August 24, 2018

The Honorable Joseph J. Simons, Chairman
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Dear Chairman Simons,

We’re writing to express our serious concerns regarding a declaration filed by the Santa Clara County Fire Chief with the D.C. Circuit that Verizon throttled the ‘unlimited’ data plan of the Santa Clara County Fire Department (‘County Fire’) as it battled the Mendocino Complex Fire, the largest wildfire in California history. Throttling directly violates core net neutrality principles. In light of the repeal of net neutrality, we urge you to investigate whether Verizon’s practices were ‘unfair or deceptive’ pursuant to Section 5 of the Federal Trade Commission Act.

According to the Declaration, County Fire contracted with Verizon for an ‘unlimited’ data plan but experienced heavy throttling when they had reached their ‘cap.’ These reduced speeds severely undermined department personnel’s ability to function in the midst of the largest wildfire in California history. When County Fire contacted Verizon directly about the reduced speeds and asked it to restore speeds to essential transfer speed, County Fire was told it would have to switch to a new data plan at more than twice the cost.

We believe the Federal Communications Commission, as the expert regulatory agency, should be responsible for the oversight of public safety networks and communications networks as a whole. Unfortunately, with its repeal of the 2015 Open Internet Order, the FCC has abdicated its jurisdiction over broadband communications and walked away from protecting consumers, including public safety agencies. We, therefore, call on the FTC to protect consumers from unfair or deceptive acts or practices stemming from this incident.

It is unacceptable for communications providers to deceive their customers. But when the consumer in question is a government entity tasked with fire and emergency services, we can’t afford to wait a moment longer. The FTC must investigate whether Verizon and other communications companies are being unfair or deceptive in the services they’re offering to public safety entities, and if so, to determine what remedies are appropriate to ensure our first responders have adequate service when lives are on the line.

We urge you to examine whether Verizon’s throttling practices were ‘unfair or deceptive’,
pursuant to Section 5 of the Federal Trade Commission Act. We thank you in advance for your cooperation and look forward to your timely response.

Sincerely,

Anna G. Eshoo  
Member of Congress

Nancy Pelosi  
Democratic Leader

Mike Thompson  
Member of Congress

John Garamendi  
Member of Congress

Jared Huffman  
Member of Congress

Ro Khanna  
Member of Congress

Barbara Lee  
Member of Congress

Jerry McNerney  
Member of Congress

Jimmy Panetta  
Member of Congress

Jackie Speier  
Member of Congress

Zoe Lofgren  
Member of Congress

Mark DeSaulnier  
Member of Congress
Doris O. Matsui
Member of Congress

cc: Commissione: Maureen K. Ohlhausen, Federal Trade Commission
Commissione: Noah Joshua Phillips, Federal Trade Commission
Commissione: Rohit Chopra, Federal Trade Commission
Commissione: Rebecca Kelly Slaughter, Federal Trade Commission
Chairman Ajit Pai, Federal Communications Commission