Ajit Pai’s rosy broadband deployment claim may be based on gigantic error

Enlarge / FCC Chairman Ajit Pai with his oversized coffee mug in November 2017.

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Ajit Pai’s latest claim that his deregulatory policies have increased broadband deployment may be based in part on a gigantic error.

Pai’s claim was questionable from the beginning, as we detailed last month. The Federal Communications Commission data cited by Chairman Pai merely showed that deployment continued at about the same rate seen during the Obama administration. Despite that, Pai claimed that new broadband deployed in 2017 was made possible by the FCC “removing barriers to infrastructure investment.”

But even the modest gains cited by Pai rely partly on the implausible claims of one ISP that apparently submitted false broadband coverage data to the FCC, advocacy group Free Press told the FCC in a filing this week.

The FCC data is based on Form 477 filings made by ISPs from around the country. A new Form 477 filer called Barrier Communications Corporation, doing business as BarrierFree, suddenly “claimed deployment of fiber-to-the-home and fixed

wireless services (each at downstream/upstream speeds of 940mbps/880mbps) to census blocks containing nearly 62 million persons," Free Press Research Director Derek Turner wrote.

"This claimed level of deployment stood out to us for numerous reasons, including the impossibility of a new entrant going from serving zero census blocks as of June 30, 2017, to serving nearly 1.5 million blocks containing nearly 20 percent of the US population in just six months time," Turner wrote. "We further examined the underlying Form 477 data and discovered that BarrierFree appears to have simply submitted as its coverage area a list of every single census block in each of eight states in which it claimed service: CT, DC, MD, NJ, NY, PA, RI, and VA."

In reality, BarrierFree's website doesn't market any fiber-to-the-home service, and it advertises wireless home Internet speeds of up to just 25mbps, Free Press noted.

Free Press speculates that BarrierFree ignored FCC instructions to report service only in census blocks in which an ISP currently offers service and instead simply "listed every single census block located in eight of the states in which it's registered as a CLEC [competitive local exchange carrier]."

FCC data skewed by mistake

BarrierFree's claimed level of deployment was so large that it skewed the FCC's overall data significantly, Free Press wrote.

Pai claimed that the number of Americans lacking access to fixed broadband with speeds of at least 25Mbps down and 3Mbps up "has dropped by over 25 percent, from 26.1 million Americans at the end of 2016 to 19.4 million at the end of 2017."

With BarrierFree's erroneous filing removed, "the number of

Americans lacking access to a fixed broadband connection at the 25Mbps/3Mbps threshold declined to 21.3 million, not 19.4 million," Free Press wrote.

Pai also claimed that 5.6 million rural Americans gained access to 25Mbps/3Mbps broadband. But "BarrierFree's erroneous reporting is responsible for 2 million of the supposed 5.6 million newly served rural persons highlighted in the chairman's press release," Free Press wrote.

So far, Pai has made his claims public only in his press release. His full Broadband Deployment Report won't be released until after the commission votes on it, making it impossible to fully vet his claims.

However, Free Press' analysis of FCC data showed that Pai likely did not remove BarrierFree's erroneous data when calculating nationwide coverage rates, Turner told Ars. Free Press' analysis of deployment data for 2016 matched the FCC's, he said. Free Press' analysis of deployment data for 2017, when including BarrierFree's claimed deployment, also matched the FCC's deployment claims for that year. The Free Press and FCC numbers only diverged when Free Press removed BarrierFree's deployment from the 2017 data, he said.

Democrat urges Pai to dig into data

We contacted Pai's office and BarrierFree about the apparent errors yesterday and will update this story if we get any response.

UPDATE: BarrierFree Chief Operating Officer Jim Gerbig responded to Ars and acknowledged that the company made a mistake in its filing. "There is indeed an error in the Form 477 filings for BarrierFree, and it doesn't reflect our current level of broadband deployment," Gerbig told Ars. "A portion of the submission was parsed incorrectly in the upload process. With the government shutdown in January, we were

unable to submit revised documents before the full report went live… We are working with the FCC to improve our 477 data for the December 2017 filing, and expect to have it resolved soon."

Gerbig said BarrierFree offers fixed wireless service "in portions of the Northeast corridor," particularly New York State, and aims to inject "healthy competition" into the broadband market.

The FCC's Democratic commissioners are concerned about the accuracy of Pai's data.

"Free Press's allegations are troubling," FCC Commissioner Geoffrey Starks said in a statement to Ars. "The FCC's maps are frequently criticized for being inaccurate and overstating broadband coverage… I am digging in to the data underlying Free Press's filing and I hope the chairman does as well. Without getting to the bottom of this, the FCC should not proceed with its current draft broadband report.

"It is the FCC's job to have accurate data and to make available maps based on it," Starks continued. "Without performing that basic function, we are woefully unprepared to make a number of critical policy decisions that will impact the future of our communications infrastructure. I disagree with the rosy picture that the chairman painted when he described the commission's draft broadband report last month, and news like this just makes matters worse."

FCC Commissioner Jessica Rosenworcel last month disagreed with Pai's claim that US broadband deployment is proceeding on a reasonable and timely basis.

Rosenworcel's chief of staff, Travis Litman, told Ars today that Free Press' filing "raises serious questions about a draft report whose conclusion is already deeply troubling."

Pai took “unearned credit for deployment”

The annual report stems from Section 706 of the Telecommunications Act of 1996, in which Congress required the FCC to encourage broadband deployment to all Americans and to make a regular determination of “whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.”

If the FCC finds that broadband isn’t being deployed quickly enough, it has to “take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment and by promoting competition in the telecommunications market,” the law says.

While the Obama-era FCC routinely concluded that deployment wasn’t happening fast enough, Pai has determined the opposite two years in a row. Pai has repeatedly claimed that repealing net neutrality rules and other consumer protections boosted broadband deployment.

Free Press urged the FCC to delay release of its annual report until the data is corrected, and it chided Pai for “taking unearned credit for broadband deployment trends that began long before his tenure.” Besides the errors described in this article, Pai has also taken credit for deployments that began during the Obama administration and that in some cases were directly funded or mandated by the Obama-era FCC.

Turner’s filing concluded:

> *[F]ixed broadband deployment improvements have been remarkably consistent in recent years. Other than a portion of the rural deployments under the Connect America Fund, and those required by an older merger condition [on AT&T’s 2015 purchase of DirecTV], it is questionable whether commission policy during Chairman Pai’s tenure has had any impact on*

broadband deployment. Indeed, despite a once-in-a-generation corporate tax cut, capital spending was down in 2018 at many major ISPs.

This reality is yet one more affirmation that year-to-year changes in carriers' capital spending plans are largely a function of what infrastructures they've already deployed, where they are individually in the technology cycle, and the level of competition they face. The notion that Chairman Pai's actions moved these deployment numbers in any way is wholly unsupported by the evidence, and such grandstanding does not belong in commission reports to Congress.

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