How the FCC solves consumer problems—well, it doesn’t, really

Enlarge / FCC Chairman Ajit Pai.

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The Federal Communications Commission’s extremely hands-off approach to broadband-customer complaints has alarmed a member of Congress.

US Rep. Mike Quigley (D-Ill.) wrote a letter to FCC Chairman Ajit Pai in August after learning of a Frontier customer who was forced to pay a $10-per-month rental fee for a router despite buying his own router.

As we wrote at the time, Frontier charges customers a $10 monthly fee for routers even when the company doesn’t provide one at all, saying that non-Frontier routers cause “increased complaints and more difficulty with troubleshooting.” But Frontier *also* said it “cannot support or repair the non-Frontier equipment,” so it’s charging $10 a month without providing a router or providing support for non-Frontier routers.

The case we wrote about was particularly egregious, because the customer was using a FiOS router he had purchased from Verizon before Verizon sold its network in Texas to Frontier. The router was specifically designed to work with Frontier’s

FiOS service and the customer owned it outright, but he still had to pay an extra $10 a month.

The customer, Rich Son, filed a complaint to the FCC. Frontier responded by insisting that it must continue charging the fee, and the FCC then told Son that “We believe your provider has responded to your concerns.”

So what does complaining to the FCC actually accomplish, especially after the FCC’s December 2017 vote to deregulate the broadband industry in its “Restoring Internet Freedom” order? That’s what Rep. Quigley wanted to find out. After hearing the FCC’s response to his questions, the lawmaker was disappointed and told Ars that Pai has “abdicated” his responsibility over broadband.

What does the FCC do?

Quigley is one of numerous Democrats who have expressed concern about the FCC giving up its Title II authority to regulate broadband. Pai has repeatedly passed the buck to the Federal Trade Commission on enforcement, but the FTC has to regulate many industries, leaving it little time for broadband. Pai leads what is supposed to be the government’s top agency for telecom regulation, but he has done little to help consumers in billing disputes that are specific to telecom services.

“Frontier’s justifications are difficult to follow,” Quigley wrote in his letter to Pai. “Routers are common equipment, and millions of Americans use their own devices to access broadband and television communications services. Ample troubleshooting resources exist online. I find it difficult to see how this fee serves as anything other than a way for Frontier to disguise the true cost of its service to customers.”

Frontier’s policy also “undercuts long-standing, hard-fought

precedent that consumers should be able to use their own devices with communications networks," and "reveals just how harmful the Commission's Restoring Internet Freedom order has been to Americans," he wrote.

Quigley's letter went on ask a series of questions about whether the FCC still has jurisdiction over broadband-and-cable-TV billing disputes and how it handles customer complaints. It said, in part:

> *How many complaints has the FCC received about broadband equipment rental fees in the past year? Has it conducted an analysis of any of these complaints? If so, what did the FCC find? If not, why not? How did the FCC respond to these complaints? Does the FCC plan to make a substantive response to these types of complaints?*

Quigley also noted that the FCC pledged to work closely with the FTC on consumer complaints in a December 2017 Memorandum of Understanding in which the agencies said they would discuss potential investigations, coordinate investigatory activities, and share consumer complaints. Given that, Quigley asked Pai how many complaints his agency has referred to the FTC, whether the FCC monitors the progress of those complaints, and whether the FCC has assisted the FTC in any investigations into broadband-billing practices.

Pai's response

It turns out that the FCC hasn't proactively forwarded any broadband-billing complaints to the FTC despite the agencies' working agreement. But Pai's initial response to Quigley didn't reveal that tidbit.

Pai's response letter told Quigley that consumers filed 450 informal complaints about broadband-equipment rental fees in the past year and that "nearly all" of them were "served on

the relevant provider for a response."

Pai's letter also said that complaints about "unfair or deceptive billing practices by Internet service providers have been referred to the FTC." What isn't clear from that statement is how many complaints were forwarded to the FTC and under what circumstances the FCC decides to forward them. Pai also told Quigley that the FCC doesn't have any information about what happened to those complaints after they were sent to the FTC.

After the exchange of letters, Quigley's staff followed up with the FCC to find out how the agency decides whether to forward complaints to the FTC. The answer from FCC staff was that it hasn't forwarded any billing complaints to the FTC without being asked to do so first, Quigley's staff told Ars. The FCC apparently only forwarded complaints to the FTC when the FTC asked for a set of complaints about particular companies.

"At no point has the FCC actually sent, of their own volition, a single complaint to FTC for enforcement," a Quigley senior staff member told Ars. "So essentially what the FCC is saying is, 'If you complain to us, we have to send a letter [to your ISP] that recognizes that we got a complaint within 30 days. And if we do that, that's the extent of our responsibility.' Now, the second part of that is, [the FCC says that] 'If we think it's a really big deal and should rise to the level of enforcement, we'll send it to the FTC.' But [the FCC has] never done that."

The FCC told Quigley's office that, since the Restoring Internet Freedom order, it has referred 4,228 broadband-billing complaints to the FTC but that all of those were specifically requested by the FTC. The FTC asked for those complaints in one case "related to an AT&T unauthorized cellular data plan" and in another "related to a Frontier Internet speed issue," the Quigley staff member told Ars.

Committee staff was “floored” by response

We contacted Pai’s office yesterday morning to confirm this and haven’t gotten a response. We contacted the FTC about the investigations into AT&T and Frontier today, and a spokesperson told us the FTC doesn’t comment on whether it is investigating any particular company or practice.

“Somehow, the FCC has not received a single complaint that they think requires enforcement action or any followup whatsoever, beyond the recognition that they received this complaint,” the Quigley staff member told Ars. “When our committee staff heard about this, they were floored. This is certainly not what the FCC initially implied when they responded to our inquiry, and it’s pretty alarming.”

Quigley, who is chairman of the Financial Services and General Government (FSGG) subcommittee, sent Ars the following statement:

> *As the agency with the most expertise in communications, the FCC should ensure the American people don’t fall victim to abusive business practices. Instead, Chairman Pai has abdicated responsibility over broadband services entirely to another agency. I am deeply dismayed that the FCC seems to have washed its hands of consumer protection in this area and has simultaneously fallen woefully short of providing Americans with their knowledge and expertise. As Chairman of the FSGG subcommittee, I am committed to ensuring that agencies like the FCC prioritize people over corporate profit and live up to the expectations of Congress and the American people.*

Quigley is busy with Trump impeachment proceedings right now because he also serves on the House Intelligence Committee, but his staff told us that he’ll take action on the FCC matter

later. That will likely include more extensive questioning of Pai at future FCC budget hearings and possibly legislation.

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