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STATEMENT OF FCC COMMISSIONER AJIT PAI ON NEW EVIDENCE THAT PRESIDENT OBAMA'S PLAN TO REGULATE THE INTERNET HARMS SMALL BUSINESSES AND RURAL BROADBAND DEPLOYMENT

When it comes to broadband, American consumers want greater competition, faster speeds, more deployment, and lower prices. But the FCC's decision two months ago to adopt President Obama's plan to regulate the Internet is already having precisely the opposite effect.

As I predicted in my dissent from the FCC's Order, "Today there are thousands of smaller Internet service providers—wireless Internet service providers (WISPs), small-town cable operators, municipal broadband providers, electric cooperatives, and others—that don't have the means or the margins to withstand a regulatory onslaught. . . . Smaller, rural competitors will be disproportionately affected, and the FCC's decision will diminish competition—the best guarantor of consumer welfare."

Just last week, many small broadband operators declared under penalty of perjury that this is in fact the case—that they are cutting back on investments because of the FCC's decision.

- KWISP Internet serves 475 customers in rural northern Illinois. As a result of the regulatory uncertainty and costs created by the FCC's decision, KWISP plans to delay network upgrades that would have upgraded customers from 3 Mbps to 20 Mbps service, new tower construction that would have brought service to unserved areas, and capacity upgrades that would reduce congestion for existing customers—not to mention the jobs needed to make all of that happen. KWISP worries that even a frivolous lawsuit brought under the *Order* could force ownership to "close the business."
- Wisper ISP Inc. is an 11-year-old ISP that serves 8,000 customers around St. Louis, Missouri. Wisper estimates that compliance costs will constitute 10% of its operating revenue. As a result, it has already cut investment, resulting in "slower broadband speeds, less dense coverage, and absence of expansion into new areas." For example, prior to the FCC's decision. Wisper was planning to triple the number of new base stations it would deploy each month in order to provide broadband to customers in new areas. But as a result of the *Order*, Wisper has put those plans on hold.
- SCS Broadband serves 800 customers in rural Virginia. SCS Broadband has already stopped investing in new rural areas because of the FCC's decision, and it won't resume until it can "determine if the additional cost in legal fees warrant such investments." And investors have already told SCS Broadband that "projects that were viable investments under the regime that existed before the Order will no longer provide the necessary returns to justify the investment."

¹ Protecting and Promoting the Open Internet, GN Docket No. 14-28, Report and Order on Remand, Declaratory Ruling, and Order, FCC 15-24, at 330 (rel. Mar. 12, 2015) (Dissenting Statement of Commissioner Ajit Pai).

- Joink LLC serves 2,500 customers in and around Terre Haute, Indiana. Although Joink was exploring a fiber-to-the-home project in its community, newfound regulatory uncertainty "will cause us to slow this investment, or not make it at all"—and so, consumers "will be left with slower broadband speeds." Joink also worries that "those with deeper pockets can use broadly applied subjective standards to drag entities such as Joink into litigation or to force us to forego profitable business practices that can benefit our customers to avoid potentially crippling litigation expenses."
- Aristotle Inc. serves nearly 800 customers in and around Little Rock, Arkansas. Aristotle has been committed to serving the unserved, and 60% of its customers wouldn't have any broadband option at all but for Aristotle's past investments. Because of the regulatory uncertainty created by the *Order*, Aristotle has dialed back its plans to "triple" its customer base and "expand our service into unserved areas of rural Arkansas." At this time, Aristotle plans to target just "three smaller communities that abut our existing network."
- Washington Broadband, Inc. serves 1,400 customers in Yakima County, Washington.
 Washington Broadband "has aggressively constructed new towers that cover small areas based on a return on investment model of light density return," but the *Order* has forced Washington Broadband to give up that business model. Instead, it "has decided to scale back expansion to new, unserved or underserved areas and focus on more urban/suburban areas."

These examples shouldn't surprise anyone. After all, the President's own Small Business Administration warned the FCC last year that its proposed rules would unduly burden small businesses. And yet the FCC decided to treat each and every small, scrappy broadband provider as if it were an anticompetitive industrial giant.

The FCC still has a chance to heed these calls and stay the effect of President Obama's plan to regulate the Internet. But I doubt this will happen. That's because moving forward with this plan isn't about logic, the law, or marketplace facts. It's about fulfilling a political imperative.