



Federal Communications Commission  
Washington, D.C. 20554

May 14, 2020

Jessica Rosenworcel  
Commissioner

The Honorable Adam Smith, Chairman  
The Honorable William Thornberry, Ranking Member  
U.S. House of Representatives  
Committee on Armed Services  
Washington, DC 20515-6035

Re: *Ligado proceedings DA/FCC 20-48, IB Docket No. 11-109 and IB Docket No. 12-340*

Dear Chairman Smith and Ranking Member Thornberry:

Thank you for your letter regarding the Federal Communications Commission's recent decision to authorize a low-power terrestrial nationwide network in portions of the L-band spectrum. The Commission's decision makes available additional spectrum for advanced wireless services and imposes strict conditions to protect adjacent band operations, including the Global Positioning System (GPS), from harmful interference. In reaching this result, it is my understanding that the Commission followed the standard interagency coordination process as well as the requirements of the Administrative Procedure Act, 5 U.S.C §500 *et seq.* Nonetheless, I appreciate hearing from you concerning the importance of aligning Administration priorities regarding 5G and national security. As you note in your letter, "[w]e must be able to develop solutions that provide for the defense of the nation, and unleash the economic potential of 5G." I agree.

You asked me to respond to several questions concerning my review of the Commission's decision in this proceeding. Your questions and my responses are set forth below.

1. Please provide copies of the legal analysis that led the commissioners to their determination despite the unanimous concerns of the national security community, and whether that decision is consistent with the FY17 NDAA requirement to resolve concerns of widespread interference with GPS devices prior to permitting the commercial use of this spectrum.

Legal analysis by Commission staff concerning the FY17 NDAA requirement is set forth in Section III.G of the *Order and Authorization*. Section 1698 of the FY2017 NDAA provides, in relevant part, that "[t]he Commission shall not permit commercial terrestrial operations in the 1525-1559 megahertz band or the 1626.5-1660.5 megahertz band until the date that is 90 days after the Commission resolves concerns of widespread harmful interference by such operations in such band to covered GPS devices." It also requires notice to Congress at the conclusion of a decision regarding whether to permit such operations.

Based on a record compiled through notice-and-comment rulemaking, Commission staff concluded that the agency's decision in this proceeding is consistent with the FY17 NDAA requirement because concerns of widespread harmful interference relating to GPS are effectively resolved based on the parameters of Ligado's amended modification applications, the test data and analyses presented in the record, and the conditions imposed by the Commission, which address any identified potential harmful

interference concerns before terrestrial network operations commence. Moreover, the *Order and Authorization* prohibits Ligado from commencing operations in its L-band spectrum until at least 90 days from adoption, requires that Ligado cooperate directly with any U.S. government agency that anticipates that its GPS devices may be affected, and directs the Commission's Office of Legislative Affairs to provide the requisite notice to Congress.

As I explained in my statement to the *Order and Authorization*, I am compelled to support staff's legal and technical analysis in this proceeding. Commission staff sought public comment on these issues no fewer than six times since establishing a working group to study the potential for overload interference to GPS devices. Such input from stakeholders, including legal and technical experts at the Commission, is critical to the agency's work.

2. Did each commissioner receive a briefing from the Department of Defense on the classified test data contained in the classified report of DoD testing to accompany the Department of Transportation Adjacent Compatibility Assessment from April of 2018.

I did not receive a briefing from the Department of Defense on the classified test data contained in the classified report of DoD testing to accompany the Department of Transportation Adjacent Compatibility Assessment from April 2018. However, Commission staff met with the Department of Defense regarding this proceeding and briefed my staff on their recommendations.

3. For Commissioners Rosenworcel and Starks, you issued a joint statement of concurrence, indicating less than full endorsement of the approval and said the decision was a close call. Do you believe the concerns of the national security community were adequately addressed? Additionally, you expressed concern about the spectrum decision making process. Were there any specific aspects of this decision that concerned you?

My vote to concur in this proceeding expresses accord with the conclusions of the *Order and Authorization* but separately reflects my reasons for supporting those conclusions. As a minority commissioner at the agency, I do not have full transparency into the interagency coordination process, nor was I directly involved in discussions with our federal partners. However, I support the expert technical and legal analysis done by Commission staff. I chose to concur because this proceeding has exposed a fault line in the nation's spectrum decision-making. On issues of 5G, this Administration has had difficulty achieving a whole-of-government approach on how best to free up critical spectrum or protect sensitive government uses of spectrum. Going forward, our wireless leadership will be best served if federal agencies can work together to extend the reach of advanced telecommunications in this country.

I appreciate the opportunity to address your questions.

Sincerely,

*/s/ Jessica Rosenworcel*

Jessica Rosenworcel

cc: The Honorable Jim Cooper  
The Honorable Michael R. Turner  
The Honorable Jim Langevin  
The Honorable Elise Stefanik  
The Honorable John Garamendi

The Honorable Doug Lamborn  
The Honorable Donald Norcross  
The Honorable Rob Bishop  
The Honorable Rick Larsen  
The Honorable Mike Rogers  
The Honorable Seth Moulton  
The Honorable Mike Conaway  
The Honorable Gil Cisneros  
The Honorable Don Bacon  
The Honorable Veronica Escobar  
The Honorable Liz Cheney  
The Honorable Lori Trahan  
The Honorable Paul Mitchell  
The Honorable Elaine Luria  
The Honorable Chrissy Houlahan  
The Honorable Anthony Brindisi