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U.S. House of Representatives

Washington, DC 20515-6035

ONE HUNDRED SIXTEENTH CONGRESS

June 11, 2020

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

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

Dear Chairman Pai,

We write to you today to ask about a troubling appearance of a conflict of interest within your Technical Advisory Council that may cast doubt on the commission's decision to approve the operations of Ligado's L band terrestrial communications network.

During a House Armed Services Committee briefing held on May 21, 2020 regarding the FCC's Ligado proceeding, the Commission's technical experts repeatedly acknowledged the potential for Ligado's operations to interfere with GPS. However, they noted that these concerns did not meet the Commission's definition of "harmful interference," and therefore the commission rejected these concerns. We understand that the Commission's definition of "harmful interference" is based upon spectrum management principles derived from a series of technical white papers and spectrum policy recommendations authored by the Commission's Technological Advisory Council (TAC). We also understand there was a public comment period solicited by the Office of Engineering and Technology in December 2017¹ on the proposed spectrum management principles. We are concerned that the Commission ignored the concerns of GPS and other satellite user communities, resulting in spectrum management principles that do not account for the unique impacts on those users.²

According to the Commission's website,³ the chairman of the TAC is Mr. Dennis Roberson, who is credited as an author on several of the white papers and policy

¹ <https://docs.fcc.gov/public/attachments/DA-17-1165A1.pdf>

² <https://ecfsapi.fcc.gov/file/10216647614758/Boeing%20TAC%20Recommendations%20Reply%20Comments%202015%202018%20final.pdf>

³ <https://www.fcc.gov/engineering-technology/electromagnetic-compatibility-division/technological-advisory-council-tac> retrieved 28 May 2020

recommendations used to define spectrum management policy.⁴⁵ Mr. Roberson is also the Founder, President and Chief Executive Officer of Roberson and Associates (RAA),⁶ a technology and management consulting company. Your technical experts also told the committee much of the technical data the Commission used to confirm the judgement that Ligado provides no risk of harmful interference to GPS users was based upon a test performed by RAA for Covington and Burling LLP, counsel to Ligado networks in June of 2016.⁷ The RAA test is referenced more than eighty times in the approval order and was clearly a significant factor in the Commission's decision. In addition to this testing to support Ligado's technical claims, he publicly advocated against the testing standard recommended by GPS experts. He said the concerns of GPS advocates are alarmist, and "makes for nice press headlines, but isn't grounded in facts or science"⁸ while he was advocating within the Commission's advisory council for policies and testing standards favorable to Ligado's position but contested by the GPS community. On May 6th 2020, Mr. Roberson authored an opinion piece in RealClear Defense⁹ that applauded the FCC's decision to approve Ligado's operations which did include a disclaimer about his relationships with both the Commission and Ligado. He said definitively that "the decision to approve Ligado's plans to utilize its L-band spectrum for terrestrial applications is right on the physics, based on the facts, and firmly rooted in administrative law and the role of an independent agency." He did not however, reveal his role in advising that independent agency to develop the policies and regulations the proceeding relied upon, or the work his company performed to validate the technical aspects of the plan.

The Technological Advisory Council Charter requires members to disclose on a continuing basis any interests in, or connections to persons or entities that are, or will be regulated by or who have interests before the Commission to you, as the official to whom the council reports¹⁰. Based on the facts outlined above, Mr. Roberson has a connection to Ligado, and a recusal from related policy development could have prevented an appearance of a conflict of interest.

In light of this, we respectfully ask for answers to the following questions:

- 1) Please provide your analysis of how Mr. Roberson's involvement in advising the FCC on developing spectrum management policy in his role as chairman of the Commission's Technological Advisory Council while also being paid by Ligado to verify Ligado's technical arguments does not, at minimum, give rise to the appearance of a conflict of interest?
- 2) Did Mr. Roberson or the Commission staff disclose his interests and connection to Ligado to you?

⁴ <https://transition.fcc.gov/bureaus/oet/tac/tacdocs/meeting61014/InterferenceResolution-Enforcement-Radio-Noise-White-Paper.pdf>

⁵ <https://transition.fcc.gov/oet/tac/tacdocs/reports/TACInterferenceLimitsIntro1.0.pdf>

⁶ <https://www.robersonandassociates.com/>

⁷ <https://ecfsapi.fcc.gov/file/60002112686.pdf>

⁸ <https://www.linkedin.com/pulse/response-5-july-2017-pnt-advisory-board-letter-ligado-dennis-roberson/>

⁹ https://www.realcleardefense.com/articles/2020/05/06/fccs_approval_of_ligado_networks_advances_5g_while_protecting_gps_115256.html

¹⁰ <https://www.fcc.gov/sites/default/files/fcc-tac-charter.pdf>

- 3) Can you provide the date on which Mr. Roberson was briefed by Commission officials regarding his ethical responsibilities and duty to avoid conflicts of interest?
- 4) We ask that you refer this matter to the FCC Inspector General for a review of the potential conflict of interest.


Sincerely,



Jim Cooper
Chairman
Subcommittee on Strategic Forces



Michael R. Turner
Ranking Member
Subcommittee on Strategic Forces



Elise Stefanik
Ranking Member
Subcommittee on Intelligence,
Emerging Threats, and Capabilities