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ONE HUNDRED ELEVENTH CONGRESS

# Congress of the United States

## House of Representatives

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November 13, 2009

The Honorable Gregory B. Craig  
Counsel to the President  
The White House  
Washington, DC 20500

Dear Mr. Craig,

Recent media reports have raised concerns that the development of Net Neutrality regulations at the Federal Communications Commission (FCC) may have been inappropriately influenced by White House involvement in the proposed rulemaking. Specifically, questions have been raised regarding the circumstances surrounding the rulemaking and potential violations of the *ex parte* rules.

As an independent government body, the FCC has restrictions and disclosure requirements for off-the-record communications to protect its ability to make decisions in an impartial and open environment. In an effort to "ensure the fairness and integrity of its decision-making,"<sup>1</sup> the FCC implemented the *ex parte* rules. The rules outline restrictions on *ex parte* presentations to FCC decision-makers in three types of proceedings- restricted, permit-but-disclose, and exempt. Under any type of proceeding, presentations from an "agency or branch of the Federal Government or its staff"<sup>2</sup> that seek to alter or influence the ultimate decision are prohibited without public disclosure.

As you well know, a senior White House technology advisor and staunch advocate for Net Neutrality, Susan Crawford, recently resigned her post, citing a need to return to her teaching position at the University of Michigan. Ms. Crawford joined the Obama Administration during the transition to assist in overseeing the Administration's review of the FCC and was "credited with putting in place the general policy overlays...that guided many of the Administration's hiring and appointments to the [FCC]..."<sup>3</sup> In the wake of her recent resignation, reports surfaced that Ms. Crawford may

<sup>1</sup> FCC Ex Parte Rule, 47 C.F.R. §1.1200.

<sup>2</sup> FCC Ex Parte Rule, 47 C.F.R. §1.1204.

<sup>3</sup> The Prowler, *Showdown Alarms*, American Spectator, Nov. 2, 2009, <http://spectator.org/archives/2009/11/02/for-petes-sake>

have fallen out of favor with senior White House officials. Reportedly, according to White House sources:

[S]enior Obama officials were unaware of how radical the draft Net Neutrality regulations were when they were initially circulated to Obama administration officials several weeks ago.... In the end, the proposed regulations were only slightly moderated from the original language FCC Chairman Julius Genachowski, a Crawford ally, circulated.<sup>4</sup>

These comments suggest that Obama Administration officials had knowledge of and potentially contributed to crafting of these proposed regulations. As you know, any undisclosed involvement by White House staff in the development of these proposed regulations would be in violation of the *ex parte* rules.

Additionally, on September 21, 2009, President Obama and FCC Chairman Julius Genachowski separately, but nearly simultaneously, announced Chairman Genachowski's intention to circulate proposed regulations on preserving an open internet. Alone, the timing of this announcement went unnoticed but in light of the recent media reports, questions have arisen surrounding the White House's involvement and influence in crafting the proposed regulations. Any undisclosed or private participation by the White House in the development of the proposed regulations would be a violation of the *ex parte* rules and a serious breach of the independent proceedings of the FCC.

So the Committee can better understand the circumstances surrounding the White House's involvement in the development of the proposed Net Neutrality regulations, I request answers to each of the following questions.

1. Did White House economic advisor Lawrence Summers have any communications with FCC personnel regarding the proposed rulemaking? If so, please identify these communications and produce all documents or records related to those communications.
2. Identify all communications between Susan Crawford and FCC personnel and produce all documents or records related to those communications.
3. Identify any additional White House personnel who had communications with the FCC staff and produce all documents or records related to those communications, including a description of the individual staff and their responsibilities.
4. If any White House staff communicated with FCC personnel regarding the September 21, 2009 speech, with whom did they communicate and what was the nature of the communication? Please provide all documents relating to

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<sup>4</sup> *Id.*

The Honorable Gregory B. Craig

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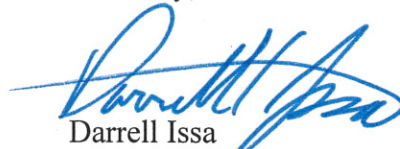
discussions with Commission personnel relevant to the September 21, 2009 speech.

5. When were the proposed regulations first circulated to the White House? How were they circulated? If White House personnel worked with FCC staff to circulate the draft regulations, with whom did they communicate and what was the nature of the communication?
6. What was Susan Crawford's level of involvement in recommending changes nominees and appointments at the FCC, including the nomination of Julius Genachowski for Chairman of the FCC?

By November 24, 2009, please provide your written responses and all requested records, emails and other documents relevant to these questions and relevant to the White House's involvement in the development of the proposed Net Neutrality regulations. In your written response, please certify that you have fully complied with this information and document request.

Thank you for your cooperation in this matter. If you have any questions regarding this request, please contact John Ohly or Steve Castor of the Committee staff at (202) 225-5074.

Sincerely,



Darrell Issa  
Ranking Member

cc: The Honorable Edolphus Towns, Chairman