

Congress of the United States
House of Representatives

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COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

2321 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6301

(202) 225-6375
www.science.house.gov

April 15, 2020

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Pai:

On April 2, 2020, the Federal Communication Commission (FCC) issued a Report and Order and Further Notice of Proposed Rulemaking in the matter of Mitigation of Orbital Debris in the New Space Age.¹ We write today to request that you delay consideration of this matter. Given the unprecedented circumstances surrounding the COVID-19 crisis, the immense effort undertaken to recover from the pandemic, and the potential for the FCC's proposal to exacerbate impacts on U.S. industry and international competitiveness at a critical period in our nation's history, we hope that you will agree to postpone future action.

It is abundantly clear that the Commission should delay consideration of this matter. Stakeholders have communicated significant concerns with the proposed rule. The FCC's own draft Notice of Proposed Rulemaking,² issued on February 19, 2019, notes that the Commission may not have cited sufficient authority to promulgate initial orbital debris regulations – a sentiment also provided in testimony before the House Committee on Science, Space, and Technology (“the Committee”).³ The proposal also contradicts Executive Branch policy and is inconsistent with existing and proposed legislative action. Furthermore, the issuance of a

¹ See Mitigation of Orbital Debris in the New Space Age, IB Docket No. 18-313, Report and Order and Further Notice of Proposed Rulemaking, FCC-CIRC2004-03 (rel. Apr. 2, 2020), available at <https://docs.fcc.gov/public/attachments/DOC-363486A1.pdf>.

² See Mitigation of Orbital Debris in the New Space Age, 84 Fed. Reg. 4742 (proposed Feb. 19, 2019) (to be codified at 47 C.F.R. pts. 5, 25, 97), available at <https://www.govinfo.gov/content/pkg/FR-2019-02-19/pdf/2019-02230.pdf>.

³ See The Commercial Space Landscape: Innovation, Market, and Policy: Hearing Before the H. Comm. on Sci., Space, and Tech., Subcomm. on Space, 116th Cong. (July 25, 2019) (statement of Laura Montgomery, Proprietor, Ground Based Space Matters), available at <https://science.house.gov/imo/media/doc/Montgomery%20Testimony.pdf>.

significant rulemaking during this time of national emergency, coupled with the expedited schedule, could call into question the FCC's process related to this matter. In addition, as outer space becomes an increasingly active environment for science, exploration, national security operations, and commercial activities, the implications of any proposed rule on stakeholders must be fully considered, including from a scientific and technical basis.

The Executive Branch is currently undergoing a review of Commercial Space Regulations pursuant to Space Policy Directive 2 – “Streamlining Regulations on Commercial Use of Space.”⁴ The Department of Commerce was charged with leading this effort related to radio frequency spectrum in coordination with the Office of Science and Technology Policy and the FCC. In response to the draft notice of proposed rulemaking, the Department of Commerce argued that the FCC's proposal could duplicate their efforts and add confusion to the regulatory reform process.⁵

Similarly, Congress is also considering legislation related to commercial space activities, including orbital debris. The House of Representatives passed the American Space Commerce Free Enterprise Act by voice vote, and the Committee favorably reported the American Space Situational Awareness and Framework for Entity (SAFE) Management Act last Congress. Similar legislation is being considered this Congress, and the Committee has already held several hearings on the topic.⁶ Regulatory action by the FCC at this time, without clear authority from Congress, will at the very least create confusion and undermine the Commission's work, and at worst undermine U.S. economic competitiveness and leadership in space.

The Committee is granted jurisdiction over “[o]uter space, including exploration and control thereof” under House Rule X(1)(p)(1). Legislation related to regulatory authority over orbital debris has a long history of being considered before the Committee, as well as oversight activities related to the topic. As the Commission considers future actions related to orbital debris, please avail yourselves to the Committee and its staff. This would ensure that procedural measures such as the Congressional Review Act are not necessary.

Thank you for your consideration of this matter. We share the same goals of ensuring U.S. economic competitiveness and leadership in space, and look forward to working with you as Congress, the Administration, and the Commission tackle this complex subject.

⁴ See Space Policy Directive-2 (SPD-2), Streamlining Regulations on Commercial Use of Space, 83 Fed. Reg. 24901-02 (May 30, 2018), available at <https://www.federalregister.gov/documents/2018/05/30/2018-11769/streamlining-regulations-on-commercial-use-of-space>.

⁵ See United States Department of Commerce Comments, IB Dkt. No. 18-313, available at <https://ecfsapi.fcc.gov/file/1040509194602/U.S.%20Department%20of%20Commerce%20Orbital%20Debris%20Comments.pdf>.

⁶ See Space Situational Awareness: Key Issues in an Evolving Landscape: Hearing Before the H. Comm. on Sci., Space, and Tech., Subcomm. on Space, 116th Cong. (Feb. 11, 2020), <https://republicans-science.house.gov/legislation/hearings/space-aeronautics-subcommittee-hearing-space-situational-awareness-key-issues>; see also The Commercial Space Landscape: Innovation, Market, and Policy: Hearing Before the H. Comm. on Sci., Space, and Tech., Subcomm. on Space, 116th Cong. (July 25, 2019), <https://republicans-science.house.gov/legislation/hearings/subcommittee-space-aeronautics-hearing-commercial-space-landscape-innovation>.

Sincerely,

A handwritten signature in blue ink that reads "Eddie Bernice Johnson". The signature is fluid and cursive.

Representative Eddie Bernice Johnson
Chairwoman
Committee on Science, Space, and Technology

A handwritten signature in blue ink that reads "Frank Lucas". The signature is bold and cursive.

Representative Frank Lucas
Ranking Member
Committee on Science, Space, and Technology

A handwritten signature in blue ink that reads "Kendra Horn". The signature is cursive and elegant.

Representative Kendra Horn
Chairwoman
Subcommittee on Space and Aeronautics

A handwritten signature in black ink that reads "Brian Babin". The signature is cursive and somewhat stylized.

Representative Brian Babin
Ranking Member
Subcommittee on Space and Aeronautics

CC: Commissioner Michael O'Reilly
Commissioner Brendan Carr
Commissioner Jessica Rosenworcel
Commissioner Geoffrey Starks