

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
H-232, U.S. Capitol
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
United States House of Representatives
H-204, U.S. Capitol
Washington, D.C. 20515

July 16, 2020

Dear Speaker Pelosi and Minority Leader McCarthy,

On numerous occasions over the last decade, our organizations have strongly supported and encouraged U.S. leadership on 5G to ensure that every community across our country reaps the transformative benefits next-generation wireless services will provide. As you know, that cannot happen without additional spectrum resources, and it simply will not happen if the Department of Defense and its allies are successful in expropriating the Congressionally-mandated authority of the Federal Communications Commission (FCC). As we write, there are intense efforts underway to do exactly that, via current language in the House and Senate versions of the FY2021 National Defense Authorization Act (NDAA) that ultimately seek to reverse the FCC's recent bipartisan and unanimous approval of Ligado Networks' regulatory plans.

Specifically, Sections 1608 and 1609 of H.R. 6395, the House's FY 2021 NDAA bill, undermine federal law and decades of federal practice that have established a clear process by which agencies work with the FCC to create a uniform, coherent federal policy. Codification of these sections as well as any other similar language settled on in conference with the Senate would inflame current and future spectrum disagreements among agencies and have tremendous negative ripple effects on the efforts many of you have led to support 5G deployment and delivery throughout every U.S. Congressional district. Additionally, Congress created the existing process to promote uniformity and certainty and to spur necessary private investment and innovation while protecting federal spectrum interests. The FCC's April 2020 approval of Ligado does all that and followed years of exhaustive technical study and review, based in science and driven by engineering and facts in the public record.

It should not be a point of political contention to say that the FCC is the agency of jurisdiction in commercial spectrum policy, but it appears to have become one. While we respect the role of the Armed Service Committees to provide legislative oversight of the nation's military, by rule of law, commercial spectrum decisions remain the sole authority of the FCC. Congress should not attempt to sabotage that authority – or allow an end-around the congressional committees with appropriate jurisdictional oversight over such matters – yet that is exactly what these provisions threaten to do. It is critically important to also remember that the FCC's Ligado order does not involve or alter any federal spectrum allocations.

We strongly urge you to not endorse efforts by the Department of Defense and its allies to veto commercial spectrum authorizations. The FCC has proven itself to be the expert agency on resolving spectrum disputes based on science and engineering and should be allowed to do the job Congress authorized it to do.

Sincerely,

Public Knowledge

California Center for Rural
Policy

Center for Rural Strategies

INCOMPAS

Lincoln Network

Media Alliance

Open Technology Institute
at New America
Foundation

Taxpayers Protection
Alliance

Wireless Infrastructure
Association

Cc: The Honorable Adam Smith, Chairman
The Honorable Mac Thornberry, Ranking Member
House Armed Services Committee
2216 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Frank Pallone, Chairman
The Honorable Greg Walden, Ranking Member
House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable Jim McGovern, Chairman
The Honorable Tom Cole, Ranking Member
House Committee on Rules
H-312, U.S. Capitol
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