

# Ajit Pai



*I first interviewed this brilliant member of the Federal Communications Commission for the April 2015 Limbaugh Letter. This past January, President Trump elevated him to FCC Chairman, and I wanted to catch up with his plans to unleash the power of the free market — and to right a lot of the wrongs imposed under Obama:*

**RUSH:** Chairman Pai, welcome back, sir.

**PAI:** Rush, good to speak with you.

**RUSH:** Congratulations on becoming the Chairman!

**PAI:** Thanks very much. Pigs have flown, locusts are flying around in the sky. [Laughs] It's definitely an incredible experience.

**RUSH:** You were just appointed for another five years?

**PAI:** Yes, President Trump nominated me formally for another five-year term, and now it's up to the Senate to reconfirm me by the end

of the year, which is when I would otherwise have to leave the Commission.

**RUSH:** And we don't expect any holdups there. You'll probably sail through.

**PAI:** From your lips to God's ears, I hope so. We're in a pretty challenging political environment as you know. But I'm hopeful. I've tried to work well with both sides of the aisle, and hopefully that bears some fruit in the confirmation process.

**RUSH:** Well, congratulations. It appears from press reports that you've come out of the gate just running, to implement more free-market concepts in what the Commission does. Two years ago, we talked a lot about "net neutrality." I want to open with that again, since you are going to try to roll it back. I know it was implemented by your predecessor, Mr. Wheeler. Has it been fully implemented, and how do you withdraw it or repeal it? What's the process?

**PAI:** Good question. The rules were adopted by the previous FCC on February 26, 2015. Those rules were challenged in court, and the U.S. Court of Appeals for the D.C. Circuit, a three-judge panel of that court, upheld the rules last year. There is a further appeal that's pending before the full slate of judges on that court, and the court hasn't yet decided what it will do with that. In the meantime, here at the Commission, obviously, there's been a substantial change in membership. The prior Chairman has departed, as has one of the Democratic Commissioners in early January.

So there are three Commissioners left: two Republicans and one Democrat. And as you know, President Trump designated me as Chairman on January 23. So now, as the Chief Executive Officer of the agency, it's my job to figure out how to move forward. We're still in the process of thinking that through.

**RUSH:** But it's something you want to do.

**PAI:** I've been pretty clear that I favor a free and open internet, and I oppose what is known as Title II, the Depression-era, heavy-handed economic regulations that the prior Administration imposed on every broadband provider, big and small. That philosophy is something I've been very clear about over the years.

**RUSH:** I know from what side of the political spectrum net neutrality comes. My suspicion, based on what I have learned, is that the people who wanted net neutrality wanted to expand the federal government's control over the internet, for whatever purposes they deemed necessary down the road, nefarious or otherwise. And really, net neutrality is a name like the Affordable Care Act. There's nothing "affordable" about the Affordable Care Act.

**PAI:** [Laughs] Right.

**RUSH:** And there's nothing "neutral" about their idea of net neutrality. They want to be able to pick certain winners and losers. I was always concerned that if they got this, to the extent that they wanted to, they could make choices based on the content they

thought was acceptable or unacceptable, in terms of better access. Am I close on that?

**PAI:** I think you're pretty close. First of all, net neutrality is one of the most successful marketing slogans of all time. Because who could be against neutrality? But if you peel back the layers of the onion and think through carefully what the economic and legal and other implications are of it, it is essentially the government deciding how this very dynamic marketplace should be governed.

The internet is one of the greatest free-market innovations in history. At the dawn of the internet age in the 1990s, none of us could have foreseen how substantially this would affect American society, largely for the better, in terms of giving people, particularly conservatives, an outlet for free speech, and allowing business to thrive in ways that were unthinkable just a generation ago. And that was precisely because we did not have the government at the center of the ring, so to speak, deciding who would win and who would lose, who could play and who couldn't.

As you know, there is always a faction within this country and beyond that sees a marketplace that's unregulated as a problem to be solved. So that has largely been the impulse, that we needed to have the Depression-era rules applied to this marketplace, notwithstanding that there's been no market failure, because otherwise what will happen? Consumers could be harmed. But that simply hasn't been our experience for two decades, prior to the imposition of these rules. And that's the argument I consistently tried to make: If it ain't broke, don't fix it. And the "fix" in this case is probably going to be worse than any problem that its advocates could have conceived.

**RUSH:** Exactly. By the way, speaking of the word games that are played, something I've noticed, you probably have too, the word "regulation" is being done away with, and it's being replaced by the word "protections."

**PAI:** [Laughs] Yes.

**RUSH:** That's one of the ways the opponents of President Trump are seeking to cast regulations. They're not onerous, they are protections for poor people who are being affected by these massively unfair entities. Which gets to my next question to you on the structure of net neutrality. Who owns the internet? Who owns the pipes? You just talked about how it's one of the greatest things that happened. It just evolved, and it had a totally democratic appeal. Anybody who wanted to could access it. But is there ownership here of the pipes? I know that Comcast owns its cables. But Comcast just provides data for the line. Who owns the line? Where is ownership of this?

**PAI:** That's a good question. The internet itself is simply a network of networks. There is no owner of the internet as such. There are various entities, companies that build infrastructure such as fiber or wireless towers or other infrastructure that helps connect one network to another. They might have ownership over that piece of it. But that's one of the great things about the internet, is that it's developed with this cacophony of companies vying to connect infrastructure that interconnects with everybody else. In that sense,

there really is a democratic system of governance where no one company or no one entity dominates the entire network.

**RUSH:** All right, and that's crucial. Now I happened to read a partial transcript of a recent Congressional oversight hearing, when Senator Ron Johnson gave you his analogy to the internet, comparing it to building a bridge in a neighborhood over a creek. I read this, Chairman Pai, on a tech blog. I read tech blogs. Technology's my hobby, but it's also where I keep track of young millennial political thought. And young political technical people are all-in on net neutrality. They hate the ISPs, they hate Comcast, they hate Verizon, they hate AT&T — because they charge people money. Now one of these guys disagreed with Ron Johnson's analogy to you, and he came up with his own analogy for his readers. It's not very long. I want to run it by you, because this is how he's trying to define net neutrality for his readers:

Let's say you live on an island, and you want to pay a company to build a bridge to deliver supplies to you. You agree to pay that company a set fee per month for building the bridge. And in return you expect unlimited use of that bridge and the ability to bring your supplies over. But the bridge is administered by Trump's FCC. So net neutrality doesn't apply. So the bridge builder says, "Okay, I'll build the bridge, but I get to choose what supplies you get." The bridge company has a contract with Budweiser, so you can bring all the Budweiser across that bridge you want, but if you want to bring any other beer, you have to pay for it.

I guess the bridge is the internet. [Laughs] Could you help me understand what he's trying to say?



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**"There is always a faction within this country who see a marketplace that's unregulated as a problem to be solved."** — AJIT PAI

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**PAI:** I think what he's trying to say is that there's a misplaced view of what the internet environment is actually like. So to play along with his analogy, he's essentially saying that the person who owns that bridge essentially is a monopolist. That you only have one path from getting to point B from point A. And that monopolist has not only the incentive, but is in fact exercising the ability to charge a toll to certain companies who want to use that bridge. And so to use his analogy, he's got a contract with Budweiser, and so Bud's going across the bridge no problem, but he's extracting what the economist would call "monopoly rents" by charging everybody else \$5 extra per case to use the bridge.

Now whatever validity that analogy might have in theory, that's simply not how the internet works now. If you look at how traffic goes on the internet, there is no single bridge owner who is a gatekeeper for all of that traffic. Internet traffic goes over a number of different networks at any given point in time. And moreover, to the extent that there was only one provider in a particular area who owned the metaphorical bridge, we have simply not seen evidence that there's a systemic problem with people charging the Craft Beer Company, to use the analogy, to use that network.

**RUSH:** Yes!

**PAI:** If there were such evidence, you would have expected the prior

FCC to cite it in the 2015 net neutrality; it didn't precisely because it doesn't exist.

**RUSH:** Here's what this guy is ultimately afraid of. He loves Netflix. So he's afraid that since Netflix uses so much bandwidth, so much data, that they're going to get preference in speeds and delivery from the ISP, crowding out others who he may not want to patronize, or may want to patronize. In other words, Netflix is going to get an advantage, because they have a lot of money, and they use a lot of data and bandwidth, and it's going to end up costing him extra when it shouldn't. That's what he's afraid of.

**PAI:** Right. I can understand that concern but ultimately for the government to get involved in that marketplace there are going to be all kinds of unintended consequences and that's just not something I think the FCC's equipped to do.

**RUSH:** As Chairman, what do you consider to be the primary role of the FCC as it would impact daily consumer or daily life in America?

**PAI:** That is *the* fundamental question that I had a chance to think about just prior to taking this job. The primary concern that I hear from consumers when I travel is not net neutrality, the notion that certain internet service providers are acting as gatekeepers. It is that people want better, faster, cheaper internet options. They want to be connected to the network. They want digital opportunity. And so, from our perspective, I think the FCC should be focused on broadening internet access throughout the country. Anybody who wants access to the internet should be able to get it in a competitive, innovative marketplace.

And speaking of left-wing publications, I was amused to read another article summarizing that hearing where the writer expressed disdain for the fact that senators focused not on the hot button issues like net neutrality but on what this writer called, quote, "The [FCC's] banal duties, like figuring out spectrum sharing and ways to deploy broadband to rural areas." [Laughs] To me, that's not banal at all. That's exactly what consumers want. They want a government that's focused on creating a regulatory environment in which the private sector has the maximum incentive to invest in the networks. They don't want a government regulator sitting there picking winners and losers and trying to fix a problem that didn't exist in the first place. And that's certainly the spirit with which I'm going to embrace the job so long as I'm privileged to serve as Chairman.

**RUSH:** You have the uncanny ability to reduce things to their absolute essence. Because that's exactly what it is. Take any American you want, at home or in the office, when they go online they expect the connection to work, they expect the speeds to be sufficient, that they can do what they need to do in the amount of time it needs to be done. They don't expect it to cost an arm and a leg. They want it to be dependable. And they want the data to arrive as they've requested it and ordered it.

Now to keep everything running, you have to be focused on spectrum, bandwidth, all kinds of things. There's much more involved in all this than anybody would ever stop to think about. Most people

probably don't know what spectrum is, but it's the range of frequencies that the FCC regulates and assigns. For example, WiFi has a spectrum, Bluetooth has a spectrum, and so forth. What role does the FCC have in making sure the spectrum expands and is also accessible by any number of entities that can deliver it to people?

**PAI:** We have a huge role in affecting spectrum policy, and that's one of the concerns I have with net neutrality, is that it's distracted a lot of attention away from these types of efforts, efforts that would actually deliver value for the American consumer. You know, one of the first things that people do when they check into a hotel room, when they go home, when they get on an airplane, is to figure out if there's a WiFi connection — and one of the things I focused on since I got here was trying to get more spectrum into the commercial market-



place to make WiFi more usable, to make it faster, to allow you to have more data that you can send over a wireless connection.

Some of those efforts have been sitting on a shelf, in part because we've been so focused on this phantom of net neutrality, that we just haven't been able to devote enough bandwidth, pardon the pun, on things like WiFi. So one of the areas where I'm hoping to really make a mark here at the Commission, is getting more spectrum available for WiFi, for cellular networks, and for any other kind of wireless technology that could help people have a better connection to the internet.

**RUSH:** I'm reading a lot about 5G cellular connection, T-Mobile, AT&T, maybe Verizon too, that it will vastly increase speeds over LTE [Long-Term Evolution]. That's something you would be involved in regulating, policing, encouraging? Correct?

**PAI:** Absolutely. That's one of the things I've been working extensively with the private sector on. From our perspective, it's a question of getting enough spectrum out there for the engineers and technologists to use. I've been meeting with some of these engineers, including just last week at a wireless conference, and they're showing me the ability to deliver multiple gigabits of data per second over these wireless connections in some of this 5G spectrum. We stand on the brink of an incredible digital revolution if the

government would simply unleash that entrepreneurial spirit that exists in the private sector.

**RUSH:** I've also read about your digital empowerment agenda, which is a four-point plan that you say will help close the digital divide between rich and poor. What is that divide? And how do you want to reduce it?

**PAI:** This is one of the core proposals I outlined last September in a speech in Cincinnati. The basic point I made is that the United States is very diverse geographically and demographically. We have very wealthy, highly concentrated urban areas, for example. But we also have relatively poorer or sparsely populated rural areas. As I travel, increasingly I see the digital divide manifesting itself in places like small-town Mississippi, or central Alaska, or my own hometown of Parsons, Kansas. The problem is there doesn't necessarily seem to be a business case for deploying internet infrastructure in places like that.

So the idea I had was, not to take the traditional government solution, which is to throw money at the problem, and try to solve it that way. It was to try to create a regulatory framework that would incentivize the private sector to build in areas like that. One of my proposals, for instance, was to create what I've called "gigabit opportunity zones," providing tax incentives to private companies to build out networks in areas that could be as small as a city block, or as large as a rural county, where the median income of the citizens there is 75 percent or less of the national average.

The idea would be to give these companies incentive to build,

works for the future, that we apply to, say, 200-foot cell towers. That's the kind of thing that we need to be much more flexible on.

**RUSH:** Well, that makes sense. In a speech in December you said that you were "optimistic that the FCC will once again respect the limits that Congress has placed on our authority. We can't simply enact whatever we think is good public policy."

**PAI:** Exactly.

**RUSH:** But you've been there during times where that was the thinking of the FCC. In what areas has the FCC attempted to enact when it should have gone through Congress? Are we living with any of those examples now that you might wish to reform?

**PAI:** I think there are a number of different cases and you can look at my [Laughs] many dissents when I was a Commissioner to figure out what some of those might be. Net neutrality would be a classic example of that. There is often an impetus in some quarters to say, "The government has to have a role in this marketplace; if it doesn't then the government has failed."

My argument has been, whatever wisdom that might make as a matter of policy, the FCC is a creature of Congress, and for our decisions to have democratic legitimacy at all, we simply can't make it up as we go along. We have to act within the four corners of the law that Congress authorized us to implement. To me, that's not a Democrat or a Republican issue. That's just fundamentally a question of whether we are accountable to the American people. I think the American people start to lose faith in our ability to make decisions that are wise if an unelected majority of three or four or five bureaucrats here at the

FCC is simply making up whatever they think is good policy, and then expecting the public to go along with it.

**RUSH:** Since we're back to net neutrality here for a second, let me say what my fear of it was. In all of this, the so-called ISP, and who runs the pipeline, accesses the data, never bothered me, what it cost is what it cost. What I was worried about was that if certain people in government got hold of the internet under the term net neutrality, my fear was they were going to legislate it via content. And that they would say, for example, "You know, there's just way too much conservatism on talk radio, and we need more liberalism there. And the way we're going to do that is limit the number of conservative stations." Or, regarding the internet: "Way too many conservative websites. The liberal view is not being given fair and equal access."

So I was afraid that kind of action would be taken under the guise of "fairness" and "equality," kind of a Fairness Doctrine inside the internet. That's what I was always worried about. We saw that happening at the FEC, where a couple of Commissioners tried to say websites like the Drudge Report were actually the equivalent of political contributions, and motions were made to categorize them as such — which would have made drastic differences in the way that website could have operated. Was that ever something that the people who wanted net neutrality thought or dreamed about?

**PAI:** Without question, I think that is one of the issues that has animated some folks who have been advocates for so-called net

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and then for companies to come in and build new businesses on top of those networks, and that's something I hope would promote job creation, economic growth, and just simply opportunity to the people who heretofore have been left behind.

**RUSH:** How many of the changes that you wish to implement need Congressional legislation, and how many can you simply enact?

**PAI:** This particular proposal would require Congressional action. We don't have the ability to make changes to the tax code. Same with things like "dig-once" policies, which is essentially the notion that if we're going to have a federally funded transportation project, let's make sure that as we dig up the road we also lay the conduit within the road that would enable anybody to string fiber through that conduit. But I also outlined a lot of tools that the FCC currently has that could help ease that business case for deployment. Removing some of the more antiquated regulatory obstacles to deployment — such as, for example, applying the same rules to small cells, small infrastructure that is used for wireless net-



neutrality. For example, one of the primary groups that have been agitating for this is founded by someone who at the beginning of the Obama Administration said that the goal here was to dismantle the capitalist system brick by brick. He specifically cited Venezuela as an example of a media marketplace that he admired. [Laughs] I don't know about you, but it doesn't seem to me that either then or now, Venezuela's marketplace was one of robust debate and free expression.

**RUSH:** No.

**PAI:** The FEC Commissioner, Lee Goodman, who's a good friend of mine, he and I wrote about this several years ago. We expressed our strong disagreement with the view that the government should ever try to shape the marketplace of ideas by saying that there's too much speech on one side of the aisle. That's precisely what makes America great, is that dynamic of free expression.

**RUSH:** That's what I feared, and that's what I thought net neutrality was actually going to end up being. I thought this other stuff was just a sideshow and a distraction.

**PAI:** No, I certainly can tell you that I've never shared that view, and so long as I'm at this position I'll keep speaking out against that.

**RUSH:** The President is talking about a major infrastructure project, and he's throwing around the figure of a trillion dollars. Wouldn't you have some role in any infrastructure plan in building broadband and laying fiber and wireless? Part of modernizing America would certainly be in your bailiwick. Have there been any discussions yet on that?

**PAI:** Very much. I've publicly urged elected officials to consider broadband, or digital infrastructure, as part of any infrastructure plan that is on the table. And the reason is pretty simple. In the 21st century, this is one of the areas where I think most Americans would like policy makers to focus. In terms of what the number is, or what the process is within Congress, I'll certainly let those elected officials decide. But I will say that the FCC has some programs already in the works that have been long established that would be able to promote the deployment of digital infrastructure, the shovel-ready projects so to speak, in a way that's fiscally responsible. So I would hope that Congress would work with us to try to make sure that they get the most bang for the buck. Because what we do not want to see is a repeat of prior stimulus programs, in which the money is simply shoved out the door and there's no plan for using it, and there's no accountability on the back end for how it was used. I think that's not something that anybody, conservative, liberal, or in between, would countenance.

**RUSH:** I just want to close by thanking you and telling you how

much I admire you and what you have to know to be able to do what you do. I remember when I, at 16 years old, wanted to work at a radio station. It was a daytime 5,000-watt station that was directional, which meant that a first-class radio telephone license holder had to be on duty at all times, in the event that something went wrong with the array. These are small stations. They can't afford somebody just sitting there waiting for something to go wrong. So all of us DJs had to have these first-class licenses, which meant going down to Dallas to the Elkins School of Broadcasting for six weeks and getting a cram course. Today those things don't even exist. The licenses are not even there. But all the things you oversee now that are within the purview of the FCC, with the rate of change, I don't think most people even give it a second thought, but I'm glad that you do, because it's crucial.

**PAI:** Well, thanks so much, Rush. I really appreciate it. All I can say is that zooming out, actually your experience points out something that I often think about and talk about here at the FCC, which is No. 1, regulatory humility. This marketplace is changing so quickly that we can't simply take a snapshot of the marketplace at a moment in time and just assume that it's always going to be that way. And No. 2, just to respect the fact that our regulations have a disproportionate effect on smaller businesses. We sometimes assume that everybody in the marketplace must be a big corporation with the ability to throw accountants and lawyers and compliance resources at any given problem. But if it's a small AM broadcaster, or a small internet entrepreneur, those folks might



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be put out of business or severely impeded if we impose these heavy-handed rules. That's something I always think about. That's the last thing we want to do is to keep upstarts in the marketplace from doing what they do best.

**RUSH:** You still do license renewal for broadcast properties, right? Radio and TV?

**PAI:** That's correct, yes.

**RUSH:** The process probably hasn't changed much. They're very seldom denied, but still the process is there. It's all about community service and serving the local community you're in. So it's all a good thing. So I just think the workload that you have, taking it seriously as you do, is voluminous. And I wish you the best in it. I'm so happy that you're there.

**PAI:** Well, thanks a bunch, Rush. It's a really tough job, but it's nothing I can't handle with a good cup of coffee and the will to do the right thing.

**RUSH:** Well, here's to net neutrality taking a bite. [Laughter] Don't worry, you don't have to answer that.

**PAI:** [Laughs]