FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

Brendan Carr
Commissioner

January 1, 2022

The Honorable Pete Buttigieg
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Secretary Buttigieg,

Yesterday, you wrote a letter to the wireless providers that have been licensed and authorized by the Federal Communications Commission to deliver 5G services over a crucial segment of mid-band spectrum known as the C-Band. The FCC authorized those C-Band operations pursuant to a detailed regulatory regime that the Commission adopted over 660 days ago in a thorough, 258-page decisional document. After years of work and tens of billions of dollars in investment, those providers are scheduled to begin the safe and lawful delivery of C-Band services in four days. Despite all of this, your letter seeks to prevent those wireless providers from delivering 5G services pursuant to the FCC's C-Band rules and, in fact, it proposes to replace the FCC's regulations with an undefined, new regulatory framework for C-Band operations that the Department of Transportation—not the FCC—would determine at some unspecified date in the future.

This is a highly irregular request and one that deviates from the clear, statutory process specified by Congress for regulating the provision of wireless service. As such, your letter and the Biden Administration's actions are needlessly risking America's global leadership in 5G. Indeed, it took years of smart and determined action on mid-band spectrum to ensure that America's wireless providers would have access to the airwaves necessary to deliver the strongest 5G platform in the world. The Biden Administration is now upending the process that produced those successful results—not only by working to delay the delivery of 5G services over mid-band spectrum here but by conduct that will only incentivize dysfunction and abuse of the regulatory process.

Your request for delay is not backed up by the science, engineering, or law. Indeed, your arguments are predicated on the claim that there are unresolved concerns about harmful interference from C-Band operations into radio altimeters. That is not correct. The FCC—the expert agency charged by Congress with addressing precisely those types of concerns about harmful interference—resolved these issues all the way back in March 2020 in the 258-page decision referenced above. After detailed analysis, the FCC determined that the comprehensive rules and regulations it adopted for C-Band operations will protect aeronautical operations from harmful interference.

The DOT and aviation stakeholders had a lengthy and fair opportunity to participate in the relevant regulatory process. And they did. The FCC then adjudicated and resolved all of the issues consistent with the process established by Congress. Indeed, the D.C. Circuit as recently as this week confirmed that this is precisely the process codified by Congress for resolving concerns about harmful interference. *See AT&T Servs. Inc. v. FCC*, No. 20-1190 (D.C. Cir. Dec. 28, 2021). The D.C. Circuit did so, in that case, by affirming the FCC's assessment of the risks of harmful interference to existing operations. U.S. leadership in wireless depends on stakeholders continuing to abide by Congress's long-standing decision to place these determinations squarely within the remit of the nation's expert communications regulator.

As part of the FCC's determination, the Commission placed a massive guard band between wireless C-Band operations and radio altimeters. Indeed, the FCC's guard band is roughly two times as large as the one that certain aviation stakeholders originally proposed. But the protections do not end there. For one, the relevant guard band will be roughly twice as large as the prophylactic one the FCC determined to be sufficient in its March 2020 decision because the relevant wireless providers will only be operating in the lower portion of the C-Band. For another, the wireless carriers agreed in November 2021 to additional measures that go above and beyond those determined necessary by the FCC to protect altimeters, including lowering their power below the levels authorized by the FCC and essentially curtailing their C-Band operations in broadly defined areas near airports.

Furthermore, the FCC's thorough analysis rests on more than the expert scientific and engineering analysis of the agency's career staff. It is backed up by the aviation industry's own experiences in the real world. C-Band operations have been live in nearly 40 countries, including ones that have authorized C-Band services at higher power levels than the FCC or in closer spectral proximity to radio altimeters without any reported instances of harmful interference.

In the end, the DOT's conduct here is nothing new. It is part of a dysfunctional trend among certain federal agencies that disagree with the process that Congress has established for reaching sound decisions about spectrum policy and for adjudicating concerns about harmful interference. Those agencies are increasingly attempting to make end runs around that statutory process, which is not a recipe for successful, fact-based outcomes or for America's continued leadership in 5G.

As I have conveyed to my FCC colleagues, the Commission should ensure that wireless carriers can commence their C-Band operations without additional delay or needless conditions. To that end, the Commission should reject the recent request for stay filed by an aviation organization and dismiss a reconsideration petition previously filed by a different set of aviation interests. Much like the DOT letter, those submissions provide no basis for reversing the FCC's sound and reasoned determination. Instead, they offer up a mélange of fundamentally flawed studies and arguments. Anything short of the wireless carriers lighting up their C-Band

operations on January 5 pursuant to the FCC's regulatory regime would mark an unacceptable setback for U.S. leadership in 5G.

Sincerely,

Brendan Carr