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Tom Wheeler, chairman of the Federal Communications Commission, buckled to White House pressure in deciding to regulate broadband Internet service as a public utility in last year's "net neutrality" rules, a new report from Republicans on a key Senate panel asserts.

The report concludes the FCC's actions were largely driven by a Nov. 10, 2014, public statement from President Barack Obama urging the agency to reclassify broadband as a common carrier and implement the strongest possible net neutrality rules—the principle that Internet service providers treat all content equally.

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There is no prohibition on the president lobbying the FCC for a certain policy outcome, though the agency technically is independent. Since the FCC unveiled its net neutrality rules, Mr. Wheeler has said the FCC didn't bow to pressure from the White House.

A year-long investigation by the Republican staff of the Senate Committee on Homeland Security and Government Affairs concludes differently. "From the timeline presented in this report, a reasonable person could conclude that the FCC would not have ultimately chosen a Title II reclassification [of broadband providers as common carriers] but for the president's support," the report states.

FCC spokeswoman Kim Hart said via email that "it's no secret that four million Americans, including the president, urged the FCC to protect a free and open Internet. The FCC ran a

transparent and robust rule-making process, which resulted in strong rules to ensure the Internet remains a platform for innovation, expression and economic growth."

The committee's chairman, Sen. Ron Johnson (R., Wis.), initiated the inquiry last February shortly after The Wall Street Journal reported on the behind-the-scenes White House activities that led up to the president's statement.

Mr. Wheeler, a former lobbyist for the cable and wireless industries, has repeatedly denied the White House overly influenced the final rules. He referred to the February 2015 vote to reclassify broadband and impose strong net neutrality rules as “the proudest day of my public policy life.” Net neutrality has become a flashpoint among online activists, Web entrepreneurs and broadband providers. Supporters argue that allowing broadband providers to speed up or slow down access to certain websites or apps would turn them into gatekeepers for the Internet. Opponents say the FCC’s rules are heavy-handed and stifle investment in upgrading broadband networks.

Mr. Wheeler had been pushing as late as November 2014 for a hybrid approach that didn’t go as far as the final rules did. But that proposal met with a strong backlash from net neutrality supporters. On Nov. 6, 2014, Jeffrey Zients, director of the White House’s National Economic Council, met with Mr. Wheeler and disclosed that the president would publicly call on the FCC to implement the strongest possible net neutrality rules the following Monday.

Mr. Wheeler and his senior advisers decided to hit pause, even as FCC staff attorneys were planning to work through the weekend on hybrid rules in hopes of finishing in time for a December vote. Emails show FCC staff viewed the president’s statement as the likely cause of the pause. “This might explain our delay,” FCC attorney adviser Kristine Fargotstein wrote to a colleague about the president’s announcement, in an email quoted in the Senate report. When reached for comment, Ms. Fargotstein referred a reporter to Ms. Hart.

In a briefing with the Senate committee’s staff, FCC officials confirmed that there was a pause of a few weeks after Mr. Wheeler’s meeting with Mr. Zients. After the pause, Mr. Wheeler instructed FCC staff to follow the path of reclassifying broadband as a common carrier under Title II of the Communications Act, as laid out by the president.

The Senate committee’s Democrats declined to sign onto the Republican report, suggesting they disagree with the finding of improper White House pressure. They haven’t issued a statement or report of their own, but net neutrality supporters argue that it is hardly unusual for an agency like the FCC to take cues from the president’s public comments.

The net neutrality rules face a legal challenge from broadband providers in the U.S. Circuit Court of Appeals for the District of Columbia. The same court threw out the FCC’s last two attempts to enforce net neutrality, in 2010 and 2014.

The report notes that FCC staff cited several legal issues that could be raised regarding the new, stronger rules. They suggested the record was light on these topics, which could make the rules susceptible to a court challenge. A draft of a public notice on the rules dated Nov. 17, 2014, outlined nine areas of concern, and FCC officials made it clear internally they believed it would be necessary to solicit additional comments to beef up the public record.

Instead, the FCC chose to meet privately with advocacy groups and activists who mostly supported strong net neutrality rules. Ms. Hart, the FCC spokeswoman, emailed General Counsel Jon Sallet and Mr. Wheeler’s chief of staff, Ruth Milkman, saying that the FCC needed to better explain why more public comments were unnecessary, according to the Senate report. “Need more on why we no longer think record is thin in some places,” Ms. Hart wrote in an internal document aimed at responding to media inquiries on Nov. 21, 2014. Mr. Sallet asked Ms. Hart to point to the recent meetings, and said they “should consider whether some [larger] group meetings would be helpful.”

The Senate report says Mr. Wheeler regularly spoke with the White House regarding net neutrality and other topics but that those meetings were never added to the formal record. It says the FCC withheld certain crucial documents from the committee, including draft versions of its net neutrality rules, and instead chose to brief committee staff orally.

Mr. Wheeler hinted that the president's statement had some influence on his net neutrality rules later in 2014 at the Federal Communications Bar Association's "Chairman Dinner," also known as "telecom prom." Mr. Wheeler joked that both his hybrid and final net neutrality proposals were largely attributed to someone else. "I would like to thank Mozilla Foundation [overseer of the Firefox Web browser] for the first draft of my remarks tonight, and President Obama for his edits," Mr. Wheeler said. – *Wall Street Journal*

The Federal Communications Commission is investigating language in the contracts between pay-TV companies and programmers that hinders the latter from running content online, as the agency considers a mega-merger that could set a new standard for the industry.

The FCC has been speaking with big media firms like Disney, 21st Century Fox and HBO owner Time Warner to discuss clauses in their contracts with cable and satellite carriers that restrict them from peddling programming to Internet providers at the same time, the Wall Street Journal reported, citing industry insiders.

In many cases, the contracts cut the price pay-TV providers must fork over if the programs are also available online, the report added. The questioning comes as the regulator evaluates a proposed merger between two of the country's biggest cable providers, Charter and Time Warner.

As it did with the Comcast takeover of NBCUniversal in 2011, the FCC is widely expected to set conditions on Time Warner and Charter's union if it approves the merger, some of which would limit these clauses. Several programmers have launched dedicated Internet-based services, such as HBO's Now and CBS' All Access apps, but the report suggest that, despite major longstanding technological innovations, television has been slow to migrate online.

Time Warner Cable, 21st Century Fox and Time Warner declined to comment. Disney and Charter did not immediately respond to TheWrap's messages seeking comment. – *TheWrap*



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