

January 19, 2021

The Hon. Ajit Pai  
Chairman  
Federal Communications Commission  
445 12th St., SW  
Washington, D.C. 20554

The Hon. Jessica Rosenworcel  
Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> St SW  
Washington, D.C. 20554

The Hon. Brendan Carr  
Commissioner  
Federal Communications Commission  
445 12th St., SW  
Washington, D.C. 20554

The Hon. Geoffrey Starks  
Commissioner  
Federal Communications Commission  
445 12th St., SW  
Washington, D.C. 20554

The Hon. Nathan Simington  
Commissioner  
Federal Communications Commission  
445 12th St., SW  
Washington, D.C. 20554

**Re: *Ligado License Modification Applications, IB Docket Nos. 11-109; 12-340***

Dear Chairman Pai and Commissioners Rosenworcel, Starks, Carr, and Simington:

We, the undersigned organizations representing consumers and technology policy experts with diverse policy views, write to express our support for the 5-0, bipartisan, unanimous decision by the Federal Communications Commission to approve Ligado Networks' applications with stringent license conditions (See [Order](#)). We urge you to deny the pending National Telecommunications and Information Administration's (NTIA) request to stay the FCC's Ligado Order.

As you know, the FCC's April 2020 decision to approve Ligado Networks' application was made after more than a decade of exhaustive technical study and review. It was based on science and driven by thousands of hours of testing and engineering analysis by the FCC's career staff. All federal agencies had more than four years to review and provide feedback on Ligado's proposal and were also provided with a draft of the FCC's Order in October of 2019, over six months before the Order was approved. In short, contrary to what opponents of the decision have claimed, this was neither a hasty decision nor one made without the opportunity for public input. This is one of the most examined and debated pieces of spectrum ever before the FCC. The carefully crafted Order itself is 74 pages with 144 footnotes.

Since the approval of this Order, nothing has changed with regards to the engineering analysis and facts upon which the FCC Order was based. NTIA's request for a stay and subsequent filings have contained no new evidence to support its claims. In other words, the evidence and analysis that formed the basis for approval remains as intact and solid as ever, and thus provides no justification for granting of a stay.

## **It Is Inappropriate to Address NTIA’s Previously Filed Petition for Reconsideration Request Until Congress Confirms a New Assistant Secretary for NTIA.**

Numerous parties, including signatories to this letter, have highlighted the failure of the federal spectrum process and the need to repair this process going forward. As Representative Doris Matsui observed in her recent letter to President-Elect Biden: “Over the past four years, significant conflicts between federal agencies have caused costly delays in making needed spectrum available for commercial use while also creating severe uncertainty for both federal and non-federal users.”<sup>1</sup> The first act of the Biden Administration should not be to perpetuate these public disputes, particularly not before new political leadership can establish the Biden Administration’s spectrum policy on a going forward basis.

The FCC is by law, and must remain in fact, the administrative agency charged with regulating all use of non-federal spectrum. In doing so, it must trust the expert engineering of its own staff as the final arbiter of whether or not a proposed license or rule change will cause “harmful interference” to federal or licensed commercial operations. For the FCC to revisit its Ligado decision before the incoming Biden Administration can set a new spectrum policy would undermine the FCC as an expert agency, and would encourage the existing federal divisiveness on spectrum policy to extend into the Biden Administration.

### **Nothing in the NDAA Justifies the FCC Revisiting the Ligado Order.**

The NTIA Petition for Reconsideration and Request for Stay are based in significant part on the argument by DoD that the FCC erred by applying the statutorily mandated “harmful interference” standard rather than adopting DoD’s proposed “1 db” standard. Because the FY2021 National Defense Authorization Act (NDAA) endorses the harmful interference standard and rejects the 1 db standard, any claim that the NDAA requires – or even justifies – the FCC to grant the pending stay request has no merit.

Claims that language included in the FY2021 NDAA justifies an issuance of a stay are incorrect. The language in the NDAA does not alter or undermine the FCC’s Order and explicitly *does not prohibit* Ligado from moving forward with its operations. Instead, the NDAA provisions are directed at the Department of Defense (DoD). It is not a call by Congress for the FCC to reexamine its decision and issue a stay. The language in the NDAA requires the DoD to adopt the FCC’s standard for harmful interference, which is the very same standard relied upon in the FCC’s engineering analysis of Ligado’s operations, finding no risk of harmful interference. Moreover, the NDAA reinforces the FCC’s requirement that the DOD and Ligado exchange technical data so that they can finally determine what, if any, specific DOD devices need to be replaced or repaired so that Ligado can begin that process.

Vice President-elect Kamala Harris recently [emphasized](#) the importance of “making decisions, not based on intuition or ideology, but based on evidence.” And as the past year has underscored,

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<sup>1</sup> Letter of Rep. Doris Matsui (D-CA) to President-Elect Joseph Biden, January 8, 2021.

trusting and relying on the science and experts regarding is the best way to make sound policy. The FCC's engineers have a well-earned reputation for resolving spectrum disputes in ways that both protect existing services and promote wireless innovation. Every public safety operation in the United States relies on the integrity of the FCC's interference evaluation process and the expertise of the FCC's professional engineering staff. The analysis in the Ligado Order exemplifies why this reputation – and the confidence it instills -- is fully justified.

### **A Change in Administration Does Not Warrant Reexamination in this Case.**

The undersigned all recognize that “elections have consequences.” We do not suggest that all changes in policy should wait until political appointees are confirmed. To the contrary, where policies adopted by the previous administration are directly at odds with the policies of the new administration, the incoming administration should act swiftly to reverse course.

Here, the FCC's decision was not split upon party lines or adopted pursuant to a policy repugnant to the Biden Administration. It was a 5-0, bipartisan vote. As both Democratic Commissioners observed in their joint concurring statement: “In the end we are compelled to support the expert technical analysis done by the Federal Communications Commission's engineering staff.” Nothing in a change of administration alters this.

### **Conclusion**

The deployment of Ligado's network would enable much-needed economic development. This development will include enhanced internet-of-things (IoT), next-generation wireless technologies, and advancement versus China in the race to 5G. It could also promote competition among service providers, thereby lowering consumer prices, and improve the efficiency of spectrum use.

In April of 2020, all 5 Commissioners voted to approve Ligado’s applications based on the science and engineering and extensive facts in the record. Those facts and the extensive engineering analysis by the FCC’s career staff remain unchanged and support the FCC’s decision. We therefore urge you to reject renewed requests to stay the Order and so that this vital mid-band spectrum is deployed to advance 5G.

Sincerely,

Public Knowledge  
Open Technology Institute  
at New America  
Access Humboldt  
Benton Institute for  
Broadband & Society

California Center for Rural  
Policy  
Center for Rural Strategies  
Institute for Local Self-  
Reliance  
International Center for Law  
& Economics

Tribal Digital Village  
Network  
Taxpayers Protection  
Alliance  
Scott Wallsten\*  
Joel Thayer\*  
Roslyn Layton\*

\*Opinions represent those of the individual