski reported that 97% of the agency's actions were disposed of within the processing goals. Like information for each fiscal year 2010, 2011, 2012, and 2013 does not appear in the Annual Performance reports issued by the Chairman's Office for each of those fiscal years. Identify the speed of disposal metrics for each category or type of action for each Bureau and Office for each fiscal year 2009, 2010, 2011, 2012, 2013, and 2014. For each Bureau and Office, describe the Bureau's or Office's performance in meeting those metrics in each of those fiscal years. For each of those fiscal years provide the percentage of the agency's actions that were disposed of within the processing goals.
 8. In its Fiscal Year 2009 Annual Performance Report, former Chairman Genachowski reported that during FY 2009, the Consumer and Governmental Affairs Bureau (CGB) responded to 100% of the do-not-call complaints and junk fax complaints received by either referring the cases to the Enforcement Bureau or notifying consumers that their complaints could not be referred for enforcement. Identify the number of do-not-call complaints and junk fax complaints referred by CGB to the Enforcement Bureau since October 1, 2008. For each fiscal year 2009, 2010, 2011, 2012, and 2013, provide the number of citations issued by the Enforcement Bureau for violation of the Commission's do-not-call rules. For each fiscal year 2009, 2010, 2011, 2012, and 2013, provide the number of citations issued by the Enforcement Bureau for violation of the Commission's junk fax rules. Provide copies of the annual reports submitted to Congress pursuant to 47 U.S.C. § 227(g).
 9. According to the Commission's February 14, 2014 Report on FCC Process, CGB has had the authority since 2011 to close dormant items in a "summary fashion." As explained, CGB sends out a list of all long pending items and the list is reviewed by the Bureaus and Offices to determine if any dockets can be closed. Identify the number and type of items that have been closed under this authority for each Bureau and Office.
 10. The FCC employs a variety of shot clocks to keep track of its own performance in resolving petitions before it. One well known example is the 180-day shot clock for merger review. See 47 C.F.R. § 63.03(c)(2). We are interested in the shot clocks the FCC has established for itself, and how well the FCC has done in meeting those shot clocks. Please list all shot clocks codified in the FCC's rules. For each shot clock, please include:

- (a) the citation in your rules,
 - (b) the type of item qualifying for the shot clock,
 - (c) the length of the shot clock,
 - (d) when the shot clock begins (e.g., upon filing),
 - (e) the number of items resolved since July 5, 2011, within the shot-clock period, and
 - (f) the number of items resolved since July 5, 2011, outside the shot-clock period.
11. Congress has established deadlines for the Commission to act on certain petitions and complaints. Please list any statutory deadlines the Commission has missed since July 1, 2011 including a citation of the statutory deadline, the date of the deadline, and the date the Commission acted. If any such actions are currently overdue, please provide the expected date of compliance and an explanation for the delay.
12. Identify the reports the Commission is required to submit to Congress. Congress has established deadlines for the Commission to file such reports. Please list any statutory deadlines the Commission has missed since July 5, 2011 including a citation of the statutory deadline, the date of the deadline, and the date the Commission filed the report. If any such reports are currently overdue, please provide the expected date of compliance with the requirement and an explanation for the delay.
13. For each year 2009, 2010, 2011, 2012, and 2013, identify for each Division of the Enforcement Bureau and Field Offices:
- a. The number of investigations open as of January 1st of that year and type of investigation, *e.g.*, do-not-call violation, tower lighting, interference, universal service contributions.
 - b. The number of investigations opened during that year and type of investigation.
 - c. The number of investigations and type closed during that year with no enforcement action taken and reason closed, *e.g.*, no violation found, tolling of statute of limitations.
 - d. The number of investigations and type closed and reopened with different case numbers during that year and reason for such action.
 - e. The number of investigations and type closed during that year with enforcement action taken and the type of enforcement action taken, *e.g.*, admonishment and warning, citation, consent decree, debarment, proposed forfeiture, equipment seizure.
14. Please list each Notice of Inquiry, Notice of Proposed Rulemaking, and Report and Order the Commission has initiated during your chairmanship. For each listed item, please include:
- (a) the date it was adopted,
 - (b) the date it was released,
 - (c) the date it was published in the Federal Register,
 - (d) if an NPRM, the NOI initiating the proceeding (if any) and the date the NOI was adopted,

(e) if a Report and Order, the NPRM proposing the adopted rules and the date the NPRM was adopted, and if an NOI or NPRM, the length of the comment period.

15. Please list each Notice of Inquiry, Notice of Proposed Rulemaking, and Report and Order the Commission has adopted during your chairmanship. For each listed item, please include:

- (a) the date it was adopted,
- (b) the date it was released,
- (c) the date it was published in the Federal Register,
- (d) if an NPRM, the NOI initiating the proceeding (if any) and the date the NOI was adopted,
- (e) if a Report and Order, the NPRM proposing the adopted rules and the date the NPRM was adopted, and
- (f) if an NOI or NPRM, the length of the comment period.

16. Please list each Notice of Inquiry, Notice of Proposed Rulemaking, and Report and Order pending on November 4, 2013. For each listed item, please include:

- (a) the date it was adopted,
- (b) the date it was released,
- (c) the date it was published in the Federal Register,
- (d) if an NPRM, the NOI initiating the proceeding (if any) and the date the NOI was adopted,
- (e) if a Report and Order, the NPRM proposing the adopted rules and the date the NPRM was adopted, and
- (f) if an NOI or NPRM, the length of the comment period.