

Congress of the United States
Washington, DC 20515

June 16, 2014

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

Dear Chairman Wheeler:

Cybersecurity and the protection of U.S. telecommunications networks are critical to our national security. We write to you today because, while there is much debate over the approach and direction the federal government should take to protect public and private networks, there is one principle upon which we collectively and wholeheartedly agree: increased regulation is unlikely to alleviate cyber threats or enhance providers' ability to respond to them in real-time.

In a December appearance before the Subcommittee on Communications and Technology, you testified that you believed a collaborative, multistakeholder approach to cybersecurity was preferable to a regulatory approach. However, statements by you and senior Commission staff suggested otherwise, and lead us to be concerned that the Commission may be preparing to implement a new regulatory scheme that would significantly impact Internet service providers and other web services. For example, in an April speech to the National Emergency Number Association, Public Safety and Homeland Security Bureau Chief Simpson said that the Commission is "bringing additional accountability to the network ... to help ensure standards for reliability and resiliency are achieved, standing reach to survive ... cyber attacks." In subsequent public statements you explained that "We're intending this to be a new regulatory paradigm, and we're giving you the opportunity to write it."

While your most recent speech to the American Enterprise Institute appears to indicate that you will rely on industry and the market first, our concerns remain. We believe that prescriptive regulations are not necessary, a view that Michael Daniel, Special Assistant to the President and Cybersecurity Coordinator shares, and even well-meaning regulation cannot keep pace with evolving cybersecurity threats. We caution you to resist the temptation of regulation and the potential negative impact on private sector cyber risk management and their ability to mitigate threats in real-time.

We also question why the FCC's Fiscal Year 2015 budget requested a substantial funding increase for cybersecurity activities, including funding for "Big Data Cybersecurity Analytics and a Cybersecurity Metrics" program. While we support efforts to ensure that the Commission's internal systems are secure from cyber-attack, these initiatives appear to be outward, or industry, facing.

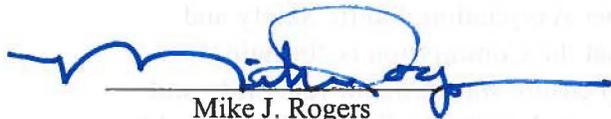
As Members of Congress with jurisdiction over the FCC and Federal telecommunications laws, we seek answers to the following questions:

- Upon what basis have you concluded that companies subject to the FCC’s jurisdiction are not adequately protecting their networks from cyber attacks?
- What are the “other options” you are referring to when you state that you “will rely on industry and the market first while preserving other options if that approach is unsuccessful.”
- What would constitute a lack of success by the industry and the market that would trigger your pursuit of these “other options” ?
- How would prescriptive regulations enhance cybersecurity and encourage companies to create innovative cybersecurity strategies?
- Do you believe the FCC has statutory authority to impose regulation related to cybersecurity practices? If so, what specific statutory provisions provide the FCC with such authority? Please explain.

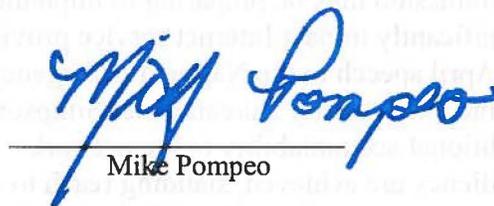
Mr. Chairman, there is no question regarding the urgency of addressing the increasingly damaging threat of cyber attacks. Nonetheless, we are equally steadfast in our belief that it would be premature to impose prescriptive regulations on the communications sector, and that the FCC must act only within its existing statutory authority and to come to Congress should it have additional desires that extend beyond existing authority.

We appreciate your shared interest in protecting our networks from cyber threats, and we look forward to your answers to our outstanding questions.

Sincerely,



Mike J. Rogers



Mike Pompeo