

**NOMINATIONS TO THE
FEDERAL COMMUNICATIONS COMMISSION,
THE FEDERAL TRADE COMMISSION,
AND THE U.S. DEPARTMENT OF COMMERCE**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE**

ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

NOVEMBER 17, 2021

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

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**NOMINATIONS TO THE
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WEDNESDAY, NOVEMBER 17, 2021

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 10:19 a.m., in room SR-253, Russell Senate Office Building, Hon. Maria Cantwell, Chairwoman of the Committee, presiding.

Present: Senators Cantwell [presiding], Klobuchar, Blumenthal, Schatz, Markey, Peters, Baldwin, Duckworth, Tester, Sinema, Rosen, Luján, Hickenlooper, Warnock, Wicker, Thune, Cruz, Fischer, Moran, Sullivan, Blackburn, Lee, Capito, Scott, and Lummis.

**OPENING STATEMENT OF HON. MARIA CANTWELL,
U.S. SENATOR FROM WASHINGTON**

The CHAIRWOMAN. Today, the Commerce Committee will consider very important nominees, and I want to thank them for their willingness to serve. First, we will consider the nomination of Jessica Rosenworcel to be Commissioner and Chair of the Federal Communications Commission. Senator Blumenthal will be providing a formal introduction, but I would like to say a few words. The pandemic has magnified the deep digital divide in our country, and if confirmed, Chairwoman Rosenworcel will be responsible for leading the agency's important work to ensure broadband accessibility for all Americans.

All schools transitioned students to learning at home. Last year, 20 percent of students in Washington State did not have a reliable Internet connection that would have allowed them to participate in remote learning. Over 16 million K-12 students in the United States did not have access to reliable broadband at the beginning of the pandemic and over the past several years, I have heard many stories about students sitting in parking lots to access their Wi-Fi, do their homework, and concerned teachers whose students don't have the connectivity.

The pandemic has made clear that the broadband access is no longer a luxury but a necessity to participate in nearly all aspects of society, including educating our children. Yesterday's historic \$65 billion investment in broadband is a start, but obviously we need the mapping to go with this before we can get anything really done. The first—as the first woman to serve as its Chair, Ms.

Rosenworcel brings nearly a decade of experience and an important role for the Commission.

I look forward to hearing her thoughts on how the agency moves forward in our information age. Next, we will consider the nomination of Alvaro Bedoya to be Commissioner on the Federal Trade Commission, who will be joining us remotely. Senator Luján will be introducing Mr. Bedoya later this morning, and we welcome him and his family who are participating. I also would like to take the opportunity to welcome a bipartisan group of Commissioners and the Chair of the FTC, who have joined us in support of him this morning.

The Federal Trade Commission core mission is to protect consumers from unfair and deceptive practices in commerce and promoting competition by enforcing the Nation's antitrust laws. In today's information economy, the FTC's mission has never mattered more. In just the last several years, we have seen a 45 percent increase in consumer fraud and deception complaints to the FTC, as well as a surge of merging filed—merger filings that are straining the agency's capacity to rigorously investigate mergers.

The Committee has strongly advocated for significant new resources to create the staff, and a dedicated consumer privacy data and security bureau at the FTC and restore the FTC's ability to seek penalties from companies that violate the law and victimize consumers, as well as comprehensive Federal privacy legislation.

We have also been exploring new legal authority to tackle privacy and data security and ways to prevent abuse that are all too common online. Mr. Bedoya will bring a wealth of experience and expertise to this role as a professor at Georgetown Law and founder of its Center on Privacy and Technology. He has dedicated his career to advancing the law and policy on privacy and surveillance.

Mr. Bedoya has served as Chief Counsel on the Senate Judiciary Committee on Privacy, Technology, and the Law. So I believe he is the right person to carry out this mission and to ensure that consumers can harness the opportunities of the information age. Next, we will consider the nomination of Jainey Bavishi—Bavishi, sorry, to be the Deputy NOAA Administrator. Welcome to you and your family.

Ms. Bavishi's nomination could not be more timely. The Infrastructure Investment and Jobs Act and hopefully soon the Build Back Better Act requires strategic leadership to help NOAA execute all its climate and coastal resiliency goods. So I am confident that she can provide that leadership. She has an impressive background, including leading climate resiliency programs for New York City's Mayor's Office of Climate Resiliency, the White House Council on Environmental Quality, and previously she served as—at NOAA where she was responsible for environmental justice and led the agency's policies and initiatives on the Deepwater Horizon oil spill.

Far too long, we have kept the environmental justice separate from climate change adaptation and mitigation at the expense of underserved communities of color and tribal communities, and these communities—should be at the forefront of adaptation and mitigation.

This is particularly of concern to me in the State of Washington, where so many of our tribes are on our coastal communities and literally need to move to higher ground. Finally, we will hear from Arun Venkataraman—say your name for me, please. OK. Venkataraman. Thank you so much for your willingness to serve, to be Assistant Secretary of Commerce and Director of Commerce—General, Director General at the United States Foreign Commercial Service and Department of Commerce.

If confirmed, he would play a key role in helping small and medium sized enterprises enter and compete in foreign markets. More than 80 percent of the world's purchasing power and 95 percent of population resides outside the United States. In Washington state, one in three jobs depend on trade, and access to overseas markets is critical for small and medium sized manufacturers in my state and across the United States.

These companies provide for one-third of U.S. merchandise exports. This is why we passed the United States Innovation and Competitiveness Act because it provides more funding for manufacturers' research funding and the manufacturing extension program to support supply chain resiliency. He has more than 20 years of experience in advising companies on international organizations and the U.S. Government on international trade issues, and I look forward to hearing from him on the challenges he sees in facing American businesses and how we can address them.

So thank you to all the nominees for your willingness to serve, and I now would like to turn to my colleague, Senator Wicker, for his opening statement.

**STATEMENT OF HON. ROGER WICKER,
U.S. SENATOR FROM MISSISSIPPI**

Senator WICKER. Thank you, Madam Chair, for holding this hearing to consider the nominations of Jessica Rosenworcel for a new term as Commissioner of the Federal Communications Commission, Mr. Alvaro Bedoya to be a Commissioner at the Federal Trade Commission, Ms. Jainey Bavishi to be Assistant Secretary for Commerce for Oceans and Atmosphere, and Mr. Arun Venkataraman to be Assistant Secretary of Commerce and Director General of the U.S. and Foreign Commercial Service.

And Madam Chair, it really speaks to the diversity of our great nation that we have so many last names that give you and me a bit of pause. But we are delighted to have them here today and I want to congratulate our old friend, Chairwoman Rosenworcel, on being the first woman to chair the FCC. She is well known to members of this committee, having served as professional staff member here, as well as being confirmed twice by the Senate for two terms at the FCC.

Given the significant amount of broadband funding that will be made available through the recently enacted bipartisan infrastructure package, I am particularly interested in hearing the Chair's plan for ensuring that the FCC produces accurate coverage maps in a timely manner. I know she is astonished that I would mention that sort of thing. We cannot afford to repeat the mistakes of the past during which Government funding was used to overbuild in some areas while leaving many other communities unserved.

The FCC is at the epicenter of a number of key communications policy issues, including spectrum policy for 5G, rural broadband subsidies, and Internet regulation. So I look forward to discussing these matters with Ms. Rosenworcel.

Mr. Bedoya is a former professional staff member of the Senate Judiciary Committee, a position that afforded him the chance to work on important bipartisan initiatives. However, I have been concerned by the frequency with which he publicly expresses strident views on public policy matters that should be resolved through consultation and collaboration. I fear that this pattern calls into question his ability to work in a collaborative manner with the other FTC Commissioners on critical issues.

For over 100 years, the FTC has been the chief consumer protection agency in the United States. Its core mission, to protect consumers from unfair or deceptive acts or practices and unfair methods of competition is essential to a well-functioning economy. I look forward to hearing from Mr. Bedoya about how he plans, if confirmed, to enhance the privacy and security of Americans' personal data to combat fraud and scams and promote competition in today's information economy.

Ms. Bavishi has been the Director of New York City Mayor's Office of Climate Resiliency since 2017, having previously served on the White House Council on Environmental Quality during the Obama Administration. I am keenly interested in hearing Ms. Bavishi's plans should she become Assistant Secretary for Oceans and Atmosphere. I want to stress that NOAA should always be guided by scientific standards and never by a partisan agenda.

And I anticipate that Ms. Bavishi will want to give the Committee her perspective on these fundamental principles. Mr. Venkataraman is quite familiar with the Department of Commerce since he currently serves as a Senior Adviser to Secretary Gina Raimondo and previously worked as the Director of Policy at the International Trade Administration during the Obama Administration.

I hope he will share his goals for promoting trade and keeping U.S. companies, helping U.S. companies get started with exporting or increasing sales to new global markets.

I thank all of these nominees for appearing before the Committee today. I understand Mr. Bedoya is not ill but is quarantined because he perhaps was exposed to COVID. And we look forward to a robust hearing. Thank you, Madam Chair.

The CHAIRWOMAN. Thank you, Senator Wicker. Senator Blumenthal will be recognized to introduce or make further comments on Chair Rosenworcel, and Senator Luján, following that, on Mr. Bedoya.

**STATEMENT OF HON. RICHARD BLUMENTHAL,
U.S. SENATOR FROM CONNECTICUT**

Senator BLUMENTHAL. Thanks very much, Madam Chair. And thanks for your leadership on these nominations. And thank you to the nominees for your willingness to serve. The diversity and extraordinary qualifications of these nominees, I think, attest to the greatness of our country. And there would have been a time, I am absolutely sure, when members of this committee would have had

difficulty pronouncing Blumenthal as a nominee. So we welcome you here and celebrate your nominations.

I am particularly delighted and honored to introduce Jessica Rosenworcel as the President's nominee and the first female Chair of the Federal Communications Commission, equally importantly, as a daughter of Connecticut, specifically West Hartford and Wesleyan, although she went to New York University for law school. But I have worked with her closely, as have many members of our committee over the years, and I know that we are very familiar with her qualifications on this committee. She got her start at the FCC first as professional staff and then as a legal adviser to Commissioner Cobb.

She worked for the Commerce Committee as Senior Counsel, two of the greats of this committee, Senator Jay Rockefeller and Senator Daniel Inouye. And she has really been a distinguished champion, an energetic and aggressive champion of consumers, of causes of privacy and net neutrality. I worked with her on fighting the abusive effects of robocalls and efforts to provide for spectrum coordination. But apart from all of those specific issues, she has a very extraordinary ability to put complex issues in terms that everyday Americans can understand.

She invented the term homework gap to describe the increasing digital divide that unfortunately increasingly impedes children in their efforts to stay current in studies when they need broadband access. And her leadership and commitment to working on closing the digital divide and ending the homework gap, I think, have been extremely productive and significant. We have really a once in a lifetime opportunity here to confirm an FCC Chairman who will effectively implement the President's infrastructure law, which includes \$65 billion as investment in expanding broadband.

She has been a champion of making broadband more affordable and addressing that digital divide's impact on disadvantaged communities. Particularly, I have watched her in Hartford talk about this issue with passion and clarity that this moment really demands, and I know that she will make us proud as she has already of her public service when she is confirmed as the next Chairman of the Federal Communications Commission. Thank you to you and your family, Commissioner Rosenworcel, and we wish you well. I know they are watching, and they are justifiably proud. Thank you.

Senator SCHATZ [presiding]. Thank you, Senator Blumenthal. And now we will have Senator Luján introducing Mr. Bedoya.

**STATEMENT OF HON. BEN RAY LUJÁN,
U.S. SENATOR FROM NEW MEXICO**

Senator LUJÁN. Thank you, Mr. Chairman, and Ranking Member Wicker, and fellow members of the Senate Commerce committee. It is my pleasure to introduce Mr. Alvaro Bedoya. His nomination to the Federal Trade Commission is a clear example of the Administration's commitment that the United States is at its strongest when our Nation's public servants reflect the full diversity of the American people.

As a proponent for more Hispanic voices at the highest levels of Government, I am proud to introduce Professor Alvaro Bedoya. Mr.

Bedoya is the founding Director of the Center on Privacy and Technology at Georgetown Law, where he is a visiting professor.

His research and advocacy centers on the idea that privacy, an essential civil right—that privacy is for everyone. As Senate counsel in the U.S. Senate from 2009 to 2014, Mr. Bedoya acted to protect victims of sexual assault, conducted oversight hearings of technology companies, and fought to protect the privacy of the public from Government overreach. A graduate of Harvard College and Yale Law School, Mr. Bedoya lives in Rockville, Maryland, with his two children and his wife, Dr. Sima Zadeh Bedoya, a pediatric psychologist at the National Institutes of Health National Cancer Institute. In 2020, Professor Bedoya delivered the United States Senator Dennis Chavez Memorial Lecture in Law and Civil Rights at the University of New Mexico School of Law.

Many of you know that Senator Dennis Chavez, who was a fellow New Mexican, was the first United States born Latino to serve in the U.S. Senate. Senator Chavez understood that protecting privacy is critical to preserve equality. In that lecture, Bedoya quoted Senator Chavez's timeless words, "I contend that we are a nation of dissenters." Privacy is critical to preserving that fundamental right to dissent in our democracy. The role Mr. Bedoya will play at the FCC to preserve privacy rights will ensure all Americans keep their fundamental right to public disclosure. But it is more than just words.

Mr. Bedoya's work on privacy and facial recognition, both in his time as a staffer with the U.S. Senate and at Georgetown, has influenced how the technology is perceived and utilized. He recognized the importance of this issue from an early point and was part of raising it to a national significance. Just 2 weeks ago, Facebook announced that it would shut down its facial recognition system and delete data used to identify individuals. Such progress would not be possible without the work of Mr. Bedoya, who has shown the public, lawmakers, and private companies the serious dangers of such technology to all Americans.

Today, Mr. Bedoya teaches in the same law school that accepted Senator Dennis Chavez when El Senador, as he was known, was 29 years old with only a 7th grade education. From our conversations, I know Mr. Bedoya understands the deep significance of this legacy.

If confirmed, Mr. Bedoya will be the only Latino in a Senate confirmed position at the Federal Trade Commission, Federal Communications Commission, or the Consumer Financial Protection Bureau. And I look forward to working, Mr. Bedoya following his confirmation.

And Mr. Chairman, since I have the time, I just want to also add words to support Commissioner Rosenworcel's nomination. My only frustration with Commissioner Rosenworcel's nomination is that it was not done in March. This was long overdue, and we are going to see with the strong bipartisan vote, this should have been done months ago.

And so I look forward to the hearing. And since there are two FTC Commissioners here, I just want to bring to the attention of the Committee a letter that was sent by President Biden to the FTC regarding the concern that we all have, and that is the rising

cost of gas prices. It is going to be important that the FTC do the work, as President Biden has asked.

In this New York Times article, the President noted that prices at the pump have risen even as the costs of refined fuel have fallen, and industry profits have gone up. The two largest players in the industry, ExxonMobil and Chevron, have doubled their net income since 2019, while announcing billions of dollars in plans to issue dividends and buy back stock.

If these prices would reflect the savings that we are seeing at the refineries, people would be saving \$0.25 a gallon at the pump. I certainly hope that we can shed some light on this, bring attention to what is happening with the OPEC cartels and help bring relief to the American people. And I thank you for the time. Mr. Chairman look forward to the hearing.

Senator SCHATZ. Thank you very much, Senator Luján. We will now begin our testimony, starting with Ms. Rosenworcel.

**STATEMENT OF HON. JESSICA ROSENWORCEL, NOMINATED
TO BE CHAIR, FEDERAL COMMUNICATIONS COMMISSION**

Ms. ROSENWORCEL. Good morning, and thank you to the Chair, the Ranking Member, and the other members of this committee. It is a tremendous honor to be nominated and designated the first permanent chairwoman of the Federal Communications Commission. This is historic and I would like to thank President Biden for the opportunity. I also would like to thank my husband, Mark, and my children, Caroline and Emmett.

And while we are at it, the newest member of my family, our pandemic rescue pup, Bo. It has been a privilege to lead the FCC in an acting capacity during these past 10 months. So much about the last year has been new and complex as this strange virus has changed our lives. But it has demonstrated with total clarity that we need modern communications to reach us all.

That is because more than ever before, Americans count on the FCC to support the connections they need to work, to learn, to access health care, and access the information we all need to make decisions about our lives, our community, and our country. I know the FCC staff are up to this task. They are an exceptional group of public servants and I think public service is a special calling. I also like to think it runs in my family.

My father served in the Air Force and later went on to a career as a nephrologist in Hartford, Connecticut. For three decades, he ran the city's clinic for hypertension and kidney failure. My mother spent over two decades helping run a soup kitchen in Hartford. And my grandfather before them served in the United States Customs Service right here in Washington, but my great grandfather before them also served the public just in a different way, he swept the streets of New York.

I think communications technologies are the infrastructure of opportunity. These are the connections, physical and digital, that can strengthen our mutual bonds that can grow our economy and create new jobs. They help us work, learn, be informed, enlightened, and entertained.

And we also need these connections to break down barriers that for too long have held too many back. I think the FCC does all of

this best when its work honors the essential values in our communications laws. That means public safety is paramount. New technologies touch every aspect of our lives. We need them to be secure and resilient. That means universal service, no matter who you are or where you live in this country, urban, rural, or anything in between, you need access to modern communications to have a fair shot at digital age success. That means competition because it is the most effective way to foster innovation and make sure the public reaps its benefits.

And it means an absolutely fierce commitment to consumer protection. I think at the FCC, we have put these values into practice over the last 10 months. With the support of my colleagues, we have worked on a bipartisan basis to set up the Nation's largest ever broadband affordability program, known as the Emergency Broadband Benefit, which now has 7.5 million households enrolled. We worked together to launch the Emergency Connectivity Fund, the first nationwide effort to close the homework gap so no child is left offline.

We have made historic investments in telehealth technology all across the country. And we have kicked off a major auction of mid-band spectrum in the 3.45 gigahertz band, which is vital for our leadership in 5G wireless service. And to ensure that our networks now and in the future are secure, just a few weeks ago, we successfully started the Nation's first ever secure and trusted communications networks reimbursement program so that network providers can remove and replace vulnerable equipment. This is a lot, but there is more work to do. We need to make sure 100 percent of this country has access to fast, affordable, and reliable broadband.

That means every household, every business, every consumer, everyone, everywhere. And to do this, we will need greater coordination across Federal, state, local, and tribal Governments. We need a renewed vigilance to make sure our communications networks are safe and secure. We also need to foster innovation across the board to ensure that the technological leadership of the United States continues on a global stage. If confirmed, it will be an honor to lead this charge.

And if confirmed, I pledge to listen to this committee, which not that long ago I had the great honor of serving as counsel. So I know deep in my bones how important it is for each of you to have a good relationship with the agency. And if confirmed, I pledge more broadly to listen to the Congress, those with business before the FCC, and above all, the American people. Thank you.

[The prepared statement and biographical information of Ms. Rosenworcel follow:]

PREPARED STATEMENT OF HON. JESSICA ROSENWORCEL, NOMINATED TO BE CHAIR,
FEDERAL COMMUNICATIONS COMMISSION

Good morning, Chair Cantwell, Ranking Member Wicker, and members of the Committee. It is a tremendous honor to be nominated and designated as the first permanent Chairwoman of the Federal Communications Commission. This is historic and I would like to thank President Biden for the opportunity. I also would like to thank my husband Mark and my children Caroline and Emmett—and while we're at it, the newest member of my family, our pandemic rescue pup Bo.

It has been a privilege to lead the FCC in an acting capacity during these past ten months. So much about the last year has been new and complex as this strange virus has changed our lives. But it has also demonstrated with total clarity that we

need modern communications to reach us all. That's because more than ever before, Americans count on the FCC to support the connections they need for work, learning, healthcare, and access to the information we require to make decisions about our lives, our communities, and our country.

I know the FCC staff are up for this task. They are an exceptional group of public servants and I think public service is a special calling.

I also like to think it runs in my family. My father served in the Air Force and later went on to a career as a nephrologist in Hartford, Connecticut. For three decades he ran the city's clinic for hypertension and kidney failure. My mother spent over two decades helping run a soup kitchen. And my grandfather before them served in the United States Customs Service right here in Washington. My great grandfather before that served the public in a different way—he swept the streets of New York.

I think communications technologies today are the infrastructure of opportunity. These are the connections—physical and digital—that can strengthen our mutual bonds. They can grow our economy and create new jobs. They help us work, learn, be informed, enlightened, and entertained. And we also need these connections to break down barriers that for too long have held too many back.

I think the FCC does all of this best when its work honors the essential values in our communications laws.

That means public safety is paramount. New technologies touch every aspect of our lives. We need them to be secure and resilient. That means universal service. No matter who you are or where you live in this country—urban, rural, or anything in-between—you need access to modern communications to have a fair shot at digital age success. That means competition. Because it is the most effective way to foster innovation and make sure the public reaps its benefits. And it means an absolutely fierce commitment to consumer protection.

We have put these values into practice over the last ten months.

With the support of my colleagues, we've worked on a bipartisan basis to set up the Nation's largest-ever broadband affordability program—the Emergency Broadband Benefit—which now has 7.5 million households enrolled. We worked together to launch the Emergency Connectivity Fund, the first nationwide effort to close the Homework Gap so no child is left offline. We have made historic investments in telehealth technology across the country. We kicked off a major auction of mid-band spectrum in the 3.45 GHz band which is vital for our leadership in 5G wireless service. And to ensure that our networks now and in the future are secure, just a few weeks ago we successfully started the Nation's first-ever Secure and Trusted Communications Networks Reimbursement program so that network providers can remove and replace vulnerable equipment.

This is a lot. But there is more work to do. We need to make sure 100 percent of us in this country have access to fast, affordable, and reliable broadband—every household, every business, every consumer, everyone, everywhere. To do this, we need greater coordination across federal, state, local, and Tribal governments. We need a renewed vigilance to make sure our communications networks are safe and secure. We also need to foster innovation across the board to ensure that the technological leadership of the United States continues on a global stage.

If confirmed, it will be an honor to lead this charge. If confirmed, I pledge to listen to this Committee, which not that long ago I had the great honor of serving as counsel. So I know deep in my bones how important it is for you to have a good relationship with the agency. And if confirmed, I pledge more broadly to listen to the Congress, those with business before the FCC and above all—the American people. Thank you.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Jessica Rosenworcel.
2. Position to which nominated: Federal Communications Commission, Chair.
3. Date of Nomination: October 28, 2021.
4. Address (List current place of residence and office addresses):
 Residence: Information not released to the public.
 Office: 45 L Street, NE, Washington, DC 20554.
5. Date and Place of Birth: 7/12/71; Boston, Massachusetts.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).
 Spouse: Mark Bailen, Baker Hostetler, Counsel.

7. List all college and graduate degrees. Provide year and school attended.

Wesleyan University, BA, 1993.
New York University School of Law, JD, 1997.

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

Acting Chairwoman and Commissioner, Federal Communications Commission.
Senior Communications Counsel, U.S. Senate Committee on Commerce, Science and Transportation.

Senior Legal Advisor, Office of Commissioner Michael J. Copps, Federal Communications Commission.

Legal Advisor to the Bureau Chief, Wireline Competition Bureau, Federal Communications Commission.

Attorney, Drinker Biddle & Reath.

9. Attach a copy of your resumé.

Attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last ten years.

Not applicable.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last ten years.

Not applicable.

12. Please list each membership you have had during the past ten years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religiously affiliated organization, private club, or other membership organization. (For this question, you do not have to list your religious affiliation or membership in a religious house of worship or institution.). Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or disability.

Federal Communications Bar Association

Chair, Cable Practice Committee (2007–2008)

Chair, Legislative Practice Committee (2009)

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.

No.

14. List all memberships and offices held with and services rendered to, whether compensated or not, any political party or election committee within the past ten years. If you have held a paid position or served in a formal or official advisory position (whether compensated or not) in a political campaign within the past ten years, identify the particulars of the campaign, including the candidate, year of the campaign, and your title and responsibilities.

None.

15. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past ten years.

\$2700, Hillary Victory Fund, 2016

16. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

White Prize for Excellence in Economics, Wesleyan University (1993)

Special Act Award for Contributions to Common Carrier Bureau, Federal Communications Commission (1999)

Women Who Represent Award, Alliance for Women in Media (2013)

Leadership in Advancing Communications Policy Award, Association of Public Safety Communications Officials International (2013)

Impact Award for Public Service, National Hispanic Media Coalition (2013)

Federal Policymaker Award, State Education Technology Directors Association (2013)
 Award for Excellence in Public Service, Consortium for School Networking (2014)
 Special Recognition Award, CEF Gala (2015)
 Award for Outstanding Achievement, Family Online Safety Institute (2014)
 Broadband Hero of the Year, National Association of Telecommunications Officers and Advisors (2016)
 Community Builder Award, National Coalition for Technology in Education (2017)
 Advocacy Award, CUE (2017)
 Congressional Service Award, Association of Educational Service Agencies (2021)
 Leadership Honoree, Crittenton Services of Greater Washington, for Teen Girls (2021)

17. Please list each book, article, column, Internet blog posting, or other publication you have authored, individually or with others. Include a link to each publication when possible. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

Articles: <https://www.fcc.gov/about/leadership/jessica-rosenworcel#link-0>

Blog postings: <https://www.fcc.gov/about/leadership/jessica-rosenworcel#notes>

Speeches: <https://www.fcc.gov/about/leadership/jessica-rosenworcel#speeches>

18. List all digital platforms (including social media and other digital content sites) on which you currently or have formerly operated an account, regardless of whether or not the account was held in your name or an alias. Include the name of an “alias” or “handle” you have used on each of the named platforms. Indicate whether the account is active, deleted, or dormant. Include a link to each account if possible.

Work Twitter: @JRosenworcelFCC (Active)

https://twitter.com/JRosenworcelFCC?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor

Work Instagram: @JRosenworcelFCC (Active)

<https://www.instagram.com/jrosenworcelfcc/?hl=bn>

Personal Twitter: @JRosenworcel (Active)

https://twitter.com/JRosenworcel?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor

Personal Instagram: @JRosenworcel (Active)

<https://www.instagram.com/jrosenworcel/?hl=en>

19. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

Testimony:

<https://www.fcc.gov/about/leadership/jessica-rosenworcel#testimony>

20. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

I have two decades of experience in communications policy. I have worked on communications and technology matters from a wide variety of positions—both in the private and public sector. This includes positions in a law firm, as Acting Chairwoman and Commissioner at the Federal Communications Commission, and as Senior Communications Counsel at the Senate Committee on Commerce, Science and Transportation.

I believe that I have used this background to make a positive contribution to communications policy—and hope to be able to continue to do so by protecting consumers, expanding access to services to help close the digital divide, and fostering investment and innovation.

21. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

All government officials operate in positions of trust and have a duty to ensure that the organization where they work has proper management and accounting controls.

I have experience managing the agency as the Acting Chairwoman, managing an office at the agency as a Commissioner; managing policies involving communications at the Senate Committee on Commerce, Science and Transportation; and managing client matters at a private law firm.

22. What do you believe to be the top three challenges facing the department/agency, and why?

Protecting consumers. As technologies evolve, one thing is paramount—consumers should be the ultimate beneficiaries of policy choices by the Federal Communications Commission.

Securing universal access and closing the digital divide. As technologies evolve, it is imperative that all people in this country, no matter who they are or where they live, have access to the communications services that are necessary for 21st century opportunity, safety, and economic security.

Growing economy. Digital services are now a vital feature of our economy, providing certainty to companies is an essential part of promoting investment, fostering innovation, and creating jobs.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

None. My financial interests are disclosed on my SF-278.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain.

None.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. Explain how you will resolve each potential conflict of interest.

My husband is counsel at Baker Hostetler. His practice involves commercial litigation and does not include advocacy before the Federal Communications Commission.

In connection with the nomination process, I have consulted with the U.S. Office of Government Ethics and the Federal Communication Commission's Designated Agency Ethics Official to identify potential conflicts of interest. If confirmed, any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with the Commission's Designated Agency Ethics Official. I am not aware of any other potential conflicts of interest.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last ten years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated. Explain how you will resolve each potential conflict of interest.

Not applicable.

5. Identify any other potential conflicts of interest, and explain how you will resolve each potential conflict of interest.

In connection with the nomination process, I have consulted with the U.S. Office of Government Ethics and the Federal Communication Commission's Designated Agency Ethics Official to identify potential conflicts of interest. If confirmed, any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with the Commission's Designated Agency Ethics Official. I am not aware of any other potential conflicts of interest.

6. Describe any activity during the past ten years, including the names of clients represented, in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

I presently serve as Acting Chairwoman at the Federal Communications Commission and previously served as a Commissioner. In these positions, from time to time, I am asked my thoughts on legislative matters pending before the Congress.

I also previously served as Senior Communications Counsel at the Senate Committee on Commerce, Science and Transportation. In this capacity I regularly advised Senate offices on communications policy and legislation.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics, professional misconduct, or retaliation by, or been the subject of a complaint to, any court, administrative agency, the Office of Special Counsel, professional association, disciplinary committee, or other professional group? If yes:

- No.
- a. Provide the name of agency, association, committee, or group;
Not applicable.
 - b. Provide the date the citation, disciplinary action, complaint, or personnel action was issued or initiated;
Not applicable.
 - c. Describe the citation, disciplinary action, complaint, or personnel action;
Not applicable.
 - d. Provide the results of the citation, disciplinary action, complaint, or personnel action.
Not applicable.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain. No.

3. Have you or any business or nonprofit of which you are or were an officer ever been involved as a party in an administrative agency proceeding, criminal proceeding, or civil litigation? If so, please explain. No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain. No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain. No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination. None.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by congressional committees, and that your department/agency endeavors to timely comply with requests for information from individual Members of Congress, including requests from members in the minority? Yes.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

JESSICA ROSENWORCEL

LEGAL AND POLICY EXPERIENCE

FEDERAL COMMUNICATIONS COMMISSION, Washington, DC

Acting Chairwoman 2021-Present
Commissioner 2012-2016, 2017-2021
 Develop and implement communications policy involving radio, television, wire, satellite and cable services as a member of the United States' primary authority for communications law, regulation and technological innovation. Duties include regularly testifying before Congress, participating in domestic and international conferences and assisting with agency management.

**UNITED STATES SENATE
 COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION, Washington, DC**

Senior Communications Counsel 2009-2012
 Developed and implemented communications policy agenda for the Democratic members of the Committee on Commerce, Science and Transportation, under the leadership of Senator Jay Rockefeller (D-West Virginia). Organized hearings regarding the National Broadband Plan, universal service and rural communications, Children's Television Act, future of journalism, wireless service, communications accessibility for the disabled, retransmission consent for video programming, satellite television, public safety spectrum and oversight of the Federal Communications Commission and National Telecommunications and Information Administration. Developed and work to secure passage of legislation, including the Broadband Technology Opportunities Program in the American Recovery and Reinvestment Act, DTV Delay Act, Satellite Television Extension and Localism Act, 21st Century Communications and Video Accessibility Act and Public Safety Spectrum and Wireless Innovation Act.

Senior Communications Counsel 2007-2008
 Developed and implemented communications policy agenda for the Democratic member of the Committee on Commerce, Science and Transportation, under the leadership of Senator Daniel K. Inouye (D-Hawaii). Organized hearings regarding the digital television transition, broadband deployment and adoption, universal service, media ownership, media violence and indecency, network neutrality, online privacy and oversight of the Federal Communications Commission and National Telecommunications and Information Administration. Developed and worked to secure passage of legislation, including the Broadband Data Improvement Act, DTV Transition Assistance Act, Child Safe Viewing Act and New and Emerging Technologies 911 Improvement Act.

FEDERAL COMMUNICATIONS COMMISSION, Washington, DC

Senior Legal Advisor to Commissioner Michael J. Copps 2006-2007
 Advised Senior Democratic Commissioner on television, radio and cable policy issues arising under the Communications Act and Cable Television and Consumer Protection Act. Developed office positions and strategy for advancing telecommunications, Internet, wireless and media policy priorities. Managed office staff. Provided legal analysis and voting recommendations for Commission decisions. Drafted speeches, editorials and press statements. Coordinated policy decisions with Congressional offices, state and local officials and industry representatives.

Legal Advisor to Commissioner Michael J. Copps 2003-2006
 Advised Senior Democratic Commissioner on competition policy and universal service issues arising under the Telecommunications Act. Developed policy positions on broadband deployment, Internet access, rural communications, public safety networks, E-Rate and VoIP. Provided legal analysis and voting recommendations for Commission decisions. Drafted Senate testimony, speeches and press statements. Coordinated policy decisions with Congressional offices and state regulatory authorities.

Legal Counsel to Bureau Chief, Wireline Competition Bureau 2002-2003
 Advised Bureau Chief on universal service and broadband policy. Coordinated wireline policy with Wireless Telecommunications Bureau, Cable Services Bureau and International Bureau. Taught World Bank telecommunications workshops for the Economic Ministry of Latvia.

Attorney Advisor, Policy Division, Common Carrier Bureau 1999-2002
 Managed teams drafting decisions concerning broadband deployment and competitive entry into local and long distance markets. Recipient of Special Act Award for policy contributions to the Common Carrier Bureau in 2000.

DRINKER BIDDLE & REATH, Washington, DC

Communications Associate 1997-1999
 Drafted merger documents for privatization of state-owned telephone company. Prepared Bureau of Export Administration license application for cable modem encryption technology.

REBOUL, MACMURRAY, HEWITT, MAYNARD & KRISTOL, New York, NY

Summer Associate 1996
 Drafted securities purchase agreements for venture capital and buyout firm transactions.

UNITED STATES ATTORNEY'S OFFICE, Brooklyn, NY

Summer Fellow, Criminal Division 1995
 Researched and drafted motions on issues of evidence, criminal law and criminal procedure.

SKADDEN, ARPS, SLATE, MEAGHER & FLOM, New York, NY

Legal Assistant 1993-1994
 Managed litigation documents.

EDUCATION

NEW YORK UNIVERSITY SCHOOL OF LAW, New York, NY JD, 1997
 Honors: *Annual Survey of American Law*, Editor

WESLEYAN UNIVERSITY, Middletown, CT BA, Economics and English, 1993
 Honors: White Prize for Excellence in Economics

PUBLICATIONS

- “For Families Who Lack Reliable Internet Access Help is on the Way,” co-authored with Valerie Jarrett, *Ed Surge*, July 20, 2021.
- “Ending the Homework Gap,” *Democracy: A Journal of Ideas*, March 11, 2021.
- “We Need A National Policy on Student Internet Access,” co-authored with Former Secretary of Education John B. King, Jr., *Education Week*, August 8, 2020.
- “The FCC Must Extend a Broadband Opportunity for Tribal Communities,” co-authored with Senator Krysten Sinema, *The Hill*, July 23, 2020.
- “Our Agency Says All Americans are Gaining Advanced Internet Access. It’s Wrong.” *CNN*, April 29, 2020.
- “The FCC Should Send Wi-Fi Hotspots to Schools to Close the Homework Gap,” *The Verge*, March 17, 2020.
- “The U.S. Government Couldn’t Shut Down the Internet, Right? Think Again,” *The Washington Post*, March 8, 2020.
- “Here’s Why the Skyrocketing Cost of Reaching Loved Ones is Unacceptable and Counterproductive,” co-authored with Senator Tammy Duckworth, *Blavity*, December 19, 2020.
- “Many Pregnant Women Live Too Far from a Doctor to Get Care. Here’s How Technology Can Help,” *TIME*, November 26, 2019.
- “Why Don’t Emmy Nominees Reflect America’s Diversity?” co-authored with Marc Morial, *The Hill*, September 20, 2019.
- “As Bounty Hunters Buy Our Digital Footprints, FCC Drags its Feet,” co-authored with Representative Lori Trahan, *The Boston Globe*, September 2, 2019.
- “The Census Could Undercount People Who Don’t Have Internet Access,” *Slate*, July 29, 2019.
- “Choosing the Wrong Lane in the Race to 5G,” *WIRED*, June 10, 2019.
- “We Need to Crack Down on E-Cigarette Advertisements,” *USA Today*, February 13, 2019.
- “It’s Time to Classify 9-1-1 Operators as Protective Service Professionals,” co-authored with Representative Norma J. Torres, *The Hill*, November 12, 2018.
- “The Real Threat to our 5G Future,” *POLITICO*, September 26, 2018.
- “Working to Overcome Digital Divide,” co-authored with Representative Ben Ray Lujan, *Santa Fe New Mexican*, August 4, 2018.
- “FCC Must Keep Puerto Ricans Connected to Lifeline This Season,” *Orlando Sentinel*, June 22, 2018.

"Discounted Phones Save Lives of Homeless LGBT Teens," *Advocate*, June 20, 2018.

"This Program Helps 1.3 Million Vets Stay Connected. The FCC Wants to Gut It." *Military Times*, June 8, 2018.

"How the FCC Will Make it Harder for Domestic Violence Survivors to Get Help," *Bustle*, June 6, 2018.

"The Facebook Hearings Demonstrate the Need for Technology Policy Experts in Congress," *NBC Think*, April 13, 2018.

"The FCC Should Use Blockchain to Manage Wireless Spectrum," *WIRED*, March 20, 2018.

"Russians are Hacking our Public Comment System, Too," *The Washington Post*, March 6, 2018.

"FCC Moves Threaten Local News in Iowa and Across the Nation," *Des Moines Register*, January 22, 2018.

"It's Time to Chart a Course for 5G Success," *TechCrunch*, January 10, 2018.

"What Small Businesses Stand to Lose in a Net Neutrality Rollback," *Harvard Business Review*, December 12, 2017.

"We Don't Need New Gatekeepers," co-authored with Senator Kirsten Gillibrand, *Refinery 29*, December 12, 2017.

"FCC Must Investigate Fraud Before Voting on Net Neutrality," *WIRED*, December 9, 2017.

"I'm on the FCC. Please Stop Us from Killing Net Neutrality." *Los Angeles Times*, November 22, 2017.

"What the President Gets Wrong about Broadcast TV," *Cosmopolitan*, October 17, 2017.

"Homework Gap Hurts Poor, Rural Students," co-authored with Senator Tom Udall, *Las Cruces Sun-News*, October 22, 2016.

"Moving Next Generation 911 Forward," co-authored with Lance Terry, *The Oklahoman*, September 24, 2016.

"We Need More Wi-Fi," *Morning Consult*, June 20, 2016.

"The Cleveland Homework Gap When There's No Internet at Home," *Cleveland Plain Dealer*, April 22, 2016.

"Limited Internet Access a Challenge for Detroit Kids," *Detroit Free Press*, March 16, 2015.

"How to Close the Homework Gap," *Miami Herald*, December 5, 2014.

"The Race to 5G is On," *Re/code*, October 27, 2014.

“Sandbox Thinking,” *Democracy: A Journal of Ideas*, Fall 2014.

“Here’s How to Expand Wireless Spectrum,” co-authored with Marty Cooper, *San Jose Mercury News*, September 26, 2014.

“Growing Unlicensed Spectrum, Growing the Economy,” *Re/code*, February 21, 2014.

“Transforming Education Digitally,” co-authored with Representative Anna Eshoo, *Politico*, June 3, 2013.

“Assessing the Effectiveness of Section 271 Five Years After the Telecommunications Act of 1996,” Jessica Rosenworcel & Daniel R. Shiman, Chapter 7, *Communications Policy and Information Technology: Promises, Problems, Prospects*, MIT Press, 2002.

OTHER MEDIA

Appearances on CNN, MSNBC, CBS News, Bloomberg Television, and Comedy Central.

Host of first podcast at the Federal Communications Commission, “Broadband Conversations,” designed to highlight the contributions of women to science, technology, engineering and math. Guests have included Senator Catherine Cortez Masto; Maya Wiley; Astronaut Kate Rubins; Kimberly Bryant, Founder of Black Girls Code; and Sylvia Acevedo, Chief Executive Officer of the Girl Scouts.

Senator SCHATZ. Thank you very much. We will now proceed to Mr. Bedoya. Please proceed with your testimony.

**STATEMENT OF ALVARO M. BEDOYA, NOMINATED TO BE A
COMMISSIONER, FEDERAL TRADE COMMISSION**

Mr. BEDOYA. Thank you, Senator. Thank you, Madam Chair, Ranking Member Wicker, and members of the Committee, I appreciate the ability to testify remotely due to our families COVID exposure. Senator Luján, Dennis Chavez is a hero of mine, and so what you said means the world to me. I want to thank President Biden for the trust he has placed in me. I want to thank Chair Khan, Commissioner Slaughter, Commissioner Phillips, and Commissioner Wilson for being there today. I wish I could be there with you.

I want to thank my family, in particular my wife, who I am so proud of, who is a psychologist for the kids at the National Cancer Institute at the NIH, as Senator Luján mentioned. My mother, who teaches community college in Richmond, Virginia. My dad, who is watching us in Lima, Peru. My brother and sister in law and my mother and father in law who are watching us from Louisiana.

And last, I want to tell my daughter, Liana and my son Kian that I love them. I have been working on privacy and consumer protection for over a dozen years. But for me, my work really began around May 2011, and that was when the subcommittee I served as Chief Counsel, the Senate Judiciary subcommittee on Privacy, called its first hearing, and it was a hearing on smartphone geolocation technology. And right after we announced that hearing, one of the first messages we got wasn't from a privacy group or a consumer group, it was from the Minnesota Coalition for Battered Women. And they told us that oftentimes when women arrived in their shelters, they were actually being tracked by their abusers through secret spyware known as stalking apps. And this message was eye-opening because here we were about to hold a hearing on global positioning systems and cell site location, and here was the shelter saying, this is about safety.

This is about a woman's ability to live her life in peace. And ever since then, I have tried to think about consumer protection, and I have tried to think about privacy, not in terms of data, but in terms of people, real people suffering real harm. And I have tried to work across the aisle to help them. And indeed, by focusing on that issue, the issue of stalking apps, our coalition, which included Senator Klobuchar and Senator Blumenthal, we were able to get the support of the offices of Senator Grassley, Senator Cornyn, Senator Graham. And together we were able to successfully press the Department of Justice to bring its—one of its first major prosecutions of one of these stalking app developers.

This is what I hope to focus on, if I am confirmed. I want to make sure the Commission is helping the people who need it the most. Health care workers being sold fake N95 masks. People fighting opiate addictions are being sold scam treatments. Parents trying to make sure that the apps their kids use online aren't hurting them. Small business owners who are struggling in the face of unprecedented consolidation.

On this last point, I will just share one example. We spent a lot of time with our family in Louisiana, and a lot of them work in health care, and what they will talk about is when a hurricane comes through, the last pharmacies to close and the first ones to reopen are the independent pharmacies, community pharmacies. These community pharmacies are critical not just to rural America, but also urban America. And yet it is exactly these pharmacies who are shutting down in the face of unprecedented consolidation. And the thing is, you could tell slightly different versions of the same story for almost any other sector of small business, independent grocers, online merchants, cattlemen, you name it. I think things are not normal. I think we are in a crisis, a COVID crisis, a privacy crisis, a crisis for small business.

I believe my 5 years in the Senate have prepared me for that crisis, and that time I helped run some of the first major oversight hearings into tech giants, tech giants who are logging our movements and scanning our faces. I helped protect small businesses from Federal bureaucracies.

And I helped negotiate the bipartisan law that forced the NSA to be more transparent. What I learned from the Senate is that we may disagree profoundly, even passionately, but we can't let that get in the way of serving the American people. I am grateful for your time. I am deeply grateful for this nomination. And I am grateful for this country, my country, which has given me and my family so much. When we landed at JFK Airport 34 years ago, I don't think this is what any of us expected. Thank you, and I look forward to your questions.

[The prepared statement and biographical information of Mr. Bedoya follow:]

PREPARED STATEMENT OF ALVARO M. BEDOYA, NOMINATED TO BE A COMMISSIONER,
FEDERAL TRADE COMMISSION

Thank you, Madam Chair, Ranking Member Wicker, members of the Committee. I want to thank President Biden for the trust he has placed in me. I want to thank Chair Khan and Commissioners Slaughter, Phillips, and Wilson, for joining me today.

I want to thank my family. With me here today are my wife, Dr. Sima Zadeh Bedoya, a psychologist who counsels kids at the National Cancer Institute at the NIH, my mother, who teaches community college in Richmond, along with our dear friends Tom Olson and Thomas Dotstry. I also want to thank our families watching online, especially my mother- and father-in-law in Louisiana, my brother and sister-in-law in Virginia, and my dad who is watching from Peru.

Finally, I want to tell my daughter Liyana and my son Kian, who may or may not be watching from home, that I love them.

* * *

I've been working on privacy and consumer protection for the last dozen years. But for me, my work really began in May 2011, when the subcommittee I served as chief counsel, the Senate Judiciary Subcommittee on Privacy, announced its first hearing on smartphone geolocation technology.

Soon after that, one of the first groups we heard from wasn't a privacy group or a consumer group. It was the Minnesota Coalition for Battered Women. They told us that the women who arrived at their shelters were often tracked by their abusers through secret spyware known as stalking apps.

The message was eye-opening. Because here we were about to hold a hearing about "global-positioning systems" and "cell-site location." And here was this shelter saying: This is about safety. This is about a woman's ability to live her life in peace.

And ever since then, I've tried to think about privacy not in terms of data, but in terms of people. Real people suffering real harm. And I've tried to work across the aisle to help them.

Indeed, by focusing on this problem of stalking apps, our coalition, which included Senator Klobuchar and Senator Blumenthal, was able to team up with the offices of Senator Grassley, Senator Cornyn, and Senator Graham to successfully press the Department of Justice to run one of its first major prosecutions of one of these stalking app developers.

This is what I hope to focus on, if I'm confirmed: I want to make sure that the Commission is helping the people who need it the most.

Health care workers being sold fake N-95 masks. People fighting opiate addictions being sold scam treatments. Parents trying to make sure their kids aren't hurt by the apps they use online.

I want to help small business owners across the country who are struggling to compete on their merits, without a bigger company using its power to stifle that competition. I'm not just talking about one industry in one state. I'm talking about people across the country—from grocers to pharmacists to online merchants.

Things are not normal. We are in a crisis. A COVID crisis. A privacy crisis. A crisis for small business.

I believe my five years here in the Senate prepared me for this crisis. In that time, I helped run some of the first major oversight hearings into tech giants. Tech giants who were logging our movements, scanning our faces, scanning teenagers' faces. I worked across the aisle to protect small businesses from Federal bureaucracies. And I helped negotiate the bipartisan law that forced the NSA to be more transparent.

What I learned from the Senate is that we may disagree, profoundly, even passionately. But we cannot let that get in the way of helping the American people.

* * *

I'm grateful for your time. I'm deeply grateful for this nomination. And I'm grateful for this country, my country, which has given me and my family so much. When we landed at JFK airport 34 years ago, this was never what we expected. I look forward to your questions.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Alvaro M. Bedoya.
2. Position to which nominated: Commissioner, Federal Trade Commission.
3. Date of Nomination: September 20, 2021.
4. Address (List current place of residence and office addresses):

Residence: Information not released to the public.

Office: Center on Privacy & Technology at Georgetown Law, 600 New Jersey Ave. NW, Washington, DC 20001.

5. Date and Place of Birth: February 21, 1982 (Lima, Peru).
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

Spouse: Dr. Sima Zadeh Bedoya. Pediatric psychologist at the National Institutes of Health's National Cancer Institute.

7. List all college and graduate degrees. Provide year and school attended.

- Yale Law School, 2004–2007, J.D.
- Harvard College, 1999–2003, A.B. *summa cum laude*, Social Studies.

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

- Center on Privacy & Technology at Georgetown Law/Georgetown University Law Center. New Jersey Ave. NW, Washington, DC.
 - *Founding Director & Visiting Professor of Law* (July '18 to present)
 - *Executive Director* (Aug. '14–July '18) & *Adjunct Prof. of Law* (Jan. '15–July '18)
 - *Director, Federal Legislation Clinic* (July '18–June '20)
- Senate Judiciary Subcommittee on Privacy, Technology and the Law/Sen. Al Franken. Hart Senate Office Building, Washington, DC.

- *Chief Counsel to Subcommittee* (Jan. '11–Aug. '14)
- *Chief Counsel to Sen. Franken* (June '10–Jan '11)
- *Counsel to Sen. Franken* (July '09–June '10).
- Wilmer, Cutler, Pickering, Hale and Dorr LLP. Pennsylvania Ave. NW, Washington, DC.
 - *Associate* (Sept. '07–July '09)
 - *Summer Associate* (June–July '06) in New York, NY.
- U.S. Senator Edward Kennedy & Senate Judiciary Subcommittee on Immigration, Refugees, and Border Security, Dirksen Senate Office Building, Washington, DC.
 - *Law Clerk* (May–June '06)
- NAACP Legal Defense and Education Fund, Rector Street, New York, NY.
 - *Law Clerk* (May–Aug. '05)
- International Labour Office (ILO) Special Action Programme to Combat Forced Labour, 4 route des Morillons, CH–1211, Geneva, Switzerland.
 - *Research Consultant* (April–June '04)
 - *Subcontractor via Eduardo Bedoya Garland* (Oct. '03–April '04)

9. Attach a copy of your resumé.

See attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last ten years. None.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last ten years. None.

12. Please list each membership you have had during the past ten years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religiously affiliated organization, private club, or other membership organization. (For this question, you do not have to list your religious affiliation or membership in a religious house of worship or institution.) Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or disability.

- CASA in Action. 8151 15th Ave., Adelphi, MD 20783
 - Member, Board of Directors (June 2021 to present)
- CASA. 8151 15th Ave., Adelphi, MD 20783
 - Member, Board of Directors (Oct. 2020 to present)
 - Chair, Development Committee (July 2021 to present)
- The Accountability Movement. 1341 G St. NW 5th floor, Washington, DC 20005
 - Member, Board of Directors (Sept. 2020 to present)
- Free Press. 1025 Conn. Ave. NW, Suite 1110, Washington, DC 20036
 - Member, Board of Directors (Dec. 2016–Oct. 2020)
- Free Press Action Fund. 1025 Conn. Ave. NW, Suite 1110, Washington, DC 20036
 - Member, Board of Directors (Dec. 2016–Oct. 2020)
- Center for Democracy & Technology. 1401 K St. NW #200, Washington, DC 20005
 - Member, Advisory Council (Dec. 2015–Aug. 2018)
- The Esperanza Education Fund. P.O. Box 27507, Washington, DC 20036
 - Member, Board of Directors (Aug. 2014–June 2018)
 - Member, Board of Advisors (July 2009–Aug. 2014)
 - Co-Founder & Chair, Board of Directors (Jan.–July 2009)

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.

No, I have not.

14. List all memberships and offices held with and services rendered to, whether compensated or not, any political party or election committee within the past ten years. If you have held a paid position or served in a formal or official advisory position (whether compensated or not) in a political campaign within the past ten years, identify the particulars of the campaign, including the candidate, year of the campaign, and your title and responsibilities.

Not applicable.

15. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past ten years.

John King for Governor of Maryland (\$1,000), 2021

16. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

- *French-American Foundation Young Leader (2015–2016)*. Trans-Atlantic fellowship and exchange program.
- *DC Legal Hackers “Legal Hack of the Year” Award (2016)*. For the research in my Center’s report, *The Perpetual Line-Up*, on the privacy, civil liberties, and civil rights issues raised by law enforcement use of face recognition technology.
- *Legal Bisnow’s 40 Lawyers Under 40 (2015)*. Awarded to lawyers “who have distinguished themselves in the past year with exceptional performance.”
- *National Law Journal Hill “Hot List” (2013)*. One of “a dozen congressional legal stars” who “play critical roles in research, oversight, and shaping legislation.”
- *Champion for Children Award (2010)*. Awarded by the First Focus Campaign for Children for my Senate work to protect children affected by immigration raids.
- *The Hugh A. Johnson, Jr. Memorial Award (2010)*. Awarded by the Hispanic Bar Association for the District of Columbia (HBA–DC) to the Esperanza Education Fund “for outstanding contributions to the Latino community.”
- *Francis Wayland Prize (2007)*. Awarded by Yale Law School for proficiency in negotiation and litigation in clinical work.
- *Paul & Daisy Soros Fellowship for New Americans (2006)*. Two-year full scholarship to attend Yale Law School.
- *Phi Beta Kappa (2003)*. For undergraduate studies at Harvard College.
- *Kawamura Fellowship (2003)*. One of three Harvard undergraduates selected for an intensive cultural ambassadorship program to Japan.
- *Alexis de Tocqueville Prize (2003)*. Awarded to the best two senior theses in my undergraduate major (Social Studies).
- *Latino Studies Prize (2003)*. Awarded to the best two senior theses on a subject concerning Latinos or Latin American studies.
- *Arthur Liman Public Interest Fellowship (2001)*. Public interest law fellowship to support my summer internship at the Migrant Farmworker Justice Project in Belle Glade, Florida.

17. Please list each book, article, column, Internet blog posting, or other publication you have authored, individually or with others. Include a link to each publication when possible. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

Note: I have conducted an extended, diligent, and good faith search of all of my own records and public records to identify materials responsive to this question. However, due to the large number of my speaking engagements, I may have inadvertently omitted materials. If additional responsive material is identified, it will be provided to the Committee promptly.

Publications

- “*Watching Immigrants*,” Harvard National Security Journal (forthcoming 2022). Based on my lecture at the HNSJ & Lieber Institute at the U.S. Military Academy at West Point Symposium: “Racial & Intersectional Critiques of National Security Law” on March 2, 2021.
- With Sen. Clarence Lam & Del. Dana Stein, “*Maryland Bill Would Restrict ICE Access to MVA Data*,” *The Baltimore Sun*, Feb. 16, 2021.
- “*The Cruel New Era of Data-Driven Deportation*,” *Slate*, Sept. 22, 2020.

- “Privacy as Civil Right,” 50 *New Mexico Law Review* 3 (2020).
- “Algorithmic Discrimination vs. Privacy Law,” in *The Cambridge Handbook of Consumer Privacy* (Evan Selinger, Jules Polonetsky, Omer Tene, eds.), 2018.
 - Note: The chapter is paywalled, but I have temporarily uploaded the page proofs to Google Drive for your review. My chapter is on pages 232–240.
- “A License to Discriminate,” *The New York Times*, June 6, 2018.
- “Why Silicon Valley Lobbyists Love Big, Broad Privacy Bills,” *The New York Times*, April 11, 2018.
- With Harrison Rudolph & Laura Moy, *Not Ready for Take-Off: Face Scans at Airport Departure Gates*, Center on Privacy & Technology at Georgetown Law, Dec. 2017.
 - Media: *Interactive Website*.
- “Deportation is Going High Tech Under Trump,” *The Atlantic*, June 21, 2017.
- “You Cannot Encrypt Your Face,” *The Atlantic*, May 5, 2017.
- With Clare Garvie, “Smile! You’ve just been identified by face recognition,” *New York Daily News*, March 27, 2017.
- “Who’s Logging Your Face?” *The Washington Post*, March 22, 2017.
- With Paul Ohm, *Amicus Curiae Brief in Castorina v. De Blasio*, a case regarding the privacy of documents submitted in the IDNYC program. Jan. 4, 2017.
- With Clare Garvie and Jonathan Frankle, *The Perpetual Line-Up: Unregulated Police Face Recognition in America*, Center on Privacy & Technology at Georgetown Law, Oct. 2016.
 - Media: *Interactive Website*.
- *Comments on Proposed FBI Rulemaking to Exempt the Next Generation Identification System from Provisions of the Privacy Act*, July 6, 2016.
- “The Color of Surveillance,” *Slate*, Jan. 18, 2016.
- With Clare Garvie, *Comments on “Follow the Lead: A Workshop on Lead Generation”* before the Federal Trade Commission, Dec. 18, 2015.
- “Why I Walked Out of Facial Recognition Negotiations,” *Slate*, June 30, 2015.
- “Surveillance in Marble,” *Slate*, June 2, 2015.
- With Ben Sobel, “Just How Kafkaesque is the Court that Oversees NSA Spying?” *The Washington Post*, May 21, 2015.
- “Big Data and the Underground Railroad,” *Slate*, Nov. 7, 2014.
- “Executive Order 12,333 and the Golden Number,” *Just Security*, Oct. 9, 2014.
- *Comments on “Big Data: A Tool for Inclusion or Exclusion?”* before the Federal Trade Commission, Aug. 15, 2014.
- With David Vladeck, *Comments on “Big Data and Consumer Privacy in the Internet Economy”* before the National Telecommunications & Information Administration, Aug. 5, 2014.
- Note, “The Unforeseen Effects of *Georgia v. Ashcroft* on the Latino Community,” 115 *Yale Law Journal*, 2112–2146 (2006).
- Forum Contribution, “Backlash at the Booth: Latino Turnout After H.R. 4437,” *Yale Law Journal Pocket Part*, Aug. 8, 2006.
- With Eduardo Bedoya & Patrick Belser, “Debt Bondage and Ethnic Discrimination in Latin America,” in *Forced Labor: Coercion and Exploitation in the Private Economy* 35–50 (Beate Andrees & Patrick Belser eds., Boulder, Colo.: Lynne Rienner Publishers 2009).
- With Eduardo Bedoya Garland, *Servidumbre por Deudas y Marginación en el Chaco de Paraguay* [“Debt Bondage and Marginalization in the Chaco of Paraguay”], (Int’l Labour Org., Working Paper No. 45, 2005).
- With Eduardo Bedoya Garland, *El Trabajo Forzoso en la Extracción de la Madera en la Amazonia Peruana* [“Forced Labor in the Logging Industry in the Peruvian Amazon”], (Int’l Labour Org., Working Paper No. 40, 2005).
- With Eduardo Bedoya Garland, *Enganche y Servidumbre por Deudas en Bolivia* [“Enganche’ and Debt Bondage in Bolivia”], (Int’l Labour Org., Working Paper No. 41, 2005).
- “Captive Labor,” *Dollars & Sense*, Sept./Oct. 2003.

Public Speeches, Lectures, Extended Interviews & Panel Discussions Relevant to my Nomination

- “The Shadowy Side of Smart Cities,” *Our Tech Futures Conference by Just Futures Law*, July 7, 2021.
- “Seven Questions for the Future of Face Recognition Technology” Beyond Fairness: Towards a Just, Equitable & Accountable Computer Vision, CVPR 2021 Workshop, June 25, 2021.
- Panel discussion: “Building Bridges Between Law & Technology” Georgetown Law, May 6, 2021.
- Interview in *No Safety with Surveillance*, OpenMIC, April 6, 2021.
- Panel discussion: “Racial Justice & Business Technologies,” *The Technology Ethics Center at the University of Notre Dame*, March 5, 2021.
- “Surveillance tech is not accomplishing the things it’s supposed to,” *Marketplace Tech*, Jan. 11, 2021.
- Panel discussion: “The Rhetoric and Application of AI in Policing & Criminal Justice,” *Center on Global Transformation at U.C. San Diego*, Nov. 18, 2020.
- Public Interest Technology—University Network Inaugural Convening: Keynote Panel on Technology, Race, and Our Future. Nov. 21, 2019.
- “Trevor Paglen: Sites Unseen” Exhibition Panel Discussion, Smithsonian American Art Museum, Washington, DC. Nov. 15, 2018.
- The Color of Surveillance: Monitoring of Poor and Working People: Opening Remarks & Closing Remarks. Center on Privacy & Technology, Georgetown Law, Washington, DC. Nov. 7, 2019.
- “FBI, ICE Use State Driver’s License Databases to Scan Photos,” *NPR Morning Edition*, July 8, 2019.
- The Color of Surveillance: Government Monitoring of American Immigrants: Opening Remarks, “The Military Intelligence Division & American Jews (A Transition)” & Moderator for Panel Discussion: “A Conversation on Countering Violent Extremism.” Center on Privacy & Technology, Georgetown Law, Washington, DC. July 19, 2018.
- “Bedoya on government monitoring of religious minorities,” *The Privacy Advisor Podcast*, June 15, 2018.
- Congressional Briefing: “The Usual Suspects: Bias in Government Surveillance.” Fourth Amendment Advisory Committee, Rayburn House Office Building, Washington, DC. Nov. 30, 2016.
- Congressional Briefing on *The Perpetual Line-Up: Unregulated Police Face Recognition in America* Report. Senate Judiciary Committee (Invitation from Chairman Grassley & Ranking Member Leahy), Washington, DC. Nov. 28, 2016.
- Keynote Address to the International Joint Conference on Biometrics, October 4, 2017.
- The Color of Surveillance: Government Monitoring of American Immigrants: Opening Remarks & Moderator for Panel Discussion: “The Border and the Muslim Ban.” Center on Privacy & Technology, Georgetown Law, Washington, DC. June 22, 2017.
- Panel Discussion: “Facial recognition and law enforcement: technology and policy.” Connect:ID 2017 Conference, Washington, DC. May 3, 2017.
- “Live from Summit with Alvaro Bedoya,” *The Privacy Advisor Podcast*, International Association of Privacy Professionals, April 21, 2017.
- Panel Discussion: “Justice, Work, and Opportunity,” R Street Institute, Washington, DC. April 17, 2017.
- “The FBI and Facial Recognition,” *Tech Policy Podcast*, April 10, 2017.
- Panel Discussion: “We Are the Color of Freedom: Resisting Racist Police Surveillance in a Trump Era.” A “Virtual Town Hall” Hosted by the Center for Media Justice. March 29, 2017.
 - *Note:* I avoid using the word “racist” to describe race-biased technologies like face recognition; I find it to be inflammatory and unhelpful. The hosts of this panel changed the title of the panel a few days before the event and did not check with me before doing so.
- Moderator for Panel Discussion: “Privacy in Public Surveillance.” The American Criminal Law Review at Georgetown Law, Katz @ 50 Symposium, Washington, DC. March 3, 2017.

- Lecture: “The Perpetual Line-Up: Unregulated Police Face Recognition in America.” Harvard Data Privacy Lab, Cambridge, MA. Feb. 17, 2017.
- “Police Face Recognition Software Still Isn’t Great With Women & POCs, And Your Face Is Already In It,” *Criminal Injustice*, WESA (Pittsburgh NPR), Feb. 8, 2017.
- “Police Facial Recognition Databases Log About Half Of Americans,” NPR Weekend Edition Sunday, Oct. 23, 2016.
- “Police Face Recognition Databases May Include You,” *To The Point*, KCRW, Oct. 20, 2016.
- “The Source: The ‘Wild West’ Of Facial Recognition Technology,” KSTX San Antonio (Texas Public Radio), Oct. 20, 2016.
- Panel Discussion: “Safety of Personal Health Information: Regulation around the Emergence of Wearable Technology.” O’Neill Institute at Georgetown Law, Washington, DC. Oct. 5, 2016.
- Congressional Briefing: Launch of the Fourth Amendment Caucus and the Fourth Amendment Advisory Committee. Fourth Amendment Advisory Committee, Washington, DC. July 13, 2016.
- Panel Discussion: “Biometrics: Security, Privacy, and Convenience.” Fourth Annual George Mason Law & Economics Center Public Policy Conference on the Law & Economics of Privacy and Data Security, Arlington, VA. June 22, 2016.
- Opening Remarks: 6th Annual International Summit on the Future of Health Privacy, Patient Privacy Rights, Georgetown Law, Washington, DC. June 7, 2016.
- Panel Discussion: “Privacy and Civil Liberties: Implications of Securing Cyber Environments.” Georgetown Law Continuing Legal Education, Fourth Annual Cybersecurity Law Institute, Washington, DC. May 25, 2016.
- Panel Discussion: “Facial Recognition Technology: Notes of Caution for Privacy, Civil Rights, and Civil Liberties.” Johns Hopkins University, Government Analytics Breakfast Forum. April 13, 2016.
- The Color of Surveillance: Government Monitoring of the African American Community: Opening Remarks & Moderator for Panel Discussion: “Martin Luther King and the FBI.” Center on Privacy & Technology, Georgetown Law, Washington, DC. April 8, 2016.
- Panel Discussion: “Technology, the Internet, and Race: Tool for Liberation or Oppression?” Computers Freedom and Privacy Conference 2015, Alexandria, VA. Oct. 14, 2015.
- Panel Discussion: “Freedom to Innovate, In Context.” Center for Civil Media at MIT and the Electronic Frontier Foundation, Cambridge, MA. Oct. 10, 2015.
- Panel Discussion: “Big Data, Inequality, and the Law.” Ford Foundation, New York, NY. Oct. 5, 2015.
- “Do you really own your face?” *To The Point*, KCRW, July 10, 2015.
- Panel Discussion: “No Place to Run, No Place to Hide: The Internet of Things, The Future of Internet Opportunities and Risks.” National Association of College and University Attorneys (NACUA), 2015 Annual Conference, Washington, DC. June 30, 2015.
- “Who Owns Your Face? The Fight to Regulate Facial Recognition Technology,” *The Takeaway*, WNYC & Public Radio International, June 18, 2015.
- “The Computer Will (Literally) See You Now,” *On Point with Tom Ashbrook*, WBUR and National Public Radio, June 18, 2015.
- “Privacy Advocates Walk Out of Tech Talks,” *Quest Means Business*, CNN, June 17, 2015.
- “Why people of color should care about mass surveillance,” *Shift*, MSNBC, June 9, 2015.
- “The Digital Fingerprints We Leave Behind Online,” *The Kojo Nnamdi Show*, WAMU, May 19, 2015.
- Keynote Address to the National Association of Attorneys General on Consumer Privacy. NAAG Spring Consumer Protection Meeting, Washington, DC. May 11, 2015.
- Panel Discussion: “Leveraging the Disruptive Power of the Internet.” Global Philanthropy Forum Conference, Washington, DC. April 23, 2015.
- Panel Discussion: “Will Health Tech Ever Be Hack-Proof?” New America Foundation, Washington, DC. March 26, 2015.

- Interview: “Exploring Big Data and *The Black Box Society*.” Center on Privacy & Technology, Georgetown Law, Washington, DC. Feb. 13, 2015.
- Keynote Interview of Edith Ramirez, Chairwoman of the Federal Trade Commission. State of the Net 2015 Conference, Washington, DC. Jan. 27, 2015.
- “The Future of Uber And Online Car Services,” *The Diane Rehm Show*, WAMU, Dec. 11, 2014.
- Panel Discussion: “The Business & Ethics of (Big) Data.” pii2014 Conference, Palo Alto, CA. Nov. 13, 2014.
- Panel Discussion: “The NSA, Privacy and the Global Internet: Perspectives on EO 12333.” Center on Privacy & Technology at Georgetown Law, Georgetown Law, Washington, DC. Sept. 19, 2014.
- Panel Discussion: “Nontrespassory tracking: Biometrics, license plate readers, and drones.” Yale Law Journal of Law and Technology’s Location Tracking and Biometrics Conference, New Haven, CT. Feb. 6, 2013.

18. List all digital platforms (including social media and other digital content sites) on which you currently or have formerly operated an account, regardless of whether or not the account was held in your name or an alias. Include the name of an “alias” or “handle” you have used on each of the named platforms. Indicate whether the account is active, deleted, or dormant. Include a link to each account if possible.

Twitter: <https://twitter.com/alvarombedoya>

Facebook: <https://www.facebook.com/alvaro.martin.bedoya>

LinkedIn: <https://www.linkedin.com/in/alvaro-bedoya-9312b258/>

Instagram: <https://www.instagram.com/pluckyllama/> (inactive)

19. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

- Congressional Hearing Testimony: “*Law Enforcement’s Use of Facial Recognition Technology*.” Hearing before the U.S. House of Representatives, Committee on Oversight and Government Reform, Washington, DC. March 22, 2017.
 - Resources: *Written Testimony*; *Oral Testimony & Video of Hearing* (start video at 27:25).

20. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

I would be honored to serve as a commissioner in the Federal Trade Commission because I believe in its core mission: protecting consumers. I spent four of my five years in the U.S. Senate as chief counsel of a new Subcommittee dedicated to protecting consumers, and in my current role I am dedicated to protecting the most vulnerable in our society against invasions of privacy. I love this work and believe it is important.

21. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

As a President-appointed and Senate-confirmed official, it is my responsibility to help ensure that the Commission operates in accordance with the law and with integrity, including management and financial accountability.

As the executive officer of the Center on Privacy & Technology at Georgetown Law, I manage a staff of 8 FTEs and an annual budget of \$1.2 million. As chief counsel to the Subcommittee on Privacy, I managed a staff of 3 FTEs. I have served on the boards of several larger organizations, including Free Press and CASA, which has a staff of over 100 employees and a budget of \$16 million. As Board Development Chair for CASA, I have become familiar with the financial processes underpinning the organization.

22. What do you believe to be the top three challenges facing the department/agency, and why?

- *Capacity*. Despite their talents and long track record of rigorous investigations and oversight, the Commission’s staff and resources are too limited to effectively enforce the myriad statutes within its mandate. This is particularly true when it comes to privacy enforcement, where agency staff—despite with being charged with protecting against privacy invasions from the globe’s largest tech-

nology companies—is dwarfed by comparable staffs in smaller European countries.

- *Advanced Privacy Invasions.* Historically, surveillance technology has tracked your technology; now it tracks your body, and not just your face: your voice, your gait, your iris, etc. Relatedly, technology companies are employing a sophisticated array of psychological tools to encourage user dependency on their products. Unfortunately, due to the volume and prevalence of these activities agency oversight and enforcement has not kept up with these activities.
- *Overlapping and Concurrent Crises.* While the agency begins to aggressively confront a consolidated and concentrated technology sector, it is tasked with also responding to fraud and abuse related to the pandemic, as well as aggressive debt collection related to the recent lifting of Federal eviction moratoria. Each of these is a defining crisis in its own right. Responding to each of them effectively requires close coordination across agency leadership and each of the components of the Commission.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

I will continue to participate in my current defined contribution plan after leaving Georgetown University. Georgetown University will not make contributions after my separation.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain.

No, I have none.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. Explain how you will resolve each potential conflict of interest.

In connection with the nomination process, I have consulted with the U.S. Office of Government Ethics and the Federal Trade Commission's Designated Agency Ethics Official to identify potential conflicts of interest. If confirmed, any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with the Commission's Designated Agency Ethics Official. I am not aware of any other potential conflicts of interest.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last ten years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated. Explain how you will resolve each potential conflict of interest.

In connection with the nomination process, I have consulted with the U.S. Office of Government Ethics and the Federal Trade Commission's Designated Agency Ethics Official to identify potential conflicts of interest. If confirmed, any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with the Commission's Designated Agency Ethics Official. I am not aware of any other potential conflicts of interest.

5. Identify any other potential conflicts of interest, and explain how you will resolve each potential conflict of interest.

In connection with the nomination process, I have consulted with the U.S. Office of Government Ethics and the Federal Trade Commission's Designated Agency Ethics Official to identify potential conflicts of interest. If confirmed, any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with the Commission's Designated Agency Ethics Official. I am not aware of any other potential conflicts of interest.

6. Describe any activity during the past ten years, including the names of clients represented, in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

In addition to my work for the Federal Legislation Clinic described in response to question 8 above, I have engaged in advocacy on behalf of the Center on Privacy & Technology at Georgetown Law. Those issues include regulation and moratoria on law enforcement use of face recognition, gender, age, and race-bias testing of face recognition technology, use of information related to unaccompanied children related to immigration enforcement, automated scanning of social media related to immigration enforcement, and privacy laws to protect data held by DMVs, public utilities, and other state agencies.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics, professional misconduct, or retaliation by, or been the subject of a complaint to, any court, administrative agency, the Office of Special Counsel, professional association, disciplinary committee, or other professional group? If yes:

- a. Provide the name of agency, association, committee, or group;
- b. Provide the date the citation, disciplinary action, complaint, or personnel action was issued or initiated;
- c. Describe the citation, disciplinary action, complaint, or personnel action;
- d. Provide the results of the citation, disciplinary action, complaint, or personnel action.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain. No.

3. Have you or any business or nonprofit of which you are or were an officer ever been involved as a party in an administrative agency proceeding, criminal proceeding, or civil litigation? If so, please explain.

Not during the time during which I was an officer. I am unaware of the prior litigation history of the non-profits which I served as a board member.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain. No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain. No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination.

I am not aware of any such information.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by congressional committees, and that your department/agency endeavors to timely comply with requests for information from individual Members of Congress, including requests from members in the minority? Yes.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

ALVARO M. BEDOYA

EXPERIENCE

Center on Privacy and Technology at Georgetown Law, Washington, DC Aug. '14 - present
Founding Director & Visiting Professor of Law (July '18-present), *Executive Director* (Aug. '14-July '18)

- Founder of think tank focused on the disparate impact of surveillance. Principal investigator on over \$5 million in grants; grew budget from \$250,000 to \$1.2 million and staff from one to eight FTEs.
- Co-authored *The Perpetual Line-Up: Unregulated Police Face Recognition in America*, a report revealing that 1 in 2 adults are in a police face recognition network. The report led to a House Oversight hearing and a NIST study on bias in face recognition; 17 of the 22 laws since passed on face recognition used report's legislative language. Report was on the front pages of the *Post & Baltimore Sun*, on the CBS Evening News, and paved way for the *Post* and *Times* editorial boards to back regulations.
- Co-authored *Not Ready for Take-Off: Face Scans at Airport Departure Gates*, an investigation into biometric exit in the U.S. Report led to bipartisan oversight of the DHS as well as passage of the first federal law requiring race and gender bias testing of a federal machine learning system, Sec. 1919 of the FAA Reauthorization Act of 2018.
- Worked with Congress to enact an appropriations rider to restrict ICE from using interview data from unaccompanied kids to target deportations, secs. 224 & 223 of FY19 & 20 DHS appropriations bills.
- Co-led a coalition that persuaded Google to stop running search ads for online payday loans.
- Writing featured in the *New York Times*, *Washington Post*, *Baltimore Sun*, *The Atlantic* and *Slate*.

Senate Judiciary Subcommittee on Privacy, Technology & the Law, Washington, DC July '09-Aug. '14
Chief Counsel to Subcommittee (Jan. '11), *Chief Counsel to Sen. Franken* (June '10); *Counsel* (July '09)

- Lead staff drafter of bipartisan transparency provisions in the USA FREEDOM Act. Ran oversight hearings involving Apple, Facebook, Google, Netflix, the DOJ, FTC, and NSA. Drafted bipartisan legislation to protect small businesses from error-prone immigration bureaucracies; conducted bipartisan oversight to rein in "stalking apps."

Wilmer, Cutler, Pickering, Hale & Dorr LLP, Washington, DC. *Associate* Sept. '07-July '09

PUBLIC SERVICE

CASA, Langley Park, MD Oct. '20-present
Development Committee Chair (July '21), *CASA in Action Board* (June '21), *CASA Board* (Oct. '20)

- Interview candidates for Maryland governor and county councils for organizational endorsements. Support development committee in identifying potential corporate and foundation donors.

The Esperanza Education Fund, Inc., Maryland, Virginia & D.C. Jan. '09-June '18
Co-Founder & Board of Directors (Jan.-July '09, Aug.'14-June '18); *Board of Advisors* (July '09-Aug.'14)

- Co-founder of college scholarship that has awarded \$1 million to immigrant and first-generation students in Maryland, Virginia, and D.C.

EDUCATION

Yale Law School, J.D., June 2007. *Yale Law Journal*, Editor; Paul and Daisy Soros Fellowship.

Harvard College, A.B., *summa cum laude*, Social Studies, June 2003. Phi Beta Kappa.

Senator SCHATZ. Thank you very much, Mr. Bedoya. Ms. Bavishi.

**STATEMENT OF JAINEY K. BAVISHI, NOMINATED TO BE
ASSISTANT SECRETARY FOR OCEANS AND ATMOSPHERE,
U.S. DEPARTMENT OF COMMERCE**

Ms. BAVISHI. Chair, Ranking Member, members of the Committee, my name is Jainey Bavishi, and I currently serve as the Director of the New York City Mayor's Office of Climate Resiliency. I am honored to be nominated by President Biden for the position of Assistant Secretary for Oceans and Atmosphere. I am especially grateful to the Secretary of Commerce Gina Raimondo and NOAA Administrator Dr. Rick Spinrad for their support of my nomination. I also want to thank members of the Committee and staff for taking time to meet with me to share their perspectives. Finally, I want to thank my family, including my parents and my sister, who are here today and my partner and daughter who stayed back in New York.

I have spent nearly 20 years working to bolster the resilience of communities' infrastructure and economies to withstand the impacts of extreme weather and rising seas, which are both amplified by climate change. When Hurricane Katrina made landfall on the Gulf Coast, I felt personally compelled to assist in the recovery and spent the next 4 years supporting both rural and urban communities in Louisiana, Mississippi, and Alabama. It was early in my career that I came to appreciate that the most economically and socially vulnerable communities are often the most environmentally vulnerable, which is why I have always sought to center equity in my work.

Following my time on the Gulf Coast, I transitioned to NOAA just a few months before the Deepwater Horizon oil spill. I staffed the NOAA war room, which was established to respond to the crisis, for the duration of the initial 90 day response. That experience gave me deep insight into the use of scientific data and information to guide policy and operations. NOAA's scientific products inform everything from day to day response operations, to seafood safety, to economic recovery, to long term restoration. I also learned the importance of communicating the science in an accessible way. For example, when it became clear that Vietnamese-American fishermen in Mississippi were not receiving information about fisheries' closures due to the spill, it was my job to ensure that the information was translated and distributed in ethnic media outlets so that these fishermen could continue their livelihoods.

I later moved to Honolulu, where I led a nonprofit initiative that built partnerships between academia, communities, Government, and the private sector to scale innovative approaches to disaster risk reduction in the Asia-Pacific region. With a team of researchers in Hawaii, I worked on a project to scale community-based landslide early warning systems in Indonesian villages. Our work led to a national commitment to establish the early warning system in 1,000 communities. My experience underscore the importance of partnerships to advance enduring and innovative solutions. I then worked at the White House Council on Environmental Quality, where my purview included supporting the resilience of Alaska Native villages on the frontlines of climate change. I visited

Shaktoolik, a village that is actively addressing the impacts of thawing sea ice and increasing storm surge.

Through this work, I gained a deep appreciation for how traditional ecological knowledge can complement climate science and reveal important social and cultural insights about the impacts of climate change. For the last 5 years, I have led New York City's multi-hazard resilience strategy, which encompasses over \$20 billion worth of projects citywide. One aspect of my portfolio is the construction of coastal resilience projects that protect our waterfront neighborhoods from devastating storm surge and regular tidal flooding. These complex, first of their kind projects involve rigorous scientific and technical analysis, coordination with all levels of Government and private partners, and robust engagement with community.

These experiences have provided me with invaluable insight into effective leadership and management, especially with many diverse stakeholders. I believe these varied experiences have prepared me well to advance NOAA's mission. Never has that mission been more critical to the future of our Nation. Just in the last summer alone, our country experienced devastating heat waves in the normally temperate Pacific Northwest, which caused the deaths of hundreds and wreaked havoc on Pacific salmon and other important fisheries. Hurricane Ida, whose storm surge ravaged Louisiana and Mississippi before creating unprecedented flash flooding in New York and New Jersey, and a historical multi-year drought in the West. If confirmed, I would deploy NOAA's products and services in a user-friendly and accessible way to support local, state, and tribal Governments, the private sector, and Federal agency partners to better plan and make informed decisions on a changing climate.

I would ensure NOAA advances both environmental stewardship and economic opportunity to unlock new jobs and foster growth while transforming to a clean energy economy, building resilience to climate impacts, and conserving our natural resources. I would work to restore habitat and strengthen the Nation's coastlines to protect ecosystems, communities, and infrastructure from disruptive and often devastating climate impacts.

Finally, I would focus on recruiting the next generation of scientists and environmentalists so that they reflect the diversity of our country. In closing, thank you for your consideration and opportunity to testify here today, and I look forward to your questions.

[The prepared statement and biographical information of Ms. Bavishi follow:]

PREPARED STATEMENT OF JAINEY K. BAVISHI, NOMINEE FOR ASSISTANT SECRETARY
FOR OCEANS AND ATMOSPHERE, U.S. DEPARTMENT OF COMMERCE

Chair Cantwell, Ranking Member Wicker, Members of the Committee, my name is Jainey Bavishi, and I currently serve as the Director of the New York City Mayor's Office of Climate Resiliency. I am honored to be nominated by President Biden for the position of Assistant Secretary for Oceans and Atmosphere. I am especially grateful to the Secretary of Commerce Gina Raimondo and NOAA Administrator Dr. Rick Spinrad for their support of my nomination. I also want to thank members of the Committee and staff for taking time to meet with me to share their perspectives.

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ing seas, which are both amplified by climate change. When Hurricane Katrina made landfall on the Gulf Coast, I felt personally compelled to assist in the recovery and spent the next four years supporting both rural and urban communities in Louisiana, Mississippi and Alabama. It was early in my career that I came to appreciate that the most economically and socially vulnerable communities are often the most environmentally vulnerable, which is why I have always sought to center equity in my work.

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I later moved to Honolulu where I led a nonprofit initiative that built partnerships between academia, communities, government, and the private sector to scale innovative approaches to disaster risk reduction in the Asia Pacific region. For example, with a team of researchers from Hawaii, I worked on a project to scale community-based landslide early warning systems in Indonesian villages. Our work led to a national commitment to establish the early warning system in 1,000 communities. My experience underscored the importance of partnerships to advance enduring and innovative solutions.

I then worked at the White House Council on Environmental Quality, where my purview included supporting the resilience of Alaska Native villages on the frontlines of climate change. I visited Shaktoolik, a village that is actively addressing the impacts of thawing sea ice and increasing storm surge. Through this work, I gained a deep appreciation for how traditional ecological knowledge can complement climate science and reveal important social and cultural insights about the impacts of climate change.

For the last five years, I have led New York City’s multi-hazard resilience strategy, which encompasses over \$20 billion worth of projects citywide. One aspect of my portfolio is the construction of coastal resilience projects that protect our waterfront neighborhoods from devastating storm surge and regular tidal flooding. These complex, first-of-their-kind projects involve rigorous scientific and technical analysis, coordination with all levels of government and private partners, and robust engagement with community. These experiences have provided me with invaluable insight into effective leadership and management, especially with many diverse stakeholders.

I believe these varied experiences have prepared me well to advance NOAA’s mission. Never has that mission been more critical to the future of our Nation. Just in the last summer alone, our country experienced devastating heatwaves in the normally temperate Pacific Northwest, which caused the deaths of hundreds and wreaked havoc on Pacific salmon and other important fisheries; Hurricane Ida, whose storm surge ravaged Louisiana and Mississippi before creating unprecedented flash flooding in New York and New Jersey; and a historical multi-year drought in the West.

If confirmed, I would deploy NOAA’s products and services in a user-friendly and accessible way to support local, state and Tribal governments, the private sector and Federal agency partners to better plan and make informed decisions in a changing climate. I would ensure NOAA advances both environmental stewardship and economic opportunity to unlock new jobs and foster growth while transforming to a clean energy economy, building resilience to climate impacts, and conserving our natural resources. I would work to restore habitat and strengthen the Nation’s coastlines to protect ecosystems, communities, and infrastructure from disruptive, and often devastating, climate impacts. Finally, I would focus on recruiting the next generation of scientists and environmentalists so that they reflect the diversity of our country.

In closing, thank you for your consideration and the opportunity to testify here today. I look forward to your questions.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Jainey Kumar Bavishi.
2. Position to which nominated: Assistant Secretary for Oceans and Atmosphere.
3. Date of Nomination: August 10, 2021.
4. Address (List current place of residence and office addresses):

Residence: Information not released to the public.

Office: 253 Broadway, 14th Floor, New York, NY 10007.

5. Date and Place of Birth: August 29, 1981; Bethlehem, PA.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).
Spouse: Jerome Hughes, Faculty, University of District of Columbia School of Law.
7. List all college and graduate degrees. Provide year and school attended.
Bachelor of Arts, Public Policy and Cultural Anthropology, 2003, Duke University
Master of City Planning, 2007, Massachusetts Institute of Technology
8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.
June 2003–August 2003: Faculty Advisor, Global Young Leaders
August 2003–December 2003: Intern, Self-Help
January 2004–July 2004: Lewis Hine Documentary Fellow, Duke University
August 2004–December 2006: Research Assistant, Fannie Mae Foundation
January 2006–July 2006: Field Research Co-Coordinator and Funding Liaison, Unitarian Universalist Service Committee (UUSC)
July 2006–June 2007: Consultant, Gulf Coast Funders for Equity
September 2006–June 2007: Research Assistant, MIT Department of Urban Studies and Planning
January 2007–June 2007: Consultant, Mobilizing Communities
August 2007–November 2007: Program Associate, Community Engagement, Louisiana Disaster Recovery Foundation
December 2007–July 2009: Director, Equity and Inclusion Campaign, Louisiana Disaster Recovery Foundation
November 2009–December 2009: Consultant, Emily Pelton Consulting
January 2010–May 2013: Senior Policy Advisor and Director of External Affairs, National Oceanic and Atmospheric Administration
May 2013–August 2015: Executive Director, R3ADY Asia-Pacific
August 2015–January 2017: Associate Director, Climate Preparedness, White House Council on Environmental Quality
January 2017–present: Director, NYC Mayor’s Office of Climate Resiliency
9. Attach a copy of your resumé.
See attached.
10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last ten years.
Urban Ocean Lab, Advisor, 2018 to present
National Academies of Science, Member, Resilient America Roundtable, 2019 to present
Nicholas Institute, Resilience Roadmap, Steering Committee Member, 2021 to present
Resilience 21, Leadership Council Member, 2021 to present
11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last ten years.
Foundation for Louisiana, Director, 2018 to present
12. Please list each membership you have had during the past ten years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religiously affiliated organization, private club, or other membership organization. (For this question, you do not have to list your religious affiliation or membership in a religious house of worship or institution.). Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or disability.
Not Applicable.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.

Appointed as a Policy Advisor at NOAA in 2010.

Appointed as Director, Mayor's Office of Climate Resiliency in 2017.

14. List all memberships and offices held with and services rendered to, whether compensated or not, any political party or election committee within the past ten years. If you have held a paid position or served in a formal or official advisory position (whether compensated or not) in a political campaign within the past ten years, identify the particulars of the campaign, including the candidate, year of the campaign, and your title and responsibilities.

Climate, Energy, Environment Policy Committee, Biden for President, 2020.

15. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$200 or more for the past ten years.

Biden for President, \$200.

16. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Marshall Memorial Fellowship, German Marshall Fund, 2017

Louisiana Effective Leadership Program, Duke University and Southern University, 2008–2009

17. Please list each book, article, column, Internet blog posting, or other publication you have authored, individually or with others. Include a link to each publication when possible. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

March 2006: Unitarian Universalist Service Committee, New Orleans post Katrina Community organizing landscape: current efforts, unmet need.

April 2006: Unitarian Universalist Service Committee, From Action to Policy

https://www.uua.org/files/documents/gcrp/0604_uua-uuscreport.pdf

June 2006: Unitarian Universalist Service Committee, Building Relationships to Rebuild New Orleans

https://www.uua.org/files/documents/gcrp/0606_uua-uuscreport.pdf

2007: MIT Master's Thesis, Building community capacity in the rebuilding of New Orleans: the role of philanthropic funders post-Katrina

<https://dspace.mit.edu/handle/1721.1/39931>

September 2008: Spotlight on Poverty and Opportunity Congressional Briefing, The Gulf Coast and the New Administration: An Agenda for the First 100 Days

<https://www.dailymotion.com/video/x31xs2o>

March 28, 2014: Global Connections TV

<https://www.youtube.com/watch?v=p1gQCDLs18>

October 5, 2016: Developing Climate Resilience: An Island Perspective,

<https://www.newsecuritybeat.org/2016/10/developing-climate-resilience-island-perspective/>

June 14, 2017: Building Energy Exchange, Women in Sustainability and Energy, Building Resilient Communities, <https://be-exchange.org/wise-resilient-communities/>

June 15, 2017: Hot 97, NYC Paris Agreement and NYC Heat Resiliency Programs, <https://www.youtube.com/watch?v=qsgdeOm7idk>

April 23, 2019: Verge Science, This is what sea level rise will do to coastal cities, <https://www.youtube.com/watch?v=6tesHVSZJQg&t=2>

July 23, 2019: Columbia University, Managed Retreat Conference Opening Remarks, https://www.youtube.com/watch?v=dJF_rh9nvqY

September 19, 2019: MIT A Livable Climate,

<https://events.technologyreview.com/video/watch/jainey-bavishi-nyc-plan-for-adapting-to-climate-change/>

October 15, 2019: Conscious Cities Festival, Heat Resiliency

<https://www.youtube.com/watch?v=GB1QSIVkdo>

October 24, 2019: City Limits, Summer of 2019 Is Over but Heat Risk Is Not Going Away

<https://citylimits.org/2019/10/24/the-summer-of-2019-is-over-but-the-heat-risk-to-nyc-is-not-going-away/>

February 10, 2020: Global Center on Adaptation, Adaptation Voices: New York
<https://www.youtube.com/watch?v=nUekpm6okKs>

March 13, 2020: American Shore and Beach Preservation Association, Coastal Resiliency in NYC
<https://asbpa.org/2020/03/13/bavishi-capitol-beach/>

August 3, 2020: Mayor DeBlasio Media Availability on Tropical Storm Isaias Preparations
<https://www1.nyc.gov/office-of-the-mayor/news/565-20/transcript-mayor-de-blasio-holds-media-availability-tropical-storm-isaias-preparations#/0>

August 21, 2020: Now This, Climate Crisis is a Fight for Social Justice <https://www.youtube.com/watch?v=kufzX2GrVcs>

September 2020: A Tale of Three Cities, *All We Can Save*

October 3, 2020: Crain's op-ed, "Our vision for coastal resiliency must go past the shoreline"
<https://www.crainsnewyork.com/op-ed/our-vision-climate-resiliency-must-go-past-shoreline>

October 9, 2020: Climate One Podcast, A Feminist Climate Renaissance
<https://www.climateone.org/people/jainey-bavishi>

November 9, 2020: Verge Green Biz, Collaborating with the ocean is essential to addressing climate change and environmental justice
<https://www.greenbiz.com/video/collaborating-ocean-essential-addressing-climate-change-and-environmental-justice>

December 3, 2020: Living on Earth, *All We Can Save*
https://www.facebook.com/watch/live/?v=685513895439861&ref=watch_permalink

December 8, 2020: Books & Books, Discussion about *All We Can Save*
<https://booksandbooks.com/virtual-event/an-evening-with-sarah-miller-jainey-k-bavishi-jane-gilbert-laurencia-strauss-and-greg-bloom/>

December 11, 2020: George Mason University, Power Lunch Series, Climate Change <https://www.youtube.com/watch?v=MÉsoAnrVrn4>

January 27, 2021: Milken Institute, New Pathways for Resilient Infrastructure Innovation
<https://milkeninstitute.org/article/public-financecfo-forum-2021>

March 12, 2021: Climate Museum, Talking Climate: Infrastructure
<https://climatemuseum.org/blog/2021/3/12/talking-climate-infrastructure>

April 8, 2021: Urban Design Forum, Power after the Pandemic: Greening Growth
<https://urbandesignforum.org/events/power-after-the-pandemic-greening-growth/>

April 14, 2021: Chatham House, From Local to Global: A Roadmap for U.S. Climate Action
<https://www.chathamhouse.org/events/all/research-event/local-global-roadmap-us-climate-action>

April 21, 2021: Gotham Gazette Op-Ed, "Building a climate safe future for Manhattan's east side"
<https://www.gothamgazette.com/opinion/10406-building-climate-change-safe-future-manhattan-east-side-resiliency>

April 21, 2021: Nicholas Institute, Climate Resilience: An Urgent Opportunity for U.S. Leadership
<https://www.youtube.com/watch?v=xPwYiFEIbY>

May 17, 2021: Honolulu Climate Change Commission, Adapting to Climate Change in New York City
https://www.facebook.com/watch/live/?v=799632117343307&ref=watch_permalink

May 21, 2021: Reuters, East Side Coastal Resiliency Project
<https://www.yahoo.com/lifestyle/park-protect-nyc-rising-sea-174509385.html>

May 24, 2021: The Hill Op-Ed, "FEMA's flood insurance overhaul could entrench inequalities in coastal cities"
<https://thehill.com/opinion/energy-environment/555077-femas-flood-insurance-overhaul-could-entrench-inequities-in>

18. List all digital platforms (including social media and other digital content sites) on which you currently or have formerly operated an account, regardless of whether or not the account was held in your name or an alias. Include the name of an “alias” or “handle” you have used on each of the named platforms. Indicate whether the account is active, deleted, or dormant. Include a link to each account if possible.

Twitter: <https://twitter.com/jaineytweets?lang=en> (@jaineytweets), active

Facebook: <https://www.facebook.com/jainey.bavishi/>, active

Instagram: <https://www.instagram.com/j41n3y8/> (@j41n3y8), active

LinkedIn: <https://www.linkedin.com/in/jaineybavishi/>, active

19. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

Not Applicable.

20. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

For the last 15+ years, I have worked to help communities adapt to and prepare for the impacts of a changing climate. I have worked in diverse communities across the U.S.—from the Gulf Coast States to Hawaii to New York City. I have also directed climate adaptation policy at the Federal and local levels. My work experience is complemented by my education, having received my bachelor’s degree in public policy and cultural anthropology, and my master’s degree in urban planning.

21. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

My responsibilities will be to support the NOAA Administrator in advancing the mission of the agency, and help to develop the programs, budgets, and policies to accomplish the components of that mission.

I currently lead the New York City Mayor’s Office of Climate Resiliency, where I oversee the implementation of a \$20 billion portfolio of climate resilience and adaptation projects.

22. What do you believe to be the top three challenges facing the department/agency, and why?

The first challenge will be developing and deploying a suite of user-friendly and accessible data, information and tools to support informed decision-making and planning in a changing climate. NOAA is the authoritative source for these products and services and will have a critical role to play in supporting local, state and Tribal governments, the private sector, as well as other Federal agencies, in planning for climate change.

The second challenge is to ensure that NOAA’s program balances both environmental stewardship and economic growth. There is abundant opportunity to create jobs and foster growth while transforming to a clean energy economy, building resilience to climate impacts and conserving our natural resources. NOAA, in partnership with other Department of Commerce bureaus like the Economic Development Administration (EDA), has an important role to play to unlock these opportunities.

The third challenge is to ensure that NOAA workforce of the future represents the diversity of our country. NOAA plays a key role in educating and training the next generation of scientists and environmentalists. NOAA has an important leadership role to play to recruit and diversify young talent in an inclusive and equitable manner.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

Retirement accounts include:

- 1) City of New York, 401K
- 2) City of New York, 457 Tax Deferred Savings Plan
- 3) City of New York, defined benefit plan
- 4) University of Hawaii Foundation, 403B
- 5) University of Hawaii Foundation, 403B TDA

6) Louisiana Disaster Recovery Foundation, 403B TDA

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain.

No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. Explain how you will resolve each potential conflict of interest.

Any potential conflict of interest will be resolved in accordance with the terms of my ethics agreement, which was developed in consultation with ethics officials at the Department of Commerce and the Office of Government Ethics. I understand that my ethics agreement has been provided to the Committee. I am not aware of any potential conflict other than those addressed by my ethics agreement.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last ten years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated. Explain how you will resolve each potential conflict of interest.

Any potential conflict of interest will be resolved in accordance with the terms of my ethics agreement, which was developed in consultation with ethics officials at the Department of Commerce and the Office of Government Ethics. I understand that my ethics agreement has been provided to the Committee. I am not aware of any potential conflict other than those addressed by my ethics agreement.

5. Identify any other potential conflicts of interest, and explain how you will resolve each potential conflict of interest.

Upon confirmation, I will resign from my position with the City of New York and from the Board of Directors of the Foundation for Louisiana. Any potential conflict of interest will be resolved in accordance with the terms of my ethics agreement, which was developed in consultation with ethics officials at the Department of Commerce and the Office of Government Ethics. I understand that my ethics agreement has been provided to the Committee. I am not aware of any potential conflict other than those addressed by my ethics agreement.

6. Describe any activity during the past ten years, including the names of clients represented, in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

None.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics, professional misconduct, or retaliation by, or been the subject of a complaint to, any court, administrative agency, the Office of Special Counsel, professional association, disciplinary committee, or other professional group?

No.

If yes:

- a. Provide the name of agency, association, committee, or group;
- b. Provide the date the citation, disciplinary action, complaint, or personnel action was issued or initiated;
- c. Describe the citation, disciplinary action, complaint, or personnel action;
- d. Provide the results of the citation, disciplinary action, complaint, or personnel action.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain. No.

3. Have you or any business or nonprofit of which you are or were an officer ever been involved as a party in an administrative agency proceeding, criminal proceeding, or civil litigation? If so, please explain. No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain. No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain. No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination. None.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by congressional committees, and that your department/agency endeavors to timely comply with requests for information from individual Members of Congress, including requests from members in the minority? Yes.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

JAINEY K. BAVISHI

PROFESSIONAL EXPERIENCE

<p><u>New York City Mayor's Office of Climate Resiliency</u>, New York, NY</p> <p>Director – Lead a team of 30 multi-disciplinary staff. Collaborate with senior leadership in the De Blasio Administration to advance resilience initiatives and policies to address the impacts of climate change.</p> <ul style="list-style-type: none"> • Oversee implementation of \$20 billion multi-layered resilience program, which includes strengthening coastal defenses, upgrading buildings, protecting critical services, and making neighborhoods safer. • Established an Equity Core Team to embed anti-racism across operations, policies and programs through training, data-driven tools, and accountability mechanisms. • Identify and leverage synergies between resilience and other Administration priorities, such as carbon mitigation, racial equity, affordable housing and workforce development. • Support the City's response to and resilient recovery from COVID-19. 	2017 – Present
<p><u>White House Council on Environmental Quality (CEQ)</u>, Washington, DC</p> <p>Associate Director for Climate Preparedness – Implemented the climate preparedness pillar of the President's Climate Action Plan. Served as lead for Council on Climate Preparedness and Resilience, which includes over 30 departments, agencies, and White House offices.</p> <ul style="list-style-type: none"> • Recruited and managed a team of 15 staff that integrated management, operational and subject matter expertise from key federal agencies. • Strengthened government-wide agency adaptation planning process through engagement of budget officers and developing clear accountability measures to ensure results. • Developed a roadmap for federal climate resilience priorities building on the successes of the Obama Administration. 	2015 – 2017
<p><u>R3ADY Asia-Pacific</u>, Honolulu, HI</p> <p>Executive Director – Spearheaded the establishment of a new public-private partnership comprised of U.S. government agencies, foundations, corporations, and universities to enhance multi-sectoral approaches to reducing the risk of natural disasters in the Asia-Pacific region through innovative projects and coalition building. Led fund development and grant management. Served as primary spokesperson with ministerial-level government officials and other external audiences.</p> <ul style="list-style-type: none"> • In 2 years, transformed R3ADY from an idea to a fully functioning organization, negotiating all foundational procedures for running the organization with Advisory Council of 23 members. • Executed \$2 million in initial projects and programs across the region that advance disaster risk reduction in Indonesia, Japan, Thailand, and the Philippines, overcoming early funding obstacles. • Developed and executed communications strategy, including new brand, website, and social media presence. • Cultivated project-based partnerships with foreign governments, companies, and communities. • Led smooth fiscal sponsor transition to realize fiscal efficiencies. 	2013 – 2015
<p><u>National Oceanic and Atmospheric Administration (NOAA)</u>, Washington, DC</p> <p>Director of External Affairs – Directed NOAA's stakeholder engagement efforts with routine outreach to businesses, academic and research institutions and nonprofit organizations. Oversaw small staff and led coordination of constituent affairs activities across 6 line offices.</p> <ul style="list-style-type: none"> • Established a Council of 5 Governors and 6 Cabinet officials responsible for investment of \$3+ billion in economic and environmental restoration projects and programs in the Gulf Coast states. <ul style="list-style-type: none"> – Designed initial organizational structure and recruited staff for new federal agency. – Mobilized and directed a cross-agency team of 50+ that integrated management, operational and subject matter expertise to stand up new agency. 	2012 – 2013

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JAINEY K. BAVISHI – PAGE TWO

PROFESSIONAL EXPERIENCE CONTINUED

- National Oceanic and Atmospheric Administration (NOAA), Washington, DC 2010 – 2012
Senior Policy Advisor – Advised senior leadership and led the development of policies and initiatives related to Deepwater Horizon oil spill recovery and ecosystem restoration, climate change adaptation, and environmental justice. Provided input on budget formulation and legislative drafting.
- **Developed and managed critical NOAA information systems during the Deepwater Horizon oil spill**, encompassing 1,000+ people and numerous state and federal agencies.
 - **Shaped Federal strategy on climate adaptation and Gulf Coast ecosystem restoration** by helping to author Administration plans and reports.
 - **Served as the NOAA Administrator's designee on interagency task forces** on ecosystem restoration, climate adaptation and environmental justice.
 - **Oversaw the development of the Department of Commerce's first climate adaptation plan.**
- Louisiana Disaster Recovery Foundation, Baton Rouge, LA 2007 – 2009
Equity and Inclusion Campaign Director – Served as the founding director of a regional, multi-issue policy advocacy and public messaging campaign aimed at the recovery of Gulf Coast communities after Hurricanes Katrina, Rita, Gustav, and Ike. Oversaw all aspects of campaign strategy, including government and external relations, research and development, coalition building and communications. Hired and managed a team of staff and consultants. Led all fund development and grants management.
- **In 2 years, launched Campaign from concept to an independent nonprofit**, developing all foundational principles and processes.
 - **Coalesced a new coalition of 300+ nonprofit and community leaders** from 3 Gulf Coast states through intensive outreach and relationship building.
 - **Organized Congressional briefings and presence at Presidential Conventions.**
 - **Developed and executed a transition plan to establish Campaign as independent organization**, raising operational funds and facilitating the election of the first Board of Directors.
- Gulf Coast Funders for Equity, New Orleans, LA 2006 – 2007
Consultant – Provided advice on strategic opportunities to support community rebuilding after Hurricane Katrina for consortium of over 50 public and private foundations and individual donors.
- **Conducted a scan of donor activity** to facilitate coordination and more effective grantmaking.
 - **Developed a framework for a small grants and technical assistance fund** by interviewing funders and potential grantees, analyzing similar funding initiatives and reviewing best practices.
- Unitarian Universalist Service Committee (UUSC), New Orleans, LA 2006
Field Research Co-Coordinator and Funding Liaison – Conducted outreach to community leaders and investigated key funding requirements immediately after Hurricane Katrina. Provided grant recommendations to UUSC staff and affiliates.
- **Co-authored a series of reports** highlighting the needs of community leaders for funders.
- Fannie Mae Foundation, Washington, DC 2004 – 2006
Research Assistant – Reviewed recent literature on urban community development strategies. Represented the Foundation at academic and professional conferences in the planning field.
- Committee for Legal Aid to the Poor, Cuttack, India 2003 – 2004
Fellow – Investigated the lack of childcare centers in communities below the poverty line through interviews and research. Produced and compiled stories for organization's quarterly newsletter on issues related to children's rights.

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JAINEY K. BAVISHI – PAGE THREE

EDUCATION

Massachusetts Institute of Technology, **Master of City Planning**
Duke University, **Bachelor of Arts in Public Policy and Cultural Anthropology**

FELLOWSHIPS

Marshall Memorial Fellowship, German Marshall Fund, 2017
Louisiana Effective Leadership Program, Duke University and Southern University, 2008-2009

RECENT PUBLICATIONS

Bavishi, Jainey. "FEMA's flood insurance overhaul could entrench inequities in coastal cities." *The Hill*, 24 May 2021, <https://thehill.com/opinion/energy-environment/555077-femas-flood-insurance-overhaul-could-entrench-inequities-in>, Op-ed.

Bavishi, Jainey. (2020). "A Tale of Three Cities." In *All We Can Save*, edited by Ayana Elizabeth Johnson and Katharine Wilkinson, One World, 2020, pp. 157-164.

Bavishi, Jainey and Clare Newman. "Our Vision for Climate Resiliency Must Go Past the Shoreline." *Crain's New York Business*, 30 Oct 2020, <https://www.crainnewyork.com/op-ed/our-vision-climate-resiliency-must-go-past-shoreline>, Op-ed.

Bavishi, Jainey, Maxine Burkett and Erin Shew. (2017). Climate Displacement, Migration, and Relocation - And the United States. *Climate Law*, 7(4), 227-231.

Bavishi, Jainey, Alice Hill and Tamara Dickinson. (2016, August 3). Getting smart about how we finance disaster resilience [Blog post]. Available at: <https://obamawhitehouse.archives.gov/blog/2016/08/03/getting-smart-about-how-we-finance-disaster-resilience>.

AFFILIATIONS

Secretary & Treasurer, Board of Directors, Foundation for Louisiana, New Orleans, LA, 2018 - Present.

Member, Resilient America Roundtable, National Academy of Sciences, Washington, DC, 2019 - Present.

Advisor, Urban Ocean Lab, New York, NY, 2019 - Present.

HONORS & RECOGNITIONS

Energy and Environment Power 100. *City and State NY*, New York, NY 2020.

2020 Power of Diversity: Asian 100. *City and State NY*, New York, NY, 2020.

40 Under 40. *Gambit Weekly*, New Orleans, LA, 2008.

Senator SCHATZ. Thank you, Ms. Bavishi. And now we will proceed with the final nominee, Mr. Venkataraman.

**STATEMENT OF ARUN VENKATARAMAN, NOMINEE FOR
ASSISTANT SECRETARY FOR GLOBAL MARKETS AND
DIRECTOR GENERAL OF THE U.S. AND FOREIGN
COMMERCIAL SERVICE, U.S. DEPARTMENT OF COMMERCE**

Mr. VENKATARAMAN. Thank you, Senator. Chair Cantwell, Ranking Member Wicker, members of the Committee, thank you for the opportunity to appear before you today. I am honored to be nominated by President Biden to be the Assistant Secretary of Commerce for Global Markets and the Director General of the U.S. and Foreign Commercial Service. I want to thank Secretary Raimondo for her support of my nomination. I also want to thank the Committee for the opportunity to meet with many members of your staff. I feel the deepest sense of gratitude and humility in being considered for this position.

When my parents brought me to this country 45 years ago, we could not appreciate that we were part of a proud lineage of immigrants that came through New York, like us, in search of better opportunities. And my parents certainly could not have imagined that those opportunities would lead to my being here today to be considered for this position by the Committee. I remain grateful to my parents for making all of this possible because of their bold decision to move 8,000 miles away from everything they knew to start a new life for us here in America. Their support for everything I do has been unwavering.

Together with my brother and sister in law, whom I am proud to have with me here today, and my nieces who could not be here, but are a constant source of joy, love, and laughter in my life, my family remains the source of my strength and commitment that I bring to every professional endeavor. I have had the privilege of spending much of my career in public service, working on a wide range of international trade issues on behalf of the American people.

I have negotiated with some of our most challenging trading partners on issues like subsidies and tech policy and held them accountable to their commitments under our trade agreements. I have collaborated with foreign Governments to address shared challenges in third country markets. I have also helped defend the legitimate policy tools we have to protect American companies and workers from unfair, state-backed competition from countries like China. And in these and other areas, I have worked extensively across the multiple agencies and with various stakeholders to build a unified position for the Government.

From working and leading teams in highly matrixed organizations, both in and out of Government, I fully understand that no one of us has a monopoly on solutions to the types of trade problems we are being called on to address at this time in our history. We increasingly need to look beyond our silos to bring to bear the right perspectives and knowledge to any challenge. That is why I am committed to working together with my colleagues across the Commerce Department, and across the Administration, and with Congress, and with all stakeholders to meet these challenges head on.

In over 20 years working on international trade, my career has allowed me to see how trade works from different vantage points, from the Judicial Branch, from an international organization, from the private sector, and from the public sector. I believe the global markets is uniquely situated to make trade work for American firms and their workers.

This team works with foreign Governments to make sure American firms get the fair access they deserve to foreign markets. Global markets also help small and medium sized enterprises become new exporters and take advantage of the commercial opportunities created by trade agreements. Finally, global markets leverages the inherent attractiveness of the United States as an investment destination to bring foreign companies to America and create jobs. Through these core activities, global markets brings to life the potential that trade, and investment offer the American people, and I am committed to seeing that mission through to its fullest, if confirmed.

One last point I would note for the Committee, I fully appreciate the privilege I would have if I were confirmed to this position. I have had the fortune of working closely with global markets through much of my Government career, most recently as the International Trade Administration, as Director of policy in the Obama Administration. I know firsthand the high caliber of staff and the deep commitment of the global markets team to creating opportunities and bringing the benefits of trade to the American people.

If confirmed, I commit to you to be worthy of leading this high performing team to do what it does best and drive the Administration's efforts to strengthen precisely that connection between trade and the American people. Thank you again for this opportunity to be considered for this position and to appear before you today. I look forward to your questions. Thank you.

[The prepared statement and biographical information of Mr. Venkataraman follow:]

PREPARED STATEMENT OF ARUN VENKATARAMAN, NOMINEE FOR ASSISTANT SECRETARY FOR GLOBAL MARKETS AND DIRECTOR GENERAL OF THE U.S. AND FOREIGN COMMERCIAL SERVICE, U.S. DEPARTMENT OF COMMERCE

Chair Cantwell, Ranking Member Wicker, Members of the Committee, thank you for the opportunity to appear before you today. I am honored to be nominated by President Biden to be the Assistant Secretary of Commerce for Global Markets and Director General of the U.S. and Foreign Commercial Service. I want to thank Secretary Raimondo for her support of my nomination. I also want to thank the Committee for the opportunity to meet with many members of your staff.

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I remain grateful to my parents for making all this possible because of their bold decision to move 8000 miles away from everything they knew to start a new life for us here in America. Their support for everything that I do has been unwavering. Together with my brother and sister-in-law, whom I am proud to have with me here today, and my nieces, who could not be here but are a constant source of joy and laughter in my life, my family remains the source of my strength and commitment that I bring to every professional endeavor.

I have had the privilege of spending much of my career in public service, working on a wide range of international trade issues on behalf of the American people. I have negotiated with some of our most challenging trading partners on issues like subsidies and tech policy and held them accountable to their commitments under our trade agreements. I have collaborated with foreign governments to address shared challenges in third-country markets. I have also helped defend the legitimate policy tools we have to protect American companies and workers from unfair State-backed competition from countries like China. And, in these and other areas, I have worked extensively across the multiple agencies and with various stakeholders to build a unified position for the government.

From working and leading teams in highly matrixed organizations, both in and out of government, I fully understand that no one of us has a monopoly on solutions to the types of trade problems we are being called on to address at this time in our history. We increasingly need to look beyond our silos to bring to bear the right perspectives and knowledge to any challenge. That is why I am committed to working together with my colleagues across the Commerce Department and across the Administration, with Congress, and with all stakeholders, to meet those challenges head-on.

In over twenty years working on international trade, my career has allowed me to see how trade works from different vantage points—from the judicial branch, from an international organization, from the private sector, and from the public sector. I believe that Global Markets is uniquely situated to make trade work for American firms and their workers. This team works with foreign governments to make sure American firms get the fair access they deserve to foreign markets. Global Markets also helps small and medium-sized enterprises (SMEs) become new exporters and take advantage of the commercial opportunities created by trade agreements. Finally, Global Markets leverages the inherent attractiveness of the United States as an investment destination to bring foreign companies to America and create jobs. Through these core activities, Global Markets brings to life the potential that trade and investment offer the American people. And I am committed to seeing that mission through to its fullest, if confirmed.

One last point I would note for the Committee: I fully appreciate the privilege I would have if I were confirmed to this position. I have had the fortune of working closely with Global Markets through much of my government career, most recently as the International Trade Administration's Director of Policy in the Obama Administration. I know firsthand the high caliber of staff and the deep commitment of the Global Markets team to creating opportunities and bringing the benefits of trade to the American people. If confirmed, I commit to you to be worthy of leading this high-performing team to do what it does best and drive the Administration's efforts to strengthen precisely that connection between trade and the American people.

Thank you again for this opportunity to be considered for this position and to appear before you today. I look forward to your questions.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Arun Venkataraman.
2. Position to which nominated: Assistant Secretary for Global Markets and Director General of the U.S. and Foreign Commercial Service.
3. Date of Nomination: May 27, 2021.
4. Address (List current place of residence and office addresses):
Residence: Information not released to the public.
Office: U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.
5. Date and Place of Birth: August 24, 1973; Coimbatore, India.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage). Not applicable.
7. List all college and graduate degrees. Provide year and school attended.
Bachelor of Arts, Tufts University (1991–1995)
Master of Arts in Law and Diplomacy, The Fletcher School of Law and Diplomacy, Tufts University (1996–1999)
Juris Doctor, Columbia Law School (1995–1999)
8. List all post-undergraduate employment, and highlight all management level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

- Counselor to the Secretary (U.S. Department of Commerce, March 2021 to present)—managerial position
- Senior Director (Visa Inc., April 2019–March 2021)—managerial position
- Trade and Investment Advisor (Steptoe & Johnson, May 2018–March 2019)—managerial position
- Director of Policy (International Trade Administration, U.S. Department of Commerce, April 2014–January 2017)—managerial position
- Director for India (Office of the U.S. Trade Representative, August 2010–April 2014)—relevant non-managerial position
- Associate General Counsel (Office of the U.S. Trade Representative, April 2006–August 2010)—relevant non-managerial position
- Legal Affairs Officer (World Trade Organization, September 2002–February 2006)—relevant non-managerial position
- Associate (Steptoe & Johnson, November 2001–August 2002)—relevant non-managerial position
- Law Clerk (Judge Jane Restani, U.S. Court of International Trade, October 2000–September 2001)—relevant non-managerial position
- Associate (Steptoe & Johnson, October 1999–September 2000)—relevant non-managerial position
- Law Clerk (Judge Jane Restani, U.S. Court of International Trade, August–September 1999)—relevant non-managerial position
- Summer Associate (Steptoe & Johnson, Washington, DC, May August 1999)—relevant non-managerial position
- Summer Associate (Steptoe & Johnson, Washington, DC, May August 1998)—relevant non-managerial position
- Intern (Judge Jane Restani, U.S. Court of International Trade, New York, NY, August–December 1997)—relevant non-managerial position
- Summer Associate (Shearman & Sterling, New York, NY and Washington, DC, May–August 1997)—relevant non-managerial position
- Research Assistant (Professor Jeswald Salacuse, Fletcher School of Law and Diplomacy, Medford, MA, June–August 1996)—relevant non-managerial position

9. Attach a copy of your resumé.

Attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last ten years.

None.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last ten years.

None.

12. Please list each membership you have had during the past ten years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religiously affiliated organization, private club, or other membership organization. (For this question, you do not have to list your religious affiliation or membership in a religious house of worship or institution.). Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or disability.

Organization	Office Held (if any)	Dates of Membership
1. DC Bar	None	2000–present (inactive 2013–2018)
2. MD Bar	None	1999–2003
3. Washington International Trade Association (WITA)	Board Member	2019–Present (Board Member 2020–Present)

No restriction on membership on the basis of sex, race, color, religion, national origin, age, or disability.

13. Have you ever been a candidate for and/or held a public office (elected, non elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.

No.

14. List all memberships and offices held with and services rendered to, whether compensated or not, any political party or election committee within the past ten years. If you have held a paid position or served in a formal or official advisory position (whether compensated or not) in a political campaign within the past ten years, identify the particulars of the campaign, including the candidate, year of the campaign, and your title and responsibilities.

None.

15. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$200 or more for the past ten years.

Biden for President—\$500 (07/13/20)
 Biden Action Fund—\$500 (07/13/20)
 Biden Victory Fund—\$500 (09/03/20)
 Biden for President—\$500 (09/03/20)
 Biden Victory Fund—\$500 (10/11/20)
 Biden Victory Fund—\$500 (10/11/20)
 Biden for President—\$500 (10/11/20)
 Biden for President—\$500 (10/11/20)
 Biden for President—\$800 (10/29/20)
 Sri for Congress—\$20 (10/31/20)
 Sri for Congress—\$20 (10/24/20)
 Sri for Congress—\$20 (10/17/20)
 Sri for Congress—\$20 (10/10/20)
 Sri for Congress—\$20 (10/03/20)
 Sri for Congress—\$100 (9/9/20)
 Haley Stevens for Congress—\$250 (3/31/2019)

16. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

USTR Kelly Award for outstanding performance and extraordinary leadership (2011)
 USTR Team Awards for leading settlement of litigation on Chinese subsidies and for contributions to passage and implementation of U.S. Peru Free Trade Agreement (2008)

17. Please list each book, article, column, Internet blog posting, or other publication you have authored, individually or with others. Include a link to each publication when possible. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

USMCA Unlocked: Working Under the New NAFTA, co-authored with Susan G. Esserman, Luke Tillman, Lauren Shapiro, March 2019 (<https://www.steptoe.com/en/news-publications/usmca-unlocked-working-under-the-new-nafta.html>).
 “India: A Turing Point on Trade?”, co-authored with Susan G. Esserman, Harvard Asia Quarterly, Spring 2002 (https://projects.ig.harvard.edu/files/har/files/vol_6.2_spring_2002.pdf).
 “Binational Panels and Multilateral Negotiation: A Two-Track Approach to Limiting Contingent Protection?”, Columbia Journal of Transnational Law, vol. 37 (1999) (no link available).

18. List all digital platforms (including social media and other digital content sites) on which you currently or have formerly operated an account, regardless of whether or not the account was held in your name or an alias. Include the name of an “alias” or “handle” you have used on each of the named platforms. Indicate whether the account is active, deleted, or dormant. Include a link to each account if possible.

LinkedIn: www.linkedin.com/in/venkataramanarun
 Instagram: www.instagram.com/clubarunv/
 Twitter: @arunincali
 Facebook: account deleted, but believe it was listed under my full name

19. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

None.

20. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

I have spent over two decades working on international trade issues in the public and private sector. In particular, I have devoted most of my career to public service, working to advance the interests of U.S. business and workers by expanding commercial opportunities in foreign markets.

I wish to serve in this position in the Biden-Harris Administration because I believe the Global Markets business unit of the International Trade Administration (ITA), working closely with Congress, can help put the U.S. on a long-term trajectory of economic success at this pivotal moment in our history. As our country emerges from the pandemic, Global Markets' role in expanding opportunities to sell U.S. goods and services to foreign markets and attracting job-creating foreign investment to the U.S. will help sustain the post-pandemic economic recovery. By engaging foreign governments to improve their commercial policy environments and improving our strategy for competing in those markets, Global Markets will help strengthen the competitiveness of U.S. industry and support growing jobs in the U.S. If confirmed, I would also be eager for Global Markets to work with other offices in the Commerce Department and with USTR to make trade agreements work better for American industry and workers. This would include offering more export-oriented services to a wider group of small and medium-sized enterprises, ensuring full access to those services for all Americans, and making sure our trading partners follow through on their obligations under those agreements.

Through my experience, I have worked to acquire skills that will allow me, if confirmed, to successfully perform the role of Assistant Secretary for Global Markets and Director General of the U.S. and Foreign Commercial Service. I have led negotiations with key trading partners to hold them accountable to their trade commitments and open markets for U.S. goods and services. I have defended U.S. trade laws against foreign governments' efforts to limit their effectiveness and stood up for U.S. industry and workers when faced with unfair foreign trade practices. I have implemented and participated in government dialogues and developed new tools of engagement with foreign governments that are designed to strengthen U.S. negotiating positions and facilitate cooperation in challenging policy areas. I have also worked with Congress in the implementation of trade agreements, development of trade promotion authority, and the strengthening of U.S. trade laws, and look forward to building on this cooperation if confirmed.

Central to my experience has been close coordination with U.S. industry. My previous positions have required a deep understanding of the impact of foreign government policies on U.S. business operations and employment across a range of sectors. Through my work in the private sector and open and regular engagement with stakeholders while in government, including individual companies and trade associations, I have developed that understanding and worked to shape U.S. policy responses that would secure the benefits of open foreign markets for U.S. industries and their workers.

In addition to developing and refining the skills needed to execute this position, I have had the privilege of working before at ITA as the Director of Policy. In that position, as in the position I currently occupy as Counselor to the Secretary, I worked closely with a number of the teams in Global Markets and with many members of the U.S. and Foreign Commercial Service. I am deeply familiar with the functions of Global Markets, the depth of expertise brought to bear by Global Markets professionals (including in the U.S. and foreign field) for U.S. companies, and the importance of coordinating the organization's work with other business units in ITA, as well as across the bureaus in Commerce. While I will undoubtedly have more to learn in the position, I believe my significant experience with Global Markets would allow me to make immediate contributions to ITA and the Department if confirmed.

21. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

Proper management and accounting controls, especially for a government organization like Global Markets, are critical to ensuring efficiency, fairness and accountability to the American people. Global Markets is the largest business unit in the

International Trade Administration (ITA), with many team members located outside Washington, DC and outside the U.S., and requiring the application of both Foreign Service and Civil Service guidelines to staff in the organization. In addition, domestic and foreign travel, as well as consultation and appropriate partnerships with stakeholders, are critical to the effective functioning of the organization. These and other key features of Global Markets underscore the need for active, attentive and thoughtful management of the organization. If confirmed, I will work with other leaders in the Commerce Department to ensure the development and implementation of proper management and accounting controls, including the observance of procedures and policies, enforcement of reporting rules, and establishment of appropriate metrics to evaluate performance.

In my career I have developed the skills needed to perform this task, if confirmed. I have led teams, including members that reported directly to me as well as others in my business unit, to define objectives, develop organization-wide positions and implement new initiatives. I have also driven teams across business functions and across agencies to identify and work towards a shared goal, overcome differences, and produce concrete outcomes for stakeholders. When managing my own team, I have supervised and evaluated their performance; helped develop metrics to support such evaluation; implemented tools to facilitate communication and information sharing among the team; established priorities and revised them to respond to changing business needs; and ensured compliance with established policies and procedures including budgetary requirements. If confirmed, I would apply this experience to the needs of Global Markets to ensure the full and proper implementation of management and accounting controls.

22. What do you believe to be the top three challenges facing the department/agency, and why?

I believe the top three challenges facing Global Markets are the following:

1. *Reaching many more small and medium-sized enterprises (SMEs), including minority-and women-owned businesses, to become exporters.* Notwithstanding the dynamic U.S. domestic market, exporting can help support the long-term viability of U.S. SMEs. With the dramatic growth in a middle class overseas, consumers outside the U.S. represent a critical opportunity for SMEs that should not be ceded to our competitors. However, despite Global Markets' commitment to supporting SME exports, less than one percent of SMEs export from the U.S. SMEs face particular challenges entering their first export market given their limited resources and bandwidth. With many countries still struggling to gain their economic footing after Covid, and looking inward to protect their markets, the commercial and policy environments for SMEs have become even more challenging. Global Markets is well positioned to help U.S. SMEs overcome these challenges but can do more to reach a broader SME population that would benefit most from its export services.
2. *Helping U.S. companies compete in export markets against third country products.* U.S. companies can successfully compete against goods and services from anywhere in the world. However, their competitors from third countries often have advantages of government support that are not matched by the U.S. Government. In some cases, with allies as well as with countries like China, those competitors have significantly greater commercial diplomacy resources available to promote their exports and advocate on behalf of their sales to governments. In other cases, those competitors are supported by State-led policies that offer subsidies and export financing. Global Markets can develop new strategies to evaluate the reach of these competitors in various export markets and identify actions the U.S. Government can take to re-create a level playing field in those markets.
3. *Aligning Global Markets' engagement with foreign governments to better support U.S. competitiveness.* The Biden-Harris Administration is implementing a series of actions to ensure the long term competitiveness of the U.S. economy, including by investing in critical American industries and establishing resilient supply chains. Global Markets can reinforce these actions by partnering with like minded governments in these and other areas. In this way, enhancing bilateral trade and investment with key allies can help both countries reduce their dependence on China and other less reliable suppliers.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

I continue to participate in a Visa defined contribution plan, but the plan sponsor no longer makes contributions.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain.

No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated. Explain how you will resolve each potential conflict of interest.

In connection with the nomination process, I have consulted in coordination with the Department of Commerce Ethics Office and the Office of Government Ethics. Any conflict of interest will be resolved according to the terms of an ethics agreement that I have entered into with the Commerce Designated Agency Ethics Official, which will be provided to this Committee. In the event that an actual or potential conflict of interest arises during my appointment, I will consult with Commerce ethics officials and take the measures necessary to resolve the conflict.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last ten years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated. Explain how you will resolve each potential conflict of interest.

None.

5. Identify any other potential conflicts of interest, and explain how you will resolve each potential conflict of interest.

Any conflict of interest will be resolved according to the terms of the aforementioned ethics agreement.

6. Describe any activity during the past ten years, including the names of clients represented, in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

- Visa Inc.: Implementation of financial services provisions in U.S. Mexico-Canada Agreement (USMCA)
- Visa Inc.: Negotiation and implementation of financial services provisions in China Phase One trade agreement
- Visa Inc.: Negotiation of financial services issues in U.S.-India trade negotiations
- Visa Inc.: Negotiation of financial services issues in OECD tax negotiations
- Visa Inc.: Negotiation of financial services issues in U.S.-UK trade negotiations
- Visa Inc.: Negotiation of financial services issues in U.S.-Kenya trade negotiations
- Visa Inc.: Negotiation of financial services issues in WTO e commerce negotiations
- Visa Inc.: Financial services issues in connection with meetings of the G7, G20 and the Asia-Pacific Economic Cooperation forum
- Visa Inc.: Financial services issues in Argentina, Bangladesh, Belarus, Brazil, Burma, China, European Union, Ghana, India, Indonesia, Japan, Kazakhstan, Kenya, Korea, Nepal, Nigeria, Serbia, Singapore, South Africa, Ukraine, Vietnam
- Visa Inc.: Sanctions or potential sanctions in connection with Burma, China, Russia, Turkey and Venezuela
- Steptoe & Johnson (client: Varian): Exclusion from Section 301 tariffs for U.S. medical equipment
- Steptoe & Johnson (client: wish.com): Protection of intellectual property rights for online platform
- Steptoe & Johnson (client: U.S.-India Strategic Partnership Forum): Application of tariffs under the Generalized System of Preferences

None of my lobbying activities met the threshold for registering as a lobbyist under the Lobbying Disclosure Act at any point in the past 10 years.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics, professional misconduct, or retaliation by, or been the subject of a complaint to, any court, adminis-

trative agency, the Office of Special Counsel, professional association, disciplinary committee, or other professional group? If yes:

No.

- a. Provide the name of agency, association, committee, or group;
 - b. Provide the date the citation, disciplinary action, complaint, or personnel action was issued or initiated;
 - c. Describe the citation, disciplinary action, complaint, or personnel action;
 - d. Provide the results of the citation, disciplinary action, complaint, or personnel action.
2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain. No.

3. Have you or any business or nonprofit of which you are or were an officer ever been involved as a party in an administrative agency proceeding, criminal proceeding, or civil litigation? If so, please explain. No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain. No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain.

In August 1994, when I was 20 years old, I worked as a counselor at a summer camp in Massachusetts. During the program, a high school participant claimed that I had made him uncomfortable after asking me to administer medical treatment (application of calamine lotion) to a rash on his back. While the student did not file a formal complaint, he mentioned this to another student, who brought it to the attention of program leadership.

I informed the program leadership of what had happened, and that I had not done anything inappropriate or against program rules, but I had also allowed myself to be in a position where I was alone with this participant and could not substantiate my proper behavior. As a result, I decided, with their agreement, to resign from the program.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination.

None.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by congressional committees, and that your department/agency endeavors to timely comply with requests for information from individual Members of Congress, including requests from members in the minority? Yes.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

ARUN VENKATARAMAN

EXPERIENCE

Senior Director, Global Government Engagement 2019–2021
Visa, Inc. Washington, DC

Led DC-based team, and developed and executed engagement strategy, in advocacy before the U.S. government and foreign governments, as well as with trade associations, international organizations, and other stakeholder groups, on issues affecting payments services in foreign markets, including international trade, digital economy, tax and sanctions.

Trade & Investment Policy Advisor 2018–2019
Steptoe & Johnson LLP San Francisco, CA

Advised on intellectual property rights and e-commerce platforms, the application of blockchain to international trade transactions, foreign data and artificial intelligence regulations, and the implementation of U.S. and foreign trade policies.

Director of Policy (Senior Executive Appointee of Obama Administration) 2014–2017
International Trade Administration, U.S. Department of Commerce Washington, DC

Led cross-functional teams across the Commerce Department to remove trade and investment barriers and strengthen the global competitiveness of U.S. industry, including:

- Advocating for new market opportunities for U.S. firms—including rules on intellectual property, data flow restrictions, customs, financial services, and State-owned enterprises—in negotiations on the Trans-Pacific Partnership (TPP), Transatlantic Trade and Investment Partnership (T-TIP), and U.S.-China Bilateral Investment Treaty (BIT).
- Passing Trade Promotion Authority (TPA) legislation in Congress through coordinated engagement with industry, Executive Branch, and Members of Congress.
- Securing improvements in competition law, semiconductor policies, and intellectual property protection from China.

Director for India 2010–2014
Office of the U.S. Trade Representative (USTR) Washington, DC

Developed, implemented and revised U.S. government strategies to resolve trade and investment policy challenges in India, including:

- Successfully averting billions of dollars in potential blocked U.S. exports with Indian government's removal of solar local content requirements, suspension of import restrictions on information technology products, and revision of telecom licensing policy.
- Leading teams across U.S. government agencies to negotiate with Indian government officials on intellectual property, technology policy, and other issues to effectuate policy change.

Associate General Counsel 2006–2010
Office of the U.S. Trade Representative (USTR) Washington, DC

Provided legal advice to USTR policy offices in ongoing bilateral and multilateral negotiations, and represented the United States in litigation at the World Trade Organization on Chinese and European industrial subsidies and China's non-market economy status in antidumping investigations.

Legal Officer, Appellate Body Secretariat 2002–2006
World Trade Organization (WTO) Geneva, Switzerland

Advised the WTO on appeals in litigation between countries under WTO rules and conducted training activities in English and French for developing country government officials.

Associate 1999–2000, 2001–2002
Stephoe & Johnson LLP Washington, DC

Counseled clients on litigation at the Court of International Trade and the World Trade Organization, trade negotiations and market entry strategies.

Law Clerk, Judge Jane A. Restani 2000–2001
U.S. Court of International Trade New York, NY

Drafted legal memos on issues raised in U.S. antidumping and countervailing duty litigation and in appellate proceedings before U.S. Circuit Courts of Appeal when sitting by designation.

EDUCATION

Columbia Law School New York, NY
 Juris Doctor, Harlan Fiske Stone Scholar 1999

The Fletcher School of Law and Diplomacy, Tufts University Medford, MA
 Master of Arts in Law and Diplomacy 1999

Tufts University Medford, MA
 Bachelor of Arts, *Magna Cum Laude*, Phi Beta Kappa 1995

ADDITIONAL INFORMATION

Awards

- USTR Kelly Award for outstanding performance and extraordinary leadership (2011)
- USTR Team Awards for leading settlement of litigation on Chinese subsidies and for contributions to passage and implementation of U.S.-Peru Free Trade Agreement (2008)

Languages

- French (oral and written proficiency)
- Spanish (basic oral and written skills)
- Tamil (oral proficiency)

The CHAIRWOMAN [presiding]. Well, I want to thank all the witnesses for their testimony, and we are going to start with a round of questioning. I am going to defer my questions for at least another round and call on Senator Klobuchar.

**STATEMENT OF HON. AMY KLOBUCHAR,
U.S. SENATOR FROM MINNESOTA**

Senator KLOBUCHAR. Very good. Thank you very much, Madam Chair, and congratulations to all of the incredible nominees we have. I also welcome many Commissioners here from the FTC here to show their support for Mr. Bedoya. So very good showing. And I am not going to be able to ask you, I think, Mr. Venkataraman, questions today. I am going to put them on the record, but I can't tell you how important it is to me the Foreign Commercial Service.

I actually worked on a major bill years ago to help get funding and what a difference it makes for our country. We should be a country that makes stuff, invents things, exports to the world. So thank you for that. I am going to start with you, Chairwoman Rosenworcel. I always—I like someone that has an even longer last name than me. So I was honored to have you in Minnesota. You came to talk about 9-1-1 many, many, many years ago and the importance of upgrading that.

And could you talk about how you will continue to make that in this changing world where people are making emergency calls by text and where we have people maybe marooned in the middle of a snowstorm in Minnesota, and if their cell phone goes off, what happens? All these things keep happening in our state. Firefighters being able to have actual plans before they go into a building. Can you talk about your plans there?

Ms. ROSENWORCEL. Absolutely. Thank you, Senator, for the question. You may only call 9-1-1 once in your life, but it is going to be the most important call you ever make. And when you make it, you absolutely want first responders to find you. And we are on the cusp of updating 9-1-1 in this country to next generation 9-1-1, which will provide so much more functionality than just traditional voice. It could be video, data, and information that can help public safety address your needs when they arrive.

And I think the way to do that is we are going to need to standardize our definitions of next generation 9-1-1. We are going to have to identify new funding sources. Traditionally, this has been done at the local level, and this probably needs a Federal boost. And in addition, we are going to have to continue work to make sure that wireless calls result in public safety being able to find you in a snowstorm or in a building or anywhere you might be using that device to reach out for help.

Senator KLOBUCHAR. Well, thank you very much. And I am chair of the 9-1-1 caucus, I should have mentioned, you know that. We are excited we are going to get some funding, I believe, in this reconciliation bill and we will move forward from there. Broadband, I was the head of the bill that Representative Clyburn had in the House. I know you have been all over this. Could you talk about the challenges as we bring in this incredible investment to get to every corner of our country? And I always joke that if Iceland can get broadband everywhere with the volcanoes, maybe we can han-

dle it. Mapping, some of the things I know you are going to be asked about by my colleagues. Just what you see our biggest challenges to be.

Ms. ROSENWORCEL. Yes, I think this pandemic has proven like nothing before that we need to get broadband to everyone, everywhere. We need to get it to 100 percent of the country. And we can't accept anything less. And with this recent infrastructure bill, I think we have a chance for generational change, but it requires us to execute and do that well. So making sure that the Department of Commerce, the Federal Communications Commission, our colleagues at the Rural Utilities Service are all working off the same data sets to make smart decisions about what to defund and where to deploy I think is the first order of business. And in June we signed a Memorandum of Understanding with the Rural Utility Service and the NTIA in anticipation of just that right.

Senator KLOBUCHAR. Right. And I think one of our obsessions is getting the funding out. And I know you will focus on that, making sure actually that people get money. One of the reasons we put a clawback in this bill is that if people don't start actually building it, we are going to have to take it back. Because for too long, there has been a lot of promises made in certain rural areas. This will be something Secretary Raimondo will also be dealing with, and I want to thank you for that.

One specific question, and this comes from my competition work over in Judiciary, I have long been concerned about competition in the video marketplace. We continue to hear serious concerns from independent programming networks regarding the negotiating tactics of some of the video distributors. Will you work with me and my colleagues to reexamine the impact of these practices and take appropriate action to protect the public interest?

Ms. ROSENWORCEL. If confirmed, yes, I will.

Senator KLOBUCHAR. OK, very good. I want to turn now, I think you are on, Mr. Bedoya, Professor Bedoya, via video there, hello. Questions about the importance of the FTC work with your, what we hope to be your future colleagues here. My view is you can't take on the biggest companies the world have ever known with just duct tape and band-aids, you need resources. And could you talk about the importance of that in both the privacy area and the anti-trust piece of the FTC's work?

Mr. BEDOYA. Thank you, Senator. I emphatically agree with you. The folks in the Competition Bureau and the Bureau of Consumer Protection Privacy Division do extraordinary work, but they are dwarfed by the staffs at similar European countries, particularly privacy. And I think there is an urgent bipartisan consensus that we need to fix that. And I emphatically support that, and would if confirmed in.

Senator KLOBUCHAR. Very good. And then privacy legislation. Senator Cantwell has been an incredible leader in this area. Senator Wicker, I know that they are working together on this. We have had this really earth shattering testimony of the whistleblower, which after years of working on this, I felt like that kind of crystallized everything we know, people feeling out of control in their lives, not being able to control their kids' exposure to accounts that they would never want them to see, data being shared, compa-

nies profiting off of individuals in our country like they are just pure profit centers with no regard to people's own privacy. Could you talk about how your experience in this area is perfect—this is a softball, so perfect for what we have to do going forward.

Mr. BEDOYA. Thank you, Senator. Certainly, I believe my oversight work, bipartisan oversight work in the Senate speaks to my ability to do this. I am a new parent. Sima and I have been thinking a lot about how to introduce our kids to this, and I also I have been excited to work with Commissioner Wilson on this issue. I know this is near and dear to her heart. She is an expert on this.

Senator KLOBUCHAR. OK, very good. And thank you as well to all the nominees. Look forward to working with you. Thank you, Senator Cantwell.

The CHAIRWOMAN. Senator Wicker.

Senator WICKER. Thank you, Madam Chair. Chair Rosenworcel, let me take up where Senator Klobuchar left off on maps. When—or when do you estimate that we are actually going to have the new maps?

Ms. ROSENWORCEL. Thank you for the question, Senator. I admit that I anticipated you might ask. And that is a fair reason because for too long the FCC has been working off maps that are not accurate, that overstate where broadband is in this country, which means that we don't send dollars to the right places. So I want you to know, right after I took over, we got to work on this immediately and in this summer, in early August, we produced the Nation's best ever wireless maps.

We worked with the carriers to build a prototype for the Broadband Data Act, and you can go on the FCC's website right now, look up your address, and you will find data that is light years better than anything you might have seen from the agency before or anything you might get if you walk into a store and try to purchase a handset. That is because we required every carrier to use the same cell loading characteristics and propagation models. So for the first time, we have an apples to apples comparison.

But like I said, that is just a prototype to test the systems that I had to acquire when I took over because it turned out that the FCC didn't actually have the computer processing power to build big maps. But we have acquired those—

Senator WICKER. When did you learn that?

Ms. ROSENWORCEL. I learned that within the first few weeks of arriving at the agency. So we set—

Senator WICKER. But you have been in the agency for two terms?

Ms. ROSENWORCEL. Yes, but I didn't have oversight over the Office of Managing Director with authority over those issues. That is not information that is available—

Senator WICKER. So the rank and file members don't have that information?

Ms. ROSENWORCEL. No, you don't operate with the budget or work with the agency's computer processing systems. So as soon as I found out, we immediately secured that capacity. And then we also decided that we would come up with a statistically valid way for states, localities, and tribes to challenge any data before us. On top of that, we are working on a redo of our speed test app, which

more than 200,000 people have downloaded and can use to instantly report to us where service is and is not.

So we will have a whole consumer brigade that is able to assist. Here is the thing though, that is going to tell us what day they will be available by, it is a challenge in the Broadband Data Act, which is legislation I know you are familiar with because it came through this committee. There is something called the broadband serviceable location fabric. It tells you where every location that can be served in this country is. And under the Broadband Data Act, we had to follow Federal Government acquisition regulations to procure it. And I have learned a lot more about that process in the last few months. It is not fast, but we have procured a broadband service for location fabric, which is essential, it is the ground floor for all of this work. However, every bidder who did not succeed can now protest that vote, and it will stay our ability to work on that fabric while the GAO reviews it.

And the GAO review can take up to 100 days. So with that behind me, let me just say that we are doing everything possible to encourage the GAO to move fast if there is a protest. But if we have problems, I might ask for you and this committee's assistance because we absolutely need to get those maps done because all of the money that is flowing through the infrastructure bill depends on them being available.

Senator WICKER. When was the protest period be over?

Ms. ROSENWORCEL. So it is a terrific question. We made the award last week. They—anyone who wants to protest has 3 days to ask for a debriefing from the agency staff. Five days after that, they can file a protest, and GAO has—

Senator WICKER. 100 days.

Ms. ROSENWORCEL. 100 days, yes.

Senator WICKER. OK. Well, you do agree, though, that we need the accurate maps fully in place—

Ms. ROSENWORCEL. Absolutely.

Senator WICKER.—before we start sending the money out?

Ms. ROSENWORCEL. Absolutely. And I have told the Commerce Department that we are going to send them every bit of data that we have as soon as we have it, because we know all those infrastructure dollars will be better spent when we do. And I am still hopeful, despite that process I just described to you, that we are going to be able to do this with haste. I just wanted to make sure you understand what the law looks like.

Senator WICKER. Good. And I appreciate that answer and I know the members of the Committee do. Let me see if I can squeeze a question in in that extra 1.20 minutes that Senator Klobuchar had. With the regulation on net neutrality that was repealed under the last Administration, it seems to me we did better than Europe under the light touch appropriation—under the light touch regulation.

Broadband usage increased significantly, and companies invested in broadband in America. Unlike in Europe, we did not have to ask providers to throttle service or take other measures to reduce traffic. Can you tell us what, if any, disadvantages occurred to our country or to consumers when we repealed the Obama Administra-

tion net neutrality rules? Or am I correct that we had a lot more build out and no throttling or measures to reduce traffic?

Ms. ROSENWORCEL. Thank you for the question. I think, you know that I support net neutrality. I supported it in 2015 and then I opposed the rollback in 2017. I continue to support it. I think the investment record is something we always have to pay attention to because as we develop rules at the FCC, we have got to be mindful what the impact is on infrastructure in this country.

That being said, I think the impact of the rollback in 2017 is broader than just net neutrality because it took the FCC away from oversight of broadband. And coming out of this pandemic, I think, you know, all of us know that we need some oversight because it has become such an essential service for day to day life.

Senator WICKER. Well, let me just ask you to submit on the record a specific answer to examples of consumers being harmed by the repeal of net neutrality regulation.

Ms. ROSENWORCEL. I would be happy to do so. Thank you.

Senator WICKER. Thank you, Madam Chair.

The CHAIRWOMAN. Senator Schatz was to be next right before you walked in the door. Is that OK, Senator Blumenthal? Senator Schatz. Thank you. Then followed by Senator Blumenthal.

**STATEMENT OF HON. BRIAN SCHATZ,
U.S. SENATOR FROM HAWAII**

Senator SCHATZ. You are gentlemen, thank you very much. Thank you, Madam Chair. Before I get to my questions, I want to reiterate what Senator Luján said. It is so urgent to move Chair Rosenworcel's nomination to a markup so we can send the nomination to the floor and confirm her before the end of the year.

We don't have very many floor days left, and if we don't confirm her before the end of the year, then by law she has to pack up her office and leave the FCC. On Monday, the President signed historic legislation that will help us to connect all Americans with broadband, and this is on top of other broadband legislation that we passed this year and last, and so we need the expert agency to provide its expertise. Jessica Rosenworcel is an extremely qualified nominee with widespread bipartisan support. This is not the time to leave the agency leaderless.

Ms. Rosenworcel, you—I am not sure if you coined it, but you certainly popularized the phrase the homework gap, and I would like for you to talk about the progress that you have made and the progress that you think you can make as the Chair of the Commission?

Ms. ROSENWORCEL. Thank you for the question, Senator. When I was growing up, I didn't need an Internet connection to do my homework. It was paper or pencil, and I got to make sure my brother would stay out of the room. Those days are gone. Every child needs an Internet connection to fully participate in school. We knew that before this pandemic, but this pandemic has shined a light on it like nothing else.

In the United States, we don't need to have children sitting in the parking lot outside of fast food restaurants just to attend the virtual class. And I am really pleased that at the FCC, we have been able to make some meaningful difference because of the

Emergency Connectivity Fund, which is a fund that this Congress helped set up to close the homework gap. We have distributed funding for connections for school kids to more than 7,000 schools and 600 libraries. We are making a meaningful difference.

Senator SCHATZ. How many kids remain unconnected?

Ms. ROSENWORCEL. So the numbers that we have from the pandemic were almost 17 million. I think that we have reduced that number with this program, but I don't think we can stop it until every child has the opportunity to go online for class.

Senator SCHATZ. I know you are mom, I am a dad. I just find that no mind-boggling in the wealthiest nation in the history of the world, and in a context where we forced kids onto a WebEx or a Zoom, and then 17 million of these kids don't have access to the internet. It is just unconscionable, and I think it is all of our collective responsibility, and I thank you for leading in this space. I want to follow up on Senator Wicker's line of questioning regarding maps.

My understanding is there is a ton of interagency coordination that is required, and I am wondering if you can help us to understand the different agencies, three and four and five letter agencies that are involved, and how you are making sure that I think it is FCC primarily, but USDA and NTIA and others, and how we make sure we are not stepping on each other's toes and maximizing our collective impact?

Ms. ROSENWORCEL. Such a good question, Senator, because after this infrastructure bill has passed, we have all of this funding and all of these opportunities to address our Nation's digital divide, but it is really contingent on every agency working together. Back in June, the FCC signed a memorandum of understanding with the NTIA and the RUS to make sure that we are sharing all of our data. I have also made available to the Department of Commerce our Tower Connection Notification System, so that the NTIA can use that data as well in these programs. I would like to invite the Treasury Department, which also has funds, to come in and start to work with us on this. I know if we all work off of the same data set, we will take those dollars and we will be able to make them go further.

Senator SCHATZ. So just so I understand jurisdiction, RUS under USDA, you guys obviously, Treasury just because they have a program that they are administering, not because they have access to particular data sets that are interesting.

Ms. ROSENWORCEL. Correct.

Senator SCHATZ. OK. So is there anything that the Congress needs to do to clarify its legislative intent and make sure everybody is, you know, as we say, in Hawaii, paddling in the same direction?

Ms. ROSENWORCEL. Yes, that is a very useful metaphor. We are going to need your oversight to make sure we continue to paddle in the same direction.

Senator SCHATZ. Thank you very much. Mr. Bedoya, this is an easy one. Don't you love the bills that I have introduced?

[Laughter.]

Senator SCHATZ. I just want to ask you about the duty of loyalty. We had a really good conversation about that. Do you agree that Federal privacy law must include a duty of loyalty to prohibit com-

panies from using the data that they collect from users to their detriment?

Mr. BEDOYA. Senator, I appreciate the question. I think it is a great idea. And what I like about it is a lot of times when there is legislation on privacy, there is this felt need to reinvent the wheel and do something out of whole cloth. And what I appreciate about the duty of loyalty is that it ties back to a very old common law tradition that is just as old as the First Amendment. That information held by fiduciaries, like folks like doctors, clergy, etc. in certain circumstances is protected. And I admire that.

Senator SCHATZ. Thank you very much. Thank you, Madam Chair.

The CHAIRWOMAN. Senator Fischer.

**STATEMENT OF HON. DEB FISCHER,
U.S. SENATOR FROM NEBRASKA**

Senator FISCHER. Thank you, Madam Chair. Mr. Bedoya, I won't ask you if you love all my bills, I am sure you do. But I would say that I see that you have been a strong critic of facial recognition technologies in your work. You have suggested banning or having a moratorium put in place. What privacy guardrails are vital for facial recognition?

I wonder if you believe that there are still benefits with this technology, such as for public safety, health care. If you would be confirmed as a Commissioner, how would you assess technologies that you feel deserve more scrutiny on privacy? Would you support banning certain commercial technologies based on privacy concerns alone for those that fall in the FTC's jurisdiction?

Mr. BEDOYA. Thank you, Senator, I appreciate the chance to speak to this. I, you know—I will speak to the question of supporting the technology. I will give you a clear example. You know, my ability as a parent of young kids to open up my phone with my face is very useful. And I think this ties into your question about when I would apply greater scrutiny. The beauty of opening up a phone with your face is it is transparent. You opt into it. And there is limited data collection, and the data resides on the device.

And so I, if confirmed, probably I think would apply greater scrutiny to situations where collection and use is opaque, where there is broader dragnet data collection, and where people aren't allowed to consent and where the data is free flowing without restriction. And I don't anticipate calling for a ban in the commercial setting. I certainly can't think of one off the top of my head. Those would probably be the guardrails I would anticipate, Senator.

Senator FISCHER. So I have—from your answer, I would say that you do believe that the United States needs to be a global leader then on these emerging technologies such as facial recognition?

Mr. BEDOYA. In certain respects, for example, to help folks with disabilities for verification, I think facial recognition can be a great second or third factor. So yes, I very much agree with you in that respect.

Senator FISCHER. OK, thank you. Chair Rosenworcel, so good to see you again. As you know, the USF contribution factor remains exceptionally high, and it hit at an all-time record in the second quarter of this year. With the shrinking base of who pays into the

fund, the situation is straining on our telecommunication providers, especially the smaller providers that we have in our most rural areas. It strains their ability to be able to manage that high fee.

I notice that you have also supported expanded E-Rate subsidies and other means of growing broadband affordability programs through the FCC. So how do you square the push to grow certain USF programs at the Commission, given what we are seeing in the contribution factor?

Ms. ROSENWORCEL. Sure. Thank you for the question. The Universal Service Contribution System is a byproduct of the Telecommunications Act of 1996. In 1996, I had an AOL account, and I really badly wanted a palm pilot. I mean, it was a long time ago. And it was the collective belief of Congress that we should assess a little bit off of the long distance bill of every customer to help sustain networks nationwide. It was a smart idea. It exempted the fund from the annual appropriations process. It made it more consistent, which was important for those small rural providers.

But I think 25 years hence, we need to have a conversation with this committee about what is the right mix of universal service and appropriations going forward, because already Congress has started to change that. You see that in the emergency broadband benefit and its successor, the Affordable Connectivity Plan, because that's dependent on actually appropriated dollars, which is distinct from the traditional Universal Service Fund. The bottomline is we need to think about a revamp, and we need to work with you to do it.

Senator FISCHER. What—do you have any ideas on what you would suggest to us on that? You know, when I was in the State legislature, I chaired our committee on Transportation Telecommunications, and this was in the early 2000s. And I went into that chairmanship thinking that I was going to have to deal with what the feds were going to send down after they updated the 1996 bill. Well, I am here now. We still haven't updated it. What are a couple of ideas that you would be willing to share publicly at this time?

Ms. ROSENWORCEL. Well, this is definitely something that's going to need some more conversation. We have a Federal State joint board on universal service that allows Federal officials and State officials to come together.

Senator FISCHER. That needs to be more active.

Ms. ROSENWORCEL. And needs to propose some ideas on this front, because I do think the best ideas aren't just here, they are working with our State counterparts. I know my colleagues have recommended other ideas about expanding it to the tech universe, and I also know that we have to think about the role of appropriations with some of these programs, because like I mentioned, some of them are now being funded like that, which is distinct from this traditional mechanism. I know the bottom line is 25 years out. I think that the FCC needs to have a conversation with you about this, so we make it on firmer—firmer footing going forward.

Senator FISCHER. OK. Thank you. Thank you, Madam Chair.

The CHAIRWOMAN. Senator Blumenthal.

Senator BLUMENTHAL. Thanks, Madam Chair. We are fortunate to have a nominee to the FTC with us this morning and even more

fortunate that the President of the United States has asked the FTC to investigate skyrocketing gasoline prices. I am a veteran of a number of these investigations, having served as Attorney General of Connecticut. It is a challenging issue, but one that has to be faced. What we are seeing is that the costs of refined product are diminishing, but consumers see at the pump soaring prices and rising profits as well on the part of the major gas companies and stock buybacks.

So this investigation is overdue, absolutely necessary, should be pursued vigorously and promptly. The present monopolistic practices of these companies need to be exposed for what they are, so consumers understand why prices are rising. And we need to call attention as well to the monopolistic prices of OPEC and the producers of gasoline. There is no reason that consumers should be left in the dark about why gasoline prices at the pump are rising so astronomically. And I will just cite if the gap between refined fuel costs and gasoline prices at the pump were to return to normal pre-pandemic levels, drivers would be paying as much as \$0.25 less per gallon. Twenty-five percent less per gallon is real money in consumers' pockets, and an effective investigation will help achieve that goal. Mr. Bedoya, do you support this investigation?

Mr. BEDOYA. Absolutely, in principle, Senator. Gas prices matter for everyone, and they particularly matter for folks living paycheck to paycheck. And I would add that I believe there is a 2007 petroleum manipulation—pardon me, manipulation rule. And if confirmed, Senator, I would try to make sure that that is enforced rigorously.

Senator BLUMENTHAL. The FTC, as you know, is an independent agency, but I urge consumers to write to you, to call you as an agency to make their real life stories known to you, because that is the most powerful evidence. Their faces and voices can have a real impact. They can make a difference. So thank you for that answer.

Chair Rosenworcel, I want to address a topic that is unlikely to be raised otherwise, the Local Journalism Sustainability Act. I know you have been very committed to sustaining and enhancing local journalism. This measure would help support the existence and survival and thriving of outlets, local media outlets. Can you tell me a little bit more about how to revitalize and sustain local journalism?

Ms. ROSENWORCEL. Thank you for the question, Senator, and thank you for your kind remarks earlier. We all need local journalism to make decisions about our lives, our communities, and our country. And yet over the last decade and a half, we know that nearly 2,000 newspapers have shuttered. It is getting harder and harder to find economic models that give us the news we need. So I think the kind of tax credits that are involved with payroll or with the production of local news journalism are essential for its future. I also think that restoring the minority media tax credit would be a beneficial way to encourage small businesses and people of color to take over the ownership of local radio and television stations. That is, I know, a bill that is also pending before the Congress right now. I think we are going to need a whole lot of little tools to make that happen. There is not one big single answer, but

I think we have to invest in them because journalism and local journalism is so important.

Senator BLUMENTHAL. I really welcome your commitment to this cause. I would like to work with you further on it. Obviously, our time is limited this morning, but I know you have a commitment to it. Let me ask one last question about robocalls, a mission for both of us. You have visited Hartford, Connecticut, to talk about this issue on multiple occasions that robocalls continue.

This morning we approved a bill out of committee to increase penalties for spoofing, which is a tactic used by the robocalls con artists to disguise their origins and frustrate investigation. Can you talk a little bit about the tools that you think are necessary to combat this bane of consumers' existence?

Ms. ROSENWORCEL. Absolutely. Robocalls are a nuisance. They are awful, they are annoying, and in the last several years they have really grown. We need to trust our communications networks. And with these calls, people don't want to pick up the phone. So what we have done at the agency since I have been leading it in an acting capacity is we have done a lot more enforcement. We now issue cease and desist letters to anyone that we think is issuing robocalls and tell them they have 48 hours to knock it off or we will tell all their carriers to block their traffic. We also have turned to technology.

We have now enforced stir shaken and call authentication technology on our networks nationwide. We are starting to notice that more calls are coming from overseas, so we are starting up new gateway policies to make sure that we can stop them before they hit our shores. But I will tell you that scam artists move fast. They move faster than regulators and legislators. And if there were two things that I think are necessary to do next, I would make it these.

The Supreme Court this year had a decision in *Facebook v. Duguid* where it decided to narrow the definition of auto dialer. And that matters because it limits the agency and private rights of action against robocalls. It is a technocratic decision, but it has got real world impact. And the second thing is, this is not a problem that is new at the FCC, but it is long standing and that is—we will issue fines.

Under my leadership, we have had the largest fine ever under the Telephone Consumer Protection Act, the largest fine ever under the Truth In Caller ID Act to go after bad actors for robocalls. But then I need to turn to the Department of Justice for civil enforcement action. And I think we have to not just fine these bad actors, we have to take them to court and collect.

And so I would like assistance working with the Department of Justice to make this a priority or possibly even give the FCC some civil enforcement authority so we can take these bad actors to court because I think we need to engage in more of those efforts to make sure we have adequate deterrence and retribution when it comes to these nuisance calls.

Senator BLUMENTHAL. I agree. I hope the Department of Justice is listening, and I hope they will take note. Thank you. Thanks, Madam Chair.

The CHAIRWOMAN. Yes. Senator Moran.

**STATEMENT OF HON. JERRY MORAN,
U.S. SENATOR FROM KANSAS**

Senator MORAN. Chairman, thank you. Thank you all for being here. Thank you for your willingness to serve. Each of you deserve a hearing of your own. There are sufficient conversations. I am an appropriator for all of you and an authorizer for all of you, and so I assume we will have, upon your confirmation, the opportunity to pursue many topics. Let me just start with a few today in the few minutes that I have. Chairman Rosenworcel, I will start with you, and unfortunately, a couple of my topics Senator Blumenthal and Senator Wicker have already covered and so I will not repeat those. Let me first confirm what I believe to be true about you.

You know, this committee and this Congress in general has consistently shown support for local broadcasting, local journalism, broadcasters in particular. When you were discussing local broadcasting in front of this committee last summer, you brought up your commitment to local journalism, as well as the need to have content created in and for the communities that stations serve. I appreciate that sentiment, which I believe is one that this committee shares, and I hope that if you are confirmed as the next Chair of the FCC, we can continue working together to achieve that goal. Is that true?

Ms. ROSENWORCEL. Absolutely.

Senator MORAN. Thank you. Congress and the FCC—this again for you, Chair Rosenworcel. Congress and the FCC have placed build out requirements on recipients of broadband buildout funds that mandate companies complete their networks by a certain period of time. This requirement makes sense. It is designed to ensure that underserved areas receive broadband services in a timely fashion.

However, there are a number of supply chain issues impacting build times, particularly for small Internet providers. Is the FCC monitoring and working to alleviate these supply chain issues? Does the FCC have any plans to work with broadband providers who run into these supply chain issues and may not meet those timely deadlines?

Ms. ROSENWORCEL. Thank you, Senator. That is a good and obviously timely question. In May of this year, I actually started a proceeding with my colleagues to ask questions about supply chain, in particular semiconductors, and how it impacts the telecommunications industry and deployments. There has been a lot of discussion about that, but we felt that we needed to develop a detailed record to inform our work on this.

We shared that record with the Department of Commerce, which has authority in this area, and we are using it to inform continuing discussion with those before the agency because we are mindful this can be a problem. But I think that that record was an especially useful tool to develop right at the outset.

Senator MORAN. I think this is particularly, but certainly this is a timely issue, but it is also a timely issue with the additional dollars that are being put into broadband investment, and the capability for many of the suppliers and builders that get towers to get building permits, it is a real challenge that I think you cannot ignore.

Ms. ROSENWORCEL. I agree with you, Senator.

Senator MORAN. Thank you. Billions of dollars has been and will be distributed for broadband deployment. FCC, NTIA, USDA and other agencies—I keep saying before we authorize more money for more broadband, we ought to simplify and consolidate the programs that are there. We have not done that and therefore the burden falls to you and others. The Universal Service Fund continues to play an important role in making certain that unserved areas in Kansas and other States receive quality broadband service.

What can the FCC do about ensuring USF contribution factor is stabilized and reflect the view—you touched on this topic earlier, but I would be pleased to hear more about what your thoughts are in regard to the USF contribution factor and its modernization.

Ms. ROSENWORCEL. Sure. I spoke to this Senator Fischer about this earlier, and I pointed out that the Telecommunications Act of 1996 is when the universal service contribution factor was developed. It was a long time ago, and 25 years later, we might need to start having a discussion about what an update looks like. We already see that with the funds and then the way they are being distributed.

The Affordable Connectivity Program, its predecessor, the Emergency Broadband Program, the Emergency Connectivity Fund, all of these are existing outside of the universal service system and through the annual appropriation system. And so we are going to figure out what the right mix of appropriations and adjustment to the universal service system are necessary—

Senator MORAN. I did hear your answer to Senator Fischer. Does that suggest that the FCC has no intentions of taking this issue on its own?

Ms. ROSENWORCEL. Well, I will be honest with you, we were going to have to have a referral to—under the law, to the Federal State Joint Board on Universal Service first. But I also think that there are some challenges with the law that we have before us, and that if you would like us to assess on other constituencies, other industries, it would take a change in the legislation.

Senator MORAN. Thank you for that answer. 19 seconds. The last 4 years at the urging of both chambers of commerce, the FCC put in place a number of process reforms. Commission items, three weeks advance of a vote, preventing significant changes on items once they have been voted on, establishing the Office of Economic and Analytics. What is your take on the results of that effort? Improved process, better outcomes?

Ms. ROSENWORCEL. The short answer is, yes, I left both of those initiatives in place and intend to do so if confirmed.

Senator MORAN. Final question. What am I going to do in the absence of a Kansas chairman? Will you and Commissioner Stark fulfill the role of the taking care of the—excuse me, the citizens of my state?

Ms. ROSENWORCEL. We will do our best, but you might have to have some New England references along the way.

Senator MORAN. I will try to be accommodating. Thank you.

The CHAIRWOMAN. Senator Baldwin I think is next, and then followed by Senator Markey and then Senator Hickenlooper. That is on our side.

**STATEMENT OF HON. TAMMY BALDWIN,
U.S. SENATOR FROM WISCONSIN**

Senator BALDWIN. Thank you, Madam Chair. Chair Rosenworcel, I am excited about the progress that is being made on the 9-8-8 line. This is a three code or three digit code for the National Suicide Prevention Lifeline, and I was proud to have been a lead author of that legislation. Beyond making access to resources easier for people in crisis and for everyone, one of my chief goals was to ensure that populations that were disproportionately facing high rates of suicide could have access to the specialized services that they need. In the bill itself, we talked about the veterans community, we talked about the LGBTQ youth community in particular.

I know I have also worked on suicide prevention for farmers as they face disastrous conditions. Under the law, the National Suicide Prevention Lifeline must be ready to begin accepting 9-8-8 calls on July 16, 2022, and that deadline is fast approaching.

So given the importance of this change and of focusing on servicing and serving populations with the greatest need, I would like to hear you give us an update on how the Commission will continue to engage Government stakeholders as we—as well as non-profits and mental health specialists on the 9-8-8 rollout. And we had a great conversation about this. I hope you will talk a little bit about essential technologies, especially for youth, the text to chat and integrated voice responses.

Ms. ROSENWORCEL. Senator, thank you for the question. Thank you, more importantly, for your work on this. We do have a suicide crisis in this country. The rates for teen girls are three times higher than they have been over the last 20 years. It is true for young people of color, LGBTQ youth, and our veterans, and more first responders die annually by suicide than in the line of work. We can do better by them, and we should. We have long standing, had a toll free number for them to call, but moving it to a three digit code is a way to make it more accessible to more people.

I am especially proud that this week the FCC will vote on making it texting accessible. And for young people in particular, that is their native language. It is not picking up the phone and talking. And so we will continue to work with the VA and DHS to make sure that they have the resources needed to answer those calls however they come in. And I think we are going to have to continue to discuss with them how we make sure that people get the specialized care they might need in that moment of need.

Senator BALDWIN. Thank you. I am as excited as my colleagues about the new major Federal resources that will be targeted for broadband, universal broadband, high speed access for all. But I know you agree that it won't be a success if we don't have better maps. I was proud to be a co-sponsor of the Broadband Data Act and I was pleased to see the FCC announce a new wireless service map using the Act's standards.

And I understand the Commission was recently awarded—has recently awarded an important contract, you have talked about that earlier already today, for a better map for wired broadband. But I am anxious to see more progress quickly. First, when can we expect to see additional maps come online and how will you con-

tinue to push the Commission toward that goal, if confirmed, as permanent rather or rather than Acting Chairman?

And then second, along these lines, I am particularly interested in the FCC using the new methods to verify the existence of broadband service, including using Federal fleet vehicles like Postal Service vehicles, National Park Service vehicles, National Forest—you know, that sort of thing where we are able to get more data. So give me an update on those.

Ms. ROSENWORCEL. Sure. Absolutely. You know, look, the best time to make better broadband maps would have been 5 years ago. The second best time is right now. So we are working morning, noon and night to do that. We are working through a Federal acquisition process to get the broadband serviceable location fabric, which is like the ground floor for building our wireless maps. I am hopeful we can work through that fast, but in the meantime, we are trying to come up with ways where we can build these maps really outside of Washington. And by that, I mean, we are coming up with a methodology so that states, municipalities, and tribes can challenge any data that they see that carriers have filed with us. We are also trying to update our speed test app.

So if you go and test your phone, you will actually be able to send us the data about what is happening in your own backyard. We are also setting up webinars with tribal communities to make sure that we can get them involved in this mapping process. In the end, I believe the best maps are not going to just be built by us in Washington, they are going to be built by all of us using creative technologies. And we have done some exploration of using postal trucks in rural areas just like you described. It turns out it is more costly to use than we had anticipated, and there are some power challenges, but it might be a tool that we use in some rural areas to help us get really accurate data.

Senator BALDWIN. Thank you.

The CHAIRWOMAN. Thank you. Senator Thune.

**STATEMENT OF HON. JOHN THUNE,
U.S. SENATOR FROM SOUTH DAKOTA**

Senator THUNE. Thank you, Madam Chair. Ms. Rosenworcel, the Universal Service Fund at the FCC, particularly a high cost program, has had a significant impact on states like South Dakota that have a large rural area. Do you believe it is important to provide rural broadband providers, particularly rate of return carriers, regulatory certainty in the USF program?

Ms. ROSENWORCEL. Thank you for the question. The answer is yes.

Senator THUNE. Good. If confirmed as the Chair of the FCC, what steps will you take to ensure the FCC is better coordinating with other Federal agencies on spectrum issues?

Ms. ROSENWORCEL. This is an important issue. We are using more of our airwaves than ever before for commercial activity. Every one of us here knows it because we rely on those phones for much of our day to day life. And when you add it up with Wi-Fi and all the new ways that we are going to start connecting the world around us, you realize we need more of that spectrum for commercial activity. The challenge, of course, is the laws of physics

mean that we are not making more spectrum, so we have to reclaim it from older uses. And sometimes that requires going to Federal actors and asking them to choose to be more efficient with their current allocations.

That, for instance, is how we were able to hold our most recent auction, which is still we are finishing up in the 3.45 to 3.55 gigahertz band. That process, though, is a difficult one. And what I hope over time is that we can build a whole of Government approach where we all understand that repurposing some of those airwaves for new commercial use has innovative benefits for our economy and our civic life. And I hope we can have the support of the Committee when we do that.

Senator THUNE. And I hope you all can really focus on that and figuring that issue out, because that is an issue that has been particularly problematic given the fact the Federal Government sits on so much of the spectrum that is going to be necessary for commercial use. And getting that coordination between the different layers and levels and silos in Government is going to be key to making sure that we can accommodate the growth that we are going to see and the demand. Let me—I want to come back to the issue. I think Senator Wicker touched on this, the issue of net neutrality.

On the issue of net neutrality, I continue to believe, and I think you know this, we had this conversation in the past, and I actually laid out 11 principles for an open Internet when I was Chairman of this committee. But I still think the best way to provide long term protections for the Internet is for Congress to pass bipartisan legislation. And I think that I say that today, I said it when I was Chairman, I stand ready and willing to work toward finding a lasting legislative solution that will resolve the dispute over net neutrality once and for all. If you are confirmed as Chair of the FCC, will you commit to coming to Congress for more direction before attempting any iteration of net neutrality rules?

Ms. ROSENWORCEL. Thank you for the question, Senator. I will always agree to work with this committee on these issues and offer any technical assistance when asked.

Senator THUNE. Would you come to Congress, though, I mean, yes or no, before moving forward?

Ms. ROSENWORCEL. I think, you know, as a matter of history that in 2015 I supported the agency putting in place net neutrality rules, so I believe it inherently has the authority to do so. But we will always work with this committee on issues like this that we know are big and important to the country.

Senator THUNE. Do you think it is good for—would be a good idea for Congress to legislate in this area?

Ms. ROSENWORCEL. I think any efforts to update our Nation's telecommunications laws are a good idea because many of them have a vintage quality to it. I think the principles in them, including nondiscrimination, are strong, but I think that they always benefit from a legislative update.

Senator THUNE. The internet, open Internet order that was repealed in 2017. Since that time, we have had a good amount of time now, 4 years or so to see the impact. Strikes me, at least if you look at through the pandemic in particular, the Internet and Television Association reports that cable providers saw a 34.9 per-

cent increase in upstream usage, an 18.7 percent increase in downstream usage.

And what we had in Europe, we didn't have any throttling or anything like that—what we had in Europe, which has net neutrality regulations, they had to take measures to throttle use and other types of measures to reduce and manage that increased use. And you did say, I think in your dissenting statement, the FCC is restoring Internet freedom order. You said I am not going to give up. We are going to bend this toward a more just outcome in the courts and Congress, wherever we need to go to ensure that net neutrality stays the law of the land. And you end your dissent by saying, let's fight, let's not stop here or now.

Given what we have seen since that time and given the fact that President Biden has nominated Ms. Judy Sohn to be the fifth Commissioner of the FCC, who has stated not only that she would be for reinstating those rules, but also would support additional authorities for the FCC to adopt policy and handle issues like zero rating and data caps. Where do you come down? Has your position changed when it comes to the route that you might find necessary to bring back these 2015 rules? Do you agree with her position?

Ms. ROSENWORCEL. Well, I want to respect that a lot of people have different opinions when it comes to net neutrality, but I support it. And I think if the agency were to proceed, we would have to start with a traditional rulemaking to ask questions and get updates. And of course, that would include information associated with our increased use of broadband during this pandemic, and I would want whatever rules we passed to be fully up to date and reflect that.

Senator THUNE. And I would just say, Madam Chair, and this committee, which has jurisdiction over this issue, could really, by acting legislatively and putting rules in place, get away from the constant back and forth that we have with the agency, with the courts, and the uncertainty and unpredictability that creates to those out there who are investing in and making this wonderful benefit that we have from technology work as well as it did, particularly at a time through the pandemic when Americans really needed it to work. Thank you.

The CHAIRWOMAN. Well, I want to thank you, Senator Thune. I know you have been a long advocate of trying to work this out, and I certainly believe that the pandemic brought us to the point of seeing how critical this was when people didn't have access to service. And I, trust me, have a long list of issues that I think are here of great concern about broadband, so hopefully we will have a chance to work on them.

The CHAIRWOMAN. Senator Markey.

**STATEMENT OF HON. EDWARD MARKEY,
U.S. SENATOR FROM MASSACHUSETTS**

Senator MARKEY. Thank you, Madam Chair, very much. Madam Chair of the Federal Communications Commission and just following up on Senator Thune's line of inquiry, just going back to 2015 and just restating what you just gave as an answer, you did vote to approve the open Internet order and that put net neutrality protections in place. And from my perspective, it properly treated

broadband as a telecommunications service under Title II of the Communications Act. And as we know, regrettably, the Trump era Federal Communications Commission then eliminated the Commission's rightful authority to investigate broadband consumer complaints, promote public safety, close the digital divide. Yet the ongoing pandemic has dramatically increased reliance on the internet.

Now more than ever, Americans actually need net neutrality. Americans need a Commission with authority to have consumers' backs and oversee what is undoubtedly an essential utility, broadband access. We are all having big discussions here about antitrust in this communications sector. Well, that is what net neutrality is. Just making sure the smaller upstart companies don't have to hire more lawyers but hire more engineers so that they can come up with their new ideas without worrying about being sued by these giant behemoths.

So again, Chairwoman Rosenworcel, do you support reinstating net neutrality rules and restoring a classification of broadband as a Title II service?

Ms. ROSENWORCEL. Thank you, Senator, for the question. Yes, I support net neutrality.

Senator MARKEY. Beautiful. And I intend actually on introducing legislation that would end this ping pong between Administrations and make explicit broadband as a Title II service. My hope is that we could do this on a bipartisan basis, but perhaps that will not be the case, and you will still retain that inherent authority of the FCC to act. On E-Rate, the coronavirus pandemic has also highlighted the homework gap experienced by 12 to 17 million children, mostly poor children, rural children, black and brown children in our country who have been unable to complete their homework at home.

And it is why I fought for \$7 billion for an emergency connectivity fund, which is now the law, and I thank you for the excellent way in which you have implemented that program. Under your leadership, the FCC has already received more than \$6 billion in applications, and you have committed more than \$3 billion to helping communities across the country to connect those 12 to 17 million children at home so they can do their homework. And so I think that the numbers actually show the urgency of us—of continuing to deal with the issue. And we are working hard to include more money in the Build Back Better Program so that you will have more resources in order to deal with this issue.

Do you agree that we should add more funding to the Build Back Better bill for emergency connectivity so that the resources are there for those children?

Ms. ROSENWORCEL. Thank you, Senator, for the question. The homework gap, as you said, may affect as many as 17 million kids in this country. We are making progress with the funds from the Emergency Connectivity Fund. I just don't want to have to stop until we connect every child everywhere, so no student is locked out of the virtual classroom.

Senator MARKEY. And do you believe that we have to create a permanent solution to this problem so that children in the future are not locked out at home?

Ms. ROSENWORCEL. Yes.

Senator MARKEY. Thank you. And let me just ask you, Mr. Bedoya, in terms of a child online privacy protection law, the FTC is responsible for enforcing the Children's Online Privacy Protection Act. Mr. Bedoya, do you agree that Congress should update COPPA to one, give 13, 14 or 15 year old's control over their data to ban targeted ads to children, and three, create an eraser button so that parents can insist that all information collected about their 13, 14, or 15 year old son or daughter is erased from their data record forever?

Mr. BEDOYA. Thank you, Senator. I think those are critical updates to the law and very much support them.

Senator MARKEY. You do support it. Can I just get your view on that as well?

Ms. ROSENWORCEL. Well, as the parent of a child in that age range, I fully support the idea of an eraser button.

Senator MARKEY. Yes, thank you. Ms. Bavishi, do you have a view on that?

Ms. BAVISHI. Yes, fully support.

Senator MARKEY. Fully support. Yes, sir.

Mr. VENKATARAMAN. No child—

[Laughter.]

Senator MARKEY. So we will just go with those who do and say that they represent every other parent in America that is understandably paranoid about what they saw in the last year and a half in terms of their children's relationship with this device that has been their companion in increasing numbers of hours, every single day, every single week, and we should provide those protections. And I think we should do it in this Congress. Thank you, Madam Chair.

The CHAIRWOMAN. Thank you, Senator Markey. Senator Sullivan.

**STATEMENT OF HON. DAN SULLIVAN,
U.S. SENATOR FROM ALASKA**

Senator SULLIVAN. Thank you, Madam Chair. And Chairman Rosenworcel, I appreciate our discussion yesterday, thanks. Let me ask a quick question on net neutrality. I know there is a lot of debate, big policies at stake. Your very distinguished background includes being a staff member on this committee. Don't you think that something that big in terms of policy should be authorized by Congress, not just Federal agencies to make it up?

Ms. ROSENWORCEL. Senator, as you know, I support net neutrality. I also would support working with this committee in any way, shape, or form on these issues or any other update to telecommunications law. But as I said earlier, I do believe the agency has inherent authority in this area.

Senator SULLIVAN. Let me turn to the majority of our discussion yesterday, and that is the unique challenges in Alaska. And I know you are very well aware of those. And you made a number of commitments to me yesterday in our meeting. Can I just get you publicly to kind of make those again and talk briefly about some of the issues—commit to, a commitment to come back up to the great State of Alaska and see our people and challenges to work with the

stakeholders in the Alaska plan on what comes next and how we move forward on that important and very successful initiative from the FCC.

And then not to subject Alaska to the USEC rural health care rate setting database and have more transparency and timeliness on a lot of the issues that the previous Chairman, in my view, completely ignored and almost cratered the entire health care system in rural Alaska.

Ms. ROSENWORCEL. Alright. So that would be yes to a visit. Yes, to continuing to work with you on the Alaska plan. And yes, with respect to your concerns about the rural health care system and that data base. I have in fact stayed that database right now, so it is not in effect. I think we are going to have to figure out other ways forward, like I said to you yesterday that reduce waste and abuse, have appropriate transparency, but are ultimately mindful of the fact that these communications are essential for the health and safety of the people who rely on them.

Senator SULLIVAN. Yes, some of the most vulnerable people in the country with very limited access to health care, a lot of them are my constituents.

Ms. ROSENWORCEL. Absolutely. Listen, I think, you know, I have been in a lot of rural Alaska bush villages where the health care facilities at the center of town, and but for that connection back to Anchorage, many of those people would not be able to see professionals. It is among the most essential health care in this country.

Senator SULLIVAN. Thank you. And just real quickly, if you can comment very briefly on the discussion we had, with the infrastructure bill, USDA's initiatives, NTIA's initiatives, there is going to be an opportunity on more broadband throughout the country, particularly in rural communities. But I am concerned about the lack of coordination about data and facts, so the FCC, which doesn't have a driving role in the bulk of these funds, is going to have to support every other organization in the Government that does and the states as well.

Ms. ROSENWORCEL. Yes. Like I think I have said a little bit earlier here today, we have an opportunity for generational change with the infrastructure bill. So we need to execute on it. And if two things stand out to me most, the first is we are going to need coordination about data and facts, so the FCC, which doesn't have a driving role in the bulk of these funds, is going to have to support every other organization in the Government that does and the states as well.

In addition, I actually think we need really strong a counter-measures—accountability measures right out of the gate. It would be—the criticism I have had of previous FCC programs, we need to make clear exactly what kind of audits are happening and what kind of penalties exist for anyone who takes those funds and doesn't deliver.

Senator SULLIVAN. Good. Thank you. Ms. Bavishi, I am sorry we didn't have our meeting yesterday. I look forward to meeting with you. Your position is enormously important to my state and my constituents. Two-thirds of the seafood harvested in America, two-thirds comes from Alaska. So we are the superpower of seafood, and NOAA is a really, really important partner in terms of sur-

veys, in terms of stock assessments, in terms of clean and healthy oceans.

And again, we haven't met yet, so I am going to withhold judgment. I am a little concerned about your background, which is impressive, but its focus on urban planning, climate resilience. I don't see a lot that is in the area of the core NOAA focus, which is so important to my state and my constituents. Can you comment on that?

Ms. BAVISHI. Well, thank you, Senator Sullivan. And I look forward to having a chance to connect directly. I enjoyed talking with your staff yesterday. You know, I want to start by just saying that I have previously worked at NOAA, and I worked at NOAA when the Deepwater Horizon oil spill happened, which really leveraged every part of the agency to jump into action. So I really got a crash course in the agency and really believe that I can hit the ground running, if confirmed.

But I would also say that my work in climate resilience is so cross-cutting and really is focused on making sure we leverage the best available science wherever—

Senator SULLIVAN. I am all for that transparency.

Ms. BAVISHI.—and apply that to decisionmaking, evidence based decisionmaking. And I believe that that work that I have done in communities across the country, including in Alaska. I mentioned in my testimony that when I worked at the White House Council on Environmental Quality, part of my portfolio was actually focused on the resilience of Alaska Native villages. I had a chance to visit to Shaktoolik and really appreciated being able to connect with Alaska Natives there and just appreciate the tremendous challenges that they face in maintaining their—

Senator SULLIVAN. Good. Well I look forward—and I don't want to cut you off, I have one more question for Mr. Bedoya and so, but I do look forward to our meeting, and again, I apologize I had to cancel on that yesterday. Mr. Bedoya, I am a little—well, not a little, I am actually quite concerned. In 2016, there was a tweet that you retweeted, and it was talking about the Presidential convention in 2016.

A number of Senators on this committee, myself included, went to it. And the tweet said, "I never thought I would see a televised Presidential convention that essentially was a white supremacist rally." That is a pretty strong view there. Look, we realize the FTC leadership structure is made up of partisan Commissioners, but this tweet and other tweets raise questions about whether you have the temperament, the maturity, the dispassionate views required of an FTC Commissioner in charge of over 1,100 employees.

And I am sure a lot of those employees didn't see that Convention in 2016 as a white supremacist rally. How do you respond to my concerns about your temperament and judgment, meaning that you need to serve all Americans in this job?

Mr. BEDOYA. Absolutely, Senator. I appreciate the chance to speak to this. I think my record in the Senate as a staffer and at Georgetown speaks to this—

Senator SULLIVAN. I am not—I am not asking about your record, I am asking about this tweet. Directly—and don't dodge me on it. Just address it. Maybe you are sorry. Maybe that wasn't really

your viewpoint. Don't dodge the question. Tell me about your temperament, your maturity, your dispassionate views when you are essentially claiming half the country was at a white supremacist rally, which was the Convention that we had in 2016?

Mr. BEDOYA. Of course, Senator. I want to clarify, I do not believe the former President's supporters are white supremacists. They are part of my family. I love them.

Senator SULLIVAN. So are you apologizing for that or what is your—are you taking that back? Are you saying that that was probably a mistake, maybe or something like that?

Mr. BEDOYA. Yes, sir. I don't think it is appropriate to call the entire convention a white supremacist rally. I do apologize for that. I was trying to clarify that I don't cast judgment on the former President's supporters. They are part of my family, an important part of my family and I hold them dear to me. The last four or five years affected my own family. My daughter has never met her great grandmother because of the travel ban. And I could give example as to why, as a private citizen and a law professor, I spoke out. But I pledge to you that if confirmed, it is my duty to do as I did as a Senate staffer, to set aside all those politics and serve every single person in the country, irrespective of political opinion and party. Yes, sir.

Senator SULLIVAN. Thank you, Madam Chairman.

The CHAIRWOMAN. I see, Senator Tester. Are you ready, Senator Tester?

**STATEMENT OF HON. JON TESTER,
U.S. SENATOR FROM MONTANA**

Senator TESTER. I am ready to rock. Thank you, Madam Chairman. I—the other folks can take a break because all my questions are going to be focused on FCC Chairwoman Rosenworcel. And thank you for all being here and thank you for being here, Jessica. I don't need to tell you that Internet access has always been a major challenge, and particularly in rural states like Montana. This pandemic has only exacerbated those challenges. Congress and the FCC, Montana schools have received \$850,000 bucks for emergency connectivity funds. Doesn't sound like a lot, but it is a lot for Montana.

Montana health providers received nearly \$2.9 million through the FCC's telehealth program. As of this last Monday, we got about nearly 13,000 households in Montana that are using emergency broadband benefit program, and now we have got the Infrastructure Investment Jobs Act, which I am intimately familiar with because I am one of the 10 that helped negotiate it.

We are going to see \$65 billion in investments and broadband infrastructure there, which should close the digital divide in every state in the Union. And if you disagree with me on that, let me know. But the truth is, is this, how do you plan to coordinate with NTIA on implementation of the broadband provisions in the Infrastructure Investment Jobs Act?

Ms. ROSENWORCEL. Thank you, Senator, for the question. And all those numbers, the legislation that was just signed into law on Monday is our best shot at closing the digital divide for this generation. So we are going to have to coordinate with the Department

of Commerce, which has primary authority for those funds, like we never have before.

I am keenly aware of that. We are going to have to make that a priority going forward. In anticipation of this legislation, we have already signed a memorandum of understanding with data sharing. And we have already shared our tower construction notification system with the Department of Commerce. But I want to open up all of our books and all of our information to them because it is the only way we are going to truly execute on these funds and really address the digital divide.

Senator TESTER. I will put you on the spot because I don't know that you can answer this question, but I do want to get your perspective. This bill was passed that was signed on Monday, from your seat on the FCC, how quick do you think we could get these dollars out?

Ms. ROSENWORCEL. This is a really good question. I think I would probably need to do some review of the law itself. But I think that the Department of Commerce, if they were asking me for three pieces of advice, first I would say work with our data. Second, I would say, make sure that there are clear penalties upfront if anyone takes those dollars and doesn't perform. And the third is, I would say, I put some premium on the projects that are ones we can move on fast.

Senator TESTER. OK. Well, thanks. Look, we have got seven reservations, seven Indian reservations in Montana, and quite honestly, the investments in communication infrastructure there isn't where it needs to be. The FCC has a report, in fact, that says that 68 percent of the people living in rural areas of tribal lands don't have access to broadband. That is more than two-thirds of the people don't even have access. And tribal colleges and universities, often in Indian country, often pay more for slower Internet than other higher education institutions. So how is the FCC currently working with tribal communities to improve Internet access? And how can the FCC improve its tribal engagement process?

Ms. ROSENWORCEL. Thank you for the question. Listen, it can't be that our native communities are the last communities to see the benefits of the digital age. But the numbers, like you describe, suggest that we have a real problem, and we have to take special action to address it. One thing the FCC has been doing is we have been issuing licenses in the 2.5 gigahertz bands to tribes in rural areas across the country. We have issued more than 300 of them. This is a once in a lifetime opportunity to show up, get a license, and use that to serve your community.

I think that is going to provide a real opportunity in days ahead. We have also—we are also midcourse in updating our policies to support tribal libraries. Not every tribal library can actually apply for eRate funds under the existing system. I am working with my colleagues right now to fix that. We are going to have to expand our engagement. We are already starting to do that on mapping. And then you mentioned tribal colleges. I know that we have close to three dozen of them in this country.

Many of them are in rural locations. I think they punch above their weight when it comes to the service they provide to those students in their communities. I think we actually have to make a

specialized effort to do more to ensure that they have full access to broadband so they can take advantage of the full opportunities of the digital age.

Senator TESTER. Jessica, thank you very much. I look forward to voting for your confirmation. Thank you.

The CHAIRWOMAN. Thank you. Senator Blackburn.

**STATEMENT OF HON. MARSHA BLACKBURN,
U.S. SENATOR FROM TENNESSEE**

Senator BLACKBURN. Thank you. Chairwoman, I would like to come to you first, and thank you for the time this week. I want to say thank you to or congratulate you on a successful auction that you just completed. So let's talk about spectrum because all these other issues cannot be resolved if we do not have spectrum that is needed and have that deployed. And we have just recently had a couple of things. We have—the NTIA has kind of gotten outside of their jurisdiction, I would say, when it comes to spectrum, and the FCC is working to clear more spectrum held by Federal agencies.

We also have the issue with the FAA raising objections and questions that they have never raised through this entire process and slowing down the 5G systems. So when it comes to dealing with this commercial side of spectrum, let's talk about how you are going to approach that, how you are going to approach utilization, how you are going to keep agencies from squatting.

We have issues over at the DOD. How you are going to deal with like the FAA, because spectrum is what is going to allow us to close the digital divide, to utilize wireless, to get Internet into areas where we cannot get fiber, so.

Ms. ROSENWORCEL. Thank you. Our future is wireless, so these issues are really important for every aspect of civic and commercial life. And we are always going to be looking for new airwaves to put to use for our economy to increase innovation and enhance our quality of life. The challenge is that we are not—we don't have more airwaves out there. We have just got to allocate them smarter.

And there has been a lot of back and forth between different Federal actors with allocations and the FCC and the NTIA. And I would just say going forward, we need a whole of Government approach to this and we need our engineers working in concert rather than at cross-purposes. So a few things that I think could help. First, I hope that the NTIA can actually speak as it is authorized to do so for Federal Government spectrum interests so that we can speak through NTIA, confident that they are acting on behalf of other Federal authorities with allocations. It would streamline our process. They should have that authority instead of having us have to talk to all these other authorities all the time.

Second, I think we could revisit the memorandum of understanding between the NTIA and the FCC with maybe updated timelines or agreements about methodologies, testing what harmful interference looks like. And then third, this is maybe a long term project, but I think we have to start thinking about what the incentive structure is for existing spectrum allocations to Federal authorities. If we don't give them incentives to be efficient, they will only see loss rather than gain from reallocation.

And we have to start getting smarter about building incentives on their side so that we can be more successful when we try to re-purpose airwaves for commercial use.

Senator BLACKBURN. I agree with you on that last part wholeheartedly. And going back to discussions we had when I was in the House and you were appearing before us, as you know, I think it is time for us to conduct an inventory of all spectrum that is allocated to different Federal agencies so that we know what is there, what is being used, what is not being used, and what we can then recoup and auction for commercialization.

So I look forward to those conversations. Mr. Bedoya, I would like to come to you, please, sir. I had discussed with you the open app market legislation that Senator Blumenthal and Klobuchar and I have done, and you said that you wanted more time to look at that issue. So I just wanted to see if you had taken the time to look at it and how you would—what position you would take with that legislation and if you had changes that you would offer to that legislation.

I will say Senator Blumenthal and I do think this is an important one to move forward because it is imperative that we have a competitive marketplace.

Mr. BEDOYA. Thank you for that question, Senator. I think it is a strong bill, and I think it is an important one and I will tell you why. In that very first Senate hearing that I staffed on smartphone geolocation, we looked at app marketplaces. And this tradeoff that the platforms say they offer is, well, you know, we will make sure the apps in the marketplaces are safe and secure, and that is why we need to protect our walled gardens.

But what we found, and admittedly, it was 10 years ago, but the marketplaces had been open for several years, is that in one of the marketplaces, not one app had been removed for the failure to adequately protect geolocation information, despite problems being rife on geolocation and sharing of that data in a non-consensual manner. And so I believe—

Senator BLACKBURN. So do you like the bill or not?

Mr. BEDOYA. Of course, Senator. I am sorry, yes, very much.

Senator BLACKBURN. OK, yes or no is really good there. Yes and we will look forward. Let's see, it is Mr. Venkataraman. Did I pronounce it right?

Mr. VENKATARAMAN. Yes, Venkataraman.

Senator BLACKBURN. Say that one more time.

Mr. VENKATARAMAN. Venkataraman.

Senator BLACKBURN. Venkataraman. Yes, I didn't know which syllable had the emphasis, so I thank you for that. I do have a question for you. In the interest of time, I will submit it for a written response. Thank you. Thank you, Madam Chair.

The CHAIRWOMAN. Thank you, Senator Blackburn. Next, we will go to Senator Rosen.

**STATEMENT OF HON. JACKY ROSEN,
U.S. SENATOR FROM NEVADA**

Senator ROSEN. Well, thank you, Madam Chair. I really appreciate this hearing today. I am very excited for all the nominees to come forward and serve the country. Pleased to have you with us

today. But I am going to start with broadband mapping and maternal mapping because one of the lessons that we have learned during the pandemic is how critical it is for all Americans to have access to affordable broadband. That is why I am so glad this week that President Biden signed into the law bipartisan Infrastructure Investment and Jobs Act, which has a historic investment in broadband access and affordability. But among other things, broadband access has allowed us to connect to telemedicine. It is decreasing disease exposure, and in-patient demand is really moving up.

And so that is fantastic. So telemedicine is not always a perfect substitute for receiving a physical evaluation. It is, however, useful in assessing whether or not patient does need in-person treatment, and physicians have observed that telemedicine patients were more likely to keep their appointments. You can also keep pregnant and new mothers safe while accessing the care that they need. In rural areas, especially throughout Nevada, lack of access to medical care can lead to severe complications and worse outcomes for pregnant women.

That is why earlier this year, Senators Fischer, Young, Schatz, and I introduced the bipartisan Data Mapping to Save Moms Lives Act, which would direct the FCC to consult with the CDC to incorporate data on maternal health outcomes into the FCC's broadband health maps to show where poor broadband access and high rates of poor maternal health outcomes, or to see where they overlap and that we know where telehealth services mainly are needed most.

So, Chairwoman Rosenworcel, can you discuss the importance of mapping the overlap of health outcomes with broadband access as a way of taking a holistic approach of addressing maternal and infant mortality? Of course, and if confirmed, we know black women, indigenous women are more than three times more likely than white women to die from pregnancy related causes. Will you help us address these gaps?

Ms. ROSENWORCEL. Yes, Senator. The short answer is obviously yes. The United States is the only industrialized country with a rising level of maternal mortality. It is an incredible shame, and it affects women of color especially hard. It also affects women in rural areas because more than half of our rural counties no longer have a maternity ward. During my time as a Commissioner at the agency, I visited with the University of Arkansas Medical School and also the Mayo Clinic to talk about the technologies they can use with broadband to help monitor pregnant women who are most at risk. They are incredible. They are available. Those technologies exist today, and they are all dependent on broadband.

So the more that we get broadband to more people in more places, the more we will be able to use those tools to address it. And I think the kind of multilayer mapping you are contemplating where we think about a problem we have, what technology solutions we have, and overlay them on our Nation's broadband map is going to be precedent for also thinking about other problems even beyond health care and maternal mortality.

Senator ROSEN. I hope we are going to do a little something with COVID-19 and some of the outcomes there are too as we move forward. So thank you for that. I want to move on to notorious scams.

So, Mr. Bedoya, I would like to ask you a few questions about those, questions that I posted to the current FTC Commissioners when they testified before the Committee in August. As you know, Nevada is home to thousands of immigrant families who make up the mosaic and beauty diversity of my wonderful state, and of course, our Nation. And nearly 30 percent of the Nevandans' identify as Hispanic or Latino.

And unfortunately, some of these members communities go through a process to become American citizens, and far too often they are just a target of scammers, and they pose to help them through the challenging process. We know one form of deception is the notorious scam. And so were they—public notaries claim to act as attorneys, and they really do take advantage of our community.

So in the interest of time, I know that you had some campaigns about this, but if you are confirmed to the FTC, what kinds of outreach do you think we should do to help protect people, so they don't become individual victims of these notorious scams?

Mr. BEDOYA. Thank you, Senator, for that question. And I will share that a student of mine, this happened to a student of mine. He wrote about this and how his family was cheated out of a lot of money that they didn't really have by one of these notorious. Senator, I think it is critical that the Commission help people regardless of the language they speak.

I think one of the unsung accomplishments of Chair Ramirez's tenure was her work with the staffer named Monica Vaca to run conferences called Common Ground Conferences, where they went to Spanish-speaking communities and made sure they were in touch with local law enforcement, State Attorneys General to prepare people and put them on the lookout for a notorious.

And one of the things I pledge to you to do, if confirmed, is to make sure this work is continuing not just in Spanish, but, you know, in New Mexico, might be Dine, in Minnesota it might be Hmong, making sure that everyone in this country, regardless of the language they speak, is protected against fraud.

Senator ROSEN. Thank you. I appreciate that. Of course, in the interest of time, I have some questions on telecommunications for the deaf and hard of hearing. I will submit those for the record. Thank you, Madam Chair.

The CHAIRWOMAN. Senator Lee.

**STATEMENT OF HON. MIKE LEE,
U.S. SENATOR FROM UTAH**

Senator LEE. Thank you, Madam Chair. Mr. Bedoya, I would like to speak with you for a moment if that is alright. I appreciated the time you and I spent about 2 weeks ago, and you were kind enough to give me some time and answer my questions. Now there were a lot of questions I had, and these are the kinds of questions that kind of need to be answered. There are some of them as to which you didn't have complete answers, understandable in some ways, but there has been—a couple of weeks have lapsed since that conversation.

So I am hoping today that I can get some answers on some basic questions, just things that are not gotcha's, things that ought to be able to be answerable with a yes or a no. So I would appreciate if

you can give me a yes or a no answer in response to each one of these, because they are necessary. First of all, can you commit that if you are confirmed, you will be committed to enforcing the consumer welfare standard under precedent as it now stands?

Mr. BEDOYA. Senator, I commit to enforce the law, and I emphatically support your efforts to ensure that the standard include not just price but output, quality, choice, innovation. There are critiques of how the standard is applied and I have been thinking about our conversation—

Senator LEE. And Mr. Bedoya, I just encourage you. I need a yes or no answer here and then you can supplement afterwards with any supplemental information. I think I heard you say you follow precedent and—

Mr. BEDOYA. Of course.

Senator LEE.—including precedent on the consumer welfare standard?

Mr. BEDOYA. Yes, as we are bound to, I believe.

Senator LEE. Should the FTC use its Section 5 rulemaking authority when it comes to unfair methods of competition, under Section 5?

Mr. BEDOYA. Yes. I do believe that if the Commission is to be called on to police big tech, it needs every tool at its disposal. I do believe that the structure and history of—

Senator LEE. Again, I have got a very limited time here, so I would appreciate the yes or the no. You agree with the FTC's recent decision to rescind the 2015 antitrust enforcement statement as the antitrust policies of 2015?

Mr. BEDOYA. With respect to vertical merger, Senator?

Senator LEE. Yes.

Mr. BEDOYA. This one, I want to think more about. My specialty is privacy, but I would like to have the benefit of staff. That said, I will say I am acutely concerned with vertical integration on technology platforms.

Senator LEE. And again, I am asking for a yes or no question. I guess you are not—I will take that to mean you are not prepared to answer that one with a yes. Should the FTC be focused on enforcement and adjudication rather than on expansive rulemaking?

Mr. BEDOYA. I believe that it is charged by Congress to do both. But I think the meat and potatoes of the work is enforcement, but where Congress has given the Commission express authority, I think it is important they use it as necessary to—

Senator LEE. Yes. Again, I am looking for a yes or no. These are not gotchas. These are very simple answers that can and should produce a binary result. So should it be focused on enforcement and adjudication rather than expansive rulemaking, is that a yes or no?

Mr. BEDOYA. Yes, primarily enforcement. Adjudication when necessary.

Senator LEE. Thank you. Now, despite the fact that Rohit Chopra has left the Commission, now Chair Khan is still voting for him by proxy. You give yourself a de-facto majority, despite there being only four Commissioners at the FTC at the moment. Do you support the use of proxy votes for former Commissioners on current proceedings, even after those Commissioners have left the FTC?

Mr. BEDOYA. I have not read into that, Senator. I would like the chance to read into that and get back to you in writing if possible.

Senator LEE. Thank you. Should the FTC exercise only power that has been delegated to it by Congress expressly?

Mr. BEDOYA. Yes, sir.

Senator LEE. Thank you. Can the FTC use its rulemaking power to circumvent legal precedents with which it disagrees?

Mr. BEDOYA. I don't think that's a good idea, Senator.

Senator LEE. So that us a no, that is a no. The FTC recently voted with a vote of three to two to eliminate procedural rules related to Section 18 of Magnuson-Moss with regard to rulemaking authority. Do you support this decision?

Mr. BEDOYA. I can't speak to the decision to rescind it, but I do believe that it is appropriate for them to exercise the authority under—that was granted to it by Congress under Magnuson-Moss, sir.

Senator LEE. Are there any limits to the rules that the Commission has the authority to promulgate or should promulgate under 6(g) of the FTC Act? That is, to define unfair or deceptive trade practices or unfair methods of competition.

Mr. BEDOYA. With respect to UDAP, you would have to go under Magnuson-Moss, I believe, and the restrictions are extensive. You can only do prevalent practices and there yet—so, yes—

Senator LEE. So there are limits. OK.

Mr. BEDOYA. Yes.

Senator LEE. Now, the FTC only recently voted to require the support of only a single Commissioner to open investigations, as opposed to the practice of having a majority of Commissioners. Do you support that decision?

Mr. BEDOYA. I support the agency having every tool at its disposal to police consumer protection and competition. You know, the principle—

Senator LEE. Not an answer to this question though. I understand that answer, but that is not answering this question. Do you support that particular decision that I am describing, to allow things to proceed rather than with a vote of the majority of the Commissioners, just put the single Commissioner approving?

Mr. BEDOYA. For investigations, yes, sir.

Senator LEE. OK. I see my time has expired. I appreciate your trying to answer the questions. I really do believe each one of these questions could and should be subject to a reasonable yes or no answer. I haven't gotten that today. I should have gotten that, and that is deeply concerning to me. Thank you.

The CHAIRWOMAN. Senator Warnock.

**STATEMENT OF HON. RAPHAEL WARNOCK,
U.S. SENATOR FROM GEORGIA**

Senator WARNOCK. Well, thank you so very much, Madam Chair. And I want to thank Senator Lujan for letting me get ahead of him today. Chairwoman Rosenworcel, it is great to see you again and thank you so much for coming to Jackson County, Georgia just last week at my invitation. I think it was an important conversation. It gave us an opportunity to hear directly from rural Georgians about the importance of broadband, the challenges they are having,

and how best to get the job done with respect to the signing yesterday—a couple of days ago, the bipartisan infrastructure bill.

And you and I had some great conversations there and you got a chance to talk face to face with Georgians on the ground. But I was particularly struck by one conversation we had with a third year medical student. You will recall he was a student at the Morehouse School of Medicine. And he said that because his house had such low speeds, he had to drive to a friend's house to finish his homework, his medical school homework.

Obviously, we need that student to be helping us make our way through the remainder of this pandemic, and he is trying to get online to do his medical school homework. We also heard from a parent about how the Internet is so slow that if both she and her daughter are trying to log on, neither of them can get anything done. She is a nurse practitioner online. She needs to do broadband work or her daughter needs it to study, and they can't be online at the same time. I think this is a travesty. I think broadband is to the 21st century what electricity and electric lights were to the 20th century.

The lack of reliable broadband is hurting our kids, is hurting vital services like telehealth, is hurting our economy. If confirmed, will you commit to working with me and others to support the big goal of connecting every single household in Georgia, but particularly our rural areas in Georgia and all across the country to broadband? And can you speak to where that will fit in your portfolio of priorities?

Ms. ROSENWORCEL. Thank you, Senator, for the question and the invitation to join you in Georgia last week, which wasn't a hardship assignment. And the folks we met with, you know, they all told stories that stay with you. I can't imagine being in medical school and couch surfing just because that is what you needed to do to go to class during a pandemic.

Though I have some conviction he is going to be an awfully good doctor 1 day. But the bottom line is, this is our moment. It is like what rural electrification was in the prior century. We are going to do something audacious. We are going to connect every household in this country, and we are not going to stop until we get 100 percent of us with fast, reliable, and affordable broadband.

And I think we should say it that clearly and that simply because it has to be our goal. That is how we are going to produce more equity in this country and more opportunity, not just in that corner of Georgia, but throughout the entire nation.

Senator WARNOCK. Thank you. And I was honored to be there with you as we talked and heard directly from these families. And the broadband issue, as you know, it is multi-tiered. We are talking about accessibility. We are talking about affordability. We are talking about access to devices to actually take advantage of broadband. Families need devices—couldn't get online, but some can't afford laptops and tablets.

And when working families are struggling to afford monthly bills, they don't have hundreds of dollars lying around to purchase a device. In fact, about 4 in 10, 4 in 10 lower income families don't have a laptop or a tablet at home. Do you agree that ensuring

that all families have access to laptops and tablets is a critical component to closing the digital divide?

Ms. ROSENWORCEL. Yes, I do.

Senator WARNOCK. Thank you so much. I agree, obviously, and that is why I introduced the Device Access for Every American Act. This bill would provide essential devices like laptops and tablets for free to low income families so that parents and kids can access opportunities for work, school, health and more. I am so glad that this legislation is part of the Build Back Better package, and I am going to work really hard until we get it signed into law. I look forward to working with you in the future to making sure that everybody is connected.

Ms. ROSENWORCEL. Absolutely, thank you.

Senator WARNOCK. Thank you.

The CHAIRWOMAN. Thank you. Senator Cruz.

**STATEMENT OF HON. TED CRUZ,
U.S. SENATOR FROM TEXAS**

Senator CRUZ. Thank you, Madam Chair. I am going to direct my questions to Mr. Bedoya. Mr. Bedoya, the Biden Administration has nominated a number of extreme nominees, radicals who have advocated for abolishing the police, two of the senior officials currently at the Justice Department, a banking regulator who trained in the Soviet Union and advocates nationalizing the banks and wants to bankrupt thousands of businesses across America.

And unfortunately, Mr. Bedoya, as I look at your record, you fall firmly in that line. I see the record of someone who has been a left wing activist, a provocateur, a bomb thrower, and an extremist. So I want to take a minute to explore your views. You know, I took a look at Twitter. You have been very active on Twitter. Tell me, Mr. Bedoya, what are your views on ICE?

Mr. BEDOYA. Thank you for that question, Senator. I have, as a law professor called attention to what I see as Fourth Amendment violations in ICE's face recognition searches, and these are measures that have triggered bipartisan oversight by—

Senator CRUZ. OK, let's be clear. I am not talking about the things you say when you are wearing a suit and tie, talking about Fourth Amendment violations, I am talking about what you angrily tweet out to the world. I refer you to a tweet from February 26, 2021, "it is time to call ICE what it is, an out of control domestic surveillance agency that peers into all of our lives." That is not just simply a comment about an abstract Fourth Amendment issue.

And let's be clear, you also have on April 10, 2021, a tweet which is certainly not lacking in subtlety, it is a tweet that says, "Maryland police have no business working with ICE. Maryland police have no business working with ICE. Maryland police have no business working with ICE. Maryland police have no business working with ICE. Maryland police have no business working with ICE."

So apparently, you are calling on State law enforcement to refuse to cooperate in any way with Federal immigration enforcement? How do you explain these tweets? Is that—are you with the more radical members of the squad in the House and are you an advocate for abolishing ICE?

Mr. BEDOYA. I am not, Senator. That last message was rhetoric. The bill that was posted in support of was a bill to require the Government to get a warrant before scanning 7 million Maryland driver's faces. Won the support of one of the most prominent Republicans in our Senate, Senator Christopher West.

And so I have occasionally used rhetoric, sir, but I have worked with you and your staffer when I was a staffer in 2013. The bill that I helped draft to help the separated children act, you co-sponsored as an amendment, and so I emphatically believe that if confirmed, I can and will work across the aisle, set aside my politics to help your constituents and those across the country.

Senator CRUZ. Well, let's talk a little bit more rhetoric. Let's take a look at June 23, 2018, another tweet you sent. In this case, you are blasting a fellow Democrat, "decorum," directed at Steny Hoyer, the House Whip, "thousands of Latino kids still forcibly separated from their parents, some in cages, and you go on CNN to ask for decorum from members of the Hispanic Caucus. You should apologize to those members and to the Latino community." So you are blasting not just ICE, not just Federal law enforcement, but you are also blasting Democrats who are not sufficiently extreme to your liking when it comes to immigration. Is that right?

Mr. BEDOYA. Senator, I think family separation was a horror. The kids at the border looked like my cousins.

Senator CRUZ. So you were really troubled by the kids in cages under President Trump?

Mr. BEDOYA. And as I was troubled with what happened to children in certain circumstances under the prior Administration.

Senator CRUZ. Have you said one word about the kids in cages and the Joe Biden cages? The cages are bigger, they are more full. Have you said a word about it since it was a Democrat President putting kids in cages?

Mr. BEDOYA. Senator, respectfully, I believe I have in certain circumstances criticized immigration policy under the current Administration.

Senator CRUZ. Have you said a word about the Biden cages, or is that rhetoric only directed at your political opponents?

Mr. BEDOYA. I can't say whether I have used the word cages, but I do believe I have been critical of Democrats and Republicans alike. And I believe Democrats and—

Senator CRUZ. You believe you have been critical of Democrats and Republicans alike. That is your sworn testimony today?

Mr. BEDOYA. Yes, and I believe the message you referred to with respect to Leader Hoyer speaks to that.

Senator CRUZ. Alright. Here is another one you are retweeting Joy Anne Reid, where she says, "We are learning daily the ugly consequences of having had a white supremacist Administration." Do you embrace the practice of the far left of blasting their political opponents as white supremacists? And do you think that kind of rhetoric is suitable for what is supposed to be an independent agency enforcing the law?

Mr. BEDOYA. Senator, I don't recall sharing that I don't believe the prior Administration was a white supremacist Administration. I have worked with Democrats and Republicans alike on the Senate Commerce Committee—

Senator CRUZ. OK, well you retweeted it and I will enter the tweet in the record. I am going to ask about one final one, which is something else you retweeted where it was actually I gave a speech where I said “critical race theory is bigoted, it is a lie, and it is every bit as racist as the klansmen in white sheets.” And you retweeted some fellow named John B. King with a GIF of slamming the door. I take it you disagree with the proposition that the critical race theory is bigoted. So, tell us your views on critical race theory?

Mr. BEDOYA. Senator, Secretary King’s great grandfather was enslaved in Gaithersburg, Maryland, and I believe his point was that that history should be taught in schools. I don’t recall that specific message, but I don’t know if I have a top line.

Senator CRUZ. Do you agree with the propositions of critical race theory that America is fundamentally racist, that all white people are racists, that our institutions are irredeemably racist?

Mr. BEDOYA. Senator, I do not believe all white people are racist. I don’t—I haven’t given great thought to critical race theory before this hearing, sir, but I emphatically do not think all white people are racist and I can’t recall the other provisions of your question, sir.

Senator CRUZ. So, Madam Chair, I would ask unanimous consent that the tweets that I referred to be entered into the record.

The CHAIRWOMAN. Without objection.
[The information referred to follows:]

thought that this information could not wait.



Alvaro Bedoya
@alvarombedoya

If you’re wondering whether strong utilities privacy laws and laws to rein in data brokers could have helped here, the answer to that question is YES.

It is time to call ICE what it is: An out-of-control domestic surveillance agency that peers into all our lives.

5:02 PM · Feb 26, 2021 (i)

♥ 73
💬 3
↗ Share this Tweet

Tweet your reply

 **Alvaro Bedoya** @alvarombedoya ...

Maryland police have no business working with ICE.

Maryland police have no business working with ICE.

Maryland police have no business working with ICE.

Maryland police have no business working with ICE.

Maryland police have no business working with ICE.

 **CASA** @CASAforall · Apr 10

We have less than 3 days left in the legislative session and @SenBillFerg and @Willcsmithjr have NOT passed the #DignityNotDetention Act out of JPR. This is completely UNACCEPTABLE! Pass #HB16 out of committee WITH the #TrustAct amendments. NOW! #MDGA21 #ProtectImmigrants

2:34 PM · Apr 10, 2021 · Twitter Web App

8 Retweets 34 Likes

 **Alvaro Bedoya** @alvarombedoya · Jun 23, 2018 ...

“Decorum,” @WhipHoyer? Thousands of Latino kids still forcibly separated from their parents, some in cages, and you go on @CNN to ask for “decorum” from members of the @HispanicCaucus?

You should apologize to those members and to the Latino community.

 **The Intercept** @theintercept · Jun 22, 2018

Five members of the Congressional Hispanic Caucus protested and shouted at Trump as he left a meeting, holding signs that read, “Families Belong Together.” The No. 2 Democrat in the House, @WhipHoyer, found the tactics “not appropriate.” [interc.pt/2JYE4Ff](https://www.theintercept.com/2018/06/22/families-belong-together/)

  4  9 

Alvaro Bedoya Retweeted

 **Joy-Ann (Pro-Democracy) Reid**  @JoyAnnReid · Mar 17

We are learning, daily, the ugly consequences of having had a white supremacist administration, even just for four years. There is more fear, more hate, more danger and more terrorism. None of that is coincidental.

548 9K 41.5K

Alvaro Bedoya Retweeted

 **John King**  @JohnBKing · Jun 18



The Hill  @thehill · Jun 18

 Sen. @tedcruz: "Critical race theory is bigoted, it is a lie and it is every bit as racist as the Klansman in white sheets."

12 63

The CHAIRWOMAN. Senator Luján.

Senator LUJÁN. Thank you, Madam Chair. Commissioner Rosenworcel, as I said in my opening statement, it is refreshing to finally be having a hearing as we are having a conversation about the importance of having a five member Federal Communications Commission. The importance of what I hope will be a confirmed NTIA Director as well. The importance of having a full FTC as well, given all the challenges that this committee has had before it, whether it be the revelations with *The Wall Street Journal*, with Facebook and the importance of protecting children, the importance of privacy in the work that has been done.

And I just want to say thank you to the Chair and the Ranking Member for bringing this hearing before us. And I look forward to the other hearings where it is my hope that the 67 members that supported the bipartisan infrastructure package that sent \$65 billion to the Department of Commerce, namely the NTIA that they will move swiftly as well to confirm an NTIA Director so we can get that money into our communities. But I want to highlight some of the work that still needs to be done to protect consumers in New Mexico and make all forms of connectivity more affordable, resilient, and secure for families in my state, particularly in rural and tribal communities.

Promoting affordable, resilient, secure broadband should be at the core of the FCC's mission. But Congress has not clarified jurisdiction, particularly the user privacy. The FTC just completed a report on the privacy practices of Internet service providers that gives more evidence that Congress must move comprehensive privacy legislation. So my question is both for Chairwoman Rosenworcel and for Mr. Bedoya. Chairwoman Rosenworcel, yes or no, do you commit to this committee to protect consumer privacy, including ensuring that tech platforms and Internet service providers recognize their duty to secure and minimize use of individual identifiable information?

Ms. ROSENWORCEL. Thank you, Senator, for the question. The answer is yes.

Senator LUJÁN. Mr. Bedoya, the same question.

Mr. BEDOYA. Yes, sir. Absolutely.

Senator LUJÁN. Traditional local communities in New Mexico have challenges when it comes to access, access to high speed, affordable broadband. Commissioner Rosenworcel, you know this best. You actually rode on a bus with me in rural New Mexico, which was retrofitted so students could access the internet. And we are now seeing the deployment of more of this across America. Bus drivers like it because students are more attentive. Students like it because they are able to get work done as well. It has also become more difficult for us to access local news and understand developments in our own communities, particularly for families that speak Spanish at home.

Newspapers, radio, and television can no longer rely on ad revenue that has largely shifted to Facebook and Google. And as we have seen in this committee, local trusted voices are difficult to hear through all the noise where misinformation is often the loudest. And the social media companies are doing much worse with bringing accountability to non-English language, namely Spanish

language, when it comes to misinformation. What can the FCC do to support local broadcasters and local newspapers so that they continue to serve the needs and interests of our communities in New Mexico and around the country?

Ms. ROSENWORCEL. Thank you, Senator, for the question. It is really important for our democracy that we all get the news that we need to make decisions about the communities where we live. And I think that goes to the heart of spectrum licenses for broadcasting because the duty under law is for those licenses to serve the community that they are in. And I think the FCC, over time is going to have to figure out more ways to encourage them to use that license to truly serve that community, because that is a resource we have for news in the world today and we need to make sure that we support it.

Senator LUJAN. I also have been an advocate for diversity in media ownership. I worked with Senate colleagues now and I worked closely with G.K. Butterfield, a member of the U.S. House of Representatives, in this space, and it is another conversation I hope that we can have going forward.

I recently was in Catron County in Southwestern New Mexico, a population of about 3,500 in the county in the small town of Reserve, which has between 350 and 500 people living there. Some of the folks that came to chat with me get their Internet from a satellite connection, but they are subjected to data caps. And they are not the only ones. Some of my constituents who received access to the Internet through their phones or through other subscriptions are often subjected to these data caps. I think it is a technology of the past in the same way, I don't believe people should be paying for long distance calls anymore. I think that is preying on older Americans who predominantly are still using that service when they could make a free call from a mobile device if they have both in their home. And we should also look to modernize revenue streams when it comes to USF.

And I think that there are some ways that we can get to the bottom of making access to the Internet more affordable and modernizing this so that we can keep people from having to make choices, especially when it comes to not using their Internet connection for telehealth or students with education or teachers trying to support those students. So I am hopeful we can get that done. And Madam Chair, I do have several other questions. I will submit them to the record. But I do want to thank Mr. Bedoya, again, for coming forward.

The other three questions that I have, sir, are all for you. I want to again say thank you for the work you have done, especially in the area of facial recognition and what has led really to Facebook finally admitting that they should not have been collecting that data here in the United States and they are taking it down. But I do look forward to a full functioning FTC and especially again reminding the FTC Commissioners that are here. I incorrectly said earlier it was two, four plus Mr. Bedoya, who I hope will be five soon, on getting to the bottom of what is happening with fuel prices, especially given the letter that President Trump—or sorry, President Biden recently sent. So I just want to thank everybody for that. Thank you, Madam Chair.

The CHAIRWOMAN. Thank you. Senator Lummis.

**STATEMENT OF HON. CYNTHIA LUMMIS,
U.S. SENATOR FROM WYOMING**

Senator LUMMIS. Thank you, Madam Chairman. My questions are primarily for Chairwoman Rosenworcel. So thank you for being here today. Wyoming is one of the states that has had to start developing its own broadband map as a direct result of the FCC's slow pace in releasing maps. So what is your message to states like Wyoming that are creating their own maps?

Ms. ROSENWORCEL. Thank you, Senator, for the question. For too long, the FCC collected data for its maps based only on census blocks, and we would make this assumption if there was a single subscriber to broadband in a census block in Wyoming, well then inevitably service would be available throughout. And you don't have to be much of a statistician to know that is not correct. And when Congress passed the Broadband Data Act and then authorized funds, you gave us the ability to really improve on that.

I am now working through the Government procurement process to secure a broadband service for location fabric with geocoded data about every single structure in this country where we can build broadband. So we are going to do a whole lot better, but I know we are not going to do it by ourselves.

We actually have to have outreach to states like Wyoming and others to make sure that they are collecting information about what is going on in their backyard that actually works with the methods and standards that we have at the Federal level. We are starting that outreach right now. In fact, we are working with some tribes, which might include the State of Wyoming to do that.

And I am optimistic that if we work together on this, we are going to have data sets that are radically superior to anything the FCC has had in the past.

Senator LUMMIS. Well, thank you. We will look forward to working with you on that. As you know, the country that wins the 5G race will determine the standards and security of 5G infrastructure throughout the globe. We are in jeopardy of losing the 5G race and need mid-band spectrum to launch ahead of our competition. So will you commit to move quickly to establish new 12 gigahertz rules, if you find coexistence is possible between terrestrial and satellite users in the band?

Ms. ROSENWORCEL. Senator, I absolutely agree with you about mid-band spectrum. And in fact, we are coming to the end of our auction of the 3.45 to 3.55 gigahertz band right now as I speak, and mid-band spectrum is the sweet spot where we are going to grow our 5G economy. We do have a proceeding on the 12 gigahertz band. There are a lot of engineering issues, as you alluded to there, and we are combing through it from front to back because we want to be really careful about further terrestrial deployment in this band, making sure there is no interference to satellite services that may use it today.

Senator LUMMIS. I am going to jump now to some issues about the Universal Service Fund. I have heard from service providers in my state that are being squeezed by big tech and big streaming companies that are taking up to 75 percent of the pipe in rural

broadband networks without contributing to the Universal Service Fund. So in this case, the video streamers get the revenue, and the rural broadband operators get the costs that can't be passed on to subscribers because of affordability concerns in high cost rural areas. And the—my friend from New Mexico, Mr. Luján, just alluded to some of the issues related to the service fund as well. What are your thoughts about expanding the base of services that contribute to the Universal Service Fund?

Ms. ROSENWORCEL. Thank you for the question. This has come up before, so I apologize if my answer is a little repetitive. Congress established that fund back in 1996, which was a long time ago, and clearly many of the services you are describing weren't a part of our communications mix back then. I think that this needs a fresh look, and I think expanding it, like you described, is a discussion we should have. It would require legislation from this Congress to do so.

Senator LUMMIS. Well, we would look forward to having a report that studies the unrecovered cost of the middle mile, and who should pay for the Universal Service Fund and what costs should be covered by the USF. So I will look forward to working with you on that. Now in Wyoming, we are concerned—I better check my time.

I am getting close to the end here. In Wyoming, we are concerned about the use of taxpayer dollars to overbuild networks where there is already service, when there are areas of our state that have no service. Same issue is raised recently in New Mexico. So with that in mind, coordination between the FCC, NTIA, and USDA is important to avoid the overbuild because they all have programs that support broadband deployment. How would you characterize the coordination between these agencies, and are you concerned about this issue?

Ms. ROSENWORCEL. Yes, we are getting started. As I have mentioned before we started, we signed a Memorandum of Understanding with those agencies. We have got to work with them more carefully, more often, and better in light of the recent infrastructure legislation. And if confirmed, I would be certainly willing to do so.

Senator LUMMIS. Thank you, and I apologize for the repetitiveness of my questions. I suspect they are repetitive because they are important to more than just Wyoming, but I think that is an indication that we look forward to working with you on these issues and others. Thank you, Madam Chairman. I yield back.

The CHAIRWOMAN. Senator Sinema.

**STATEMENT OF HON. KYRSTEN SINEMA,
U.S. SENATOR FROM ARIZONA**

Senator SINEMA. Thank you, Madam Chair. And thank you to the nominees for joining us today. This week, President Biden signed into law the bipartisan Infrastructure Investment and Jobs Act. I was proud to work with Senator Portman, the White House, Chair Cantwell, and many of my colleagues on both sides of the aisle to pass a historic law that includes our boldest investment ever in closing the digital divide. The bipartisan infrastructure law invests \$65 billion in broadband deployment, affordability for low

income families, digital inclusion, and specific programs for broadband expansion in rural and tribal areas.

The Federal Communications Commission has an important role to implement and oversee the IIJA, and Arizonans expect a lot to be implemented in a fair and expedient manner to benefit our communities. So my first question is for Chair Rosenworcel. I have appreciated your work to improve connectivity in Arizona, particularly for telehealth, for students learning remotely during the pandemic, and for tribal communities.

Our bipartisan infrastructure law provides a significant investment in broadband deployment, with Arizona set to receive hundreds of millions of dollars to expand access to broadband internet. This is crucial for Arizonans living in rural and tribal areas. But in order to allocate these broadband investments, the FCC needs to finally update its broadband maps to determine which areas of the country do not have access to high speed broadband. So could you provide an update on the FCC's mapping process and tell us when these maps will be complete?

Ms. ROSENWORCEL. Thank you, Senator, for the question. The Broadband Data Act was passed into law in 2020. When I took over at the agency, the first thing we did was set up a broadband data task force. We procured computer processing power so that we could actually take in all this data and start manipulating it for updated maps.

We set up a system to make sure that we have a statistically valid way for States like Arizona, towns in Arizona, and consumers to actually challenge any of the data that our carriers provide us with. And right now, we are working to finally procure and resolve a broadband serviceable location fabric, which will feature every buildable location in the United States. That is part of an ongoing Government contracting project that we are working very fast to finish. And as soon as we finish that, we are going to proceed with new data which will form new maps.

My goal is to make that all available to the NTIA and others who have broadband authority as a result of this infrastructure legislation, because I know that that data is absolutely vital for them to make smart choices with the new funding they have from that bill.

Senator SINEMA. Thank you, Chair Rosenworcel. Given your experience on the FCC working to expand broadband and close the digital divide, what other advice do you have for States as they distribute the broadband funding that they will receive through this bipartisan bill?

Ms. ROSENWORCEL. You know, this is a terrific question. I appreciate that you are asking. First, I would encourage them to even come talk to us. We can tell them about what data and information we have. I am going to encourage them also to think creatively about the different entities that might be able to apply for these funds, which would include some nontraditional actors like rural electric co-ops. And then they are going to have to think beyond just the last mile and look at middle mile and other activities that can increase redundancy and competition in the state.

Senator SINEMA. Turning to Mr. Bedoya, Arizonans value their privacy, and they don't want their data used for malicious pur-

poses, they don't want their data breached. And since 2005, data breaches have cost Arizonans over \$1 billion.

You know, Arizonans also want Congress to work together to develop bipartisan solutions to major issues. And there are reports the Federal Trade Commission is considering opening a rulemaking for data privacy, where the Commission would act without Congress passing new legislation to set Federal privacy policy. If you are confirmed as a Commissioner, would you support such an approach, and why or why not?

Mr. BEDOYA. Senator, I would support a rulemaking on unfair methods and deceptive practices. And if it extended to data security, I would emphatically hope, if confirmed, to work with you and your staff to make sure that your concerns are addressed. But I do agree that it is preferable for Congress to pass a law. Unfortunately, if that doesn't happen, I want to make sure that your constituents and everyone else in the country is protected, but I very much would like to work with you on this question. I know you are a leader on it, particularly with respect to seniors.

Senator SINEMA. I am turning back to Chair Rosenworcel. Prior to this hearing, the Committee approved bipartisan legislation that I developed with Senator Susan Collins, the Anti Spoofing Penalties Modernization Act.

Our bill doubles the existing penalties for individuals who provide misleading or inaccurate caller identification information. I frequently hear from my constituents in Arizona who have been defrauded or who are just annoyed by unsolicited calls and robocalls, and they are particularly troubling when they are spoofed to look like they are coming from a neighbor or a local business. Do you support our legislation and how will it complement other FCC efforts to address the issue of scam callers?

Ms. ROSENWORCEL. Yes, robocalls are incredibly annoying, and among the most annoying are the ones that are spoofed to look like their family and friend who is calling you so you are compelled to pick up the phone and answer. Those scams are increasing, and I appreciate the legislation that you have brought to this committee, which will increase the fines. That is terrific. It will help us as we proceed with enforcement activity. But as you mentioned, there are other things we are doing to cut down on spoofing. By requiring stir shaken technology to be built into our IP networks at the network level, we are engaged now in call authentication practices that should help cut down on this activity over time. But the mix of enforcement and technology might be the way that we are going to actually be able to tackle these troubling calls.

Senator SINEMA. Thank you. And Madam Chair, my time has expired. Thank you for holding this hearing.

The CHAIRWOMAN. Thank you. Thank you, Senator Sinema. I will now take my questions. I don't know if anybody else is going to join us, but I thank the witnesses. I know it has been a long morning already. But I think there are important issues to put onto the record in one fashion or another.

Mr. Venkataraman, I am going to ask you to submit something for the record about commercial service leveraging its expertise for U.S. manufacturers on the supply chain. We had a hearing on obviously our legislation that is being considered, USICA, and also had

some supply chain witnesses who submitted very lengthy answers, which was very helpful for us in developing legislation. So we would ask you to submit a very lengthy answer on what and how the commercial service could be used on the expertise of helping U.S. manufacturers navigate the supply chain.

And Ms. Bavishi, we definitely support the new National Culvert Removal Replacement Restoration Grant Program that was part of the legislation just passed and signed into law by the President. NOAA scientists are salmon and habitat experts, and if confirmed, we want to know how you will help with NOAA expertise at the Department of Transportation to support this culvert grant program, so if you could help us with that. So lots to talk about. My colleagues did a great job of bringing up lots of issues, which I am very happy about. You can see we have a very active committee, very large and active committee, and lots to do.

So I will start with you, Commissioner Rosenworcel. We talked about—a lot of questions about the mapping, starting with my colleague, Senator Wicker, down to the last person who asked questions, Senator Sinema. So I think the key thing I am looking for here is current mapping available by the FCC. What flaws do you see in it?

Ms. ROSENWORCEL. What flaws do I see in the current maps? A whole lot. For more than a decade, the FCC practice has been to assume if there was a single subscriber in a census block, service was available throughout. So it systematically overstated service. And as a result, there are areas in the country where we just assume service was, but people on the ground will tell you, no, it is not here.

And so we haven't been always sending our support structures and our support systems to the right places as a result of those flawed maps. So instead of thinking about geographies through census blocks, we have to now think of it on a buildable by location, by buildable location basis. Because if we don't actually go to that level of granularity, our precision will continue to miss communities that are going to need assistance, including from the most recent infrastructure legislation.

The CHAIRWOMAN. I am glad you said that last phrase, because what word would you use for the current mapping?

Ms. ROSENWORCEL. Well, I recall that Senator Tester said that they stink, so maybe I will just quote him.

The CHAIRWOMAN. Well, I definitely think they are ludicrous. And I think it led us to making some pretty erroneous decisions here. And that is that the mapping that Microsoft and others have done in a collaborative fashion that is down to the actual household level show us that the majority of the problem we have with broadband is affordability.

Ms. ROSENWORCEL. It is a very big problem

The CHAIRWOMAN. It is not access. Access is a problem. But the majority of the problem, 65 to 70 percent is affordability, not the challenges that we face—I want to deal with both, but I certainly don't want to shortchange the affordability equation in urban areas where people that somewhere we are seeing from the Microsoft mapping, that around \$50,000 a year, you are not investing in broadband because you can't afford it. So we can keep going on this

ludicrous path here and acting like we are solving the broadband problem, or we can actually get down to business and solve the broadband problem. But if we spend \$65 billion and in 10 years from now we still have all these people in this unaffordability category.

The reason I mention it and I am so passionate about it is that we also see a nexus here. We see these counties in the United States of America with the worst broadband service also having the biggest COVID problems. Why? Because maybe we couldn't communicate with people. We are not communicating effectively with people. And so I just think that the pandemic has showed us that we got to get serious about these maps. We have got to get serious about urban broadband deficiencies. We got to get serious about the reason why people don't have broadband and we can't move in some way of spending these dollars until we get serious about this.

So I look forward to working with you on that and I appreciate your work. I know you have been to my state. I know what you care about affordability. I know you care about the rural issues. And we care about that. We care about that too. We have a lot of—we are probably better than most states. We still have problems, but we are better than most states. But got to solve this problem. So, Mr. Bedoya, I would like to turn to you. Now, let me just say I, my colleagues—you know, I served on Judiciary for 2 years and I learned that lots of college professors say things in their professional career that they definitely get questioned about when they come for positions here.

And so I also believe that you have a right to express yourself. So I think your commitment to continue to serve as—on the FTC and work on a bipartisan basis, I take your comments wholeheartedly and hope that that is what you will be able to achieve. I want wanted to—our colleagues brought up this issue of privacy many times in the discussion, and I think the issue for me is that when we think about where we have started—I should start for a second. Let's go to the FTC authority actually on manipulation. We authored and wrote anti-manipulation language that we were successful in getting into the FERC, getting into the CFTC, and getting into the FTC.

We did that after the Enron crisis because manipulation of electricity markets had caused havoc in my State and people wanted us to pay and be the deep pockets for that. And then we saw the same instances, because we are an isolated oil market—Washington, Oregon, California often have the highest gas prices in the Nation because we are an isolated market. All of that supply coming from Alaska, so it is hard to impact it. But we did have instances when those markets, people we believe, were holding supply outside of the United States to just drive up costs. I literally had a provider of home heating oil testify before the Energy committee that they thought that they had the ability to do this and then tried to blame it on the Jones Act.

And I pointed out to them they did not have the ability to hold supply outside the United States just to artificially create a shortage and jack up prices. So I want to know if you will use this FTC authority. I don't know what is happening in this instance as it re-

lates to supply, but I definitely want it to be investigated by the FTC.

Mr. BEDOYA. Senator, absolutely, yes. I know this is a priority for you, and I know that you worked hard to get that authority to the Commission, and they issued rules and you are eager for enforcement. And I am absolutely committed to do everything I can, if confirmed, to move that forward. Yes, ma'am.

The CHAIRWOMAN. Well, this is why I think you need an aggressive FTC and because for many years, people told us that this was not an antitrust issue. We said, well, we don't think they are collaborating. We just think, you know, that manipulation of supply or moving it outside the country can create artificial shortages. And when you look at all the schemes that Enron did, get shorty, fat boy, they were all about moving supplies somewhere else so that they would create a shortage. In fact, we had one instance where people said they were—they had to shut down a plant, and then we actually saw the actual data from Region 10 that they were still up and running when they said they were shut down, which is why they said that there was a shortage.

So look, I believe in aggressive enforcement here and appreciate that. OK, back to privacy. So lots of my colleagues asked about privacy, and we have a lot of real-world situations now that the information age has grown in, you know, many ways, probably beyond what people could have even imagined 10 years ago. And so now we need a strong privacy law. Chairwoman Rosenworcel brought up this dilemma about even the FCC's enforcement of privacy as it relates to these agreements on binding arbitration.

And I want to ask you about that because to me, when you have victims of domestic violence who really have stalkers who are stalking them and you have software that literally enables people to help stalk them, or when you say you were having kids sign up and now you have kids signing up to binding arbitration agreements, what do you think we need to do here to make sure that we are standing up for the privacy rights of individuals and giving them protection besides binding arbitration that they may or may not have to pay for?

So I don't think a privacy law saying, well, let's go into the conference room with the Facebook lawyer that you are paying for is the right solution for our privacy woes. And having a private right isn't about getting in the box with a Facebook lawyer that you may have to pay for on top of it. So could you give me your views on that?

Mr. BEDOYA. Definitely, Senator. I think, you know there is a place for arbitration in the American legal system, where there is two sophisticated corporate entities being able to resolve a complex matter quickly and expeditiously. I do not think that that is the place where consumer rights should be enforced for the reasons you mentioned. You know, arbitration typically involves repeat players and oftentimes the players who use it the most, *i.e.*, the companies, and to choose the forum or pay for the forum.

And as a result, I think there are serious bias issues. I did some work of this on my time in the Senate specifically to prevent this kind of thing occurring with respect to sexual assault. And I think

it is critical that consumers have every right available to them and are able to defend that, generally speaking, in court.

The CHAIRWOMAN. We saw this Ninth Circuit decision based on the driving technology, where the court said, yes, like if you are empowering people to monitor how fast they are doing this and driving, yes, it was an incentive, in this case for people to, you know, drive even faster.

And so to me, this is a question of if you have these technologies that basically are enabling stalking and then basically they use them for stalking of domestic violence cases, and then you say, that is the limitation, you want them to go into a binding arbitration with the company, it hardly feels like a fair day in court for the American consumer, particularly women who are so much the victims of these kinds of stalking attacks.

Chair Rosenworcel, do you want to comment on this further since you brought this case up about the Supreme Court and what you think we need to do here?

Ms. ROSENWORCEL. Well, with respect to the wireless location accuracy issues that you described, I know that the FCC has enforced against wireless carriers on these issues. I just want to say that I agree with the FTC nominee on those things. We need to address them. But with respect to consumers, you can't have two unequal parties sitting in a room trying to resolve something through binding arbitration. I think it puts consumers at an extraordinary disadvantage. It just can't be the best our legal system can produce.

The CHAIRWOMAN. Well, my sense is there may be issues of just, hey, you didn't remove my name from your list in time.

Ms. ROSENWORCEL. There is a lot of—yes, you know, there is too much that goes on. Sometimes when I think about the number of boxes I tick on an app or a device, or as I scroll through some information simply to get a service or to get shipping, I—you know, you have that brief moment where you recognize you might be giving away a whole lot of rights. And it feels to me that even though I have been trained as a lawyer, I am not reading it. I don't know how most of us are dealing with this on a day to day basis, but this is not a system that feels especially fair.

The CHAIRWOMAN. Well, it is deceptive—I think it has definitely changed in the risk, and the risk that is involved.

Ms. ROSENWORCEL. It puts the risk back on the consumer.

The CHAIRWOMAN. Yes, but I am saying it has changed dramatically in the enabling of the technology and what it actually does. Mr. Bedoya, do you see a line here where somewhere, you know, along the harm or along the damage that is done? I mean, I also think of data breaching and the fact that data breach, you know where your identity and financial wherewithal and lots of things can be ruined. Is there somewhere you think that we should try to change this? I heard your answer to the question of whether we should—you might consider a rulemaking here, but what do you think? What do you think we should do in trying to address this issue?

Mr. BEDOYA. Thank you for that question, Madam Chair. If we are talking about this issue of stalking apps, I think there is a couple of things, both targeted and slightly broader. One is relentless focus, to be honest with you. It is really a shame that this is still

an issue, you know, 10 years later, when back when I first started working on this, I do think the Commission had a critical action recently on this. I would love to see more of them. I would love to see more work with organizations like the National Network to End Domestic Violence, Violence Free Minnesota at the State level, and others.

More broadly, though, I think it is important to recognize that harms—we can try to remedy them after the fact. But part of preventing them, which I think is everyone's goal, is to make sure that the sensitive data that can be used to facilitate tragic things like cyber stalking, stalking apps—and also there need to be rules for the road for and protections for. And for example, when it comes to geolocation, the ease with which this information can be collected, shared, bought, sold, breached facilitates these kinds of harms.

And so it is important to not just go after the targeted harm, but also understand the ecosystem that facilitates it and put rules of the road to prevent those harms from occurring in the first place, ma'am.

The CHAIRWOMAN. Well, I definitely want to prevent them from occurring in the first place. But what kind of rights should consumers expect if there has been major harm done to an individual?

Mr. BEDOYA. Senator, in my opinion, the right to their day in court, to make sure that they have the ability to take their rights and defend them to court and ensure their privacy is protected. Oftentimes, you know, law enforcers have a lot of things they have to worry about, and sometimes privacy harms don't go to the top of that list. And so I think that is critical in my view.

The CHAIRWOMAN. Does the FCC have the ability to put out a new rule on this, Chair Rosenworcel?

Ms. ROSENWORCEL. I think I would have to study with our General Counsel's Office and get back to you on that.

The CHAIRWOMAN. OK, would you do that for us for the record?

Ms. ROSENWORCEL. Absolutely.

The CHAIRWOMAN. Would definitely appreciate an answer here. I do think that there are people who wish that all of these entities would be under the same rules. And so that is, you know, an issue as well. And as I said, I think there is some—a lot of my colleagues have been working on legislation for a long time in these areas of just good data hygiene and good consumer, you know, information you should be giving to consumers.

And then I think we are just negligent if we don't try to figure this out and get some rights for consumers because I think you are not going to contain the continued growth of these activities if you don't have some strong deterrence. And you know, we can see this in so many different aspects. You know, I truly believe the information age is a great time to be alive, but I also think that we have to figure out how to harness it and make it work for us and not work against us. And there are certainly some examples where it can work against us. And that is what we need to do, our job up here with the agencies that we are talking about.

Mr. Bedoya, I will just end with this. I know you joined us remotely because you had someone in the family, someone in your household who tested positive. And I hope your son is doing well

and just appreciate you participating today in the hearing. I think that concludes unless we have any other witnesses, I mean any other members who want to come and ask questions, but I don't believe so.

At today's hearing, I want to ask all the nominees Chair Rosenworcel, Mr. Bedoya, Ms. Bavishi, And Mr. Venkataraman, if confirmed, will you pledge to work collaboratively with this committee, provide thorough and timely responses to our requests for information as we put together and address important policy issues, and appear before the Committee when requested?

Ms. ROSENWORCEL. Yes.

Ms. BAVISHI. Yes. Absolutely.

Mr. VENKATARAMAN. Yes.

The CHAIRWOMAN. OK. Mr. Bedoya that was a yes—we are—

Mr. BEDOYA. Yes, ma'am.

The CHAIRWOMAN. OK. Senators will have until Monday, November 22nd at noon to submit questions for the record to the Committee, and witnesses will have one—Senators will have until Monday the 22nd to submit questions for the record, and witnesses will have one more week to respond to that. So that concludes our hearing.

Again, thank you. Probably one of the longer hearings we have had, but certainly appreciate everyone's participation today. Thanks.

[Whereupon, at 1:19 p.m., the hearing was adjourned.]

A P P E N D I X



July 19, 2021

The Honorable Joseph R. Biden
President of the United States
1600 Pennsylvania Avenue NW
Washington, DC 20500

RE: Recommendation for Nomination of Jessica Rosenworcel as the Permanent Federal Communications Commission Chairwoman

Dear Mr. President:

The undersigned public safety associations are pleased and honored to work with you and your administration on critical public safety issues. With that in mind, we wish to offer you our strongest recommendation for the nomination of Jessica Rosenworcel as permanent Chairwoman of the Federal Communications Commission (FCC).

As you know from our work together on the FirstNet legislation during your time as Vice President, effective first responder communications are critical for all successful emergency operations. The next few years will be a pivotal time for public safety communications, as our community endeavors to modernize 9-1-1 infrastructure and incorporate broadband technologies into our operations. For these fundamental reasons, the person chosen to become the FCC Chairperson is critically important to the first responder community and to public safety overall.

Acting Chairwoman Rosenworcel has distinguished herself as someone who clearly understands public safety and how to balance our needs with the many important policy objectives before the FCC. Over more than a decade of working closely on these issues, she has earned our trust and respect. We urge you to act swiftly and nominate Commissioner Rosenworcel as the permanent FCC Chairwoman.

The Honorable Joseph R. Biden
President of the United States
Page 2

Please contact us if there is anything our associations can do to assist you.

Respectfully,

Kimberly J. Wagner
Executive Director
Major County Sheriffs of America

Jonathan Thompson
Executive Director
National Sheriffs Association

Fire Chief Kenneth W. Steubing
Acting President and Chairman of the Board
International Association of Fire Chiefs

Don Lombardi
Fire Chief, West Metro Fire Rescue
President, Metropolitan Fire Chiefs Association

Scott R. Miller
Assistant Chief, Golder Ranch Fire District
President, Western Fire Chiefs Association

Kyle Thornton
Bureau Chief, New Mexico EMS
President, National Association of State EMS Officials

Derek K. Poarch
Executive Director & CEO
APCO International



Council of the Great City Schools®
 1331 Pennsylvania Avenue, NW, Suite 1100N, Washington, DC 20004
 (202) 393-2427 (202) 393-2400 (fax) www.cgcs.org

November 11, 2021

Senator Maria Cantwell, Chair
 Committee on Commerce, Science, and Transportation
 U.S. Senate
 Washington, DC 20510

Senator Roger Wicker, Ranking Member
 Committee on Commerce, Science, and Transportation
 U.S. Senate
 Washington, DC 20510

Dear Chair Cantwell and Ranking Member Wicker:

The Council of the Great City Schools is a coalition of the nation's 75 largest central city school districts. Our members enroll over 8 million students, including approximately 28 percent of the nation's Hispanic students, 29 percent of the nation's African American students, and 25 percent of the nation's children living in poverty. The Council is writing to enthusiastically recommend that Jessica Rosenworcel, acting chair of the Federal Communications Commission, be approved as permanent chair of the agency.

The Council has known Jessica Rosenworcel for many years. She has held a number of positions at the Commission and understands the issues that stakeholders face and the work that needs to be accomplished for the agency to meet the nation's communications needs. Commissioner Rosenworcel's notable foresight in highlighting the lack of at-home internet access for low-income students - years before the pandemic - hastened the Commission's efforts to support continuous learning when schools closed in March of 2020. And her leadership as Acting Chair since January 2021 ensured a steady hand was directing the rollout of more than \$10 billion in COVID-19 relief funding that Congress approved. This includes the Emergency Connectivity Fund and Emergency Broadband Benefit programs helping to keep students and families connected in our urban communities, as well as additional funding for telehealth services to address inequities in access to health care during the pandemic.

Technology access is at a vital stage in its K-12 evolution today. School shutdowns increased 1:1 instruction, moved a large portion of teaching and learning online, and expanded educator reliance on content-rich media sources. Even with most students and staff returning to physical classrooms this year, urban school districts are working diligently to ensure the benefits of digital learning continue to be a part of their educational offerings. It is essential that the Commission continues to encourage this trend by ensuring the E-Rate and other FCC programs focus support on those who lack means and opportunity, and that any future investments our nation makes in broadband deployment are centered around network access and cybersecurity.

For these reasons, the Council strongly supports Jessica Rosenworcel's nomination as chair of the Federal Communications Commission. Thank you.

Sincerely,

Raymond Hart
 Executive Director

COMMUNICATIONS WORKERS OF AMERICA
Washington, DC, November 15, 2021

Hon. MARIA CANTWELL,
 Chair,
 U.S. Senate Committee on Commerce,
 Science, and Transportation,
 Washington DC, 20510,

Hon. ROGER WICKER,
 Ranking Member,
 U.S. Senate Committee on Commerce,
 Science, and Transportation
 Washington, DC.

Dear Chair Cantwell and Ranking Member Wicker,

On behalf of the members and officers of the Communications Workers of America (CWA), I am writing in strong support of the nominations of Jessica Rosenworcel to serve as Chair of the Federal Communications Commission (FCC) and Gigi Sohn for Commissioner. Not only will they continue to lead the FCC into the future by encouraging the equitable deployment of next-generation broadband networks, they will also ensure that the concerns of workers and consumers are the top priority.

As Commissioner and Acting Chair at the FCC, Rosenworcel has fought steadily to ensure access to telecommunications services for all Americans. For example, Rosenworcel's work has drawn attention to problems with the FCC's collection of data on broadband access. She has advocated that in order to close the digital divide, we must have access to broadband maps and data that are accurate and reliable. This ensures that when broadband access is expanded, it reaches all communities, not just some. Further, Rosenworcel has been a champion for the protection and expansion of the Lifeline program, which connects low-income households to critical telecommunications services. She understands that these programs are especially important during public health and economic crises like those taking place right now.

Beyond her understanding of the policy issues, Rosenworcel has intimate knowledge of the families and workers behind the policy because she takes the time to understand both. Prior to the pandemic, Rosenworcel was an advocate for closing the Homework Gap by addressing the issue that millions of students take homework home from school but don't have the Internet access to complete it. She has been working on creative solutions to this issue for years, and since the pandemic has widened this gap, this work remains a top priority. Additionally, she has engaged CWA members in dialogue to provide perspective on the telecommunications issues that are hitting the communities we serve the hardest.

Throughout her career, Gigi Sohn has been a staunch advocate for the expansion of affordable Internet access. During the T-Mobile/Sprint merger, Sohn was a key ally in the fight to protect the jobs of the working families who ultimately ended up being harmed by the merger. She believes in fighting to ensure that workers are protected first and foremost. Additionally, she supports efforts to hold broadband service providers accountable through state regulatory oversight. Her voice, experience and expertise are just what the FCC needs.

The leadership exhibited by these two women focus on greater opportunity, accessibility, and affordability in our communications services, especially broadband services. Further, their tireless advocacy on behalf of workers and consumers has never been more important. I strongly urge you to swiftly advance the nominations of Jessica Rosenworcel and Gigi Sohn to serve as the next Chair and Commissioner of the Federal Communications Commission (FCC), as they are exactly the kind of leaders we need in this moment.

Thank you in advance for your consideration.

Sincerely,

DAN MAUER,
Director of Government Affairs,
 Communications Workers of America (CWA).

INTERNATIONAL ASSOCIATION OF FIRE CHIEFS
Chantilly, VA, November 15, 2021

Hon. MARIA CANTWELL,
 Chairwoman,
 Committee on Commerce, Science, and
 Transportation,
 U.S. Senate,
 Washington, DC.

Hon. ROGER WICKER,
 Ranking Member,
 Committee on Commerce, Science, and
 Transportation,
 U.S. Senate,
 Washington, DC.

Dear Chairwoman Cantwell and Ranking Member Wicker:

On behalf of the nearly 12,000 members of the International Association of Fire Chiefs (IAFC), I would like to express my strong support for the nomination of Jessica Rosenworcel to the office of Chairwoman of the Federal Communications Commission (FCC). Through her current role as Acting FCC Chairwoman and her distinguished career in the communications policy, Acting Chairwoman Rosenworcel has been a strong ally of public safety.

As a staff member on the U.S. Senate Committee on Commerce, Science, and Transportation, Commissioner Rosenworcel played a key role in facilitating the passage of *The Middle Class Tax Relief and Job Creation Act of 2012* (P.L. 112-96). This legislation provided the necessary 20 MHz of spectrum in the 700 MHz band and \$7 billion to build a nationwide broadband network dedicated to the mission requirements of public safety. It also created the First Responder Network Authority (FirstNet), as an independent agency in the U.S. Department of Commerce. In the years since, FirstNet has fulfilled the *9/11 Commission Report's* recommendations to improve interoperability and establish a nationwide public safety wireless broadband network.

Through her years as an FCC Commissioner, Acting Chairwoman Rosenworcel has distinguished herself as someone who clearly understands public safety and how to balance its needs with the many important policy objectives before the FCC. As Acting Chairwoman, she helped advance proceedings related providing accurate z-axis 9-1-1 location information to public safety. This information will save first responders' lives and reduce the time and effort needed to locate 9-1-1 callers in need of assistance.

During her tenure as Acting Chairwoman, Rosenworcel also has worked to ensure first responders retain the usage of 4.9 GHz spectrum. In October 2020, the FCC issued an order adopting a state-by-state leasing framework that would have set up a patchwork regulation of 4.9 GHz spectrum. Acknowledging the concerns of public safety, Acting Chairwoman Rosenworcel led the effort to place a stay on last October's order. This stay was issued by the Commission in May and under Acting Chairwoman Rosenworcel's leadership the FCC unanimously rescinded the state-by-state leasing rules for the 4.9 GHz band on September 30.

The IAFC strongly believes that if confirmed, Acting Chairwoman Rosenworcel will continue to ensure that public safety has the telecommunications resources it needs to best leverage emerging technologies to keep those we serve safe. Thank you for your continued support of public safety and we appreciate your consideration of this important matter.

Sincerely,

FIRE CHIEF KENNETH W. STUEBING, BHSc, CCP(f),
President and Board Chair.

Hon. CHUCK SCHUMER,
 Senate Majority Leader,
 Washington, DC.

Hon. MITCH McCONNELL,
 Senate Minority Leader,
 Washington, DC.

Hon. MARIA CANTWELL,
 Senate Committee on Commerce, Science
 & Transportation,
 Washington, DC.

Hon. ROGER WICKER,
 Senate Committee on Commerce, Science
 & Transportation,
 Washington, DC.

November 16, 2021

Dear Senate Majority Leader Schumer, Minority Leader McConnell, Chair Cantwell and Ranking Member Wicker,

We are writing to urge the swift and concurrent confirmation of Jessica Rosenworcel and Gigi Sohn for the Federal Communications Commission and Alan Davidson for the National Telecommunications and Information Administration. These agencies urgently need Senate-confirmed leaders to address the critical need

for affordable and resilient access to the open Internet in the midst of a global pandemic and worsening climate crisis. Through bipartisan infrastructure legislation, Congress has given these agencies enormous tasks on tight deadlines. These exceptional nominees' appointments so late in the year means there can be no delay in confirming them and getting started in earnest on all of that urgent work.

These three nominees each bring decades of experience, a commitment to the public interest, and the skills necessary to fulfill the missions of these agencies.

Jessica Rosenworcel's tenure at the FCC makes her an exceptional pick for FCC Chair. She is a respected and principled advocate with a proven record of fighting for the public interest. She has long championed efforts to ensure everyone in America, particularly schoolchildren, have affordable and reliable high-speed broadband to provide them with the tools they need for a successful future. Chairwoman Rosenworcel's efforts to close the "homework gap" embody that commitment. As Acting Chair, she quickly and successfully launched the Emergency Broadband Benefit, a program that is now helping millions of Americans afford access to the internet.

For over 30 years, Gigi Sohn's priority has been ensuring that modern communications networks are available to everybody, regardless of who they are or where they live. Her life's work has embodied the standard on which the FCC bases its decisions: the public interest. She served as a top aide to FCC Chairman Tom Wheeler and helped found and lead a non-profit focused on promoting an open and competitive communications and technology market. She has a proven record of bringing together varied stakeholders, including public interest advocates and companies, in bipartisan coalitions to fight for equitable broadband policies, consumer protections, competition and the open internet.

Alan Davidson has over 20 years of experience in government, industry and public interest advocacy, making him an ideal candidate to take up the interagency work of the NTIA, and to guide not only NTIA's existing spectrum allocation and broadband policy work, but also its greatly increased grantmaking and coordinating role in implementation of the bipartisan infrastructure bill's broadband funding provisions.

Even before the pandemic struck over 21 months ago, 2019 Census data showed that nearly 80 million people in the U.S. did not have adequate broadband at home.¹ According to that data, poor families and people of color are disproportionately disconnected—only 48 percent of low-income households had a fixed broadband connection at that time, and 13 million Black people, 18 million Latinx people and 1.3 million Indigenous people lacked this kind of adequate home connectivity.² Digital divide indicators like education and income disparities demonstrate that many Asian American and Pacific Islander (AAPI) communities and ethnic groups are also disproportionately impacted, and some AAPI communities and individuals with reduced English proficiency levels may adopt broadband at lower rates than the national average.³

At the same time communities across the country are facing more frequent extreme weather events due to the climate crisis, and those events are taking down crucial communications infrastructure on an increasingly regular basis.

And while Congress passed historic legislation to address broadband affordability and accessibility for both urban and rural communities in the midst of the pandemic, the FCC and NTIA's ability to administer these Congressional directives—as well as their ability to promote affordability, competition, privacy, sound spectrum policy, and network resiliency along with other consumer protections using existing authorities—has been limited by the deadlocked FCC and the lack of an Assistant Secretary at NTIA.

Any delay in confirming all three of these nominees will stall progress on achieving those goals and ensuring that everyone in the United States is able to access robust, affordable high-speed internet.

We urge you to confirm these three public-interest champions before the Senate recesses at the end of the year. Thank you for your attention to this urgent matter.

Sincerely,

18 Million Rising
Access Humboldt
Akaku Maui Community Media
Alliance for Community Media

¹See Comments of Free Press, FCC GN Docket No. 20-269, at 4 (filed Sept. 18, 2020), https://www.freepress.net/sites/default/files/2020-09/free_press_2020_section_706_inquiry_comments.pdf.

²See *id.*

³See Asian Americans Advancing Justice, Telecommunications and Technology Fact Sheet, <https://advancingjustice-aaajc.org/sites/default/files/2020-02/Lifeline%20Backgrounder.pdf>.

American Library Association
 Appalshop Community Media Initiative
 Benton Institute for Broadband & Society
 Branford Community Television
 California Center for Rural Policy
 California Clean Money Campaign
 Capital Community Media
 CATS Community Access Television Services
 Center for Accessible Technology
 City of New Bedford Cable Access—New Bedford, MA
 Color of Change
 Common Sense
 Communications Workers of America
 Communities Closing the Urban Digital Divide
 Community Media Access Collaborative
 Decode Democracy
 Demand Progress Education Fund
 Democracy for America
 Derry Community Access Media
 Duluth Public Access Community Television
 Electronic Frontier Foundation
 Engine
 FC Public Media
 Fight for the Future
 Free Press Action
 Friends of the Earth
 Granby Community Access and Media, Inc.
 The Greenlining Institute
 Greenpeace USA
 Hawaii Consumers
 Illinois for Educational Equity
 Indivisible Sacramento
 Institute for Local Self-Reliance
 Libraries Without Borders U.S.
 Local TV, inc
 Lynn Community Television
 Massachusetts Community Media dba MassAccess
 Media Alliance
 Media, Inequality & Change Center
 MediaJustice
 Melrose Massachusetts Television
 Movement Alliance Project
 Mozilla Foundation
 National Association of the Deaf
 National Consumers League
 Native Public Media
 The New Hampshire Coalition for Community Media
 Newark for Educational Equity & Diversity
 North Shore TV
 NTEN
 OD Action
 The OMNI Centre for Public Media, Inc.
 OMNI Productions
 Open MIC (Open Media and Information Companies Initiative)
 Open Technology Institute
 OpenMedia
 Orion Neighborhood Television (ONTV)
 The Other 98%
 Our Revolution
 PhillyCAM
 Presente.org
 Progress America
 Public Knowledge
 Revolving Door Project
 RootsAction.org
 Salem Community Television, Salem NH
 Salina Media Connection; Community Access TV of Salina, Inc.,
 San Diego Futures Foundation

Tahoe Truckee Media
 Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI)
 TURN—The Utility Reform Network
 United Church of Christ Media Justice Ministry
 Valley Shore Community Television Inc.
 Western New York Library Resources Council
 Winchester Community Access & Media, Inc.
 Writers Guild of America West
 X-Lab

NATIONAL HISPANIC MEDIA COALITION
November 16, 2021

Hon. MARIA CANTWELL,
 Chairwoman,
 U.S. Senate Committee on Commerce,
 Science, and Transportation,
 Washington, DC.

Hon. ROGER WICKER,
 Ranking Member,
 U.S. Senate Committee on Commerce,
 Science, and Transportation,
 Washington, DC.

Dear Chairwoman Cantwell and Ranking Member Wicker:

On behalf of the National Hispanic Media Coalition (NHMC), I write to support the nomination of Jessica Rosenworcel to the Federal Communications Commission (FCC) and urge for her quick confirmation. The NHMC is a 35-year-old nonprofit 501(c)(3) civil rights organization that was founded to eliminate hate, discrimination, and racism towards the Latinx community. We are proud to support the nomination of Jessica Rosenworcel because of her tireless efforts to close the digital divide impacting Latinx, BIPOC, and other vulnerable communities.

As the current acting Chairwoman of the FCC, Rosenworcel led efforts to address broadband affordability and accessibility impediments. In the face of the COVID-19 pandemic, she successfully led the deployment and outreach efforts for the Emergency Broadband Benefit (EBB) program, which provided Internet access to numerous Latinx households across the United States. With over *a third of Latinx households lacking access to the internet*, the EBB program proved essential as Internet access became increasingly vital to our work, education, healthcare, and other daily activities. On August 27, under Chairwoman Rosenworcel's leadership, the FCC was able to announce that *five million households* enrolled in the EBB program.

Additionally, Chairwoman Rosenworcel's work to close the "*Homework Gap*," demonstrates her steadfast dedication to provide adequate resources to educate our Nation's youth. Through the E-Rate program, Chairwoman Rosenworcel worked to guarantee our schoolchildren have reliable access to broadband and online resources for their studies. Her leadership and advocacy efforts for the public interest make her an exceptional nominee for the FCC Chair position.

The NHMC supports the nomination of Chairwoman Rosenworcel to the FCC and urges her quick confirmation. We look forward to her future efforts to close the digital divide by providing equitable, affordable, and reliable Internet access for our Latinx households and other marginalized communities. If you require additional information or have any questions, please do not hesitate to contact Georgina Zamora at castilloassiatant@nhmc.org or (626) 792-6462. Thank you in advance for your attention to this matter.

Sincerely,

BRENDA VICTORIA CASTILLO,
President & CEO,
 National Hispanic Media Coalition.



44 Canal Center Plaza, Suite 200 | Alexandria, VA 22314, USA | 703.836.6767 or 1.800.THEIACP | www.theIACP.org

November 17, 2021

The Honorable Maria Cantwell
 United States Senate
 Chair
 Committee on Commerce, Science, and
 Transportation
 Washington, DC 20510

The Honorable Roger Wicker
 United States Senate
 Ranking Member
 Committee on Commerce, Science, and
 Transportation
 Washington, DC 20510

Dear Committee Chair Cantwell and Ranking Member Wicker:

On behalf of the International Association of Chiefs of Police (IACP), I am pleased to offer our support for the nomination of Jessica Rosenworcel to serve as Commissioner of the Federal Communications Commission (FCC).

The IACP often interfaces with the FCC on matters related to public safety. Over the years, we have been able to work with Jessica Rosenworcel on many public safety matters, and are grateful for her efforts.

These next few years will be a critical time for public safety communications, as modernization of 9-1-1 infrastructure moves to Next Generation 9-1-1 and incorporates broadband technologies into public safety operations. Public safety access to 4.9 Ghz spectrum and many other complex and competing interests will come before the FCC, and the IACP believes that the FCC Commissioner is a critical position for public safety. Acting Chair Rosenworcel has distinguished herself as someone who understands public safety, is open to listening to new ideas, and carefully considers how to balance our nation's public safety needs with many important policy decisions before the FCC; for these reasons, we support her nomination as Commissioner of the FCC.

The IACP remains eager to work with Congress to identify ways to enhance community trust and, in that effort, enhancing all forms of communications under the purview of the FCC is critical to community-police engagement efforts. The IACP urges the members of the United States Senate to confirm the nomination of Jessica Rosenworcel.

Sincerely,

Chief Dwight E. Henninger
 IACP President

President Chief Dwight E. Henninger Vail, CO, Police Department	Third Vice President Chief Ken A. Walker West University Place, TX, Police Department	Vice President At Large Chief Kristen Zman (Ret.) Aurora, IL, Police Department	General Chair, Division of State Associations of Chiefs of Police Chief James G. Hicks Norfolk, MA, Police Department	Executive Director / Chief Executive Officer Vincent Talucci, CAE Alexandria, VA
Immediate Past President Chief Cynthia E. Renard (Ret.) San Diego, CA, Police Department	Fourth Vice President Director David B. Rausch Tennessee Bureau of Investigation	International Vice President Emmanuel Roubin Head of the International Division of the French Judicial Police	General Chair, Justice Agencies Division Chief Edward Walsh Taunton, MA, Police Department	Deputy Executive Director / Chief Operating Officer Terrence M. Cunningham Alexandria, VA
First Vice President Chief John Letteney Thomasville, GA, Police Department	Fifth Vice President Doug Strommer Grand Junction, CO, Police Department	Vice President-Treasurer Chief Ronald A. Sobel Mansfield, MA, Police Department	Parliamentarian Chief Robert Champagne (Ret.) Peabody, MA, Police Department	
Second Vice President Chief Wade Carpenter Park City, UT, Police Department	Vice President At Large Chief Sean Duggan Chandler, AZ, Police Department	General Chair, Division of State and Provincial Police Colonel Matthew Langer Minnesota State Patrol		

Directors Guild  of America, Inc.

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**ASSOC. NATIONAL EXECUTIVE DIRECTOR/
 WESTERN EXECUTIVE DIRECTOR**
 DANIEL BUSH
EASTERN EXECUTIVE DIRECTOR
 NEIL DUDICH
GENERAL COUNSEL
 DAVID B. DNEYFUS

November 18, 2021

Chairwoman Maria Cantwell
 Ranking Member Roger Wicker
 U.S. Senate Committee on Commerce, Science, and Transportation
 Russell Senate Office Building 254
 2 Constitution Avenue NE
 Washington, D.C. 20002

Dear Chairwoman Cantwell, Ranking Member Wicker, and Members of the U.S. Senate Committee on Commerce, Science, and Transportation:

On behalf of the Directors Guild of America (DGA), I wish to extend our enthusiastic support for the Honorable Jessica Rosenworcel to serve as the permanent Chair of the Federal Communications Commission.

The DGA is a labor union that represents 18,600 directors and members of the directing team who create the feature films, television programs, commercials, documentaries, news, and other motion pictures that are this country's greatest cultural export. DGA's mission is to protect the creative and economic rights of our members.

It is critical that the FCC appreciate the devastating effect copyright theft and anti-competitive practices have on the rights and livelihoods of creators. For decades, the growth and success of film and television – for consumers and creators alike – has been a direct product of a structure created and nurtured to protect copyright, promote competition, and fairly compensate those filmmakers and others in the industry who create the very best entertainment programs in the world.

Throughout her time at the FCC, Acting Chairwoman Rosenworcel has displayed an ability to balance competing interests, to consider alternative approaches to problems, and to craft thoughtful proposals that protect our membership. Her work has illustrated it is possible to promote a more open, accessible internet for all without sacrificing the intellectual property rights of creators.

Sincerely,



Russell Hollander
 National Executive Director
 Directors Guild of America



ALARM INDUSTRY COMMUNICATIONS COMMITTEE

November 30, 2021

Maria Cantwell
Chairwoman
Senate Committee on Commerce
Washington, DC 20515

Roger Wicker
Ranking Republican
Senate Committee on Commerce
Washington, DC 20515

Dear Chairwoman Cantwell and Ranking Republican Wicker,

The Alarm Industry Communications Committee (AICC) strongly supports the nominations of Jessica Rosenworcel as Chairwoman of the Federal Communications Commission (FCC) and Gigi Sohn for FCC commissioner.

Based upon our observations and experiences in working with both nominees, we have found them to fully understand and recognize the key role that telecommunications plays in helping to ensure public safety. They have both proven to be very accessible and willing to listen and learn how issues before the FCC would impact the ability of alarm monitoring companies to respond to emergencies experienced by individuals and businesses as a result of a break in, fire, carbon monoxide incident or in the case of seniors a health emergency that requires the dispatch of emergency responders.

They have both demonstrated strong support for consumer rights while at the same time being willing to understand the concerns of the small business-dominated alarm industry which is a key partner in the public safety network. An added benefit is that they both have a long history of working on telecommunications issues both inside and outside the FCC, which would make them immediately ready to address the myriad of issues before the Commission.

We urge the Senate to expeditiously take up and confirm the nominations of both these highly qualified candidates.

Sincerely,

Lou Fiore
Chairman Alarm Industry Communications Committee



Contact Bill Signer at signer@carmengroup.com or at (202) 515-2345 with questions.

Dear Senators & Staff of the Senate Commerce Committee:

We are a group of former Senate staffers, from both sides of the aisle, writing in support of the nomination of Professor Alvaro Bedoya to serve as commissioner of the Federal Trade Commission. We worked with Professor Bedoya—or Alvaro, as we know him—when he served as a senior Senate staffer from 2009 to 2014, including as Chief Counsel for the Senate Judiciary Committee’s Subcommittee on Privacy, Technology & the Law beginning in 2011.

Some of us share Alvaro’s political views and others of us do not. But we all agree that Alvaro was a wonderful staffer and colleague whose nomination deserves your support. Alvaro is an effective and fair advocate—he tries to win you over on the merits, with the facts and the law, not with attacks or cheap shots. He is an honest broker, often sharing both the strengths and weaknesses of his positions, and he is committed to finding common ground whenever possible. Whatever one thinks of Alvaro’s politics, we found him to be smart, demonstrating comfort with complex legal and technical issues, and someone we could trust. Many of us partnered with him across the aisle on bills and oversight actions.

Alvaro’s nomination has already received bipartisan support from his future colleagues on the Federal Trade Commission, including Chair Lina Khan, Commissioner Rebecca Slaughter, and Commissioner Noah Phillips. We are glad to join that effort.

Sincerely,

Elizabeth Taylor	Joshua Riley	Chandler Morse
Matthew Johnson	Susan Rohol	Sarah Beth Jansen
Holt Lackey	Kevin Cummins	Sarah Mills
Erik Jones	Sam Ramer	Clete Johnson
Jeff Zubricki	Alpha Lillstrom	Lara Flint
Craig Kalkut	Albert Sanders	Hasan Ali
Maggie Whitney	Curtis LeGeyt	Shanna Singh Hughey
Alexandra Reeve Givens	Emily Livingston	April Carson
Sam Simon		

All individuals are signing in an individual capacity.

###

Letter of Support

<https://www.lawyerscommittee.org/>

Lawyers' Committee Applauds the Nomination of Bedoya to FTC

by Lacy Crawford, Jr | Oct 4, 2021 | Press Releases

(Washington, D.C.) — President Joe Biden nominated law professor Alvaro Bedoya to the Federal Trade Commission. Bedoya is the founder of Georgetown Law's Center on Privacy & Technology, which focuses on privacy and surveillance law and policy, especially the impact on communities of color.

The following is a statement from **David Brody**, senior counsel with the Lawyers' Committee for Civil Rights Under Law:

"Alvaro Bedoya is a strong ally to communities of color who understands how technologies can be abused to exploit and disenfranchise people. Now more than ever, the country needs a strong Federal Trade Commission focused on ensuring privacy for all, stamping out discrimination that occurs with ever-growing frequency online, and reigning in the companies that abuse their power threatening civil rights for us all. Bedoya is an ideal nominee who understands that privacy and surveillance protections are essential civil rights protections, and we applaud President Biden for his outstanding choice."

###

About the Lawyers' Committee for Civil Rights Under Law – The Lawyers' Committee for Civil Rights Under Law (Lawyers' Committee), a nonpartisan, nonprofit organization, was formed in 1963 at the request of President John F. Kennedy to involve the private bar in providing legal services to address racial discrimination. The principal mission of the Lawyers' Committee for Civil Rights Under Law is to secure, through the rule of law, equal justice for all, particularly in the areas of voting rights, criminal justice, fair housing and community development, economic justice, educational opportunities, and hate crimes. For more information, please visit <https://lawyerscommittee.org>.

November 11, 2021

Re: *Confirmation of Alvaro Bedoya*

Dear Chair Cantwell and Ranking Member Wicker:

We are former leaders of the Federal Trade Commission—including past Chairs, Commissioners, Bureau Directors, and other senior staff—writing in support of the nomination of Professor Alvaro Bedoya to serve as Commissioner.

Professor Bedoya is eminently qualified for the position. He worked to safeguard consumer privacy as Chief Counsel of the U.S. Senate Judiciary Subcommittee on Privacy, Technology, and the Law upon the Subcommittee's creation in January 2011. In that role, Professor Bedoya began working with Commission leadership and staff, inviting the Commission to testify at oversight hearings probing the Nation's leading technology companies. Under Professor Bedoya's leadership, the Subcommittee focused on geolocation technology and biometrics, and Professor Bedoya developed a reputation for rigor, fairness, and bipartisanship.

After the Senate, Professor Bedoya founded the Center on Privacy & Technology, at Georgetown University Law Center. At the Center, Professor Bedoya led groundbreaking research into the accuracy and disparate impact of face recognition technology, co-authoring a study that helped reshape public attitudes toward the technology and led the National Institute of Standards and Technology to establish the first comprehensive bias audit of leading face recognition algorithms. More broadly, the Center has focused on the disparate impact of different forms of tracking on historically marginalized groups, reframing contemporary privacy debates to include an emphasis on civil rights.

The Commission is charged with enforcing more than eighty consumer protection laws in addition to the Federal Trade Commission Act. Leading the agency requires intelligence, experience, and judgment. We believe that Professor Bedoya has each of those attributes and would be a welcome addition to the Commission. We urge his confirmation.

Sincerely,

William Baer, Director of the Bureau of Competition (1995–1999), Attorney Advisor to the Chairman and Assistant General Counsel for Legislation and Congressional Relations (1975–1980)

Joan Z. Bernstein, Director of the Bureau of Consumer Protection (1995–2001)

Richard Feinstein, Director of the Bureau of Competition (2009–2013), Assistant Director of the Bureau of Competition (1998–2001)

M. Eileen Harrington, Executive Director, Federal Trade Commission (2010–12); Acting Director Bureau of Consumer Protection (2009)

Heather Hipsley, Chief of Staff, Federal Trade Commission (2013–2017); Deputy General Counsel (2017–2020)

Jon Leibowitz, Chair, Federal Trade Commission (2009–2013), Commissioner of the Federal Trade Commission (2004–2009)

Terrell McSweeney, Commissioner of the Federal Trade Commission (2014–2018)

Edith Ramirez, Chair, Federal Trade Commission (2013–2017), Commissioner of the Federal Trade Commission (2000–2013)

Jessica Rich, Director of the Bureau of Consumer Protection (2013–2017); Deputy Director, Bureau of Consumer Protection (2010–2013)

Howard Shelanski, Director of the Bureau of Economics (2012–2013), Deputy Director of the Bureau of Economics (2009–2011)

Andrew Smith, Director of the Bureau of Consumer Protection (2018–2020)

David C. Vladeck, Director of the Bureau of Consumer Protection (2009–2012)

Joel Winston, Associate Director, Division of Financial Practices (2000–2005 & 2009–2011), Director of the Division of Privacy and Identity Protection (2005–2009)

PUBLIC CITIZEN
Washington, DC, November 16, 2021

Hon. MARIA CANTWELL, Chair,
Hon. ROGER F. WICKER, Ranking Member,
U.S. Senate Committee on Commerce, Science, and Transportation,
Washington, DC.

Dear Chairwoman Cantwell and Ranking Member Wicker:

On behalf of Public Citizen's more than 500,000 members and supporters nationwide, we write in enthusiastic support of the nomination of Professor Alvaro Bedoya as a commissioner for the Federal Trade Commission (FTC). Professor Bedoya will bring a wealth of experience and expertise in technology and privacy policy to the FTC.

Public Citizen is a nonprofit advocacy organization focused on curbing corporate power and protecting democracy. We represent the public interest through legislative and administrative advocacy, litigation, research, and public education on a broad range of issues including protecting privacy, safeguarding consumers, and curbing corporate concentration's impact on our democracy.

It is a critical time for the FTC, and Professor Bedoya's track record of working in a bipartisan way to address complex issues can make a powerful difference for America. Over recent decades, the FTC has lapsed into chronic underenforcement resulting from anti-consumer case law, resistance to bringing cases, and a revolving door to industry that casts public doubt on the agency's commitment to serious enforcement. As Big Tech companies have grown in power and influence, the FTC has not done enough to rein in this power or stop privacy abuses, children's privacy breaches, discriminatory data practices, and other harms stemming from unchecked concentration.

Professor Bedoya's depth of experience and expertise in the field of privacy and civil rights make him an ideal choice for the FTC. He currently serves as a law professor and the founding Director of the Center on Privacy and Technology at Georgetown Law School. He previously served as the first Chief Counsel of the Senate Judiciary Subcommittee on Privacy where he worked on a range of privacy issues and brought much needed attention to the threats of technology and data collection. His leadership in the field includes his report, *The Perpetual Line-Up* was the first to comprehensively point out the race, gender, and age biases in facial recognition technology and his lecture, *Privacy as Civil Right*, which has been recognized as a leading treatise on the intersection of privacy and civil rights. A naturalized citizen born in Peru and raised in upstate New York, Professor Bedoya graduated summa cum laude from Harvard College and holds a J.D. from Yale Law School, where he served on the Yale Law Journal.

Moreover, Professor Bedoya demonstrated a commitment to addressing the abuses of Big Tech companies, particularly when those abuses have a disproportionate effect on communities of color. The *Color of Surveillance* conference, which he spearheads at the Georgetown Center on Privacy and Technology, is a must-attend event for the privacy community. The event brings together individuals harmed by private and government surveillance, academics, and advocates and creates a space where attendees feel empowered and uplifted despite the challenges the conference presents.

He is also a recognized leader in the Latino community, co-founded a college scholarship that has awarded \$1 million to immigrant and first-generation students, and serves on the boards of leading organizations advocating for immigrant rights including CASA and the Hispanic Bar of D.C.

Professor Bedoya's expertise and experience as a leading scholar on privacy and technology make him the clear choice to serve as a Commissioner on the FTC. We urge you and the committee to support confirmation of his nomination.

Sincerely,

LISA GILBERT,
Executive Vice President,
Public Citizen.

NATIONAL GROCERS ASSOCIATION
Washington, DC, May 10, 2022

Dear Senator:

I am writing on behalf of the National Grocers Association (NGA) to express our support for the nomination of Alvaro Bedoya to the Federal Trade Commission (FTC). Mr. Bedoya is a strong advocate for much-needed antitrust enforcement to ensure a competitive playing field in the grocery marketplace. We believe he will deliver results for consumers, workers, and independent businesses who rely on the benefits that flow from free and fair competition. Therefore, we encourage all Senators to support his nomination to the Commission.

NGA represents independent community grocers across the country, as well as their wholesaler partners. The approximately 21,000 independent grocers in America are the true entrepreneurs of the grocery industry, passionately committed to their customers, employees, and the markets they serve. And they are at the heart of local communities, where they provide jobs and boost tax revenue while bringing choice, convenience, and value to hard-working Americans.

In recent decades, NGA has witnessed a small handful of companies amass incredible power and influence over the food supply chain. Today, dominant retail companies and e-commerce giants wield unprecedented economic power with little to no antitrust oversight or enforcement. These companies exercise their power over the marketplace to dictate discriminatory terms and conditions to suppliers, including by demanding more favorable pricing and price terms, more favorable supply, and access to exclusive products.

Although these problems are not new, the grocery industry “power buyers” have taken advantage of recent supply chain disruptions and an inflation pressures by leveraging their dominance to gain market share while forcing their smaller competitors to bear the brunt of product shortages and inflation. These firms successfully demand prioritization for distribution of high-demand products while extracting concessions on wholesale pricing. As a result, independent grocers have lost access to both popular products and promotional pricing, making them unable to compete with their larger rivals.

Increasing economic discrimination at a time of supply chain disruption has accelerated the erosion of competition in the grocery marketplace. It has harmed consumer welfare by limiting access to consumer products and contributing to retail price increases. Independent community grocers play a crucial role in ensuring food access, especially in smaller, rural communities as well as high density urban ones where independents tend to locate. These communities have disproportionately suffered from unfair distributions and forced to travel longer distances to find the products they need at more crowded large chain retailers. What’s more, these markets tend to feature a high number of low-income shoppers who often live on a fixed income, rely on public assistance, and have limited transportation options.

NGA and its members have gotten to know Mr. Bedoya, and it is clear that he understands how anticompetitive abuses of market power harms competition and consumers, particularly those who rely on independent grocers. He recognizes how independent businesses are crucial lifelines in communities where they supply the needs of everyday Americans, provide employment opportunities, and serve as cornerstones of local economic activity. Most importantly, he demonstrates a clear sense of urgency for the FTC to assume its important role of ensuring a competitive grocery marketplace.

We believe that confirming Alvaro Bedoya to the FTC is imperative at a time when the agency is needed more than ever to fulfill its mission to prevent anti-competitive business practices and to enhance consumer choice. NGA has seen firsthand how essential appointments are for vigorous enforcement—and the stakes today could not be higher. This is a defining moment for the FTC, and the appointments to the antitrust agencies will impact America for decades to come. *For these reasons, we urge you to vote YES on the nomination of Alvaro Bedoya to serve as a Commissioner of the FTC.*

Sincerely,

CHRIS JONES,
Senior Vice President of Government Relations & Counsel,
National Grocers Association.

AMERICAN ASSOCIATION OF FRANCHISEES AND DEALER
Palm Desert, CA, November 29, 2021

Hon. MARIA CANTWELL,
 Chair—Committee on Commerce, Science, & Transportation,
 United States Senate,
 Washington, DC.

RE: Support of Professor Alvaro Bedoya for Commissioner at the Federal Trade
 Commission

Dear Chair Cantwell:

On behalf of the members of the American Association of Franchisees and Dealer (AAFD), we wish to express our support for the confirmation of Professor Alvaro Bedoya for Commissioner at the Federal Trade Commission.

AAFD is the oldest and largest national not for profit trade association advocating the rights and interests of franchisees and independent dealer networks. The AAFD supports affiliated chapters for more than 50 brands engaged in franchising, representing thousands of franchisee operated business outlets. Since our establishment in 1992, the AAFD has focused on its mission to define, identify and promote collaborative franchise cultures that respect the legitimate interests of both franchisors and franchisees, cultures we describe as embracing our vision of *Total Quality Franchising*[®]. The AAFD came into existence in response to a franchising community that has been evolving towards increasingly one-sided and controlling franchise agreements and cultures whereby franchisee equity and business ownership has been continually eroding such that many modern franchise systems have lost all vestiges of business ownership.

From our initial conversations with Professor Bedoya, we believe he will support actions to protect small business owners, including franchise owners. In his testimony before the Senate Committee on Commerce, Science, & Transportation, he commented that the FTC should make use of its rulemaking authority to crack down on unfair and deceptive practices, which is what franchisee advocates have voiced for years. There is a critical power imbalance in the franchise industry that needs to be addressed to protect the true investors, the franchisees.

For these reasons, AAFD believes Professor Bedoya will be a good steward at the FTC and we ask that you support his nomination and move forward with his confirmation as Commissioner.

Respectfully submitted,

ROBERT L. PURVIN, JR,
Chair, Board of Trustees,

American Association of Franchisees and Dealers.

KEITH R. MILLER,
Director of Public Affairs and Engagement,

American Association of Franchisees and Dealers,

Principal,

Franchisee Advocacy Consulting.

The Leadership Conference
on Civil and Human Rights

1620 L Street, NW 202.466.3311 voice
Suite 1100 202.466.3435 fax
Washington, DC www.civilrights.org
20036

February 1, 2022



SUPPORT SWIFT CONFIRMATION OF SOHN TO FEDERAL COMMUNICATIONS COMMISSION AND BEDOYA TO FEDERAL TRADE COMMISSION

Dear Majority Leader Schumer and Commerce Committee Chair Cantwell:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 230 national organizations to promote and protect the rights of all persons in the United States, and UnidosUS, the nation's largest Latino civil rights and advocacy organization, we write to convey our strong support for confirmation of Gigi B. Sohn and Alvaro M. Bedoya to serve as commissioners, respectively, of the Federal Communications Commission (FCC) and Federal Trade Commission (FTC). We urge the Senate Committee on Commerce, Science and Transportation to quickly report both nominations to the full Senate favorably and the Senate to promptly confirm both nominees.

Our coalition is committed to ensuring that media, telecommunications, competition, consumer protection, and privacy policy affirms and extends our nation's longstanding commitment to civil rights. Both the FCC and FTC have been operating without a full complement of commissioners since the start of the Biden/Harris administration. The need for swift action on these nominations is therefore critical as further delay will harm implementation of key civil rights priorities.

The FCC is currently implementing key provisions of the Infrastructure Investment and Jobs Act, including the new Affordable Connectivity Program, as well as the directive to prohibit digital discrimination. To ensure our nation's broadcasting industry is diverse, competitive and serves local communities, the FCC must act quickly to complete the 2018 Quadrennial Review and initiate and complete the 2022 Quadrennial Review in a timely manner. The FCC must also take further steps to address the dysfunctional market and unjust practices in incarcerated communications and implement Congress' directive to collect equal employment opportunity data in broadcasting.

The FTC's responsibility to protect and enhance competition and consumer protection is particularly important as much of our economy moves online. With a full complement of commissioners, the FTC can better enforce existing law against online discrimination based on protected characteristics with respect to housing, access to credit, education, employment, and public accommodations; enforce unfair and deceptive practices in the data economy; and provide for algorithmic transparency and fairness in automated decisions.

Both Ms. Sohn and Professor Bedoya are exemplary nominees for their respective positions and should be swiftly confirmed. Throughout her career, Ms. Sohn has dedicated herself to

- Officers**
Chair
 Judith L. Lubiano
 National Partnership for
 Women & Families
Vice Chairs
 Derrick Johnson
 NAACP
 Thomas A. Sauer
 Hispanic American Legal
 Defense and Educational Fund
Secretary
 Felicia Gore Graves
 National Women's Law Center
Treasurer
 Lee A. Saunders
 American Federation of State,
 County & Municipal Employees
Board of Directors
 Kimberly Churches
 ACLU
 Ray Curry
 International Union, UAW
 Jonathan Greenblatt
 Anti-Defamation League
 Mary Kay Henry
 Service Employees International Union
 Doreen Howell
 Lawyers' Committee for
 Civil Rights Under Law
 Sherilyn W.
 NAACP Legal Defense and
 Educational Fund, Inc.
 David H. Ison
 Japanese American Citizens League
 Benjamin Justice
 People for the American Way
 Derrick Johnson
 NAACP
 Virginia Kass Solomon
 League of Women Voters of the
 United States
 Samer E. Khalaf
 American-Arab
 Anti-Discrimination Committee
 Jon Madison
 Human Rights Campaign
 Marc Morie
 National Urban League
 Janet Murguia
 UnidosUS
 Debra L. Ness
 National Partnership for
 Women & Families
 Christian F. Nunez
 National Organization for Women
 Rabbi Jonah Pesner
 Religious Action Center
 Of Reform Judaism
 Rebecca Pringle
 National Education Association
 Lisa Rice
 National Fair Housing Alliance
 Anthony Romeros
 American Civil Liberties Union
 Fawn Sharp
 National Congress of American Indians
 Liz Shuler
 ARL-CIO
 Maria Town
 American Association of
 People with Disabilities
 Randi Weingarten
 American Federation of Teachers
 John C. Yang
 Asian Americans Advancing Justice |
 AAJC
Interim President & CEO
 Wade Henderson

February 1, 2022
Page 2 of 2



the public interest, whether through her service on the Presidential Advisory Commission on the Public Interest Obligations of Digital Television Broadcasters, her advocacy for policies that promote diversity and competition in the non-profit sector, or her time at the FCC as a senior counselor to the chairman. An influential scholar focused on the principle that privacy is a civil right, Professor Bedoya is exactly the leader our country needs right now at the FTC to address the many issues relating to technology that marginalized communities face. He was notably one of the first to warn of the risks of facial recognition technology, including by comprehensively pointing out the technology's biases with race, gender, and age. The Leadership Conference also worked closely with Professor Bedoya in urging Google to ban online ads for predatory payday loans, which the company ultimately did.

Both nominees have shown they will establish a collaborative process and dialogue with the civil rights community as well as consult with the community members who are often left out of FCC and FTC deliberations, including people of color, people with disabilities, low-income communities, immigrants, incarcerated individuals, and other marginalized communities. In addition, both nominees would bring diversity to their respective institutions. If confirmed, Ms. Sohn would be the commission's first openly LGBTQ commissioner. As a naturalized citizen born in Peru, Professor Bedoya would be one of the few Latinos to serve as commissioner on the FTC.

Ms. Sohn and Professor Bedoya are highly qualified, possess deep knowledge of the challenges faced by disadvantaged populations, and have a demonstrated commitment to collaboration with civil rights stakeholders. The civil rights agenda at the FCC and FTC requires rapid, focused attention. For these reasons, the Senate Committee on Commerce, Science and Transportation should move quickly to report these nominees favorably to the full Senate and the Senate should swiftly confirm them. Should you have any questions, please contact Leadership Conference Media/Telecommunications Task Force Co-Chair Cheryl Leanza, United Church of Christ Media Justice Ministry, at cleanza@alhamail.com, or Anita Banerji, Leadership Conference Media/Tech Senior Program Director at banerji@civilrights.org or Bertram Lee, Jr., Media/Tech Counsel, at lee@civilrights.org.

Sincerely,

Wade Henderson
Interim President and CEO

Janet Murguía
President and CEO, UnidosUS

NATIONAL GROCERS ASSOCIATION
Washington, DC, February 2, 2022

Senator MARIA CANTWELL,
 Chair,
 Senate Committee on Commerce,
 Science, and Transportation,
 Washington, DC.

Senator ROGER WICKER,
 Ranking Member,
 Senate Committee on Commerce,
 Science, and Transportation,
 Washington, DC.

Chair Cantwell, Ranking Member Wicker, and Members of the Senate Commerce Committee:

I am writing on behalf of the National Grocers Association (NGA) to express our support for the nomination of Alvaro Bedoya to the Federal Trade Commission (FTC). Mr. Bedoya is a strong advocate for much-needed antitrust enforcement to ensure a competitive playing field in the grocery marketplace. We believe he will deliver results for consumers, workers, and independent businesses who rely on the benefits that flow from free and fair competition. Therefore, we encourage all Committee Members to support his nomination to the Commission.

NGA represents independent community grocers across the country, as well as their wholesaler partners. The approximately 21,000 independent grocers in America are the true entrepreneurs of the grocery industry, passionately committed to their customers, employees, and the markets they serve. And they are at the heart of local communities, where they provide jobs and boost tax revenue while bringing choice, convenience, and value to hard-working Americans.

In recent decades, NGA has witnessed a small handful of companies amass incredible power and influence over the food supply chain. Today, dominant retail companies and e-commerce giants wield unprecedented economic power with little to no antitrust oversight or enforcement. These companies exercise their power over the marketplace to dictate discriminatory terms and conditions to suppliers, including by demanding more favorable pricing and price terms, more favorable supply, and access to exclusive products.

Although these problems are not new, the grocery industry “power buyers” have taken advantage of recent supply chain disruptions by leveraging their dominance to gain market share while forcing their smaller competitors to bear the brunt of product shortages and inflation pressures. These firms successfully demand prioritization for distribution of high-demand products while extracting concessions on wholesale pricing. As a result, independent grocers have lost access to both popular products and promotional pricing, making them unable to compete with their larger rivals.

Increasing economic discrimination at a time of supply chain disruption has accelerated the erosion of competition in the grocery marketplace. It has harmed consumer welfare by limiting access to consumer products and contributing to retail price increases. Independent community grocers play a crucial role in ensuring food access, especially in smaller, rural communities as well as high density urban ones where independents tend to locate. These communities have disproportionately suffered from unfair distributions and forced to travel longer distances to find the products they need at more crowded large chain retailers.

What’s more, these markets tend to feature a high number of low-income shoppers who often live on a fixed income, rely on public assistance, and have limited transportation options.

NGA and its members have gotten to know Professor Bedoya, and it is clear that he understands how anticompetitive abuses of market power harms competition and consumers, particularly those who rely on independent grocers. He recognizes how independent businesses are crucial lifelines in communities where they supply the needs of everyday Americans, provide employment opportunities, and serve as cornerstones of local economic activity. Most importantly, he demonstrates a clear sense of urgency for the FTC to assume its important role of ensuring a competitive grocery marketplace.

We believe that confirming Alvaro Bedoya to the FTC is imperative at a time when the agency is needed more than ever to fulfill its mission to prevent anti-competitive business practices and to enhance consumer choice. NGA has seen firsthand how essential appointments are for vigorous enforcement—and the stakes today could not be higher. This is a defining moment for the FTC, and the appointments to the antitrust agencies will impact America for decades to come. *For these*

reasons, we urge you to vote YES on the nomination of Alvaro Bedoya to serve as a Commissioner of the FTC.

Sincerely,

CHRIS JONES,
Senior Vice President of Government Relations & Counsel,
National Grocers Association.

April 29, 2022

Hon. CHUCK SCHUMER,
Majority Leader,
United States Senate,
Washington, DC.

Hon. MITCH MCCONNELL,
Minority Leader,
United States Senate,
Washington, DC.

Dear Majority Leader Schumer, Minority Leader McConnell,

On behalf of the 20 undersigned organizations and our millions of members and supporters, we write in strong support for advancing the nomination of Jainey Bavishi to serve as the next Assistant Secretary for Oceans and Atmosphere, Department of Commerce. Our organizations urge that the Senate swiftly confirm this highly qualified nominee.

Ms. Bavishi's recognized expertise responding to the challenges of climate change makes her an inspired choice to serve in a leadership position at the National Oceanic and Atmospheric Administration (NOAA), since the agency is responsible for environmental prediction and monitoring as well as protecting the Nation's coasts, oceans, and fisheries.

Climate change jeopardizes everything the ocean does for humankind—supplying our food, supporting our coastal economies, regulating our weather and climate, buffering our shorelines from storms, and serving as a place of inspiration. The recent Intergovernmental Panel on Climate Change (IPCC) reports released in the last 6 months, build on 30 years of warnings from marine scientists and underscore the urgent need to take ocean climate action. Congress and the Biden-Harris Administration must implement a comprehensive approach to ocean climate action to leverage the power of the ocean in the fight against climate change to support people, communities and the economy. Ms. Bavishi's background working to address the impacts of climate change ideally suits her to serve in a leadership role at NOAA.

In her recent role as the director of the New York City Mayor's Office of Climate Resiliency, Ms. Bavishi led the City's OneNYC resiliency program, preparing the city for the impacts of climate change. This included significant initiatives to strengthen neighborhoods, adapt buildings, improve infrastructure, and upgrade the coastline all of which have direct relevance to the infrastructure challenges that President Biden and Congress have sought to address in the bipartisan infrastructure bill.

Before serving in the New York mayor's office, Ms. Bavishi served as the associate director for climate preparedness at the White House Council on Environmental Quality and as the director of external affairs and senior policy adviser at NOAA. While at the Council on Environmental Quality, Ms. Bavishi was responsible for institutionalizing climate resilience considerations across Federal programs and policies. In her role as the executive director of R3ADY Asia-Pacific, she was responsible for initiating, expanding, and managing the start-up public-private partnership, which focused on enhancing disaster risk reduction and resilience in the Asia-Pacific region. She was also the founding director of the Equity and Inclusion Campaign, a coalition of community-based leaders in the Gulf Coast region that focused on recovery from Hurricanes Katrina, Rita, Gustav and Ike, at the Louisiana Disaster Recovery Foundation. All of these experiences make her well suited to the climate and resiliency challenges that NOAA will be managing in the years to come.

As we work to address the significant challenges this country faces as a result of climate change, particularly as it relates to the ocean, we need leaders who are able to understand the magnitude of the problem and to develop innovative solutions to support people, communities and the economy. Ms. Bavishi possesses those skills, and her confirmation will help the Biden Administration meet the Nation's need to address the impacts of climate change. We ask that Senate leadership swiftly move Ms. Bavishi's nomination to the Senate floor for a confirmation vote.

Sincerely,

National Ocean Protection Coalition
Azul

Brown Girl Surf
Continental Divide Trail Coalition

Defenders of Wildlife	League of Conservation Voters
Earthjustice	Monterey Bay Aquarium
Environmental Defense Fund	National Wildlife Federation
Friends of the Earth	Natural Resources Defense Council
GreenLatinos	Ocean Conservancy
Greenpeace USA	Oceana
Healthy Ocean Coalition	The Ocean Project
Inland Ocean Coalition	Urban Ocean Lab

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
HON. JESSICA ROSENWORCEL

Radio Altimeters and Safety of Flight. As a result of the Federal Communications Commission's ("FCC") C-band spectrum auction, new 5G wireless deployments are scheduled to begin operating in the C-Band on or about January 5, 2021.¹ The FCC's order establishing technical rules for the C-band concluded that the power and emission limitations it imposed would be sufficient to offer protection against interference, even below the level of harmful interference, but encouraged stakeholders to convene multi-stakeholder groups to develop frameworks for interference prevention, detection, mitigation, and enforcement in the band.

Since then, the Radio Technical Commission for Aeronautics was formed and filed a report in October 2020 that showed that 5G services would interfere with aircraft altimeters operating in the nearby 4.2–4.4 GHz band. The Department of Transportation, labor unions, and other aviation stakeholders agree that these 5G systems have the potential to cause harmful interference to radio altimeters, and recently the Federal Aviation

Administration ("FAA") released a Special Airworthiness Information Bulletin ("SAIB") titled "Risk of Potential Adverse Effects on Radio Altimeters." According to FAA, without a satisfactory written set of mitigations, further agency actions beyond this SAIB may still be necessary to ensure safety. These FAA actions could have enormous economic impacts, resulting in significant travel and shipping and supply chain delays, disruption, and cancellations.

Aviation stakeholders have submitted numerous *ex parte* filings in the FCC's docket, concluding that the public's safety will be impacted due to interference to radio altimeters. The communications industry has likewise made numerous filings disagreeing with these claims.

Question 1. Chairwoman Rosenworcel, we know that there are ongoing discussions between telecommunications and aviation stakeholders to resolve disagreements on the use of this spectrum for 5G. Are we on a path to resolving this matter in a way that all stakeholders will have been heard? If not, what additional steps are required? Are any mitigation efforts being considered to resolve this issue?

Answer. Yes, I believe we are on a path to resolving this matter in a way that all stakeholders will have been heard.

At the outset, it is important to recognize that supporting public safety is a priority for the FCC under the law. The very first sentence of the Communications Act charges the agency with promoting the safety of life and property through wire and radio communications. It is essential that the FCC is mindful of this in everything it does. This means that as the Nation's expert Federal agency responsible for managing spectrum, the FCC is committed to ensuring air safety when moving forward with the development of new technologies that support American business and consumer needs.

To put these principles in practice, I believe it is essential to improve the Nation's interagency processes involving spectrum decisions. If confirmed, I will work to do so. In fact, since the start of this year, I have instructed the FCC staff to work more closely with our Federal counterparts in a manner that puts a premium on consultation, openness, and the rule of law. These are the values that have helped to thoughtfully and safely grow opportunities for wireless activity in the past and I believe it is essential that we recommit to them now.

The FCC's C-band rules represent the culmination of more than 15 years of international and domestic work. The 3.7 GHz band at issue in this proceeding has been

¹ Although the FCC order authorized service beginning December 4, 2021, AT&T and Verizon, the only two carriers scheduled to begin 5G cellular systems operating in 3.7 GHz before December 2023, announced they will delay operations until January 5, 2022. https://www.wsj.com/articles/at-t-verizon-to-delay-5g-rollout-over-faas-airplane-safety-concerns-11636039555?mod=Searchresults_pos3&page=1.

the subject of global harmonization activity for mobile broadband both at the International Telecommunication Union and within regional groups around the world. More than 40 countries have allocated and assigned this spectrum for wireless deployments, and more countries are following suit. In many countries, deployment has already occurred or is underway.

Here at home, the United States has permitted wireless deployments in the 3 GHz band since 2007. Today there is robust commercial deployment up to 3.7 GHz. The FCC first sought comment on extending these deployments in 2017. In 2018, in the MOBILE NOW Act, Congress specifically directed the FCC to start a process to examine the feasibility of permitting wireless deployments up to 4.2 GHz. In 2020, the FCC adopted its C-Band Report and Order, which authorized wireless deployments up to 3.98 GHz, in order to create a guard band to protect nearby operations.

The FCC's C-band proceeding carefully and methodically worked through very complex technical issues presented in the record. The order that resulted reflected thorough analysis and consideration of the interests of aviation stakeholders that participated in the proceeding, including the adoption of a guard band that was larger than what the aviation community requested in the underlying record. This process included dozens of parties filing many reports, briefs, studies, and letters. The agency worked carefully to survey this record and address the issues as the Communications Act and Administrative Procedure Act require.

Nonetheless, as you note, additional information was supplied by RTCA after the adoption of the FCC's decision, including a report titled, "Assessment of C-Band Mobile Telecommunications Interference Impact on Low Range Radar Altimeter Operations." The report, in conjunction with other test data in the record, suggested that a subset of altimeters may not sufficiently reject unwanted signals that are outside or within the 4.2–4.4 GHz band for C-band base stations that may be near landing zones. As such, the RTCA report concluded that for these altimeters, the presence of nearby C-band operations could cause erroneous altimeter readings.

The FCC is taking this report very seriously. We have an open proceeding to review and assess the findings of this report and consider whether or not any changes to our C-band rules are warranted. We also initiated interagency meetings with the Federal Aviation Administration and targeted outreach to the aviation industry to understand their concerns and to align on a path forward both in the short term and in the long term. Furthermore, we are reaching out to our global peers to understand their experiences and to supplement our record with additional information, studies, flight tests, and real-world experiences.

As the FAA Administrator recently noted at an event in Washington on November 16, 2021, the FCC and the FAA "are having very productive discussions and we will figure this out."² We are engaging in these discussions with the goal of ensuring that we honor the safety needs of the aviation industry while C-band deployments proceed. As part of these discussions, and out of an abundance of caution, a wide range of mitigation measures are being considered while the agencies complete their assessments of the RTCA report. These include technical mitigations on wireless deployments, such as creating exclusion zones for some operations around airports and helipads, reducing power nationwide, and limiting transmissions skyward. The FAA also has issued specific guidance to the aviation industry via a Special Airworthiness Information Bulletin, and we anticipate additional guidance will be issued as appropriate. If confirmed, I pledge to continue to work on this effort in good faith and keep you updated as it continues.

24GHz Spectrum. Real-time satellite generated information is crucial for predictions of severe weather, which is key to protection of life, property and successful economic contributions of several industries like aviation and marine transportation. That is why I expressed concerns with the FCC's decision to auction 24GHz spectrum for commercial applications, despite NOAA and NASA's concerns that these applications interfere with their use of this spectrum band.

Question 2. Will you work with me to ensure that current and future auctions are informed by NOAA approved research and include mitigation solutions that fully account for the threat to life, property and economic interference to weather information?

Answer. Yes. As I noted above, I believe it is essential to improve the Nation's interagency processes involving spectrum decisions. If confirmed, I will work to do so. Moreover, since the start of this year, I have instructed the FCC staff to work

²See Bloomberg, "FCC and FAA Are Making 'Progress' on 5G Signal Woes," available at <https://www.bloomberg.com/news/articles/2021-11-16/u-s-aviation-regulators-making-progress-on-5g-signal-woes>.

more closely with our Federal counterparts in a manner that puts a premium on consultation, openness, and the rule of law.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. RICHARD BLUMENTHAL TO
HON. JESSICA ROSENWORCEL

Monitoring the 3G Shutdown. As carriers transition to 5G services, all three nationwide wireless providers have announced the shutdown of their legacy 3G services over the next year. While it is important that consumers have access to faster and more efficient wireless services, each transition requires an effort to ensure that customers are not cut off based on having older devices or being located in areas where newer service is not available.

Question 1. Would you commit to providing my office an update on the legacy 3G transition prior to the shutdown of services?

Answer. Yes.

Amateur Radio Operators. Radio amateurs voluntarily provide an array of public services, especially emergency and disaster-related support communications when infrastructure has been destroyed by a hurricane or similar disaster. Their contributions in this area are regularly recognized by local and state authorities.

Question 2. Would you commit to providing my office an update on the steps that the FCC is taking to support amateur radio operators, including with respect to transitions to digital technologies?

Answer. Yes.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. EDWARD MARKEY TO
HON. JESSICA ROSENWORCEL

Question 1. Legacy Technologies. As the telecommunications industry transitions to new services and technologies reliant on 5G networks, consumers utilizing legacy technologies that operate on 3G—who are often seniors or low-income families—may be impacted.

How do you view the need to protect these consumers still reliant on legacy technologies?

Answer. The transition from 3G wireless networks to more advanced 4G and 5G networks will produce significant benefits for all consumers, including faster speeds, greater capacity, better security, as well as new and innovative services. These updates are important because they strengthen our communications infrastructure and provide more opportunities for innovation and growth at national scale. At the same time, the FCC must be mindful that these changes can be challenging for those who rely on older networks and work to prevent consumers from being left behind.

To this end, on July 30, 2021, the FCC released a public notice seeking comment on a Petition for Emergency Relief filed by the Alarm Industry Communications Committee. Additionally, at my direction, the agency sent letters to each of the nationwide carriers requesting information about their policies, practices, and plans in connection with the discontinuance of their 3G service. The FCC also has been coordinating with its partners at the Department of Justice as this relates to activities under their purview.

As a result, the FCC is reviewing the wide range of materials it has before it on the transition and working to identify the consumers and stakeholders that are most likely to be impacted by this change, including, but not limited to, low-income households and senior citizens. Specifically, we are taking a close look at the plans of the nationwide carriers to ensure they are acting in accordance with the law and precedent in this area and right now are working with our colleagues to identify the steps to take to help ensure consumers are not left behind in this transition.

Question 2. 12 GHz Spectrum. How do you view the challenge of adopting a balanced approach to spectrum policy—including modernizing the 12 GHz band—that will help the United States achieve the promise of 5G, protect our economic security, and bolster competition?

Answer. I agree that the United States needs a balanced approach to spectrum policy. In practice, this means spectrum allocation that recognizes the importance of a mix of wireless opportunities, including licensed and unlicensed spectrum, Federal and non-federal operations, fixed and mobile services, and new and existing uses of our airwaves.

With respect to next-generation 5G networks, the FCC has identified five key principles to help guide our 5G future. First, the agency is focused on freeing up

more spectrum, and especially mid-band spectrum, for 5G. Second, the agency recognizes that we need to expand the reach of our fiber facilities, because this kind of ground-based activity is key to making next-generation wireless networks work. Third, the agency is supporting the diversification of equipment in our networks, with a special focus on open and interoperable equipment, like Open Radio Access Networks, or Open RAN. Fourth, the agency is building greater resiliency and security into our supply chains by taking action to keep untrusted equipment and vendors out of our networks. Fifth, the agency is working to foster American leadership in setting the technology standards of the future.

Consistent with these principles, the FCC has started a proceeding to explore opportunities for making more intensive use of 500 megahertz of spectrum in the 12 GHz band. Today, this band is used for Direct Broadcast Satellite Service and Multi-Channel Video and Data Distribution Service. More recently, proponents of a new generation of satellite operations have received authorization from the agency to launch and operate constellations of hundreds or thousands of satellites using several frequency bands, including the 12 GHz band. Thousands of satellites have been launched already, with new commercial satellite broadband services rolling out across the country. The FCC is reviewing whether there may be additional opportunities to open this band up for new terrestrial use, including 5G, without causing harmful interference to existing users. That will require examining the characteristics of this spectrum band—including its propagation and capacity characteristics, the nature of in-band and adjacent band incumbent use, and the potential for international harmonization—before deciding whether and, if so, how to make it available for more intensive terrestrial or satellite use. At present, FCC staff is carefully assessing the technical record that has been developed thus far and is reviewing next steps.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TAMMY BALDWIN TO
HON. JESSICA ROSENWORCEL

Text Messaging and 10-Digit Long Codes (10DLC). Earlier this year, mobile carriers began implementing rules changes, commonly referred to as “10DLC,” purportedly to address spam text messages. These rules require high-volume text purveyors to either register, pay higher messaging fees, or see their messages blocked. There is significant concern among non-profit advocacy organizations that these changes will substantially limit their ability to effectively communicate with their membership and engage voters.

Question 1. In 2018, you dissented from the Commission’s Declaratory Ruling that wireless messaging services are Title I information services, rather than Title II telecommunications services. You warned that “your carrier now has the legal right to block your text messages and censor the very content of your messages.” Do you agree that carriers’ shift to 10DLC, and the threat to non-profit advocacy organizations, is possible because of the Commission’s classification of text messaging as an information service? Given your prior concerns, should the FCC revisit this classification?

Answer. Text messaging is an important part of how we communicate now, with trillions of these messages sent each year by consumers across the country.

As you note, I dissented from the FCC’s decision in 2018 to classify text messaging, specifically Short Message Service (SMS) and Multimedia Messaging Service (MMS), as an information service. In doing so, the agency reduced its oversight of these forms of communication, preventing it from serving as a referee in regulatory disputes. As the expert agency with responsibility for modern communications, and in light of how much we now depend on text messaging in our day-to-day lives, I thought this was a mistake.

In general, I believe problems with text messaging would benefit from additional FCC oversight. To this end, I recently shared with my colleagues a proposal to use the Telephone Consumer Protection Act or other sources of authority to try and reduce the growing number of junk messages and robotexts consumers receive. However, more fundamental efforts will require revisiting the decision made in 2018. This would enable the agency to understand and evaluate carrier practices to see if they serve the purpose intended—for example, addressing spam texts in the case of 10DLC—or if those practices have other consumer impacts.

Alternative Connect American Fund Model (ACAM) Speeds. Under the Connect America Fund’s ACAM program, hundreds of thousands of rural consumers are gaining access to broadband. However, the ACAM program, initiated in 2016, has build-out obligations with minimum broadband speeds of 10/1 and 25/3, well below

the recognized speeds necessary to truly participate in our digital world and inconsistent with more-recently set standards in other broadband subsidy programs. A coalition of ACAM carriers petitioned the FCC in late 2020 to update this program by requiring those companies that agree to participate to build to higher speeds more quickly in return for extending the term of the program.

Question 2. If confirmed, will you support the FCC acting on a petition pending before the Commission to adopt modifications to the ACAM program to more quickly bring higher speeds to consumers served by participating carriers?

Answer. The ACAM program provides model-based support to rate-of-return carriers in return for broadband deployment obligations. There have been two offers to rate-of-return carriers to participate in the program, which ends in 2028 for most electing carriers. Participating carriers receive approximately \$1.1 billion in support from the program annually.

On October 30, 2020, the ACAM Broadband Coalition, a coalition of providers that participate in the ACAM program, filed a petition for rulemaking seeking to extend the program until 2034, in return for enhanced obligations to provide higher speeds. Currently, the ACAM program requires 804,871 locations to be served at 25/3 Mbps speeds, 165,725 locations to be served at 10/1 Mbps, and 50,227 locations to be served at 4/1 Mbps speeds. The ACAM Broadband Coalition's petition for rulemaking proposes that in exchange for six additional years of support, at a cost to the Universal Service Fund of approximately \$6.6 billion, participants in the ACAM program will serve 605,373 locations at 100/25 Mbps, 300,074 locations at 25/3 Mbps, and 115,376 locations at 10/1 Mbps. The FCC sought comment on the petition for rulemaking on November 4, 2020. Multiple parties filed comments in response. Recently, the Infrastructure Investment and Jobs Act became law, providing a significant infusion of funds for broadband deployment and generally requiring deployment at speeds of 100/20 Mbps. FCC staff are now evaluating the petition for rulemaking in light of the record and other developments, like the passage of the Infrastructure Investment and Jobs Act.

Pole Attachments. In many rural areas of Wisconsin, and many other states, broadband service is delivered via cables attached to utility poles. Carriers looking to expand service in these areas have indicated to me that barriers in accessing these poles are delaying the speedy deployment of broadband to those in need. However, it is also critical that pole owners' interests are taken into account, and that there is a fair and transparent process regard pole access.

Question 3. There is a pending Petition for Declaratory Ruling before the Commission requesting clarification of the FCC's existing utility pole attachment rules in order to reduce barriers to broadband deployment for unserved households in rural areas. In November 2020, I wrote to then-Chair Pai encouraging the Commission to promptly consider that petition. If confirmed, will you examine this petition and the FCC's rules in this space?

Answer. Yes. The petition that you are referring to asked the FCC to clarify its rules with respect to the cost allocation of pole replacements in "unserved areas."

On January 19, 2021, under my predecessor, the FCC released a declaratory ruling to make clear that it is unreasonable and inconsistent with section 224 of the Communications Act, agency rules, and past precedent, for utilities to impose the entire cost of a pole replacement on a requesting attacher when the attacher is not the sole cause of the pole replacement. However, the agency declined to address the more specific clarifications requested by the petition, concluding that those issues would be more appropriately addressed in the context of a rulemaking.

I believe we need to find a way to ensure 100 percent of us have access to affordable, reliable, high-speed broadband in this country. If confirmed, I believe that we will need to examine all of our policies, including our pole attachment rules, to help achieve this objective.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. RAPHAEL WARNOCK TO
HON. JESSICA ROSENWORCEL

3G Sunset. We have heard from a number of industries, including the alarm and home health monitoring industry, about their concern over the timeline for the shut-down of 3G networks. Some of these industries have filed an emergency relief petition seeking a 10-month delay in AT&T's sunset of 3G, scheduled for next February.

Question 1. Will you commit to a full and fair review of the petition?

Answer. Yes. On July 30, 2021, the FCC issued a public notice seeking comment on the Alarm Industry Communications Committee Petition for Emergency Relief. Initial comments were due on August 30, 2021, with replies to those comments due

on September 14, 2021. In addition, I sent letters to each of the nationwide carriers requesting information about their policies, practices, and plans in connection with the discontinuance of their 3G service. The FCC is reviewing the record and identifying next steps.

ACAM. Access to broadband service in some parts of rural Georgia, and across the country, are below what is needed to perform basic online activities. In Georgia, nine companies that serve some of the most rural parts of the state are successfully bringing broadband to those residents through the FCC's Alternative Connect America Cost Model. Some of those companies have petitioned the FCC to modify its rules to enable them to accelerate that deployment and increase the speeds they make available to consumers.

Question 2. Will you commit to expeditiously reviewing this petition and to a full and fair review of the petition?

Answer. The ACAM program provides model-based support to rate-of-return carriers in return for broadband deployment obligations. There have been two offers to rate-of-return carriers to participate in the program, which ends in 2028 for most electing carriers. Participating carriers receive approximately \$1.1 billion in support from the program annually.

On October 30, 2020, the ACAM Broadband Coalition, a coalition of providers that participate in the ACAM program, filed a petition for rulemaking seeking to extend the program until 2034, in return for enhanced obligations to provide higher speeds. Currently, the ACAM program requires 804,871 locations to be served at 25/3 Mbps speeds, 165,725 locations to be served at 10/1 Mbps, and 50,227 locations to be served at 4/1 Mbps speeds. The ACAM Broadband Coalition's petition for rulemaking proposes that in exchange for six additional years of support, at a cost to the Universal Service Fund of approximately \$6.6 billion, participants in the ACAM program will serve 605,373 locations at 100/25 Mbps, 300,074 locations at 25/3 Mbps, and 115,376 locations at 10/1 Mbps. The FCC sought comment on the petition for rulemaking on November 4, 2020. Multiple parties filed comments in response. Recently, the Infrastructure Investment and Jobs Act became law, providing a significant infusion of funds for broadband deployment and generally requiring deployment at speeds of 100/20 Mbps. FCC staff are now evaluating the petition for rulemaking in light of the record and other developments, like the passage of the Infrastructure Investment and Jobs Act.

Satellite Licensing. The FCC has recently authorized a number of low Earth orbit satellite constellations to provide high-speed, low-latency broadband service in the United States, including in Georgia. Historically, satellite licensing has been fairly limited and was able to keep pace with comparably low rates of development in the sector.

Question 3. What resources does the FCC need to ensure that regulatory process is thorough and transparent while keeping pace with industry growth?

Answer. The rapid growth of new low Earth orbit constellations provides extraordinary new opportunities for connectivity while also presenting challenges for old regulatory processes. Among the technical and policy challenges are updating spectrum access policy and mitigation techniques for orbital debris. To address these and other issues created by the growth of these constellations, the FCC will need engineers with experience in satellite matters to analyze and resolve the issues that arise with applications and requests for modification. The FCC also will need attorneys familiar with licensing rules to process the increase in applications and requests for modification and, where necessary, adopt new rules or amend existing rules. Modernizing IT resources, and for example, integrating internal databases used in the agency or in coordination with NTIA, may offer opportunities to improve the review process. Finally, the demands of these new constellations will require FCC staff to coordinate more closely with our Federal partners with interest in this area, including NTIA, NASA, and the Department of State, especially with respect to our participation in international events to help support global opportunities for the satellite industry, such as the World Radio Conference in 2023.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ROGER WICKER TO
HON. JESSICA ROSENWORCEL

Question 1. Please describe how the repeal of the Federal Communications Commission's 2015 Open Internet Order has harmed consumers. Please provide specific, real-world examples.

Answer. I believe that there were negative consequences that followed from the decision of the FCC to repeal its net neutrality rules and reduce its oversight of

broadband service. As a result of the repeal, the FCC lacked authority to intervene when firefighters in California found their service throttled when they were responding to wildfires. In fact, in its remand of the FCC's decision, the D.C. Circuit found the agency's "disregard of its duty to analyze the impact of the 2018 Order on public safety renders its decision arbitrary and capricious."

In addition, there are stories of small providers that have faced higher pole attachment rates in the wake of the FCC's decision. For example, according to one filing in the FCC's record, two wireless Internet service providers reported they had to slow or halt the deployment of fiber on poles because pole owners charged higher rates or refused to negotiate with them when broadband was no longer classified as a telecommunications service.

Meanwhile, academic research led by Northeastern University Professor David Choffnes reviewed crowdsourced data from the Wehe app and found that for mobile Internet service providers in the United States, "we don't see evidence of Internet service providers throttling only when the network is busy; as far as we can tell, it's 24/7, and everywhere." Professor Choffnes noted that this throttling created a "slippery slope," because "[t]oday it's video, but what is it going to be tomorrow? When Internet service providers decide to take control and make decisions on behalf of consumers and/or content providers, what's going to be the fallout for those decisions? Is it actually in everyone's best interests?"

It is important to note that the above has been observed during a period when litigation over the topic of net neutrality has been ongoing and some states have had their own laws and regulations in place governing these matters. For example, California, Colorado, Maine, Oregon, Vermont, and Washington have passed state net neutrality laws while Hawaii, Montana, New Jersey, New York, and Rhode Island have put in place net neutrality contracting requirements. Meanwhile, in other states, legislation has been proposed over the past several years. As a result, Internet service providers may have been cautious about their business practices during the time following the FCC decision to roll back its open Internet policies. Finally, I should note that one consequence of the FCC's decision to relinquish its oversight over broadband is that the agency has less visibility into what is happening with broadband networks at a time when they are more important in our lives than ever before.

Question 2. In your testimony, you mentioned the difficulty the Commission has in actually collecting forfeitures and fines. What is your plan for addressing this challenge, and what can Congress do to help solve the problem?

Answer. The FCC works closely with the Department of Justice on a wide range of issues, including robocall and fraud matters. The agency also assists individual Assistant United States Attorneys to the extent they wish to bring enforcement actions against violators of our rules, including for robocalls. In addition, the FCC works closely with its Federal and state law enforcement partners to coordinate enforcement actions, providing support for cases where other law enforcement partners can sanction violators.

Nonetheless, collecting fines from robocall violators has proved challenging at times. Through the FCC enforcement process, the staff of the agency identifies parties that have may have violated the Communications Act, Telephone Consumer Protection Act, and Truth-In-Caller ID Act. The agency then issues a Notice of Apparent Liability and subsequent Forfeiture Order. However, under the law, the FCC must refer the matter to the Department of Justice to collect any payment if the target refuses to pay the penalty imposed by the Forfeiture Order. After the referral, an Assistant United States Attorney may initiate a case in court to collect the fine, but that decision is entirely at the discretion of the Department of Justice and often rests with a specific Assistant United States Attorney, who must weigh the case against a range of other criminal and civil priorities. Compounding this challenge, the time required to complete the enforcement process can provide targets an opportunity to hide assets, making it even more difficult to collect the penalty imposed.

This is frustrating but there are changes that could help improve this situation and increase the likelihood that those who violate our robocalling laws are held accountable for their actions.

First, Congress could provide the FCC with authority to freeze the assets of violators. Because FCC process requires the agency to issue a Notice of Apparent Liability and a Forfeiture Order before referral to the Department of Justice, defendants have time to move or hide assets to prevent law enforcement from collecting meaningful fines. Granting the FCC authority to freeze assets of violators would increase the likelihood that a defendant will have assets for an Assistant United States Attorney to collect.

Second, Congress could amend the Communications Act to grant the FCC the authority to seek a court-ordered preliminary injunction or temporary restraining order when an enforcement target continues to engage in apparently unlawful activity, such as robocalling, after the issuance of a Notice of Apparent Liability. While such action would not directly impact the agency's ability to collect specific fines, it would help prevent additional robocalls.

Third, Congress may also wish to explore other options, including providing the FCC with authority to pursue civil enforcement of its forfeitures, particularly where Department of Justice declines to do so.

Question 3. The RDOF Phase I auction closed just about a year ago. As many winners were already well-established providers using proven technology, why has it taken the Commission so long to authorize funds?

Answer. RDOF is a program that is designed to help bring broadband and connect rural communities across the country. I support this effort but believe the program requires careful oversight to prevent waste, fraud, and abuse.

As you note, the RDOF Phase I auction was held late last year. However, I believe too little work was done on the maps prepared for the auction, resulting in a rash of initial funding decisions supporting areas where broadband is already present as well as in questionable locations like parking lots, traffic medians, and international airports. In light of this, FCC staff took a series of steps to clean up the program before funding was made available to successful bidders.

First, following the filing of long-form applications at the start of this year, each bidder that had won a preliminary commitment in the Phase I auction was subjected to a careful technical, financial, and legal review. This is important because any further commitment will result in Federal payment obligations for the next ten years. As a result, the FCC must be assured that the bidder is actually capable of both deployment and operation and that the technology they have chosen to use will deliver the speeds promised.

Second, in light of the preliminary commitments made for areas that should never have been eligible for support, including, as noted above, parking lots and international airports, the FCC staff sent 197 letters to bidders seeking to remove these areas from funding. As a result of this effort, more than 5,000 census blocks were removed from the program to prevent wasteful spending. This also helps ensure that future RDOF funding can be spent on the rural locations that truly require support.

Third, every bidder that won a preliminary commitment in the auction was required to secure status as an eligible telecommunications carrier in the state where they intend to receive support. This is a requirement that goes beyond RDOF; it is a necessary precondition for the receipt of universal service funds from the high-cost program under the Communications Act. Every bidder had until June of this year to secure this designation before the relevant state public service commissions. Those that did not diligently pursue this designation and in the process demonstrated a lack of commitment to actually deploy service were removed from the program. These failures to diligently pursue applications amounted to removing \$344 million in preliminary awards from the program.

With these clean up measures now underway, FCC staff have been processing all remaining applications as quickly as possible. More than 50 staff from across the agency, including engineers, attorneys, and policy specialists, have been at work on this effort. This has resulted, to date, in approving the applications of 151 providers for \$1.7 billion in funding in 40 states. To put this in context, this is more funding than was approved for the entire Connect America Fund-II auction, which was the biggest broadband reverse auction before RDOF.

Furthermore, now that many of the early efforts to resolve outstanding issues with waste, fraud, and abuse are complete, additional funding decisions will be announced shortly.

Question 4. With regard to mapping, you stated that you were unaware of the agency's IT and computer processing systems, and operation problems before being named acting chairwoman. Should all commissioners have access to the same information on the agency's operations, budget, and IT plans? Yes or no? If not, why not? And, what have you done to correct the problems you found? Please provide examples.

Answer. Under Section 5 of the Communications Act and the rules adopted pursuant to it, the Chair of the FCC has unique duties and responsibilities to manage and set the priorities of the agency. These include, among other things, presiding at all meetings and sessions and representing the agency in matters relating to legislation, conferences, and communications with other governmental officers, departments, and agencies. The Chair is also responsible for coordinating and organizing

the work of the FCC in a manner that promotes the efficient disposition of all matters before the agency. In practice, this last responsibility means the Chair oversees the operation of the agency, including the financial, budgetary, and technical priorities. While this represents the law and customary practice of the agency, I believe all commissioners at the FCC should have reasonable access to information.

As you know, the Broadband DATA Act was signed into law in March of 2020. With this legislation Congress recognized that if we want to ensure everyone has access to broadband, we need accurate information about where broadband is and is not across the country. Then, in December of 2020, Congress provided the FCC with an appropriation to help fund implementation of this law.

When I was designated the Acting Chairwoman in January of 2021, one of the very first actions I took was to assess the status of this effort. This review made clear that the FCC had an enormous amount of work to do to prepare, develop, and support the systems required for compliance with the Broadband DATA Act and its objectives.

As a result, in my first meeting as Acting Chairwoman, I announced the formation of the Broadband Data Task Force. This group was designed to help coordinate and expedite the design and construction of new systems for collecting and verifying new broadband deployment data. Since its formation, the FCC has made significant progress standing-up the new Broadband Data Collection systems and processes.

This effort began with the retention of an expert data architect to work with the FCC's IT specialists to design and build a prototype of a data flow structure and system for the Broadband Data Collection. On July 2, 2021, the FCC awarded a contract specifically to build that data platform. The Broadband Data Collection will consist of a complex, interrelated set of geospatial information systems and processes to collect deployment data from Internet service providers, verified coverage data from federal, state, local, and Tribal entities, and (in certain circumstances) other third parties, as well as challenge data and crowdsourced data. Our data architect and staff were able to move the design process ahead on a very tight schedule and our decision to contract with the same firm to build the Broadband Data Collection platform and systems will create efficiencies that will shorten the development timeline. While there is still a substantial amount of additional system development work, user acceptance testing, and independent verification and validation left to be done prior to launching the Broadband Data Collection system, we are moving forward at a rapid pace.

The FCC also began a competitive bidding process for the creation of the Broadband Serviceable Location Fabric. The Fabric is required by the Broadband DATA Act. It is a common dataset of all locations in the United States where fixed broadband Internet access service can be installed. It represents substantial improvement over past broadband data practices at the agency, which focused on census blocks rather than individually geocoded locations.

Under the Broadband DATA Act, the FCC is required to use the traditional government procurement process to secure any contract for the Fabric. This is the only part of the law that specifies the manner of procurement. As a result, consistent with practices under the Federal Acquisition Regulation, the FCC issued a Request for Information and draft Statement of Objectives on March 8, 2021. The agency received multiple responses, which staff carefully reviewed and then held feedback sessions with multiple entities based on what was learned in this process. The FCC followed this effort with a Request for Proposal on June 1, 2021, which, among other things, specified that the chosen vendor would be required to deliver an initial production version of the Fabric within 120 days of the award. Responses to the RFP were due on July 1, 2021. In response to a pre-award protest filed at the GAO, which is permitted under the Federal Acquisition Regulation, the FCC delivered a revised RFP to all offerors on August 13, 2021. Revised proposals were due on August 26, 2021. Upon filing, agency staff expeditiously reviewed the highly technical and detailed responses to the revised RFP, based on the requirements in the FAR. Following this review, the FCC's Contracting Officer awarded the contract for Fabric development on November 9, 2021. This information was made publicly available on the Federal government's system for award management website.

Since the Broadband DATA Act requires that this procurement follow the procedures set forth in Federal Acquisition Regulation, non-winning bidders may file a protest of the award. We know of one such protest filed on November 19, 2021, and there is a possibility that others may file similar post-award protests. The GAO will have 100 days to review this protest and issue its decision.

While procuring the Fabric has been challenging due to the traditional government procurement process required in the Broadband DATA Act, the FCC staff has worked to address other legal and policy matters under the law. These include de-

veloping the related processes for challenging data, crowdsourcing data, and verifying data required under the law.

The Broadband DATA Act specifically requires the FCC to establish requirements for a process for a variety of stakeholders to challenge data that is filed by carriers with the agency. To facilitate this process, the Broadband Data Task Force worked with the Wireless Telecommunications Bureau, Office of Economics and Analytics, and Office of Engineering and Technology, to issue a public notice seeking comment on the technical requirements for processing mobile broadband challenge and verification data, including submissions from state, local, and Tribal governments. While the processes for these stakeholders to submit speed test data are relatively simple, the processing that will need to go on “under the hood” at the FCC is complex. That’s why in addition to the detailed descriptions set forth in the public notice and accompanying technical appendix, the Broadband Data Task Force also hosted an online webinar on August 12, 2021, to explain these proposals and respond directly to questions. Comments in response to this public notice were due on September 10, 2021, and reply comments were due on September 27, 2021. FCC staff are reviewing the record and developing final specifications to ensure that the challenge, crowdsourcing, and verification processes will improve the FCC’s data on mobile broadband availability and serve the purposes envisioned in the Broadband DATA Act.

The FCC also has accelerated consumer outreach efforts to inform stakeholders of the progress made to date and to provide status updates on future Broadband Data Collection work. We created a new public-facing website (<https://www.fcc.gov/BroadbandData>), which provides a go-to source for orders, public notices, and other educational materials associated with this effort. As a component of this website, we have created a new public portal through which consumers can share their broadband experiences to help inform the work of the Broadband Task Force. More than 13,000 have done so and we continue to analyze the submissions they provided.

The agency is also expanding its efforts to encourage people across the country to download the FCC Speed Test app, which is currently used to collect speed test data as part of the FCC’s Measuring Broadband America program. This app has already been downloaded more than 200,000 times. It both provides consumers with an opportunity to test the performance of their wireless broadband network and offer the test results to the FCC while protecting the privacy and confidentiality of those who use it. An updated version of this app is now being designed so that it can be used in the future as a platform for consumers to challenge provider-submitted maps when the Broadband Data Collection systems become available.

We are also continuing to talk directly with stakeholders, including state, local, and Tribal governmental entities, to ensure that they are prepared and able to participate in the data collection, challenge, and verification processes. We will host an initial online workshop for Tribal governments on December 8, 2021, to provide information about the Broadband Data Collection program and technical assistance on the procedures that Tribes will use to submit primary broadband availability data. As our systems and data specifications are finalized, we will continue to reach out to state, local, and Tribal partners to ensure that they are aware of the types and formats of data we will need to ensure a consistent and standardized nationwide data collection. At the same time, we are in the process of procuring additional outside resources to assist the FCC in providing technical assistance to small Internet service providers as well as to participants in the challenge process, as required under the Broadband DATA Act.

In addition, we are working with a number of broadband providers to obtain more granular and consistent real-world data to help expedite our development of the Broadband Data Collection IT systems and data structures that will support the new collection, and to inform our effort to develop training and other outreach to providers in advance of their Broadband Data Collection filings. As part of this effort, on August 6, 2021, the FCC released new 4G LTE wireless coverage maps based on the new Broadband Data Collection parameters, using data submitted voluntarily by AT&T Mobility, T-Mobile, U.S. Cellular, and Verizon Wireless. In addition to providing the FCC with real-world data that we can use to build and test our Broadband Data Collection systems, we created a public map that shows, for the first time, consistent nationwide 4G LTE mobile coverage according to the Broadband Data Collection parameters. This map is now available at www.fcc.gov/BroadbandData/MobileMaps.

Collectively, this work addresses the problems identified during the initial review of FCC capacity to ensure that the agency was prepared to support the objectives in the Broadband DATA Act. If confirmed, I pledge to keep you—and my colleagues at the agency—apprised of further efforts to implement this law.

Question 5. You have previously criticized the Commission’s Electronic Comment Filing System (ECFS), and called it “a stain on the FCC and [the Restoring Internet Freedom] proceeding” that “needs to be addressed.” As the alleged problems with the ECFS have not yet been addressed, do you pledge to overhaul the ECFS before undertaking any controversial proceedings likely to receive similar attention and public comment? If not, please provide your explanation for how future notice and comment proceedings under your tenure can be relied upon. Please also detail your plans to address the problems with the ECFS to ensure that future proceedings under your tenure enjoy a comment record beyond reproach.

Answer. Providing the public with notice and opportunity to comment is an essential duty of any agency subject to the Administrative Procedure Act. This includes the FCC. The agency’s electronic comment filing system, known as ECFS, has long served as the way that stakeholders from across the country can comment and participate in communications matters at the FCC.

As you note, in 2017 this system was overwhelmed by public comments and the underlying proceeding at issue—involving net neutrality—was blemished as a result. This became the subject of intense study by the New York Attorney General, GAO, and others.

In light of this situation, the FCC recognized that ECFS should be modernized. Work on this began under my predecessor that involves a multi-phased approach to update the system. This is an effort I wholeheartedly support. During the first phase, which is presently underway, the agency is moving ECFS to a cloud architecture to improve security and scalability. This phase will also include the development of tools like a bot manager to distinguish human filers from bot submissions. Internal testing relating to the first phase is presently underway. The second phase of work to update ECFS will include examination of additional software tools to analyze filings as well as authentication processes for frequent filers.

While this work continues, I believe it is important to note that the agency has duties under the law to continue to provide notice and opportunity to comment in a range of proceedings—including under the recently-enacted Infrastructure Investment and Jobs Act.

Question 6. Please discuss the steps the FCC will take with NTIA, the Department of Agriculture, and the Department of Treasury to prevent overbuilding using Federal funds.

Answer. I believe that in the past the FCC has worked closely with its Federal partners when it comes to efforts to close the digital divide. However, in light of the expanded work to do so in the Infrastructure Investment and Jobs Act, it is essential that we work even closer.

On June 25, 2021, the FCC, NTIA, and Rural Utilities Service at the USDA entered into an Interagency Agreement that specifically “require[s] coordination. . . for the distribution of broadband deployment.” As a result, the FCC, NTIA, and RUS share information on a regular basis about our respective funding programs, including the entities seeking and receiving funding to provide service in a given area, the speed and technology funded, and the terms and conditions of the funding under the law. In addition, the Department of Treasury has sought FCC input for the purposes of implementing the Coronavirus State and Local Fiscal Recovery Fund and the Coronavirus Capital Projects Fund. FCC staff also has engaged with representatives of the Department of Treasury, both separately and alongside NTIA and RUS representatives, to share information and insight on programs and identify coordination opportunities. With respect to the Rural Digital Opportunity Fund, this engagement includes keeping other agencies, as well as state, local, and Tribal governments, apprised of our actions by releasing lists of census blocks that are the subject of default by winning bidders, as well as lists of census blocks where winning bidders have been authorized.

However, it is important to note that the programs each agency oversees may be different under the law. In other words, these efforts each have unique elements like eligibility criteria, funding purposes, and speed thresholds. In some instances, those features could result in separate funding in the same location working together—like, for instance, where one program funds capital expenditures and another supports operating expenditures. I believe it is essential to make sure that these programs, consistent with the law, operate in a complementary manner. At the same time, it is essential that those responsible for these programs—including the FCC—coordinate to ensure funding is directed to areas without adequate service and avoid unnecessary duplication. If confirmed, I pledge to have the FCC work with its Federal partners to do so.

Question 7. What are your plans for the Rural Digital Opportunity Fund Phase II auction, in light of the enactment of the Infrastructure Investments and Jobs Act?

Do you plan to carry out the RDOF Phase II auction? If yes, when? If no, please explain why not and how you plan to use the funds.

Answer. As you know, the Infrastructure Investment and Jobs Act provides \$65 billion in support for new broadband initiatives. A significant part of this funding is dedicated to broadband deployment. This is in addition to other funding initiatives like the RDOF auction. If confirmed, I believe it is essential to carefully review the record in the first phase of the RDOF auction and consider how the landscape has changed as a result of new efforts under the Infrastructure and Jobs Act. However, I believe that under the Communications Act the FCC unequivocally has a duty to support rural, insular, and high-cost areas of the country through its universal service system, which may include support for recurring operations as well as new deployment.

Question 8. Do you plan to directly or indirectly regulate broadband rates? Yes or no?

Answer. No. I voted to support the decision in 2015 to adopt net neutrality rules. That decision stated that it “expressly eschew[s] future use of prescriptive, industry-wide rate regulation.” I supported this approach in the past and would do so again in the future.

Question 9. During your confirmation hearing, you noted that you support net neutrality. Do you support pursuing policies that go beyond the 2015 net neutrality rules, such as applying additional Title II requirements on broadband and prohibiting “unreasonable discrimination” in transmitting network traffic?

Answer. I voted to support the decision in 2015 to adopt net neutrality rules. I continue to believe, based on court precedent, that Title II is at the foundation of legally sustainable net neutrality rules. As I testified, I believe that any effort to reinstate the Title II classification of broadband Internet access service would require a new rulemaking under the Administrative Procedure Act. Such a rulemaking would provide the basis to develop an updated public record on open Internet policies, which must inform the agency as it proceeds. I believe this is especially important in light of changes since the initial 2015 decision in technology, state law, and consumer usage.

Question 10. Does the FCC have authority to determine the reasonableness of broadband rates, and if so, how would it make such determinations?

Answer. As a result of the 2017 decision to roll back net neutrality, the FCC currently lacks authority to determine whether rates for broadband service are just and reasonable.

However, under section 254 of the Communications Act, the agency is required to ensure that eligible telecommunications carriers that receive high-cost support from the Universal Service Fund charge rates for broadband service that are “reasonably comparable to rates charged for similar services in urban areas.” To determine the rates charged for fixed broadband services in urban areas, the FCC conducts an annual Urban Rate Survey. Eligible telecommunications carriers that receive high-cost support from the Universal Service Fund must offer broadband service at rates that are at or below the relevant comparability benchmark based on the Urban Rate Survey or may be subject to reductions in support.

Question 11. What commitments were you required to make to the administration in order to secure your nomination?

Answer. I made no commitments to the White House to secure this nomination, nor were any commitments made to me.

Question 12. Has the White House committed to you that you will be able to serve as chairwoman for the entirety of this administration?

Answer. I made no commitments to the White House to secure this nomination, nor were any commitments made to me.

Question 13. A number of companies have filed applications with the FCC to build new satellite-based broadband networks or to expand existing networks. These filings add to the backlog of applications that the FCC is working through. The FCC has emphasized the importance of next-generation satellite technologies, like low Earth orbit systems, for helping to close the digital divide. Companies rely on the FCC to move efficiently on applications and when delays stack up consumers can be denied services despite sufficient capacity to serve them. This has very real consequences for people on the ground—people who would benefit from closing the digital divide.

- If confirmed, what will you do to ensure filings are processed in a timely manner, especially given the fact that many of these filings are “placeholder” filings that will not come to fruition? Do you believe that the FCC should prioritize

applications for immediate service, rather than the current first-come, first-served approach?

Answer. New satellite broadband technologies have extraordinary potential to help close the digital divide. That is why I agree that the FCC must work expeditiously to ensure the right conditions for these new technologies to succeed. I also believe that each and every application filed with this agency is entitled to due consideration and a level playing field, so that consumers can realize the benefits of more competition and greater choice.

Since the start of the year, the FCC has taken a number of steps to support new space-based services and to clear some of the backlog that previously had built up within the agency. In April, for the first time ever, the FCC allocated spectrum to support new commercial space operations based on proposals that were first made more than seven years ago. Specifically, the FCC allocated the 2200–2290 MHz band on a secondary basis for use in service of space launch operations, pursuant to coordination with NTIA. The FCC also sought comment on the use of additional spectrum for commercial space launches, including the 420–430 MHz, 2025–2110 MHz, and 5650–5925 MHz bands and associated licensing and service rules. In August, the FCC initiated a new V-band processing round that has resulted in proposals for nearly 38,000 new satellites to provide global broadband. In addition, in November, the FCC cleared the way for two new low earth orbiting constellations that will bring broadband and the Internet of things services to consumers, businesses, and government customers in the United States and globally.

In parallel, to ensure that filings are processed in a timely manner, the FCC has devoted resources over the past several months to speed up the processing of pending earth station applications—both large ground stations and consumer terminals. While these applications often involve complex issues, this year the FCC has already granted more than 90 such applications. The FCC also continues to process new applications for smaller satellites under new streamlined application procedures that were adopted in 2019. If confirmed, I commit to working with you to explore additional opportunities to ensure that filings before the FCC are processed in a timely manner.

- Do you support implementing a comment period deadline for satellite applications and a “sunshine period” for the FCC staff to adjudicate comments in a timely way, as opposed to the current open-ended FCC process? Yes or no? If not, why not?

Answer. The FCC’s review of satellite applications involves careful review of very complex technical and safety issues. I believe that our work is best when it reflects a thorough analysis that surveys the full record and addresses all of the questions presented to the FCC. That said, if confirmed, I would be happy to work with you to consider how our regulatory processes could be improved consistent with the Administrative Procedure Act so that stakeholders cannot use their filings to cause undue delay in our decision-making. This could include clearer deadlines for review and the adjudication of comments and avoiding open-ended processes, provided that these adjustments safeguard the rights of parties to a full and fair hearing of the relevant issues.

- On average, it appears that the FCC process for approving satellite gateways takes about 300 days—nearly a year—and is applied to each individual gateway site. Will the FCC commit to processing gateway applications more efficiently?

Answer. Yes. Satellite constellations are evolving in ways that are resulting in far more applications for satellite gateways at the FCC. As a result, earlier this year I had the agency reach out to our counterparts at the United States Space Force to explore ways to collaborate better and leverage the broader resources of the United States Federal government to speed up this kind of review. If confirmed, I will continue to explore those and other opportunities to ensure that gateway applications are processed efficiently.

Question 14. In January, the FCC adopted an NPRM on 12 GHz. What is your impression of the record thus far? What additional information, if any, would you like to see about whether it is possible to add mobile service throughout the 12 GHz band without causing harmful interference to incumbent licensees? When will you determine if the data is sufficient or insufficient to show that incumbent licensees can be protected, or if the data shows that incumbents will or will not receive harmful interference?

Answer. The FCC has started a proceeding to explore opportunities for making more intensive use of 500 megahertz of spectrum in the 12 GHz band. Historically, this band was used for Direct Broadcast Satellite Service and Multi-Channel Video and Data Distribution Service. More recently, proponents of a new generation of satellite operations have received authorization from the agency to launch and operate

constellations of hundreds or thousands of satellites using several frequency bands, including the 12 GHz band. Thousands of satellites have been launched already, with new commercial satellite broadband services rolling out across the country. With this proceeding, the FCC is reviewing whether there may be additional opportunities to open this band up for new terrestrial use, including 5G, without causing harmful interference to existing users. That will require carefully examining the characteristics of this spectrum band—including its propagation and capacity characteristics, the nature of in-band and adjacent band incumbent use, and the potential for international harmonization—before deciding whether and, if so, how to make it available for more intensive terrestrial or satellite use.

Initial comments on the 12 GHz NPRM were due on May 7, 2021, and reply comments were due on July 7, 2021. The response in this proceeding was especially robust, with more than 140 filings submitted by stakeholders thus far. The record includes technical studies, as well as legal and policy advocacy about the feasibility for coexistence among the various current and planned operations in the band. FCC staff is digging into the technical record that has been developed so far and determining what, if any, additional information is required. Among other things, we are evaluating the technical showings that have been submitted purporting to demonstrate the potential for coexistence, as well as any critiques of those studies, to determine if adequate information is in the record to determine whether incumbent licensees can be protected. Some commenters have criticized certain aspects of the technical studies that have been submitted by 5G proponents, while the advocates for 5G or mobile services counter that satellite broadband advocates should provide greater technical details to help evaluate whether additional operations can be accommodated in the band while protecting incumbents. Among the areas that the FCC staff are evaluating are the interference criteria used in one study in the record, the level of increase in probability of interference that should be acceptable, assumptions regarding the operational parameters and technical specifications of satellite user terminals in the band, and the appropriate propagation model to be considered. Further clarification on these points will assist the FCC staff in evaluating the feasibility for coexistence in this band. The engineering analysis, which is unusually complex, is underway right now and will help identify possible next steps. I agree that the FCC should work through these issues expeditiously.

Question 15. The FCC adopted rules governing the 2.5 GHz Educational Broadband Service—making that spectrum available for commercial auction—more than two years ago. Yet, the spectrum remains un-auctioned, despite the Commission seeking comment on auction procedures nearly a year ago. Is the process for reviewing applications during the Rural Tribal Priority Window nearly completed? And is the Commission able to establish auction procedures and set a date for the auction even while it finishes processing those applications?

Answer. Yes, the process for reviewing applications during the Rural Tribal Priority Window is nearly complete. Over 400 applications were received in the Rural Tribal Priority Window, with some voluntarily withdrawn by applicants and others dismissed due to lack of eligibility or lack of available spectrum. Of the remainder, the FCC has granted 292 licenses to Tribes or Tribally-controlled entities. Seventy-nine applications remain pending and under evaluation. However, 36 of these applications were listed on an Accepted for Filing Public Notice that was released by the agency on November 18, 2021. Depending on the record that develops in response, many of these 36 applications could be eligible for grant before the end of the year. Of the 43 pending applications, several are mutually exclusive with each other, which if not resolved by the applicants through voluntary amendment to their applications would require one or more closed auctions of those licenses pursuant to Section 309 of the Communications Act. On September 22, 2021, the FCC released a public notice encouraging applicants to take voluntary steps to resolve mutual exclusivity. Some other pending applications require the agency to evaluate requests for rule waivers to access spectrum over non-reservation Tribal lands. The FCC staff continues to individually review each of the pending applications and assist applicants as appropriate.

The FCC's decisions on the pending applications may have an impact on the inventory of spectrum licenses that will be available at the auction. That is why the agency is working to resolve the pending applications as soon as possible in order to provide maximum certainty to bidders in advance of the auction. In light of these efforts, I expect the auction of the remaining 2.5 GHz band licenses to proceed next year but only after the ongoing 3.45 GHz band auction concludes.

Question 16. As you know, Congress passed a Resolution of Disapproval of the FCC's 2016 ISP Privacy Rules. The law prohibits the FCC from adopting "substantially similar" rules. If the FCC reclassifies broadband service as common carriage

subject to Title II requirements, what privacy rules, if any, do you believe the FCC could legally impose on ISPs? Please explain.

Answer. Were the FCC to reclassify broadband under Title II, the agency would have the opportunity to conduct a rulemaking regarding the scope of privacy rules applicable to Internet service providers as telecommunications carriers under Section 222 of the Communications Act. In such a rulemaking, the FCC would need to consider the effect of the Congressional Resolution of Disapproval of the rules adopted in 2016, which prohibits the FCC from enacting rules in “substantially the same form” as those that were disapproved.

Question 17. The FCC now prohibits a single entity from owning two of the top-four rated television stations in a single market—unless the FCC gives special permission. Some argue that this rule is no longer necessary. Others argue that the rule promotes diversity and helps keep prices down.

- Do you think that the dual network rule is still necessary?

Answer. Yes, the dual network rule is important. It does not address station ownership or combinations of licensees in any single market but instead prohibits mergers among the top four national television broadcast network companies.

- Do you think the reduction in competition caused by such combinations can cause financial harm to consumers?

Answer. Yes.

- In your view, what purpose does the rule serve? Do you see a link between television ownership and pricing? Please explain.

Answer. In general, the power to negotiate for the carriage of two top-four stations in a market can result in higher retransmission fees, which often are passed on to the consumer in the form of higher bills for pay television. The local television ownership rule helps to prevent this harm and the higher consumer costs that might result. Additionally, a lack of competition among local television stations could result in higher costs for local businesses seeking to purchase advertising time on those stations, costs that may likewise be passed on to consumers.

- Do you believe that such consolidation can maintain diversity of voices in news and other local content?

Answer. Competition is important in these markets because it helps ensure that a diversity of voices serve the community of license, as contemplated by the Communications Act.

Question 18. The FCC under the previous administration permitted broadcasters to “voluntarily” transmit in a new digital format, called “ATSC 3.0.” As I understand it, use of this format gives broadcasters the flexibility to offer new services like broadband and pay television. And, the rules may permit broadcasters to degrade existing free television service in favor of these new services.

- Do broadcasters have any particular obligation to maintain a robust, free over-the-air service? If so, why? And what should such an obligation look like?
- How should the FCC balance concerns about maintaining a robust broadcast television service as the television broadcast industry takes on new lines of business?

Answer. In 2017, the Commission authorized television broadcasters to use the Next Generation broadcast television transmission standard, also called ATSC 3.0, on a voluntary, market-driven basis. The new standard creates the opportunity for features such as higher quality television viewing experience with ultra-high-definition picture resolutions and immersive audio, enhanced emergency alerts, and innovative interactive services.

While work on this standard continues, I agree with you that we need to ensure that consumers are not left behind. The ATSC 3.0 decision from 2017 specifically requires broadcasters to air a local simulcast of their ATSC 3.0 primary video programming stream in ATSC 1.0 format. This local simulcasting is a critical component of the FCC’s authorization of ATSC 3.0 as a voluntary transmission standard. That is because the marketplace is still evolving and devices compatible with the new ATSC 3.0 transmission standard are not present in every home. This requirement ensures that viewers do not have to procure new equipment to watch their favorite news and programming. In other words, it supports maintenance of free, over-the-air service while permitting licensees to develop new and innovative services using the same airwaves.

I think this approach makes sense. Moreover, I think it honors the Communications Act and thoughtfully takes into account the consequences of this change in standard on consumers, including those relying on free, over-the-air viewing.

Question 19. As you know, the FCC included datacasting end-user equipment as eligible for reimbursement under the Emergency Connectivity Fund rulemaking.

Technology has advanced to the point where consumers can benefit from using hybrid networks composed of disparate spectrum bands. These network designs are very efficient but may require regulators to give some regulatory flexibility to spectrum licensees to enable the deployment of these hybrid networks? Do you support flexible network use for new technologies that benefit consumers?

Answer. As you note, in the decision establishing the Emergency Connectivity Fund, the FCC made the customer premises equipment used to receive datacasting eligible for program support in areas where there is no commercially available Internet access service options. Under these circumstances, the FCC found that datacasting can help meet students' remote learning needs by providing them with access to educational content outside of a school building through end user devices at students' homes that could download learning materials. Datacasting delivers educational content over broadcast spectrum, which is made possible by FCC rules. I understand that there are a handful of applications requesting support for datacasting end user equipment that are under review at the agency.

More generally, I believe flexible use policies can help advance these and other opportunities by permitting licensees to put their spectrum resources together to best serve the public. That is why, where appropriate, I support providing flexibility to licensees to enable them to use new and innovative technologies to better serve consumers where it can be done in a way that maximizes the efficiency of use of the spectrum and provides appropriate protection to incumbents and other spectrum users. Evaluating such opportunities requires highly technical and fact-specific analyses to which the FCC open and transparent administrative processes are well-suited.

Question 20. There have been some well-publicized cyberattacks on schools that have had insufficient cybersecurity protections in place. Some advocates have proposed allowing schools to use their E-Rate broadband dollars to purchase cybersecurity services, relieving schools of the obligation of purchasing those services, themselves. What statutory authority is there for such a change in eligible services, and what impact would such a change have on E-Rate's budget in the short and long term?

Answer. E-Rate, which got its start as part of the Telecommunications Act of 1996, is the Nation's largest education technology program. It is responsible for connecting schools and libraries across the country to essential broadband services. Under the existing program, E-Rate funds basic firewalls. However, as you note, some stakeholders have called for funding next-generation firewalls and other cybersecurity services, including endpoint protection and advanced services. According to a study conducted by some of these stakeholders, funding a broad range of these kind of cybersecurity services would increase demand in the program as much as an additional \$2.389 billion a year.

In light of this, I think it is important to note that last month the President signed into law the K-12 Cybersecurity Act. This legislation requires the Cybersecurity and Infrastructure Security Agency, one of the government's leading authorities on cybersecurity matters, to study cybersecurity risks facing K-12 schools, develop recommendations to assist schools, and create an online toolkit for school officials. If confirmed, I believe that CISA's work to implement the K-12 Cybersecurity Act should inform any FCC efforts in this area going forward.

Question 21. During your hearing, you agreed that we need accurate maps fully in place before we start sending money out. As you know, I have raised concerns about the 5G Fund and the previously proposed Mobility Fund Phase II moving forward based on unreliable data that overstated wireless coverage. As new maps and data are made available, will you commit to revisiting the current 5G Fund Order and update the budget based on new data?

Answer. Yes.

Question 22. In July, President Biden signed an Executive Order on "Promoting Competition in the American Economy" that, in part, encouraged the FCC to consider a number of policy actions, including reinstating net neutrality and on broadband access to multi-tenant buildings. Since the publication of the Executive Order, the FCC has sought comment on the latter topic, raising a potential concern that the FCC is taking direction from the White House on telecommunications policy.

- To what extent has your office or FCC bureaus communicated with any official in the White House on the contents or development of the Executive Order?

Answer. My office and the Office of General Counsel offered technical assistance on various proposals during the development of the Executive Order.

- Is your office currently developing or planning to develop any policy similar to any of the enumerated policies outlined in the Executive Order?

Answer. The Executive Order encourages the Federal Communications Commission, as appropriate and consistent with applicable law, to consider a range of policies designed to improve the conditions of competition in communications industries.

There is ongoing work at the agency with respect to three initiatives specifically mentioned in the Executive Order—competitive spectrum auctions, support for Open Radio Access Networks to create a more competitive market for network equipment, and expanded broadband choice for residents of multi-dwelling units. In addition, there is work that has begun that is related to the Executive Order because it is a requirement in the Infrastructure Investment and Jobs Act.

First, in October, the FCC began an auction of 100 megahertz of mid-band spectrum in the 3.45 GHz band. This auction will introduce new competition to the provision of mid-band 5G services and features pre-auction aggregation limits to support this effort. It is still underway, but it is likely be one of the highest-grossing auctions in FCC history.

Second, in February the FCC began an inquiry to develop the first public record on the state of Open RAN. To further support the development of this technology in the United States, in July the FCC hosted an Open RAN showcase to educate the carrier community about the availability and growth of this new competitive equipment market. In August, the FCC designated two new innovation zones for qualified licensees to test new advanced technologies and prototype networks, including Open RAN—in Boston, Massachusetts and Raleigh, North Carolina. In October, the FCC also opened the filing window for the \$1.9 billion reimbursement program available to carriers for replacement of untrusted equipment pursuant to the Secure and Trusted Communications Networks Act. Under the rules for this program, the agency has made clear that carriers may choose to deploy Open RAN technologies as replacement equipment.

Third, in September, the FCC issued a public notice seeking comment on practices that landlords and Internet service providers may engage in that have the effect of reducing choice and competition in multi-tenant environments. This was an effort to build on an earlier record on this subject that began with a notice of inquiry in 2017 and specific proposals in a rulemaking in 2019. Comments and reply comments have been filed and the agency is reviewing next steps.

Finally, as a related matter, the Infrastructure Investment and Jobs Act directs the FCC to adopt regulations requiring broadband providers to display a “broadband consumer label” similar in format to the food nutrition labels used by the Food and Drug Administration and proposed by the FCC’s Consumer Advisory Committee. The agency is preparing a rulemaking to implement this legislative directive, which aligns with policies in the Executive Order.

- If confirmed, do you commit to maintaining the independence of the FCC from the White House and Executive Branch agencies?

Answer. Yes.

Question 23. The recently-enacted Infrastructure Investment and Jobs Act (IIJA) provides \$65 billion for broadband and also directs the FCC to conduct several rulemakings on broadband price transparency and on digital discrimination.

- The law directs the FCC to adopt a final order on digital discrimination within two years. What are your views on digital discrimination and will you commit, as Chairwoman, to pursue this rulemaking through a consensus-based process with all Commissioners?

Answer. Section 60506 of Infrastructure Investment and Jobs Act requires the FCC to adopt rules to “facilitate equal access” to broadband, taking into account technical and economic feasibility, including by preventing digital discrimination of access based on income, race, ethnicity, color, religion, or national origin. If confirmed, I will implement this provision consistent with the law. Moreover, in doing so I will consult, as directed, with the Attorney General of the United States. As you know, the first sentence of the Communications Act charges the FCC “to make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex” communications networks, and I believe that the effort in this legislation to develop a proceeding regarding digital discrimination is consistent with this broader directive in the Communications Act. If confirmed, I will develop a rulemaking on this subject and work with my colleagues on this effort.

- The law directs the Government Accountability Office to examine whether the FCC’s current definition of high speed broadband (25/3 Mbps) is appropriate. Do you believe that the current definition is appropriate? If not, what do you believe should be the appropriate definition?

Answer. I do not believe the current definition used by the FCC is adequate. The definition of “advanced telecommunications capability”—or broadband—that has

been used by the agency since 2015 is 25/3 Mbps. I have consistently expressed concern that the FCC should be more forward-looking with its broadband speed standard. As a result, I have dissented several times in proceedings concerning this standard in connection with the report required under Section 706 of the Telecommunications Act.

I believe we need to set audacious goals if we want to do big things. With the Infrastructure Investment and Jobs Act generally requiring projects to meet a 100/20 Mbps threshold for funding and providers rolling out higher speeds across the country, I believe we need to think bigger. I have previously called for raising the download speed to at least 100 Mbps and rethinking our approach to upload speeds, and my views have not changed.

Question 24. The Infrastructure Investment and Jobs Act (IIJA) establishes a \$42 billion program for broadband investment, on top of a wide range of existing broadband investment programs across a number of Federal agencies. There are concerns that these funds may not be used efficiently without effective cost saving measures such as permitting reform.

- Given the significant infusion of Federal funding into broadband, do you believe that the FCC should pursue permitting reforms to ensure that taxpayer dollars do not go to waste? If not, why not? If yes, what permitting reforms do you believe are appropriate for FCC action?
- The Council on Environmental Quality (CEQ) has recently proposed rules to modify the National Environmental Policy Act (NEPA) that would make it more difficult and expensive to pursue infrastructure projects, including broadband deployment. Do you believe that overly onerous environmental reviews can deter greater broadband infrastructure deployment?

Answer. I agree that if we want broad economic growth and widespread mobile opportunity, we need to avoid unnecessary delays in state and local permitting processes. That's because they can slow deployment.

In 2018 the FCC amended its rules to clarify that the deployment of small wireless facilities by non-federal entities does not constitute either a "federal undertaking" within the meaning of National Historic Preservation Act or a "major Federal action" under National Environmental Policy Act and as a result, certain Federal historic preservation and environmental reviews were not required. This action was taken, in part, because historic and environmental reviews may be time consuming and result in delay. However, in 2019, the D.C. Circuit vacated that action, finding that the FCC had not justified its decision under administrative law. In particular, the court noted that the agency had not explained why its action was necessary in light of the streamlined procedures already in place for wireless construction and had not demonstrated why its action was consistent with FCC's decades-long history of carefully tailored review. Following the court's decision, the FCC repealed the affected rules and, as a result, deployments of small wireless facilities currently are subject to NHPA and NEPA review. I believe that in light of this ruling, the FCC will need to identify new ways to move forward.

More broadly, I believe we should acknowledge that we have a history of local control in this country but also recognize that more uniform policies can help us reach more parts of the country with broadband. So while we can develop model codes for small cell and 5G deployment—we need to make sure they are supported by a wide range of industry and state and local officials. Then it would be valuable to review every policy and program—including those newly established pursuant to the Infrastructure Investment and Jobs Act—and build in incentives to use these models. In the process, we can create a more common set of practices nationwide, but to do so, we would use carrots instead of sticks.

Question 25. We are currently experiencing an ongoing semiconductor shortage, impacting the supply chain across many sectors. As a result, manufacturers have been forced to modify components of their devices in order to continue shipments. However, as a result of these modifications, manufacturers may be forced to resubmit the devices for FCC equipment approval, which can further delay the shipment and supply of communications equipment.

- What steps has the FCC taken in recent months to assist manufacturers in their efforts to maintain their supply of devices?
- Are there interim measures that the FCC can implement to alleviate the challenges that manufacturers are experiencing? Specifically, when the change in the device is a result of the ongoing chip shortage, are there ways to expedite the approval process or provide conditional approval for devices that meet the specifications in the rules?

Answer. I agree that it is necessary for the FCC to study ongoing supply chain matters, including those involving semiconductors.

On May 11, 2019, the FCC released a public notice seeking detailed information about the global semiconductor shortage. The agency specifically sought comment on the impact of semiconductor supply chain constraints on the communications sector in the United States and what this might mean for FCC priorities and initiatives. In addition, the agency asked what steps it might take to ensure a resilient supply chain for communications technologies now and in the future. FCC staff also notified their counterparts at the Department of Commerce to make them aware of our efforts in this area. In response to the public notice, we received more than two dozen submissions. Commenters generally expressed concern about semiconductor supply chain shortages and how they may be exacerbated by the ongoing pandemic. Some commenters suggested that these shortages might impact the ability to comply with regulatory deadlines or efforts to maintain and upgrade networks. The record also includes broad support for Federal government efforts to level the global playing field and encourage greater collaboration between industry participants.

I believe the FCC will need to keep this record in mind as it proceeds with its work. At the same time, the agency will need to continue to look for opportunities to improve the efficiency and effectiveness of its processes, including the equipment authorization system. To this end, on June 17, 2021, the FCC adopted a decision updating its device marketing and importation rules to accelerate the time-frame for developing and releasing new devices before receiving full approval. The updated rules give manufacturers greater flexibility to import, market, and conditionally sell equipment while the equipment authorization process is ongoing.

These revisions will help get new devices into the hands of consumers more quickly, while still ensuring that the underlying purposes of the equipment authorization program are served. I believe the FCC will need to continue to evaluate processes like this in order, to determine if there are additional steps the agency can take to update its practices and alleviate the challenges manufacturers may experience due to supply chain challenges.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN THUNE TO
HON. JESSICA ROSENWORCEL

Question 1. USDA recently announced that it would provide additional scoring points to broadband providers that commit to net neutrality. Were you or anyone at the FCC consulted by USDA when it made its determination of what constitutes “net neutrality” in the Reconnect Program?

Answer. As part of the established coordination process between the agencies, the Rural Utilities Service staff notified FCC staff before publicly releasing the text of the recent funding announcement. However, neither myself nor FCC staff provided any input on this portion of the funding announcement.

Question 2. Ensuring there is a pipeline of licensed and unlicensed spectrum is critical to the development of 5G, next-generation devices, and ultimately to the United States’ economic growth and global competitiveness. To maintain competitiveness in the 5G space, the FCC has requested roughly \$130 million to plan spectrum auctions for Fiscal Year 2022. Could you explain both the engineering expertise and related depth of analysis these auction planning funds allow the FCC to bring to the difficult questions regarding spectrum management?

Answer. I agree that ensuring there is a pipeline of licensed and unlicensed spectrum is important for the development of 5G wireless service, next-generation services and devices, and our national economic growth and global competitiveness.

The spectrum management practices required to support this effort involve a complex, multi-year process that relies on significant input from the public and private sector. It also requires extensive technical, economic, legal, and policy expertise from across the FCC. The engineering work on any spectrum band contemplated for new commercial use typically begins years before an auction or authorization. Among other things, this involves analysis of characteristics of the airwaves at issue and the potential for coexistence between incumbent operations in the frequency band or adjacent band and new commercial uses that might, for instance, enter the band following auction. This analysis is often done in the context of a rulemaking proceeding in order to collect public comment that will shape the technical service rules for the new band. If the band at issue has incumbent Federal users, FCC engineers also will work closely with our Federal partners, through a range of formal and informal coordination processes, including the NTIA’s Interdepartment Radio Advisory Committee, the interagency Policy and Plans Steering Group, and regularly sched-

uled meetings between FCC staff and their counterparts at NTIA and other Federal agencies.

However, every reallocation presents unique engineering and policy issues, so careful attention and planning is vital. This is especially true for auction-related efforts, which require agency-wide work to ensure the appropriate amount of cost and overhead supports the repurposing of airwaves for new commercial use. In addition, the complexity of spectrum auctions has increased steadily as the agency works through more difficult technical and policy matters in an environment where there is less and less vacant spectrum. You can see this clearly in many of the auctions the FCC has run in recent years, including the incentive auctions in the 600 MHz and 39 GHz band, as well as the innovative approach taken in the 3.5 GHz band mixing federal, non-federal, licensed, and unlicensed use.

In Fiscal Year 2022, the FCC will need to continue to engage in this kind of planning for future spectrum auctions. It also will need to leverage this expertise in ongoing work associated with universal service, specifically auctions-based efforts associated with supporting the high-cost fund for rural areas. Furthermore, the FCC will need to continue to implement the MOBILE NOW Act and RAY BAUMS Act, including working with NTIA to identify additional spectrum for mobile and fixed use. In addition, pursuant to this legislation the agency will need to prepare annual reports on upcoming systems of competitive bidding, coordinate with NTIA on efforts to incentivize Federal agencies to share spectrum allocations, continue work on bidirectional sharing initiatives, continue assessment of commercial wireless use in the lower 3 GHz band, and monitor post-auction operations in bands subject to spectrum sharing or transitioning to new flexible uses. Finally, the FCC will need to devote significant resources in the coming year toward post-broadcast incentive auction implementation, including monitoring progress of stations authorized to continue to operate on their new channels on interim facilities for a limited time pending construction of their final facilities and continuing to reimburse the repacked stations, certain multichannel video service providers and FM radio stations affected by the repack, and transitioning the C-band from incumbent to new flexible use. The budget, as requested, will help ensure that the agency is able to accomplish these efforts.

Question 3. There have been a number of disputes with respect to the spectrum decisions made by the FCC. Do you believe the FCC employs engineers capable of understanding and ensuring the safest use of the public airwaves, and please share whether you believe the FCC conducts its spectrum policy decision-making in a way that provides for any interested party, including any in the Federal government, to meaningfully engage.

Answer. Yes, I have the utmost confidence in the engineers at the FCC. They have a long history of working to navigate complex technological issues and always keep public safety at the core of their analysis. I also believe that the FCC conducts its spectrum policymaking in a manner consistent with the Administrative Procedure Act. If confirmed, I will continue to ensure the agency does so in an open and transparent way that provides all parties, including those in the Federal government, the opportunity to meaningfully engage.

Question 4. The FCC's Alternative Cost Model (ACAM) program is helping bring broadband to rural Americans who are the hardest to serve. However, the benefits of the ACAM program are constrained by specific terms that deny consumers faster broadband speeds. Does the FCC plan to act on a petition pending before the Commission to adopt modifications to the program to more quickly bring higher speeds to consumers served by the ACAM program?

Answer. The ACAM program provides model-based support to rate-of-return carriers in return for broadband deployment obligations. There have been two offers to rate-of-return carriers to participate in the program, which ends in 2028 for most electing carriers. Participating carriers receive approximately \$1.1 billion annually.

On October 30, 2020, the ACAM Broadband Coalition, a coalition of providers that participate in the ACAM program, filed a petition for rulemaking seeking to extend the program until 2034, in return for enhanced obligations to provide higher speeds. Currently, the ACAM program requires 804,871 locations to be served at 25/3 Mbps speeds, 165,725 locations to be served at 10/1 Mbps, and 50,227 locations to be served at 4/1 Mbps speeds. The ACAM Broadband Coalition's petition for rulemaking proposes that in exchange for six additional years of support, at a cost to the Universal Service Fund of approximately \$6.6 billion, participants in the ACAM program will serve 605,373 locations at 100/25 Mbps, 300,074 locations at 25/3 Mbps, and 115,376 locations at 10/1 Mbps. The FCC sought comment on the petition for rulemaking on November 4, 2020. Multiple parties filed comments in response. Recently, the Infrastructure Investment and Jobs Act became law, providing a sig-

nificant infusion of funds for broadband deployment and generally requiring deployment at speeds of 100/20 Mbps. FCC staff currently are evaluating the petition for rulemaking taking into consideration marketplace developments and the funding available in this new law.

Question 5. Preventing illegal robocalls from reaching consumers continues to be a high priority and Congress made that clear when it passed the bipartisan TRACED Act.

- How is implementation of that law going in your view?
- It is more difficult to identify trustworthy calls with certain networks, primarily those without IP technology. What can the FCC do to help authenticate calls across networks?

Answer. The FCC has made substantial progress implementing the TRACED Act and its provisions designed to reduce robocalls. These efforts have helped combat robocalls by promoting efforts to stop these junk calls using technology; adopting policies that require providers to take steps to better protect their customers; and aggressively enforcing against those who make and facilitate these calls.

Since this legislation was signed into law in 2019, the FCC has put in place a caller ID authentication mandate using STIR/SHAKEN technology, developed a safe harbor to encourage carriers to block illegal calls, including one-ring scam calls, and set up a process for registration of a consortium to conduct private-led efforts to traceback the origin of suspected unlawful robocalls. In addition, the FCC has released reports on the Reassigned Numbers Database, one-ring scams, complaint and enforcement activities, traceback efforts, and caller ID authentication implementation progress by voice service providers. The agency also established a Hospital Robocall Protection Group, which published best practices to protect hospitals from robocalls.

Despite these efforts, more work remains. After all, scam artists responsible for robocalls move fast and look for ways to bypass each new effort we put in place to stop them.

Going forward, it is essential for the FCC to close whatever remaining gaps it can in the STIR/SHAKEN regime. To this end, the agency is working to shorten the extension for implementing this caller authentication technology for small service providers if the carrier at issue has been identified as a source of illegal robocalls. The agency is also working to require providers that serve as a gateway for foreign-originated calls to participate in the STIR/SHAKEN framework. This is essential because we understand that a large number of these junk calls are now originating overseas.

It is also important to note that the TRACED Act identified a gap in the use of STIR/SHAKEN when it directed the FCC to grant an extension to voice service providers without Internet Protocol network technology until a caller ID authentication protocol for their networks is developed. To ensure that this protocol is in fact developed, the FCC required those voice service providers with non-IP network technology to participate in efforts including through industry trade associations, working groups, or industry standards bodies to develop caller ID authentication solutions for such networks. At the same time, the North American Numbering Council has developed recommended steps to promote greater implementation of IP network technology. The FCC will continue to monitor the efforts of these groups in order to expand the effective use of caller ID authentication technologies because we know when they are put in place they can help reduce illegal robocalls.

Question 6. What do you believe the FCC's role should be relating to Section 230 and do you support Congressional action to address online transparency concerns like my bipartisan PACT Act?

Answer. I support efforts in Congress to address online transparency. Moreover, if confirmed, I will ensure the agency works with Congress to help inform its efforts to consider any changes it may wish to make to Section 230 of the Communications Decency Act.

More generally, I recognize that social media can be frustrating. However, it is a medium that is ultimately protected by the First Amendment. That means Section 230 does not modify this underlying set of rights. Instead, the law provides those who host or moderate Internet content with some protection from liability from what their users say or do online. Specifically, it provides, among other things, that “[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.” It further provides that “[n]o provider or user of an interactive computer service shall be held liable on account of . . . any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or other-

wise objectionable, whether or not such material is constitutionally protected.” With respect to the FCC, it is important to note that the agency is not referenced in this law. Nonetheless, as noted above, if confirmed, I would be willing to work with Congress to help address any of its concerns—or implement any new legal directives—regarding online transparency.

Question 7. In addition to the FCC’s programs aimed at closing the digital divide, NTIA, USDA, and the Department of Treasury are disbursing funds to support the buildout of broadband networks. How would you characterize the coordination between the FCC, NTIA, and USDA given that they all have programs that support broadband? Are you concerned that programs administered by NTIA, Treasury, and RUS are going to overbuild FCC-funded locations? What steps is the FCC taking or will be taking to ensure these programs do not overbuild other federally funded networks?

Answer. I believe that in the past the FCC has worked closely with its Federal partners when it comes to efforts to close the digital divide. However, in light of the expanded work to do so in the Infrastructure Investment and Jobs Act, it is essential that we work even closer.

In June of this year, the FCC, NTIA, and Rural Utilities Service at the USDA entered into an Interagency Agreement that specifically “require[s] coordination . . . for the distribution of funds for broadband deployment.” As a result, the FCC, NTIA, and RUS share information on a regular basis about our respective funding programs, including the entities seeking and receiving funding to provide service in a given area, the speed and technology funded, and the terms and conditions of the funding under the law. In addition, the Department of Treasury has sought FCC input for the purposes of implementing the Coronavirus State and Local Fiscal Recovery Fund and the Coronavirus Capital Projects Fund. FCC staff also has engaged with representatives of the Department of Treasury, both separately and alongside NTIA and RUS representatives, to share information and insight on programs and identify coordination opportunities.

However, it is important to note that the programs each agency oversees may be different under the law. In other words, these efforts each have unique elements like eligibility criteria, funding purposes, and speed thresholds. In some instances, those features could result in separate funding in the same location working together—like, for instance, where one program funds capital expenditures and another supports operating expenditures. I believe it is essential to make sure that these programs, consistent with the law, operate in a complementary manner. At the same time, it is essential that those responsible for these programs—including the FCC—coordinate to ensure funding is directed to areas without adequate service and avoid unnecessary duplication. If confirmed, I pledge to have the FCC work with its Federal partners to do so.

Question 8. In 2014, Congress directed the FCC to “commence a rulemaking to review its totality of the circumstances test for good faith negotiations.” Notwithstanding the request, the full Commission has never concluded the proceeding. Do you support completing the work that Congress requested be undertaken in 2014?

Answer. In 2015, with my support, the FCC adopted a rulemaking seeking to review and update the totality of the circumstances concerning good faith negotiations for retransmission consent. There was a high level of interest in this proceeding and the record that resulted featured a wide range of different views about the need for additional specificity with respect to good faith negotiation. After reviewing these comments, the Chairman at the time announced that he would take no further action.

Since that time the FCC has revised its good faith retransmission consent rules in order to implement Section 1003 of the Television Viewer Protection Act of 2019. It did so in 2020 specifically to support smaller multichannel video programming distributors by allowing them to operate as a buying group in retransmission consent negotiations with large broadcast station groups.

Since that time the FCC also has investigated alleged violations of the good faith requirement and continues to do so when potential violations arise. This effort has resulted in several significant enforcement actions, including more than \$8.7 million in forfeitures against parties that failed to negotiate in good faith and more than \$57 million in settlement payments for failure to comply with our rules in this area, including the obligation to negotiate in good faith.

As a result, some of the specific practices identified in the agency’s rulemaking from 2015 have become less common, as the market has evolved. Nonetheless, other practices may be emerging that could create new challenges for good faith negotiation in the current environment. I believe this means that the flexibility in the totality of the circumstances test is important because it allows the agency to update

and evolve its policies and enforcement regarding good faith negotiations. However, given the changes in this market during the last several years, I believe the FCC should first refresh the record it has on this subject in order to ensure it has the most up-to-date information to inform efforts to complete the rulemaking Congress requested in 2014.

Question 9. How can the FCC account for both public and non-public spectrum needs while considering the national security consequences?

Answer. Wireless spectrum is a finite resource. Modern civic and commercial life now depend on its availability—as do essential Federal missions. This means that thoughtfully managing this resource is vital for our continued economic growth and national security.

For this reason, I believe that it is important that we explore new models for federal-commercial information sharing, cooperation, and collaboration. This requires a whole-of-government approach to spectrum policy that treats spectrum innovation in the United States as it should be treated: in strategic terms that ensure we identify creative ways to remain the global leader in technology-driven innovation.

To do so, and to advance both non-federal and Federal spectrum needs, we need to embrace the range of new wireless access technologies available. This requires recognizing that traditionally our system of spectrum access has had a binary quality. Either it is licensed or unlicensed, Federal or non-federal. But this duality is not the result of physics. It is the result of an intentional set of policy choices that can create scarcity when there are other choices we can make to facilitate abundance. To understand how, it is instructive to consider the model the FCC created in the 3.5 GHz band several years ago. Here the agency took 150 megahertz of spectrum and opened it up to a mix of government, licensed, and unlicensed uses. It did this by proposing a spectrum access database to dynamically manage the different kinds of wireless traffic using these airwaves. This multi-tiered approach to spectrum access was not just unprecedented—it was creative, efficient, and forward looking. Today this band accommodates important government radar operations that protect our safety while also making much-needed mid-band spectrum available to advance our wireless leadership. These kinds of creative efforts should continue to be developed as the FCC works to accommodate public and non-public demands on our airwaves.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ROY BLUNT TO
HON. JESSICA ROSENWORCEL

Question 1. Chairwoman Rosenworcel, you have been in the telecommunications world a long time, as both a staffer and as a commissioner. You have seen an incredible change in a number of industries that the Commission oversees, both in terms of technology and the marketplace.

I wanted to specifically highlight the local broadcast industry, which is of vital importance to both local communities and our country as a whole, and serves a key role in providing access to trusted, objective news. Both Congress and the FCC have consistently affirmed the importance of local broadcasting, from its inception through its transition to digital and high definition, and by allowing local stations to pursue spectrum innovation and offer local listeners and viewers more information and a better experience.

You have made public statements consistent with this view. For example, in your testimony at a Senate Commerce FCC oversight hearing from last year, you stated: “we should scour the FCC’s rules to identify how to support local media . . . [W]e need to do our part to try to support local journalism and jobs. We need to help bring the capacity for program origination back to the communities where stations serve.”

- Given the importance of local broadcasting, can you commit to continuing to work with me and the Members of this committee to keep the local broadcast medium vibrant and stations on a level regulatory playing field with their competitors in the audio, video, and advertising marketplaces?

Answer. Yes.

- Years ago, Congress enacted a law which allowed certain low power television stations to apply for and receive enhanced rights to their spectrum licenses, giving them certainty to invest in their stations and grow their audiences in mainly small and rural markets. I’m working on legislation to open another, similar window to allow for additional low power stations to once again apply for these “Class A” rights. Can I have your commitment that you will work with me and

this Committee in enacting that law so that we can help expand and protect television stations in small markets and the viewers that they serve?

Answer. Yes.

Question 2: President Biden signed into law the bipartisan infrastructure legislation this week, which I supported in no small part because of the tremendous investment it will make to close broadband gaps in rural America. This is an incredibly important issue in Missouri, where approximately one third of rural residents still lack access to broadband. At the same time, it's crucial that this historic investment is spent efficiently and not used to duplicate networks where high speed service already exists or where providers are subject to legally enforceable deployment obligations. For example, this funding is going to co-exist with multiple broadband funding programs at multiple Federal agencies—U.S. Department of Agriculture, NTIA, Treasury—as well as state and local agencies, and we need to coordinate these programs to avoid a situation where the Federal government is competing against itself or undermining and discouraging the private sector's own tremendous infrastructure investments. This is key because every dollar that goes to subsidized overbuilding is a dollar diverted from unserved Americans who lack any access to broadband whatsoever.

Accurate broadband maps are a helpful step in preventing subsidized overbuilding, but further coordination is going to be needed, to avoid subsidizing overbuilding in areas where providers are subject to legally enforceable deployment obligations but haven't yet made service available—either on account of government funding or otherwise.

- Chairwoman Rosenworcel, do you agree that it's important to ensure that Federal funding is spent efficiently and not used to overbuild high speed networks?
- How would you characterize current coordination efforts among the FCC, NTIA, USDA, and Treasury, as well as with state and local broadband authorities to prevent duplication?
- Are you concerned that programs administered by NTIA, Treasury, and USDA are at risk of overbuilding FCC-funded locations, such as locations funded by the 2020 Rural Digital Opportunity Fund auction?
- What are you doing to prevent that from happening?

Answer. I agree that it is important to spend Federal funding efficiently, especially because, as you note, there are too many communities across the country that still lack access to high-speed service. In light of this, the FCC has increased its efforts to work closely with our counterparts on new initiatives to help close the digital divide.

On June 25, 2011, the FCC, NTIA and Rural Utilities Service at the USDA entered into an Interagency Agreement that specifically “require[s] coordination . . . for the distribution of funds for broadband deployment.” As a result, the FCC, NTIA, and RUS share information on a regular basis about our respective funding programs, including the entities seeking and receiving funding to provide service in a given area, the speed and technology funded, and the terms and conditions of the funding under the law. In addition, the Department of Treasury has sought FCC input for the purposes of implementing the Coronavirus State and Local Fiscal Recovery Fund and the Coronavirus Capital Projects Fund. FCC staff also has engaged with representatives of the Department of Treasury, both separately and alongside NTIA and RUS representatives, to share information and insight on programs and identify coordination opportunities. With respect to the Rural Digital Opportunity Fund, this engagement includes keeping other agencies, as well as state, local, and Tribal governments, apprised of our actions by releasing lists of census blocks that are the subject of default by winning bidders, as well as lists of census blocks where winning bidders have been authorized.

However, it is important to note that the program each agency oversees may be different under the law. In other words, these efforts each have unique elements like eligibility criteria, funding purposes, and speed thresholds. In some instances, those features could result in separate funding in the same location working together—like, for instance, where one program funds capital expenditures and another supports operating expenditures. I believe it is essential to make sure that these programs, consistent with the law, operate in a complementary manner. At the same time, it is essential that those responsible for these programs—including the FCC—coordinate to ensure funding is directed to areas without adequate service and avoid unnecessary duplication. If confirmed, I pledge to have the FCC work with its Federal partners to do so.

Question 3: Chairwoman Rosenworcel, you voted for the 2015 Title II Order adopting net neutrality rules. Paragraph 5 of that order stated, “We expressly es-

chew the future use of prescriptive, industry-wide rate regulation. Under this approach, consumers can continue to enjoy unfettered access to the Internet over their fixed and mobile broadband connections, innovators can continue to enjoy the benefits of a platform that affords them unprecedented access to hundreds of millions of consumers across the country and around the world, and network operators can continue to reap the benefits of their investments.”

- Do you agree that declining to impose rate regulation on the broadband industry was the right decision?
- Are you committed to maintain a policy that rejects rate regulation of broadband service?

Answer. As you note, I voted to support the decision in 2015 to adopt net neutrality rules. That decision stated that it “expressly eschew[s] future use of prescriptive, industry-wide rate regulation.” I supported this approach in the past and would do so again in the future.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DEB FISCHER TO
HON. JESSICA ROSENWORCEL

Question 1. During the hearing, you responded that the Federal-State Joint Board on Universal Service should examine and provide recommendations on contribution reform for the Universal Service Fund. However, the Federal-State Joint Board on Universal Service has not met this year. In fact, records indicate that the Board last met on February 11, 2019.

- Are there plans at the Commission to schedule the next meeting for the Board?
- If yes, could you please confirm the date on which the Board will convene for the next meeting?
- Can you commit that the Board will meet in the first quarter of 2022, if you are confirmed?

Answer. I support efforts to have Federal and state authorities work together to identify the policies that best support universal service nationwide. The Communications Act sets up a framework for doing so, as Sections 254 and 410 establish the Federal-State Joint Board on Universal Service. Under the law, the board is comprised of three Federal commissioners, four state utility commissioners, and a state consumer advocate representative. The FCC appointed three new state members on December 30, 2020, but there is currently a Federal commissioner vacancy. If confirmed, I will, as soon as there is a full complement of commissioners at the FCC, work to appoint an additional Federal commissioner to join the board and schedule a meeting with the new members.

Question 2. While there are a number of significant funding opportunities for broadband deployment through new Federal grants, the Universal Service Fund’s mission remains important when it comes to building and maintaining sustainable networks in high cost areas. The Commission’s Alternative Connect America Cost Model (ACAM) program is helping to bring broadband to hundreds of thousands of rural consumers in the hardest to reach communities.

- Does the Commission plan to act on a pending petition to address modifications to the ACAM program to more quickly bring higher speeds to consumers served by the program?
- If yes, what is the timeline by which the Commission plans to proceed on the petition?

Answer. The ACAM program provides model-based support to rate-of-return carriers in return for broadband deployment obligations. There have been two offers to rate-of-return carriers to participate in the program, which ends in 2028 for most electing carriers. Participating carriers receive approximately \$1.1 billion in support from the program annually.

On October 30, 2020, the ACAM Broadband Coalition, a coalition of providers that participate in the ACAM program, filed a petition for rulemaking seeking to extend the program until 2034, in return for enhanced obligations to provide higher speeds. Currently, the ACAM program requires 804,871 locations to be served at 25/3 Mbps speeds, 165,725 locations to be served at 10/1 Mbps, and 50,227 locations to be served at 4/1 Mbps speeds. The ACAM Broadband Coalition’s petition for rulemaking proposes that in exchange for six additional years of support, at a cost to the Universal Service Fund of approximately \$6.6 billion, participants in the ACAM program will serve 605,373 locations at 100/25 Mbps, 300,074 locations at 25/3 Mbps, and 115,376 locations at 10/1 Mbps. The FCC sought comment on the petition for rulemaking on November 4, 2020. Multiple parties filed comments in response.

Recently, the Infrastructure Investment and Jobs Act became law, providing a significant infusion of funds for broadband deployment and generally requiring deployment at speeds of 100/20 Mbps. FCC staff currently are evaluating the petition for rulemaking in light of the record and other recent developments, including the passage of the Infrastructure Investment and Jobs Act.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JERRY MORAN TO
HON. JESSICA ROSENWORCEL

Question 1. I understand that when it comes to engineers and other highly-desired positions, it is difficult for Federal agencies to compete with the private sector for recruits. What challenges does the FCC face when hiring engineers and other technical staff, and what can the FCC do to overcome these challenges?

Answer. Engineers are an integral part of the day-to-day work of the FCC. With communications technologies always evolving, their input is essential in every major proceeding at the agency. However, attracting and retaining top talent can be a challenge, especially when private sector employers may be able to offer higher salaries and greater benefits. For this reason, in 2013 I proposed that the FCC create an engineering honors program to recruit young engineers and bring new vigor to the ranks of our technical experts. I am glad that my predecessor adopted this idea and made it a reality. If confirmed, I would look forward to continuing the engineering honors program and exploring other opportunities to create a workplace that attracts the technical expertise that is necessary for the agency to successfully perform its work.

Question 2. Congress has fully-funded the creation of granular maps made by the FCC and it is now dependent on the FCC to complete those maps. Additionally, the new state broadband deployment grant program at NTIA is dependent on these update FCC maps. When will the maps authorized by the Broadband DATA Act be finished?

Answer. I agree that maps are crucial to ensuring that the FCC has accurate information about where broadband service is and is not available across the country. With better data we can more precisely target our policymaking efforts and financial resources, including the FCC's universal service funding and the funding included in the recently enacted Infrastructure Investment and Jobs Act, to those unserved and underserved communities where support is needed most.

As you know, the Broadband DATA Act was signed into law in March of 2020. With this legislation Congress recognized that if we want to ensure everyone has access to broadband, we need accurate information about where broadband is and is not across the country. Then, in December of 2020, Congress provided the FCC with an appropriation to help fund implementation of this law.

As a result, in my first meeting as Acting Chairwoman, I announced the formation of the Broadband Data Task Force. This group was designed to help coordinate and expedite the design and construction of new systems for collecting and verifying new broadband deployment data. While it was made clear that we had an enormous amount of work to do, I am pleased to report that we have made significant progress since January.

The FCC is developing the data architecture and systems required for the receipt of broadband data from a wide variety of sources and has completed several aspects of the data collection system design. This is important because when I took the reins at the agency these systems were not in place and having them is a prerequisite for the data collection and mapping required under the Broadband DATA Act.

In addition, the FCC has awarded a competitively bid contract to create and maintain the Broadband Serviceable Location Fabric, which is the foundation for its mapping efforts. The Fabric was specifically required in the Broadband DATA Act. The law also required that the FCC procure the Fabric through the traditional Federal government contracting process. This has presented a challenge because, while the agency has awarded the contract, another bidder has filed a protest at the GAO. As a result, the contract is stayed while the GAO has a 100-day period to review the protest and the FCC's response.

While this effort is underway at the GAO, the agency has worked on other efforts to support the Broadband DATA Act and its objectives. This includes writing the rules for the challenge and verification processes required under the law and working to update the FCC Speed Test App contract so that it can be more broadly used by consumers to support mobile challenges and data gathering through crowd-sourcing. The agency also is moving forward with procurements to implement the technical assistance functions for providers, state, local, and Tribal governments, and consumers.

As to the precise timing of our collection and release of maps, we have many workstreams in motion to make that happen as quickly as possible. However, as noted above, the ongoing GAO review of the protest associated with the procurement of the Fabric makes identifying a precise date difficult. Nonetheless, we are building and testing the new systems we have and finalizing data specifications and challenge procedures. To this end, the FCC will shortly open its next Form 477 data filing window, which will be the last submission under the current data collection paradigm without carriers having access to the Fabric. However, as soon as the Fabric is compiled by the vendor and reviewed by FCC staff, the agency will release a public notice providing details on implementation of the Fabric and share the geocoded location data with broadband providers so their fixed broadband availability data can be easily ingested into our updated broadband data collection. At the same time, the agency will provide information regarding the process for FCC review and approval of third-party speed test applications for use in the mobile challenge process and will complete development and testing of the challenge and crowdsourced data collection components.

While planning for all this work has been underway, the FCC has worked with a number of broadband providers to test our systems and develop a prototype for improved mapping at the agency. As part of this effort, on August 6, 2021 the FCC released new 4G LTE wireless coverage maps based on the new updated parameters, using data submitted voluntarily by AT&T Mobility, T-Mobile, U.S. Cellular, and Verizon Wireless. This resulted in a public map that shows, for the first time, nationwide 4G LTE mobile coverage according to the updated parameters that were uniformly used by every carrier submitting data. This map is now available at www.fcc.gov/BroadbandData/MobileMaps.

If confirmed, I pledge to keep you—and my colleagues at the agency—apprised of further efforts to implement the Broadband DATA Act and further develop the mapping the law contemplates.

Question 3. As you are aware, the FAA issued a Special Airworthiness Information Bulletin in regards to the planned deployment of 5G equipment in the portion of spectrum known as the C-Band. This bulletin caused mobile carriers to delay the deployment of this equipment until the safety concerns can be addressed. How can the review process for spectrum auctions and reallocation be improved to prevent similar delays in the future?

Answer. Wireless spectrum is a finite resource. Modern civic and commercial life now depend on its availability—as do essential Federal and public safety missions. This means that thoughtfully managing this resource is vital for our continued economic growth and our safety.

At the outset, it is important to recognize that supporting public safety is a priority for the FCC under the law. The very first sentence of the Communications Act charges the agency with promoting the safety of life and property through wire and radio communications. It is essential that the FCC is mindful of this in everything it does. This means that as the Nation's expert Federal agency responsible for managing spectrum, the FCC is committed to ensuring air safety when moving forward with the development of new technologies that support American business and consumer needs.

To put these principles in practice, I agree with you that it is essential to improve the Nation's interagency processes involving spectrum decisions. If confirmed, I will work to do so. In fact, since the start of this year, I have instructed the FCC staff to work more closely with our Federal counterparts in a manner that puts a premium on consultation, openness, and the rule of law. These are the values that have helped to thoughtfully and safely grow opportunities for wireless activity in the past and I believe it is essential that we recommit to them now.

I also believe that it is important that we explore new models for federal-commercial information sharing, cooperation, and collaboration. Among other things, this requires a whole-of-government approach to spectrum policy that treats spectrum innovation in the United States as it should be treated: in strategic terms that ensure we identify creative ways to remain the global leader in technology-driven innovation.

Relatedly, the Memorandum of Understanding governing the interagency coordination processes between NTIA and FCC on spectrum matters is nearly 20 years old. Some have suggested that it may be time to revisit and revise the MOU. I agree this is a good idea, and if confirmed I will direct the FCC's expert staff to evaluate whether there may be opportunities for beneficial improvement to the MOU, including through revision of its current provisions or addition of new ones. These kinds of efforts will help ensure that we avoid delays in the deployment of next generation technologies in the future.

Question 4. In June 2020, Senator Tester and I wrote to the Commission about the importance of the Americans with Disabilities Act (ADA) and the FCC's responsibility to administer the Telecommunications Relay Service (TRS) Fund in the manner required by the ADA. In particular, the ADA requires that people with hearing disabilities have access to communications services that are functionally equivalent to those provided to the hearing population. What will you do if confirmed by the Senate to ensure that the FCC administers the TRS Fund in a manner that complies with the ADA's functional equivalence requirement?

Answer. If confirmed, I would commit to making sure functional equivalence remains at the center of the FCC's work on its Telecommunications Relay Service programs.

More than thirty years ago, the Americans with Disabilities Act paved the way for the meaningful inclusion of millions of Americans with disabilities in modern civic and commercial life. I recognize that FCC responsibilities under this law help ensure that individuals who are deaf, deafblind, hard of hearing, or have a speech disability are able to pick up the phone; connect with family, friends, and business associates; and participate fully in the world.

Under the ADA, as updated by the Twenty-First Century Communications and Video Accessibility Act, the FCC has made strides in its policies to expand access to modern communications to individuals with disabilities. These efforts include continued support for Telecommunications Relay Services, including Video Relay Service, Internet Protocol Captioned Telephone Service, and Internet Protocol Relay Service.

I support these efforts because I believe they are essential for functionally equivalent access to communications services. But I also believe that as time and technology advance, it is incumbent upon the FCC to review these policies to keep them up to date. To help meet the functional equivalency mandate, our rules contain operational, technical, and functional minimum standards that govern the provision of supported services. The FCC must continue to review, revise, and update these rules to ensure they continue to meet the standard for functional equivalency in the ADA.

Question 5. What is the importance of middle mile broadband investment for networks in rural communities?

Answer. Investing in middle mile infrastructure is an underappreciated but vitally important part of supporting broadband deployment. It helps improve resiliency by providing network redundancy and alternative routing in disruptions and disaster. It enhances opportunities for competition in last-mile infrastructure. Middle mile services are also important because they connect rural broadband networks to global Internet access providers. Finally, middle mile infrastructure supports wireless deployment by providing backhaul, which is especially important for new 5G wireless services in light of their higher capacities and increased antenna requirements.

I am pleased that Congress recognized the significance of middle mile investment and established a \$1 billion competitive grant program for middle mile infrastructure in the Infrastructure Investment and Jobs Act. If confirmed, I would ensure the FCC is ready to assist NTIA to develop this program.

Question 6. What are the next steps in the 12GHz band rulemaking process? Please explain in detail the factors the FCC is considering.

Answer. The FCC has started a proceeding to explore opportunities for making more intensive use of 500 megahertz of spectrum in the 12 GHz band. Historically, this band was used for Direct Broadcast Satellite Service and Multi-Channel Video and Data Distribution Service.

More recently, proponents of a new generation of satellite operations have received authorization from the agency to launch and operate constellations of hundreds or thousands of satellites using several frequency bands, including the 12 GHz band. Thousands of satellites have been launched already, with new commercial satellite broadband services rolling out across the country. With this proceeding, the FCC is reviewing whether there may be additional opportunities to open this band up for new terrestrial use, including 5G, without causing harmful interference to existing users. That will require carefully examining the characteristics of this spectrum band—including its propagation and capacity characteristics, the nature of in-band and adjacent band incumbent use, and the potential for international harmonization—before deciding whether and, if so, how to make it available for more intensive terrestrial or satellite use.

Initial comments on the 12 GHz rulemaking were due on May 7, 2021, and reply comments were due on July 7, 2021. The response in this proceeding was especially robust, with more than 140 filings submitted by stakeholders thus far. The record includes technical studies, as well as legal and policy advocacy about the feasibility

for coexistence among the various current and planned operations in the band. FCC staff is digging into the technical record that has been developed so far and determining what, if any, additional information is required. Among other things, we are evaluating the technical showings that have been submitted purporting to demonstrate the potential for coexistence, as well as any critiques of those studies, to determine if adequate information is in the record to determine whether incumbent licensees can be protected. Some commenters have criticized certain aspects of the technical studies that have been submitted by 5G proponents, while the advocates for 5G or mobile services counter that satellite broadband advocates should provide greater technical details to help evaluate whether additional operations can be accommodated in the band while protecting incumbents. Among the areas of debate that the FCC staff are evaluating are the interference criteria used in one study in the record, the level of increase in probability of interference that should be acceptable, assumptions regarding the operational parameters and technical specifications of satellite user terminals in the band, and the appropriate propagation model to be considered. Further clarification on these points will assist the FCC staff in evaluating the feasibility for coexistence in this band. This engineering analysis, which is highly complex, is underway right now and will need to be completed in order to identify possible next steps.

Question 7. I understand that basic cybersecurity measures are an eligible expense for E-Rate. Do you see a benefit to including more advanced cybersecurity measures as an eligible expense for E-Rate as well? Please explain in detail.

Answer. E-Rate, which got its start in the Telecommunications Act of 1996, is the Nation's largest education technology program. It is responsible for connecting schools and libraries across the country to essential broadband services. Under the existing program, E-Rate funds basic firewalls. However, as you note, some stakeholders have called for funding next-generation firewalls and other cybersecurity services, including endpoint protection and advanced services. According to a study conducted by some of these stakeholders, funding a broad range of these kinds of cybersecurity services would increase demand in the program as much as an additional \$2.389 billion a year.

In light of this, I think it is important to note that last month the President signed into law the K-12 Cybersecurity Act. This legislation requires the Cybersecurity and Infrastructure Security Agency, one of the government's leading authorities on cybersecurity matters, to study cybersecurity risks facing K-12 schools, develop recommendations to assist schools, and create an online toolkit for school officials. If confirmed, I believe that CISA's work to implement the K-12 Cybersecurity Act should inform any FCC efforts in this area going forward.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DAN SULLIVAN TO
HON. JESSICA ROSENWORCEL

Question 1. The FCC has taken significant steps in recent years to identify and make available spectrum for commercial use, including for 5G deployment that is critical to ensure U.S. leadership over China. I understand that the FCC is currently examining the potential of 5G in the 12GHz band through extensive engineering reviews. Do you see this as an opportunity to advance U.S. 5G leadership? Will you commit to complete your review in a timely manner if you find that coexistence is possible between satellite and terrestrial users in the band?

Answer. I believe we need more spectrum to support next generation wireless technologies like 5G, and especially mid-band spectrum. That is why the FCC has started a proceeding to explore opportunities for making more intensive use of 500 megahertz of spectrum in the 12 GHz band. If confirmed, I commit to completing the FCC's review of this band in a timely manner should we find that coexistence is possible between satellite and terrestrial users in the band without harmful interference.

Question 2. As you know, Alaska requires unique and creative solutions for broadband deployment. Low Earth orbit satellites (LEOs) have the potential to help provide high-speed, low-latency broadband to rural parts of America. However, some relevant approvals at the FCC, such as for licensing, earth stations, and gateways, can take up to a year or longer to be approved. What steps can you take to accelerate these kinds of satellite authorizations?

Answer. New satellite broadband technologies have extraordinary potential to help close the digital divide, especially in hard-to-reach parts of the country like Alaska. That is why I agree that the FCC must work expeditiously to ensure the right conditions for these new technologies to succeed. I also believe that each and every application filed with this agency is entitled to due consideration and a level

playing field, so that consumers can realize the benefits of more competition and greater choice.

Since the start of the year, the FCC has taken a number of steps to support new space-based services and to clear some of the backlog that previously had built up within the agency. In April, for the first time ever, the FCC allocated spectrum to support new commercial space operations based on proposals that were first made more than seven years ago. Specifically, the FCC allocated the 2200–2290 MHz band on a secondary basis for use in service of space launch operations, pursuant to coordination with NTIA. The FCC also sought comment on the use of additional bands for commercial space launches, including 420–430 MHz, 2025–2110 MHz, and 5650–5925 MHz, as well as licensing and service rules for all of these bands. In August, the FCC initiated a new V-band processing round that has resulted in proposals for nearly 38,000 new satellites to provide global broadband. In addition, in November, the FCC cleared the way for two new low earth orbiting constellations that will bring broadband and the Internet of things services to consumers, businesses, and government customers in the United States and globally.

In parallel, to ensure that filings are processed in a timely manner, the FCC has devoted resources over the past several months to speed up the processing of pending earth station applications—both large ground stations and consumer terminals. While these applications often involve complex issues, since January, the FCC has granted more than 90 such applications. The FCC also continues to process new applications for smaller satellites under new streamlined application procedures that were adopted in 2019.

With respect to Alaska, the FCC has granted three Alaska gateway earth stations for LEO broadband systems in recent years. The first of these, for a gateway at Talkeetna, Alaska for use with the OneWeb system, was processed and granted before that system was providing end user service. Two other applications have been granted for use with the Starlink system at locations in Alaska, in Kuparuk and Nome. There are two pending applications for Starlink gateways in Alaska—in Ketchikan and Fairbanks—both filed in April of this year. FCC staff are reviewing these applications now, and I anticipate prompt action once that review is complete. If confirmed, I commit to working with you to ensure that filings before the FCC are processed in a timely manner.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARSHA BLACKBURN TO
HON. JESSICA ROSENWORCEL

Question 1. There have been efforts by some of our colleagues in the House of Representatives to pressure MVPDs into removing Fox News, Newsmax and other conservative channels from their line ups. There have also been calls by some liberal organizations to have the FCC revoke the licenses of broadcasters like Sinclair. Are you in favor of these calls to use the FCC to remove certain viewpoints from the airwaves?

Answer. No.

Question 2. When we spoke recently, we talked about steps the FCC can take to make sure U.S. companies are poised to compete with China. Senator Rubio and Senator Markey's Secure Equipment Act, which I cosponsored, was just signed into law, and I'm glad the FCC will be moving quickly to help make the devices sold in the U.S. more secure. Earlier this year, the FCC sought comment on the global semiconductor shortage and its impacts on the communications industry. What are your next steps for sharing the information that you learned? Is there anything you can share now?

Answer. I believe that it is necessary for the FCC to study ongoing supply chain matters, including those involving semiconductors.

On May 11, 2019, the FCC released a public notice seeking detailed information about the global semiconductor shortage. The agency specifically sought comment on the impact of semiconductor supply chain constraints on the communications sector in the United States and what this might mean for FCC priorities and initiatives. In addition, the agency asked what steps it might take to ensure a resilient supply chain for communications technologies now and in the future. FCC staff also notified their counterparts at the Department of Commerce to make them aware of our efforts in this area. In response to the public notice, we received more than two dozen submissions. Commenters generally expressed concern about semiconductor supply chain shortages and how they may be exacerbated by the ongoing pandemic. Some commenters suggested that these shortages might impact the ability to comply with regulatory deadlines or efforts to maintain and upgrade networks. The record also includes broad support for Federal government efforts to level the global play-

ing field and encourage greater collaboration between industry participants. The record in this proceeding is publicly available, and I would be happy to work with you and your staff to share the information we have collected.

Moreover, I believe the FCC will need to keep this record in mind as it proceeds with its work. At the same time, the agency will need to continue to look for opportunities to improve the efficiency and effectiveness of its processes, including the equipment authorization system, to help offset the impacts of this shortage. To this end, on June 17, 2021, the FCC adopted a decision updating its device marketing and importation rules to accelerate the time-frame for developing and releasing new devices before receiving full approval. The updated rules give manufacturers greater flexibility to import, market, and conditionally sell equipment while the equipment authorization process is ongoing. These revisions will help get new devices into the hands of consumers more quickly, while still ensuring that the underlying purposes of the equipment authorization program are served. I believe the FCC will need to continue to evaluate processes like this in order to determine if there are additional steps the agency can take to update its practices and alleviate the challenges manufacturers may experience due to supply chain challenges.

Question 3. As the wireless industry is actively building and deploying 5G connectivity across the country, I'm interested in your thoughts on new rules for terrestrial spectrum licensees that operate in the 12 GHz band. I believe the Commission should continue to explore as many feasible options as possible for transitioning to 5G to keep the U.S. internationally competitive. Will you commit to move quickly to establish new 12 GHz rules if you find coexistence is possible between terrestrial and satellite users in the band?

Answer. I agree that the FCC should continue to explore as many options as possible to develop spectrum for new 5G wireless use. If confirmed, I commit to moving quickly to establish new 12 GHz rules should we determine coexistence without harmful interference among new 5G and incumbent users is feasible.

Question 4. In October 2020, a group of broadband providers petitioned the FCC to open a rulemaking on the A-CAM broadband program to increase the speeds the program requires to align them with the speeds required under the new Infrastructure law. It would also speed up the deployment timetables with the goal of bringing broadband more quickly to consumers in rural and remote areas of Tennessee. Will you commit to making it a priority to initiate a rulemaking proceeding to consider changes to the ACAM program that would enhance its ability to bring higher speed broadband to Americans living in rural high-cost areas rapidly?

Answer. The ACAM program provides model-based support to rate-of-return carriers in return for broadband deployment obligations. There have been two offers to rate-of-return carriers to participate in the program, which ends in 2028 for most electing carriers. Participating carriers receive approximately \$1.1 billion in support from the program annually.

On October 30, 2020, the ACAM Broadband Coalition, a coalition of providers that participate in the ACAM program, filed a petition for rulemaking seeking to extend the program until 2034, in return for enhanced obligations to provide higher speeds. Currently, the ACAM program requires 804,871 locations to be served at 25/3 Mbps speeds, 165,725 locations to be served at 10/1 Mbps, and 50,227 locations to be served at 4/1 Mbps speeds. The ACAM Broadband Coalition's petition for rulemaking proposes that in exchange for six additional years of support, at a cost to the Universal Service Fund of approximately \$6.6 billion, participants in the ACAM program will serve 605,373 locations at 100/25 Mbps, 300,074 locations at 25/3 Mbps, and 115,376 locations at 10/1 Mbps. The FCC sought comment on the petition for rulemaking on November 4, 2020. Multiple parties filed comments in response. Recently, the Infrastructure Investment and Jobs Act became law, providing a significant infusion of funds for broadband deployment and generally requiring deployment at speeds of 100/20 Mbps. FCC staff currently are evaluating the petition for rulemaking in light of the record and other recent developments, including the passage of the Infrastructure Investment and Jobs Act.

Question 5. When we spoke at your hearing about NTIA's role, you mentioned the possibility of revising the memorandum of understanding between the NTIA and FCC including with regard to "what harmful interference looks like." Could you please clarify what you mean about a possible update to what harmful interference looks like?

Answer. The Memorandum of Understanding governing the interagency coordination processes between NTIA and FCC on spectrum matters is nearly 20 years old. Some have suggested that it may be time to revisit and revise the MOU. I agree this is a good idea.

While there are various aspects that might be fit for consideration in the context of updating the MOU, one idea might be to commit the agencies to working together to develop mutually agreed methodologies, metrics, and best practices to assess the potential for, and address concerns related to, possible harmful interference. In recent years, many of the spectrum policy controversies in the United States have involved whether a proposed technology or service will cause “harmful interference” to existing spectrum users. Resolving these issues can take time and require careful assessment of the airwaves at issue and incumbent use. I believe that progress clarifying what constitutes harmful interference would be helpful for both spectrum incumbents and wireless innovators by reducing existing regulatory uncertainties. This effort could be led by a working group leveraging the technical expertise of the two agencies, including the engineers at the FCC and technical experts at NTIA’s Institute for Telecommunication Sciences.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MIKE LEE TO
HON. JESSICA ROSENWORCEL

Question 1. I have a bill called the Government Spectrum Valuation Act (S. 553), which would require the NTIA (in consultation with the FCC and OMB) to conduct a market valuation of government spectrum allocations. The goal is to assess the “opportunity cost” associated with Federal spectrum. You have expressed support for my efforts in this space in the past. Do you still support my Government Spectrum Valuation Act? What other actions should the FCC take to “replenish” our depleted commercial spectrum pipeline as well as get the data needed to identify new bands for reallocation?

Answer. Yes, I support the Government Spectrum Valuation Act. Federal authorities have substantial spectrum assignments. After all, critical missions throughout the government are dependent on access to our airwaves. Nonetheless, we are on a hunt for new opportunities for commercial spectrum. I believe part of that effort will require taking a fresh look at Federal uses, and that developing a valuation of Federal spectrum could help facilitate repurposing of these airwaves for modern use. For example, we could use this information to build structural incentives for repurposing, so that our Federal colleagues see gain and not just loss from reallocation.

There are other actions we can take to ensure a robust spectrum pipeline going forward. For one thing, I believe that it is important that we explore new models for federal-commercial information sharing, cooperation, and collaboration. This requires a whole-of-government approach to spectrum policy that treats spectrum innovation in the United States as it should be treated: in strategic terms that ensure we identify creative ways to remain the global leader in technology-driven innovation.

For another, I believe that we need to embrace the range of new wireless access technologies available. This requires recognizing that traditionally our system of spectrum access has had a binary quality. Either it is licensed or unlicensed, Federal or non-federal. But this duality is not the result of physics. It is the result of an intentional set of policy choices that can create scarcity when there are other choices we can make to facilitate abundance. To understand how, it is instructive to consider the model the FCC created in the 3.5 GHz band several years ago. Here the agency took 150 megahertz of spectrum and opened it up to a mix of government, licensed, and unlicensed uses. It did this by proposing a spectrum access database to dynamically manage the different kinds of wireless traffic using these airwaves. This multi-tiered approach to spectrum access was not just unprecedented—it was creative, efficient, and forward looking. Today this band accommodates important government radar operations that protect our safety while also making much-needed mid-band spectrum available to advance our wireless leadership. These kinds of creative efforts should continue to be developed as the FCC works to accommodate public and non-public demands on our airwaves.

Question 2. Regarding spectrum coordination, the FCC and the NTIA have operated under an MOU that is the main mechanism for coordination of spectrum management decisions. Is the existing MOU’s framework sufficient for today’s spectrum coordination between the FCC and NTIA? Do you think the MOU needs to be updated? If so, how?

Answer. The Memorandum of Understanding governing the interagency coordination processes between NTIA and FCC on spectrum matters is nearly 20 years old. Some have suggested that it may be time to revisit and revise the MOU. I agree this is a good idea.

While there are various aspects that might be fit for consideration in the context of updating the MOU, one idea might be to commit the agencies to working together to develop mutually agreed methodologies, metrics, and best practices to assess the potential for, and address concerns related to, possible harmful interference. In recent years, many of the spectrum policy controversies in the United States have involved whether a proposed technology or service will cause “harmful interference” to existing spectrum users. Resolving these issues can take time and require careful assessment of the airwaves at issue and incumbent use. I believe that progress clarifying what constitutes harmful interference would be helpful for both spectrum incumbents and wireless innovators by reducing existing regulatory uncertainties. This effort could be led by a working group leveraging the technical expertise of the two agencies, including the engineers at the FCC and technical experts at NTIA’s Institute for Telecommunication Sciences.

Question 3. In your view is the Interdepartment Radio Advisory Committee (IRAC) operating efficiently? In your view, is there room for improvement in the IRAC process? If so, how?

Answer. The NTIA’s Interdepartment Radio Advisory Committee is comprised of various executive agencies that assist NTIA in performing its duties of assigning frequencies to United States government radio stations and developing and executing policies, programs, procedures, and technical criteria pertaining to the allocation, management, and use of the electromagnetic spectrum. While FCC is a liaison to the IRAC, it is not a member. One of the primary ways the FCC engages with the IRAC is in the context of formal coordination of spectrum management activities pursuant to the FCC’s Memorandum of Understanding with NTIA. As I noted above, I believe that it may be time to revisit and revise this MOU to improve coordination between the FCC and NTIA.

Question 4. Do you have any concerns about Chinese influence at the International Telecommunication Union (ITU)? Does China’s influence at the ITU have implications for the Chinese setting global standards for telecommunications? As Chair of the FCC, what priorities do you have to prevent Chinese control of the ITU?

Answer. Standards setting organizations like the International Telecommunication Union play a significant role shaping the future of technologies like 5G. That means it is in our national interest to ensure that these organizations operate in a fair, impartial, balanced, and consensus-based manner and in accordance with fundamental rules of due process.

I share your concerns about reports that some foreign governments, including the People’s Republic of China, may seek to use the standardization process at the ITU to increase their share of emerging global 5G standards and extend their influence into 6G and beyond. In practice this may mean governments providing funding to companies to help them submit technical contributions to increase participation in the standardization decision-making process. It may also entail directing those companies to vote with others as a block.

At the FCC, I believe we need to work closely with our allies on setting the technology standards of the future. To this end, I am making the FCC’s participation in standards setting organizations a priority. Earlier this year, I announced that the FCC has increased the number of our staff dedicated to standards development issues by roughly 50 percent. I believe it is imperative that the United States government invest the resources necessary to lead in these processes because when we do, we can lead the world by example, encourage innovation at international scale, and support the democratizing possibilities of access to modern communications.

I also believe that we need to start preparing for 6G and beyond. To do that, I believe we should take a page from the 2019 National Defense Authorization Act, which set up a “Project Solarium” on cybersecurity. That effort resulted in more than 80 recommendations on how to overhaul the Nation’s approach to cybersecurity. Twenty-five of them have been signed into law, and dozens more are on track to be implemented. A 6G Solarium would help bring together government, business, the non-profit sector, and the rest of civil society and the public to chart a new course toward wireless leadership. It would help us be much more coordinated and pulling in the same direction toward clear, consistent goals. That way, we can pursue policymaking that works. To start this effort, in July, I announced that the FCC will re-establish its Technology Advisory Council and charge it with looking beyond 5G and conceptualizing 6G—to help set the stage for our leadership.

Finally, I am working closely with the Department of State and other agencies to promote the candidacy of Doreen Bogdan-Martin to be the next Secretary-General of the ITU. Ms. Bogdan-Martin is a proven leader who is well regarded around the world. Her election and leadership from the United States will send a powerful mes-

sage that the ITU will operate fairly and in a manner that is accountable to all of its members.

Question 5. It's no secret that you supported the 2015 "Net Neutrality" requirements. And it's no secret that I oppose reinstating the Title II classification of broadband. As Chair, will you be moving to reinstate the Title II classification of broadband?

- In your view, did the 2015 "Net Neutrality" Rule go far enough? If you bring the classification back, would you go further than the 2015 rule?
- Does the Title II classification include supporting the rate regulation of broadband? What about requiring minimum or basic tier affordable broadband plans for low-income individuals?
- How would you go about determining whether the FCC should "forbear" a rule from taking effect? And how would you approach this in the "net neutrality context"?
- "Net Neutrality" has been a "ping-pong" action as of late with the imposition of Title II classification dependent on who controls the White House. Congress has and continues to actively debate "net neutrality" legislation. Shouldn't the FCC wait for Congress to act on "Net Neutrality" legislation before the FCC takes any action?

Answer. I voted to support the decision in 2015 to adopt net neutrality rules. As I testified, I continue to support net neutrality rules and I continue to believe, based on court precedent, that Title II is at the foundation of legally sustainable net neutrality rules. I believe that any effort to reinstate the Title II classification of broadband Internet access service would require a new rulemaking under the Administrative Procedure Act. Such a rulemaking would provide the basis to develop an updated public record on open Internet policies, which must inform the agency as it proceeds. I believe this is especially important in light of changes since the initial 2015 decision in technology, state law, and consumer usage.

With regard to rate regulation, I voted to support the decision in 2015 to adopt net neutrality rules. That decision stated that it "expressly eschew[s] future use of prescriptive, industry-wide rate regulation." I supported this approach in the past and would do so again in the future. However, under section 254 of the Communications Act, the agency is required to ensure that eligible telecommunications carriers that receive high-cost support from the Universal Service Fund charge rates for broadband service that are "reasonably comparable to rates charged for similar services in urban areas." To determine the rates charged for fixed broadband services in urban areas, the FCC conducts an annual Urban Rate Survey. Eligible telecommunications carriers that receive high-cost support from the Universal Service Fund must offer broadband service at rates that are at or below the relevant comparability benchmark based on the Urban Rate Survey or may be subject to reductions in support.

Section 10 of the Communications Act provides that the FCC "shall" forbear from applying any provision of the law or its rules with respect to telecommunications carriers or telecommunications services if the FCC determines that enforcement of the provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory; enforcement of the provision is not necessary for the protection of consumers; and forbearance is in the public interest. In 2015, in the same order establishing net neutrality rules, the FCC exercised this forbearance authority to forbear from 27 provisions of Title II of the Communications Act and over 700 agency regulations for broadband and broadband providers. I supported this approach with respect to forbearance in 2015 and would do so again in the future.

As I testified, I would faithfully implement any congressional directive as to net neutrality or any other subject. That being said, I voted to support the FCC's decision to adopt net neutrality rules in 2015, a decision that was upheld by the D.C. Circuit, and believe that the FCC continues to have the authority to adopt net neutrality rules.

Question 6. Our current video marketplace is governed by Title VI of the Communications Act and it dates mostly back to laws that Congress passed in 1992. But technology has changed since 1992 and the wire that used to just bring video now also brings broadband to American households. Should Title VI be modernized to reflect current technologies? Is there a relationship between effective broadband deployment to urban and rural areas with Title VI reform?

Answer. Yes. Many of the laws governing our video marketplace are from decades ago, including Title VI of the Communications Act. While the underlying values

that are in the statute remain valid, updating it to reflect the current state of video is prudent. However, because broadband is not a Title VI service, updates would not necessarily directly affect broadband deployment.

Question 7. Conducting cost-benefit analyses for proposed regulations has been a practice undertaken by agencies under both Democrat and Republican Administrations. Please explain your views on the use of cost-benefit analysis when considering proposed regulations. Should all FCC regulations be considered with a cost-benefit analysis? If regulatory costs outweigh the benefits, should that be a determining factor that prevents the FCC from moving forward with a proposed regulation?

Answer. I agree that conducting cost-benefit analysis has been a practice of Democratic and Republican Administrations alike. Moreover, this practice has been the subject of executive orders over the course of the last several decades. While the FCC is an independent agency, it has adopted a requirement in its rules for its Office of Economics and Analytics to prepare “a rigorous, economically-grounded cost-benefit analysis for every rulemaking deemed to have an annual effect on the economy of \$100 million or more.” I support this approach. Nonetheless, I recognize that at the same time the agency will need to take into account other legal obligations it has, like those outlined in the Communications Act supporting universal service in rural, insular, and high-cost areas and expanding access to underserved communities under the Twenty-First Century Communications and Video Accessibility Act.

Question 8. Should agencies exercise only power that Congress expressly gives? Absent that “express delegation” should agencies exercise restraint in rulemaking or is allegedly ambiguous language an opportunity for rulemaking?

- Regulations that are highly prescriptive can create a higher regulatory compliance burden, which hits harder on smaller companies with fewer resources. What is your opinion on the relationship between rules and the ability for market incumbents to use rules to insulate themselves from competition?

Answer. I believe that there should be a firm connection between an agency’s rules and its statutory authority. I also recognize that Congress as a practical matter cannot specify every circumstance in which a statute might apply. For this reason, agencies may need to rely on their subject matter expertise to reasonably interpret ambiguous statutory language and adopt rules on the basis of that interpretation. However, and above all, I believe an agency cannot act in the face of clearly expressed contrary intent.

I agree that regulators need to understand the relationship between regulation and its impact on entrepreneurship and economic growth. To this end, I recognize that our economy thrives on competition. Over history, it has inspired innovation, increased consumer choice, and improved our resourcefulness and efficiency. It is the reason the United States is the home of some of the most dynamic companies in the world. I believe that the FCC must tailor its actions to promote competition and not insulate incumbents from competitive forces. I also believe the FCC must recognize how regulatory changes may affect smaller companies with fewer resources and ensure that it considers this when it does its work under the law.

Question 9. Section 706 of the Telecommunication Act of 1996 requires the FCC to do an annual notice of inquiry regarding the reasonable and timely deployment of advanced telecommunications capability to all Americans. What does “advanced telecommunications capability” mean to you? What does “reasonable and timely fashion” mean to you?

- If the FCC determines that there isn’t “advanced telecommunications capability being deployed to all Americans,” the Commission is authorized to take “immediate action to accelerate deployment of such capability.” Are there any limits to the authorities that the FCC can exercise under this section? If so, what are they?

Answer. Section 706 of the Telecommunications Act of 1996 defines “advanced telecommunications capability” as “high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology.” The FCC has consistently, for the purposes of its annual notice of inquiry and report pursuant to Section 706 of the Telecommunications Act, defined “advanced telecommunications capability” as an evolving standard of what constitutes broadband. The decision to do so is consistent with other aspects of communications law, including Section 254 of the Communications Act, which details the services eligible for universal service support and defines them as an “evolving level of telecommunications services.”

The speed benchmark for “advanced telecommunications capability” or broadband that has been used by the agency since 2015 is 25 megabits per second download and 3 megabits per second upload.

I have consistently pushed the FCC to be more forward-looking with its broadband speed standard and have dissented several times when the FCC decided to maintain the 25/3 Mbps threshold. I believe we need to set audacious goals if we want to do big things. With the Infrastructure Investment and Jobs Act generally requiring projects to meet a 100/20 Mbps threshold for funding and providers rolling out higher speeds across the country, I believe we need to think bigger. I have previously called for raising the download speed to at least 100 Mbps and rethinking our approach to upload speeds, and my views have not changed.

The pandemic shined a spotlight on how important broadband is for all of us and also showed how far we still are from connecting everyone. I believe that we need to connect 100 percent of our people to broadband. In passing the 2021 Infrastructure Investment and Jobs Act, Congress made clear that our mandate under Section 706 is to deliver broadband to everyone in this country, referring to Section 706 as containing “the statutorily mandated goals of universal service for advanced telecommunications capability.” In my view, the “reasonable and timely fashion” language is included in Section 706 to make evident that ensuring universal broadband coverage is not merely an aspirational goal for the FCC, it is a mandate for action and Section 706 requires the FCC to regularly examine how well we are doing in achieving that mandate.

The FCC has previously found that Section 706(b) constitutes a grant of regulatory authority to accelerate broadband deployment, a conclusion upheld by the D.C. Circuit in 2014 in *Verizon v. FCC*. As the D.C. Circuit found in that case, to the extent that the agency exercises its authority under Section 706(b), such authority is limited by the FCC’s subject matter jurisdiction, including other limitations within the Communications Act, and by the requirement that any regulation be tailored to the specific statutory goal of accelerating broadband deployment.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. RON JOHNSON TO
HON. JESSICA ROSENWORCEL

Question 1. During your opening statement you said you want to “make sure 100 percent of this country has access to fast and affordable and reliable broadband.” In the two years after the FCC 2015 rules, broadband investment dropped more than 5 percent and over 80 percent of wireless providers in rural areas incurred additional expenses.

- How does reclassifying the Internet as a utility under Title II support your goals of fast, affordable and reliable broadband?
- How will such reclassification affect investment in rural areas?

Answer. America’s Internet economy is the envy of the world because it is built on a foundation of openness. The principles of net neutrality are fundamental to that openness and helped create investment on the edges of the network, which network operators responded to by building networks that allow consumers to access the services of their choosing. I believe that returning to that successful framework is the strongest foundation for broader investment in the Internet economy.

I also believe that the hands-off policies of the past have left rural areas behind. In too many remote communities in this country, broadband service is not available. Reducing the oversight of the FCC over broadband service has not accelerated deployment in these areas. Moreover, it has made the FCC’s universal service programs pursuant to its authority under Section 254 of the Communications Act to assist with broadband deployment more legally tenuous because the statute itself defines universal service as an “evolving level of telecommunications service,” which is itself a Title II service.

In the end, I hope we can agree that we do need to get 100 percent of us connected to broadband because it is essential for modern life. This infrastructure effort has a clear historical precedent in the effort to ensure rural electrification a century ago. I am mindful that the effort to do this was not one that involved the deregulated private sector acting strictly on its own, but instead featured cooperatives along with publicly owned companies. I think this effort in the past is instructive and it should inform our work today.

Question 2. When the FCC replaced the heavy-handed Open Internet Order with the light-touch Restoring Internet Freedom Order in 2017, the move did not “end the Internet as we know it,” as some feared. Has the Internet been less free and open since the Open Internet Order was replaced with the Restoring Internet Freedom Order in 2017? If so, how?

Answer. I believe that there were negative consequences that followed from the decision of the FCC to repeal its net neutrality rules and reduce its oversight of

broadband service. As a result of the repeal, the FCC lacked authority to intervene when firefighters in California found their service throttled when they were responding to wildfires. In fact, in its remand of the FCC's decision, the D.C. Circuit found the agency's "disregard of its duty to analyze the impact of the 2018 Order on public safety renders its decision arbitrary and capricious."

In addition, there are stories of small providers that have faced higher pole attachment rates in the wake of the FCC's decision. For example, according to one filing in the FCC record, two wireless Internet service providers had to slow or halt the deployment of fiber on poles because pole owners charged higher rates or refused to negotiate with them when broadband was no longer classified as a telecommunications service.

Meanwhile, academic research led by Northeastern University Professor David Choffnes reviewed crowdsourced data from the Wehe app and found that for mobile Internet service providers in the United States, "we don't see evidence of Internet service providers throttling only when the network is busy; as far as we can tell, it's 24/7, and everywhere." Professor Choffnes noted that this throttling created a "slippery slope," because "[t]oday it's video, but what is it going to be tomorrow? When Internet service providers decide to take control and make decisions on behalf of consumers and/or content providers, what's going to be the fallout for those decisions? Is it actually in everyone's best interests?"

It is important to note that the above has been observed during a period when litigation over the topic of net neutrality has been ongoing and some states have had their own laws and regulations in place governing these matters. For example, California, Colorado, Maine, Oregon, Vermont, and Washington have passed state net neutrality laws while Hawaii, Montana, New Jersey, New York, and Rhode Island have put in place net neutrality contracting requirements. Meanwhile, in other states, legislation has been proposed over the past several years. As a result, Internet service providers may have been cautious about their business practices during the time following the FCC decision to roll back its open Internet policies. Finally, I should note that one consequence of the FCC's decision to relinquish its oversight over broadband is that the agency has less visibility into what is happening with broadband networks at a time when they are more important in our lives than ever before.

Question 3. Will you commit to ensuring the FCC does not factor political content or viewpoints when issuing licenses, making regulatory decisions, or approving mergers and acquisitions?

Answer. Yes.

Question 4. Will you commit to ensuring the continued independence of the FCC?

Answer. Yes.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. SHELLEY MOORE CAPITO TO
HON. JESSICA ROSENWORCEL

Question 1. You state in your testimony that we need to make sure that 100 percent of the country has access to fast, affordable, and reliable broadband. As the floor manager of the infrastructure bill that was just signed into law, it looks like we are going to get a significant amount of money in my home state of West Virginia for broadband. How do we speed up deployment in my state to hit 100 percent?

Answer. Getting to broadband to 100 percent of us—everyone, everywhere—will take an all hands on deck approach, and if confirmed, I look forward to working with you to reach that goal.

One of the most important things that we have to get right is mapping. You simply can't speed deployment to unserved areas when you don't know with precision what is truly unserved.

For this reason, from the start of my tenure as Acting Chairwoman, I have prioritized mapping, by creating a Broadband Data Task Force to coordinate and expedite the design and construction of new systems for collecting and verifying new broadband deployment data, known as the Broadband Data Collection. The Broadband Data Collection is designed to create—for the first time—a standardized, data-based, and publicly accessible nationwide map of locations where broadband is truly available throughout the United States. But the maps will not be based solely on data from broadband service providers. Other Federal agencies, state, local, and Tribal governmental entities, and consumers will all contribute information and data to help refine and validate the maps. If confirmed, I look forward to working with you and your constituents to get this right because that is how we will figure out where we need to target funds in West Virginia and nationwide.

Another important piece of the puzzle is building out networks that connect everyone. Thanks in part to your work, the Infrastructure Investment and Jobs Act will provide billions to connect currently unserved areas with high-speed quality broadband. This is a generational investment in broadband that can connect millions of people who currently lack access.

It is vitally important that the programs funded under the Infrastructure Investment and Jobs Act, including the Broadband Equity, Access, and Deployment Program, which will provide \$42.5 billion in grants to states, are coordinated with existing programs, including the FCC's Rural Digital Opportunity Fund and Alternative Connect America Model and the Department of Agriculture's Rural Utilities Service's programs. That's why on June 25, 2021, the FCC, NTIA and USDA entered into an Interagency Agreement that specifically "require[s] coordination... for the distribution of funds for broadband deployment." As a result, the FCC, NTIA, and RUS share information on a regular basis about our respective funding programs, including the entities seeking and receiving funding to provide service in a given area the speed and technology funded, and the terms and conditions of the funding under the law. In addition, the Department of Treasury has sought FCC input for the purposes of implementing the Coronavirus State and Local Fiscal Recovery Fund and the Coronavirus Capital Projects Fund. FCC staff also has engaged with representatives of the Department of Treasury, both separately and alongside NTIA and RUS representatives, to share information and insight on programs and identify coordination opportunities. I believe it is essential to make sure that all of these programs, consistent with the law, operate in a complementary manner. At the same time, it is essential that those responsible for these programs—including the FCC—coordinate to ensure funding is directed to areas without adequate service and avoid unnecessary duplication. If confirmed, I pledge to have the FCC work with its Federal partners to do so.

Finally, we can't forget that deployment is not sufficient if people can't afford it. That's why Congress created the Emergency Broadband Benefit Program and less than a year later, created the Affordable Connectivity Program in the Infrastructure Investment and Jobs Act. The Affordable Connectivity Program will provide qualifying low-income households a \$30 subsidy towards the monthly cost of a broadband plan, and households on Tribal lands or in high-cost areas can qualify for a \$75 per month subsidy. The FCC is hard at work preparing for the upcoming December 31, 2021 transition to the Affordable Connectivity Program. If confirmed, I look forward to developing outreach efforts so that this program is available for those who need it most.

Question 2. What is the FCC doing to make sure recipients of Universal Service Fund (USF) support are qualified and are deserving of the funding they receive?

Answer. Many recipients of high-cost funding from the Universal Service Fund receive 10 years of support, including bidders authorized to receive Rural Digital Opportunity Fund support. That is why it is so important to make sure they are qualified for the funding they receive. The FCC staff have put significant effort into ensuring that carriers seeking support from RDOF are capable of providing service before any funding goes out the door.

Under the Communications Act, states have the primary responsibility to designate carriers in their state as eligible for universal service funding. The process for receiving this designation, known as Eligible Telecommunications Carrier status, is different in different states but generally operates under a public interest standard. The FCC cannot provide a carrier high-cost support until it has received an ETC designation. However, if a state declines jurisdiction, the FCC may designate carriers as ETCs.

For the RDOF Phase I auction winning bidders, once a carrier has been designated as an ETC, the FCC must review and approve a long-form application that is submitted to the agency. I have directed staff to conduct a searching technical, financial, and legal review of each of the long-form applicants, because we want to make sure that applicants are qualified before we commit to paying them for 10 years to deploy broadband. More than 50 staff from across the agency, including engineers, financial analysts, and attorneys have been working on the program, combing through network diagrams and financial statements to doublecheck qualifications of winning bidders in the auction. On top of this, before the FCC starts actual writing checks to the provider, they must receive a letter of credit and a bankruptcy opinion letter, so that if the provider goes out of business, the FCC can recover the lost support from the financial institution that issued the letter of credit.

However, accountability measures do not end when funding begins. In RDOF, carriers must meet interim and final deployment milestones and report the locations that they have deployed to in the public High Cost Universal Broadband database. In addition, staff will verify that the carriers are actually serving the locations they

claim to serve, through audits and other accountability measures. If the provider fails to meet their interim deployment obligations, the FCC withholds an increasing amount of support depending on how far they are out of compliance. If a provider fails to meet final deployment obligations, they must pay the Universal Service Fund back approximately twice the amount they received for the location, to ensure that they face consequences for failed deployment. I believe these accountability measures are important and going forward they should be a feature of similar Universal Service Fund efforts.

Question 3. Big tech makes a lot of money off advertising over broadband networks. What are your thoughts on requiring them to help pay for the deployment of high-speed broadband?

Answer. Congress established the Universal Service Fund in the Telecommunications Act of 1996. As I testified, the idea then was that a fee on consumer long distance phone bills would help support the upkeep of communications networks designed for voice services throughout the country. A lot has changed since that time. As our networks and the ways we communicate have changed, the high-cost Universal Service Fund has evolved well beyond support for voice services and analog-era communications. It now also supports broadband in rural areas. This makes sense given that it is the most important communications infrastructure of our time. However, it also would make sense for Congress to take a fresh look at the system to reflect the changes of the last quarter of a century. With respect to the contribution mechanism, I believe that the idea of assessing major technology companies as you suggest is intriguing, though it would likely require a statutory change. If confirmed, I would be willing to work with you and others in the Congress on this or other proposals to update our system for universal service.

Question 4. What is the status of updating the FCC Broadband maps? Once completed, how do we keep them up to date?

Answer. I believe the FCC needs accurate information about where broadband service is and is not available across the country. With better data and more precise maps we can target our policymaking efforts and financial resources, including the FCC's universal service funding and the funding included in the recently enacted Infrastructure Investment and Jobs Act, to those unserved and underserved communities where support is needed most.

As you know, the Broadband DATA Act was signed into law in March of 2020 and directs the FCC to improve its mapping efforts. Then, in December of 2020, Congress provided the FCC with an appropriation to help fund implementation of this law.

As a result, in my first meeting as Acting Chairwoman, I announced the formation of the Broadband Data Task Force. This group was designed to help coordinate and expedite the design and construction of new systems for collecting and verifying new broadband deployment data. While it was made clear that we had an enormous amount of work to do, I am pleased to report that we have made significant progress since January.

The FCC has stood up the data architecture and systems required for the receipt of broadband data from a wide variety of sources and has completed several aspects of the data collection system design. This is important because when I took the reins at the agency these systems were not in place and having them is a prerequisite for developing the kinds of data collection and mapping required under the Broadband DATA Act.

In addition, the FCC has awarded a competitively bid contract to create and maintain the Broadband Serviceable Location Fabric, which is the foundation for its mapping efforts. The Fabric was specifically required in the Broadband DATA Act. The law also specifically required that the FCC procure the Fabric through the traditional Federal government contracting process. This has presented a challenge because, while the agency has awarded the contract, another bidder has protested at the GAO. As a result, the contract is stayed while the GAO has a 100-day period to review the process.

While this effort is underway at the GAO, the agency has worked on other efforts to support the Broadband DATA Act and its objectives. This includes writing the rules for the challenge and verification processes required under the law and working to update the FCC Speed Test App contract so that it can be more broadly used by consumers to support mobile challenges and data gathering through crowd-sourcing. The agency also is moving forward with procurements to implement the technical assistance functions for providers, state, local, and Tribal governments, and consumers.

As to the precise timing of our collection and release of maps, we have many workstreams in motion to make that happen as quickly as possible. However, as

noted above, the ongoing GAO review of the protest associated with the procurement of the Fabric makes identifying a precise date difficult. Nonetheless, we are building and testing the new systems we have and finalizing data specifications and challenge procedures. To this end, the FCC will shortly open its next Form 477 data filing window, which will be the last submission under the current data collection paradigm without carriers having access to the Fabric. However, as soon as the Fabric is compiled by the vendor and reviewed by FCC staff, the agency will release a public notice providing details on implementation of the Fabric and share the geocoded location data with broadband providers so their fixed broadband availability data can be easily ingested into our updated broadband data collection. At the same time, the agency will provide information regarding the process for FCC review and approval of third-party speed test applications for use in the mobile challenge process and will complete development and testing of the challenge and crowdsourced data collection components.

The maps that the agency eventually develops will ultimately be kept up to date through the biannual filing process for carriers—and related challenge processes—contemplated in the Broadband DATA Act. I believe it is essential that the FCC do our work now carefully so that the agency has a strong platform on which to evolve and iterate the maps it develops.

While planning for all this work has been underway, the FCC has worked with a number of broadband providers to test our systems and develop a prototype for improved mapping at the agency. As part of this effort, on August 6, 2021, the FCC released new 4G LTE wireless coverage maps based on the new updated parameters, using data submitted voluntarily by AT&T Mobility, T-Mobile, U.S. Cellular, and Verizon Wireless. This resulted in a public map that shows, for the first time, nationwide 4G LTE mobile coverage according to the updated parameters that were uniformly used by every carrier submitting data. This map is now available at www.fcc.gov/BroadbandData/MobileMaps.

If confirmed, I pledge to keep you—and my colleagues at the agency—apprised of further efforts to implement the Broadband DATA Act and further develop the mapping the law contemplates.

Question 5. Unlicensed and shared spectrum are crucial to advancing innovation and entrepreneurship. What's next from your perspective in supporting innovation in unlicensed and shared bands?

Answer. I agree that unlicensed and shared spectrum are crucial for advancing innovation and entrepreneurship. By some recent estimates, unlicensed spectrum has added more than \$500 billion to the economy annually and as much as \$2 trillion globally. It has democratized Internet access, helped carriers manage their networks, and fostered all kinds of innovation. In fact, it is the perfect sandbox for experimentation, because access does not require contract or permission.

As exciting as this is, it means these airwaves are getting crowded. Already our current Wi-Fi bands are congested because they are used by more than 9 billion devices. By the end of this decade, we will see billions more devices connecting to our networks through the Internet of things. It is clear that we are going to need a significant swath of unlicensed spectrum to keep up with demand.

We are making progress. Last year, the FCC opened the 6 GHz band for expanded Wi-Fi use. In some cases, our rules require new Wi-Fi devices to protect existing spectrum users by employing an automated frequency coordination system. In September, the FCC adopted a public notice to begin the process for authorizing these AFC systems. The window for submitting applications for authorization as an AFC system is open now, with initial proposals due by November 30, 2021. These proposals will be open for public comment and then, if conditionally approved, will be open for a public trial period to provide parties an opportunity to check the accuracy of the system. Authorizing AFC systems will be a big step toward enabling the deployment of 6 GHz devices around the country in a way that opens up the benefits of this new unlicensed frequency band for consumers while also ensuring protection of incumbents.

In addition, we are continuing to explore opportunities to increase the spectrum resources we devote to Wi-Fi. To this end, the FCC has pending further rulemakings involving the 5.9 GHz and 6 GHz bands seeking comment on the potential for further unlicensed use.

Finally, to advance innovation and entrepreneurship through spectrum policy, I believe we need to embrace the range of new wireless access technologies available, including through spectrum sharing. To understand how, it is instructive to consider the model the FCC created in the 3.5 GHz band several years ago. Here the agency took 150 megahertz of spectrum and opened it up to a mix of government, licensed, and unlicensed uses. It did this by proposing a spectrum access database to dynamically manage the different kinds of wireless traffic using these airwaves. This multi-

tiered approach to spectrum access was not just unprecedented—it was creative, efficient, and forward looking. Today this band accommodates important government radar operations that protect our safety while also making much-needed mid-band spectrum available to advance our wireless leadership. If confirmed, I will seek out further opportunities for these kinds of creative efforts to promote innovation through efficient spectrum use.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. RICK SCOTT TO
HON. JESSICA ROSENWORCEL

Question 1. The FCC has authority over broadcast licenses. As a nominee for this bipartisan commission, do you believe the government has the authority to censor opinions?

Answer. No. FCC authority is limited by the First Amendment and Section 326 of the Communications Act.

Question 2. As Congress gives out billions in new funding to build out broadband through the FCC, how would you ensure that Federal taxpayer dollars spent on broadband buildout projects are protected from fraud, waste, and abuse?

Answer. While the Infrastructure Investment and Jobs Act does not direct broadband deployment funds to the FCC, the FCC's existing programs feature safeguards that might be instructive to help protect against fraud, waste and abuse.

For example, in the FCC's Rural Digital Opportunity Fund, carriers must meet interim and final deployment milestones and report the locations that they have deployed to in a public High Cost Universal Broadband database. FCC staff also verify that the carriers are actually serving the locations they claim to serve, through audits and testing of the speed and latency of their offerings. If the provider fails to meet their interim deployment obligations, the FCC withholds an increasing amount of support depending on how far they are out of compliance. If a provider fails to meet final deployment obligations, they must pay the Universal Service Fund back approximately twice the amount they received for the location, to ensure that they face consequences for failed deployment. I believe these accountability measures are important and if confirmed, I would be willing to further discuss them with your office and the NTIA, which will distribute the bulk of the broadband deployment funds under the Infrastructure Investment and Jobs Act.

Question 3. Do you support low earth orbit satellites as a technology to bridge the digital divide where other technologies may not reach? Do you believe that private investment in this technology will help reduce the need for the U.S. government to provide billions in taxpayer-funded broadband buildout?

Answer. I believe next-generation satellite technologies have the potential to help close the digital divide in unserved areas of the United States. Moreover, I think many of these services may be able to deploy more rapidly than terrestrial alternatives in hard-to-reach areas. The cost of customer premises equipment for these technologies, however, which is decreasing, may create challenges for adoption.

Recognizing the potential of these new constellations of satellites in low earth orbit to deliver Internet access, the FCC has worked to ensure the right conditions for these new technologies to succeed. In fact, the FCC's recent public notice announcing a new processing round in the V-band has garnered applications from nine constellations for more than 38,000 satellites. In light of this kind of interest, I believe this is an area where there will be further growth and opportunities to use this technology to serve many more places in the United States and worldwide.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. KYRSTEN SINEMA TO
ALVARO BEDOYA

Competition. As you know, in addition to its consumer protection mission, the Federal Trade Commission (FTC) also enforces antitrust law. This function protects Arizona families from anticompetitive practices that can result in higher prices and declining quality in goods and services.

Question 1. Please describe your experience with antitrust law and your competition priorities if you are confirmed for this role.

Answer. I am committed to rigorous enforcement of antitrust laws, and believe that robust competition is critical to innovation and flourishing of small business.

As a general matter, I am acutely concerned with the level of concentration in the technology sector, and, if confirmed, plan to make antitrust enforcement on Big Tech a top priority. As I indicated in my confirmation hearing, I am also deeply concerned with anti-competitive practices affecting small businesses across all sectors.

As chief counsel to Senator Al Franken (D.-Minn.) I helped advise the Senator on his oversight of the Comcast-NBC merger. As a privacy scholar at Georgetown Law, I have also become attuned to the privacy impacts of concentration in the tech sector. Many mergers and acquisitions in the tech sector create ever-larger pools of data.

Social Media. During the hearing, several committee members highlighted past statements you have posted or shared on social media and used those posts to ask whether you could serve as an unbiased, open-minded FTC commissioner.

Question 2. Given the posts highlighted by committee members during the hearing, are there any social media posts for which you would like to provide additional context? If so, please provide that context.

Answer. I appreciate the opportunity to address this. I left the Senate in August 2014. From that time until this day, I have been a private citizen, law professor, and policy advocate.

In those capacities, I have spoken out against statements and actions by elected officials and political candidates, typically in circumstances where institutions or people I cared about were being harmed. This harm was not hypothetical. For example, during the 2016 presidential campaign my wife and other Muslim family members often asked me if they would have to “register” with the government. My daughter and son have never met their living great-grandmother and dozens of other relatives as a result of the travel ban.

That said, looking back there are many instances in which I said or shared things that I regret today. What’s more, it could not be clearer to me that the role of commissioner is a law enforcement function that will require me to set aside all of my personal political beliefs and work across the aisle to protect American consumers and businesses.

Question 3. Do you believe your social media posts or other past public statements negatively impact your ability to serve as an unbiased, open-minded commissioner?

Answer. No. My bipartisan work as a Senate staffer, my research and advocacy at Georgetown Law, and statements of support from Republicans, including both Commissioner Noah Phillips and Commissioner Christine Wilson and various former Senate staff colleagues, speak to my commitment to impartiality and bipartisanship.

In the Senate, I worked across the aisle (1) to build a bipartisan coalition of Senators to press the FTC and the Department of Justice to investigate and prosecute stalking app developers; (2) with the office of Senator Mike Lee to protect small businesses in the 2013 comprehensive immigration reform bill; and (3) with the office of Senator Dean Heller to help negotiate and craft the transparency provisions that eventually became part of the USA FREEDOM Act.

At Georgetown Law, the Center on Privacy & Technology my team’s research on the Federal biometric exit program supported bipartisan oversight of Customs and Border Protection by Senators Ed Markey and Mike Lee. My team’s research on DHS face recognition searches of DMVs led to a bipartisan and bicameral oversight letter led by Senator Ron Johnson and Gary Peters.

If confirmed, I am committed to serving as an unbiased and impartial commissioner.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. GARY PETERS TO
ALVARO BEDOYA

Topic. Mr. Bedoya, in an Op Ed you wrote for the New York Times, you discussed the dangers of the improper use of personal data collected and distributed by Data Brokers. Specifically, you pointed out an instance where information from a data broker was used to defraud a 92-year-old Army Veteran and steal his life savings. My bill the Data Broker List Act would require Data Brokers to register with the Federal Trade Commission and provide information about the ways they use and share personal data.

Question. Mr. Bedoya, how would the Data Broker List Act help the Federal Trade Commission to protect Americans fraud and improper use of their personal data?

Answer. One of the key issues with data brokers is their ability to operate in an opaque manner. Another issue regards their ability to disclaim liability surrounding the downstream uses of the data they aggregate and sell. Two of the strengths of the Data Broker List Act lie in its requirement that data brokers register publicly, and in the bill’s prohibition on sale of data where the data broker has reason to know that such sale will result in stalking, fraud, or discrimination. Both of these

provisions are powerful steps forward in addressing the privacy and security concerns arising out of the data broker industry. If confirmed, I will look forward to working with you on this important issue.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. EDWARD MARKEY TO
ALVARO BEDOYA

Question. Made in USA. As a Commissioner on the Federal Trade Commission, how will you think about the “Made in the USA” labeling program and ensure that the FTC sufficiently balances the need to protect consumers against modern supply chain realities and the important policy goal of encouraging investment in U.S. manufacturing?

Answer. American consumers should be able to confidently buy products that are marked Made in the USA. If confirmed, I plan to continue the Commission’s long-term commitment to helping companies that create jobs in the United States promote the good work they do without deceiving consumers.

At the same time, in recognition of other agencies’ primary authority over origin labels for many products, particularly imported products, I will commit to communicating with other agencies and with you and other members of Congress to reduce confusion and maintain consistency.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. RICHARD BLUMENTHAL TO
ALVARO BEDOYA

Anticompetitive nature of pharmaceutical rebate walls. As a result of continued consolidation in the pharmaceutical industry, patients today face a number of hurdles in accessing innovative, affordable prescription drugs. In some circumstances, this access is foreclosed because of pharmaceutical “rebate walls”—a tactic that prevents healthcare plans from choosing the lowest cost and most efficacious drugs—leading to higher prices.

Question 1. If confirmed as FTC Commissioner, will you commit to supporting the full use of the FTC’s authorities to combat anticompetitive practices, including rebate walls, that limit patients’ choice and raise costs?

Answer. Yes, I do.

Question 2. If confirmed as FTC Commissioner, will you commit to engaging with the Center for Medicaid and Medicare Services, the Food and Drug Administration, and other relevant agencies to address rebate walls and other anticompetitive practices in health care?

Answer. Yes, I do.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ROGER WICKER TO
ALVARO BEDOYA

Question 1. Mr. Bedoya, do you support Congress developing comprehensive data privacy legislation that preempts state laws? Yes or no?

Answer. Yes. In an ideal world, Congress would develop and pass strong comprehensive data privacy legislation that would preempt state law. However, if the law were insufficiently strong, I would in turn support floor preemption.

Question 2. What would a strong data privacy law look like to you?

Answer. It is difficult to summarize in the abstract, but the following principles strike me as important. In my view, a strong data privacy law would:

- Not be technology-specific, anticipating future data streams and technologies, particularly with respect to biometrics;
- Include both consent-based collection restrictions and post-collection use restrictions;
- Include general fiduciary duties, such as a duty of loyalty; and
- Include provisions allowing for robust enforcement.

Question 3. Do you think consumers would be best served if all companies in the Internet ecosystem are subject to the same privacy requirements (*e.g.*, we should have the same rules for broadband providers, tech companies, advertisers, and retailers)? Why or why not?

Answer. I absolutely agree that ideally, all such companies would be subject to the same standard. The sectoral system has its strengths, but clarity and uniformity is not one of them.

Question 4. A study commissioned by the California Attorney General says that small businesses with fewer than 20 employees could incur up to \$50,000 in compliance costs for the CCPA. This is a cost that doesn't account for complying with other privacy laws. Do you believe that small businesses should be subject to a patchwork of state privacy laws? What protection would FTC rules give small businesses?

Answer. Ideally, all consumers and businesses would be subject to one uniform Internet privacy law rather than a patchwork of state laws; such a uniform law could include special provisions to address the needs of small businesses. Should the FTC use its authority under the Magnuson-Moss statutory framework to issue rules to address privacy violations, I would support provisions in that rulemaking to account for the specific needs of small business.

Question 5. Do you support the FTC developing privacy rules? Yes or no?

Answer. Yes. In an ideal world, the FTC would only issue such rules after passage of a bipartisan comprehensive privacy bill giving the FTC statute-specific rule-making authority.

However, as I indicated in my opening remarks at my confirmation hearing, I think that we are in a privacy crisis. Therefore, I support the FTC using its congressionally granted authority to issue rules to combat unfair or deceptive trade practices affecting privacy. Those rules are issued under notice and comment rulemaking, including consultation with the public, stakeholders, and members of Congress, are only issued when a majority of the Commission supports them, and are of course subject to judicial oversight.

Question 6. If the FTC were to promulgate privacy rules, should those rules preempt state privacy laws? Why or why not?

Answer. If the FTC were poised to issue strong privacy rules, I would support preemption. If the FTC rules would undermine important state protections, then I would in turn support floor preemption. (In our earlier conversation, I had been under the misimpression that such rules would be preemptive as a matter of default; I now understand that is not the case.)

Question 7. Do you think FTC privacy rules should be considered a substitute for Federal legislation? Why or why not?

Answer. No. It is imperative that Congress pass comprehensive privacy legislation. The FTC would only be able to issue privacy rules under its Magnuson-Moss rulemaking authority, which would reach only unfair or deceptive trade practices deemed to be "prevalent." This likely does not encompass the full range of privacy invasions Americans face today.

Question 8. Mr. Bedoya, the FTC has long been known as a bipartisan agency. However, prior to Commissioner Chopra's departure from the agency, there have been several 3-2 votes, the elimination of long-standing bipartisan policy statements at the Commission, and efforts to exclude minority commissioners from agency investigations. I am concerned about the growing politicization of the agency.

- What will you do to help restore bipartisanship to the Commission, if confirmed?
- Will you publicly commit to supporting a return to regular order at the FTC by restoring the FTC minority Commissioners' ability to approve and acquire information about new, Commission-led investigations? Yes or no?

Answer. I am excited at the opportunity to work with all Commissioners, regardless of party. I also cherish the Commission's reputation for bipartisanship, and recognize that it is strongest when operating in a bipartisan matter.

If confirmed, I commit to affirmatively look for areas in which I could work together with minority Commissioners and also commit to reach out to minority Commissioners to identify their process-related concerns and work to find a way to address them.

Question 9. Do you think the FTC has a role in overseeing the enforcement of Section 230 of the Communications Decency Act? If yes, what is the Commission's role? If not, why not?

Answer. The FTC does not "enforce" Section 230 of the Communications Decency Act, but I understand that it may affect the FTC's ability to combat deceptive and unfair practices under the FTC Act in some circumstances. I am also aware that there have been legislative proposals to reform Section 230. As a Commissioner, I would work closely with my colleagues, FTC staff, and members of Congress to identify ways in which Section 230 may be improved to better protect consumers and competition.

Question 10. Do you think content suppression by dominant online platforms— in the form of banning books, pushing down organic search results, or restricting apps on app stores—could meet the definition of an unfair practice under the FTC’s consumer protection unfairness policy test or competition unfairness principles? Why or why not?

Answer. I am acutely concerned with content suppression and manipulation by dominant online platforms. As a private citizen, I think it is a problem when one person or a handful of people effectively control the speech of hundreds of millions of people.

To constitute an unfair trade practice, a trade practice must (1) cause substantial injury to consumers that (2) is not outweighed by the benefits of that practice and (3) is not reasonably avoidable. This is a fact-specific analysis that will vary with the industry and the transaction in question; that said, I do not think it is implausible that content suppression or manipulation in particular contexts might conceivably constitute an unfair trade practice. In addition to these statutory factors, the FTC would need to assess whether the platform was exercising First Amendment-protected editorial control over the content it chooses to disseminate and whether the corporate statements were commercial speech.

Content suppression, for example manipulating search results to demote competitors, could constitute anticompetitive conduct that harms the competitive process. Content suppression conduct could take many forms and the analysis would require the consideration of a number of factors, depending on the conduct at issue.

Question 11. Prohibiting unfair methods of competition is an essential part of the FTC’s consumer protection mission. Could you please describe for the Committee your approach to competition policy and what experiences you will draw upon to address anticompetitive conduct in the marketplace, if confirmed?

Answer. I am committed to rigorous enforcement of antitrust laws, and believe that robust competition is critical to innovation and flourishing of small business.

As a general matter, I am acutely concerned with the level of concentration in the technology sector, and, if confirmed, plan to make antitrust enforcement on Big Tech a top priority. As I indicated in my confirmation hearing, I am also deeply concerned with anti-competitive practices affecting small businesses across all sectors.

As chief counsel to Senator Al Franken (D-Minn.) I helped advise the Senator on his work into the Comcast-NBC merger. As a privacy scholar at Georgetown Law, I have also become attuned to the privacy impacts of concentration in the tech sector. Many mergers and acquisitions in the tech sector create ever-larger pools of data.

Question 12. As you know, consumers and retailers are suffering this holiday season from supply chain disruptions that have reduced the stock of goods nationwide. There seems to be general agreement that the issues stem from carriers and terminal operations (such as empty container returns) and the lack of equipment (chassis), which are beyond the control of the retailer or cargo owner. Now the FTC plans to launch an investigation in which it will issue civil investigative demands (similar to subpoenas) to larger retailers, which appears on its face to be misdirected.

- How do you think the FTC’s proposed “6(b) study” on supply chain disruptions facing this country actually help fix the problem right now by reducing the shipping backlog, restoring supply chain efficiencies, and helping lower prices for consumers?
- If confirmed, will you investigate and report back to this Committee on the principal reason why the Commission is spending valuable taxpayer resources using, in my opinion, the wrong tool at the wrong time?
- In your view, why do you believe the FTC is taking this action at all?

Answer. I do not have an opinion on this study, particularly since the 6(b) requests have not been approved and are not yet finalized. That said, if confirmed, I do commit to investigate and report back to the Committee on what I learn, in line with any confidentiality restrictions that apply to me as Commissioner.

Question 13. In a recent report surveying individuals in the AI research field, 85 percent of respondents “expressed confidence that appropriate public policies could help accelerate private sector development of new materials, medicines, and other innovations derived from AI technology.” With Artificial Intelligence at the forefront of future innovation, what do you see as the FTC’s role in regulating Artificial Intelligence?

Answer. I envision the FTC as providing consumers and businesses with educational materials that inform them of the strengths and weaknesses of machine learning technologies. I also think it is imperative that the FTC have the technical expertise required to enforce its consumer protection and competition mission de-

spite the highly complex and occasionally opaque nature of machine learning-driven systems and technologies.

Question 14. The Federal Trade Commission has a vital role in stopping anti-competitive behavior. However, some members of the Commission have indicated that data can be a source of market power. AI requires large data sets, and the larger the data sets the better equipped AI is at avoiding unwanted bias. Further, companies make significant investment to gather data. How do you see the collection of data as a source of market power?

Answer. I have read that access to large pools of data—for example, a company holding an individual’s social “graph,” or social network—can serve as an effective barrier to entry to new competitors. That said, I have not systematically studied the interplay between data collection and market power or competition more generally.

Question 15. A survey by the Security Industry Association (SIA) in 2020 looked at societies’ view of facial recognition technology around public safety uses. That survey found that 66 percent of the public believe that law enforcement use of facial recognition is appropriate, and 57 percent were comfortable with its use in a database that includes their facial image. If society believes and has faith in the technology, do you think that government should still look to limit its use?

Answer. It is not clear from my review of the survey whether the 1,000 respondents were informed that face recognition searches typically occur without warrants and effectively in secret, or that people identified through these searches are rarely informed that they were found through the use of the technology. It would also appear, per the survey, that more than 4 in 10 adults are uncomfortable with the inclusion of their face in a law enforcement face recognition network.

That said, I do not believe that there is a one-size-fits-all approach to regulating police use of face recognition. For example, the Center on Privacy & Technology publicly supported Utah’s state law regulating police use of face recognition, which does not ban or require a warrant prior to use of the technology but rather limits its use to certain violent crimes, and requires notice to those affected. While we have supported more stringent standards in other states, my primary concern has been that taxpayers are not informed of these practices, and that they should be afforded the chance to decide what the rules of the road should be for the technology.

Of course, the FTC does not have jurisdiction over law enforcement. That said, if confirmed, if this issue does somehow present itself before the Commission in an indirect manner, I will commit to working with my colleagues, FTC staff, and members of Congress on this complex matter.

Question 16. A recent report found that 68 percent of respondents believed the Federal government should support the removal of subjectivity and personal bias from business processes through expanded use of AI and adoption of more robust standards and models. Do you agree that Artificial Intelligence can be used to reduce unwanted bias?

Answer. I agree that in theory that machine learning could be used in this way. At the same time, what I have learned is that many commercial vendors of machine technology make claims as to its neutrality without fully studying its differential performance across all sectors of society.

Question 17. Did you provide any assistance to the White House drafting the July Executive Order on Promoting Competition in the American Economy?

Answer. No, I did not.

Question 18. Do you commit to keeping the FTC independent and coming to decisions based on agency expertise and not White House requests or pressure?

Answer. Yes, I do.

Question 19. Do you believe that FTC Commissioners have the legal authority to cast votes that continue to count toward a Commission majority even after they have departed from the agency?

Answer. I certainly understand the concern with this practice. If confirmed, I will reach out to the Office of General Counsel to study this issue closely.

Question 20. Do you believe the Federal Trade Commission should provide more transparency into its proceedings by allowing the public to see orders on agency rules, guidance, and procedural changes several weeks before Commissioners vote on a matter?

Answer. In general, I support greater transparency at all government agencies, including the FTC.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JERRY MORAN TO
ALVARO BEDOYA

Question 1. Do you believe the FTC should pursue a comprehensive data privacy rulemaking, even though this is a matter currently under debate in Congress?

Answer. In an ideal world, the FTC would wait until Congress passed a comprehensive data privacy bill prior to engaging in rulemaking, and would do so pursuant to the authority granted in that bill. Unfortunately, I think we are in a privacy crisis, and that crisis necessitates using the existing authority granted under Magnuson-Moss to issue rules curbing prevalent unfair or deceptive trade practices touching upon privacy—a smaller subset of issues that could be addressed as compared to privacy legislation. If the FTC does in fact conduct that rulemaking, and if confirmed, I will confer closely with you and your staff on your priorities and viewpoints.

Question 2. The FTC is a traditionally bipartisan institution in which consensus on tough issues is sought and stakeholders heard from. Will you commit to work in a bipartisan manner with your Commission colleagues to better serve the interests of the American people, if you are confirmed?

Answer. Yes, absolutely.

Question 3. It has been reported that, prior to leaving, former-Commissioner Chopra e-mailed several votes that are still being used to decide two-two cases on the Commission. I don't think it makes sense to use votes cast by a former Commissioner on cases that are very closely decided. I also believe it furthers the partisan tensions that the Commission is currently experiencing. Do you agree that using a former Commissioner's votes to decide close cases may be contributing to the lack of bipartisanship on the Commission?

Answer. I certainly understand the concern with this practice. If confirmed, I will reach out to the Office of General Counsel to study this issue closely.

Question 4. Chair Khan's "Vision and Priorities" memorandum to FTC staff in September suggests that the FTC should take a "holistic" approach to antitrust that "focus[es] on power asymmetries and the unlawful practices those imbalances enable." What do you believe constitutes a "power asymmetry," and when does it violate the antitrust laws? What analytical approach would you apply to power asymmetries other than the common law's traditional focus on market and monopoly power?

Answer. As this is not a term I have ever used or defined, I do not have an opinion on how one would analyze "power asymmetries" in an antitrust case. As a general matter, I am acutely concerned with the level of concentration in the technology sector, and, if confirmed, plan to make antitrust enforcement on Big Tech a top priority.

Question 5. Chair Khan has often spoken of "democratizing" the Commission's work. What does it mean to you to "democratize" the Commission?

Answer. I am not sure what Chair Khan was referring to specifically. Personally, if confirmed, I hope to serve as a Commissioner who actively reaches out to everyone. In general, I will do everything I can to hear opinions and get feedback from outside of the Beltway.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ROY BLUNT TO
ALVARO BEDOYA

Question 1. Earlier this year, the rural retail company Tractor Supply agreed to buy Orscheln Farm and Home, a Missouri-based family-owned business that has served Midwest rural communities with quality products for more than 55 years. One of the reasons the Orscheln family carefully chose Tractor Supply to purchase their company was because the latter embodied similar rural cultural values as Orscheln. In contrast to what might happen if Orscheln were to sell its business to a private equity firm, Tractor Supply would help retain the same quality and customer loyalty for which Orscheln was known. This would in turn help Orscheln survive in the face of competition from Internet giants like Amazon. Shortly after announcing the deal, however, the FTC issued a second request for information to extend the merger review process. It's been ten months since the parties have been negotiating with the FTC, and FTC staff haven't provided clear criteria or reasons for why the deal is anti-competitive, or what could be done to reach an agreement. In the meantime, both Orscheln and Tractor Supply have been bleeding massive amounts of money on attorney fees, with no end in sight.

- Mr. Bedoya, do you think it would be a problem if Orscheln Farm and Home went out of business because it lacked the resources to compete with Internet-based platforms like Amazon and others that offer low prices and free shipping? Are you concerned about the devastating job losses this could cause in rural communities where Orscheln serves?
- Do you agree that the FTC merger review process should take into account the unique circumstances facing rural areas of the country?
- In reviewing mergers, should FTC staff communicate clearly to parties the criteria that would satisfy the FTC's concerns? Should the FTC do so in a timely manner and provide a date certain for the review to conclude?
- Are you concerned that if companies like Orscheln aren't able to close their deals in a timely manner, and are forced to become subject to burdensome consent decrees upon approval, they won't seek the FTC's approval before closing?

Answer. I very much appreciate your concern with this case, but I believe that I should not comment on any matter currently before the Commission.

As a general matter, not specific to this case, I am deeply sympathetic to job losses in rural communities, particularly where one cannot easily change jobs without relocating family.

I also believe that the Commission should treat all parties before it with dignity and respect, and do everything possible to provide clarity into the review process and its criteria for evaluation.

Question 2. Some in the current administration want the FTC—which shares civil antitrust jurisdiction with the Department of Justice—to take a tough posture on merger activity. And, over the last year, the FTC has certainly taken steps to make the merger review process more time-consuming, expensive, and difficult for merging parties. One example is the FTC's decision to halt its practice of granting early termination requests for transactions identified as not posing a risk to competition. Another is the FTC's new practice of sending "close at your own peril" form letters to tell parties that even if they've passed the statutory waiting period before closing, the FTC could still determine the transaction to be unlawful in the indeterminate future. There's also the FTC's party-line rescission of the vertical merger guidelines, as well as the new "prior approval" policy that gives the FTC veto power over merging parties' future deals, both in the absence of any public comment. And the list goes on. In contrast, I'm concerned that making it too hard engage in merger transactions can have negative consequences. Mergers can benefit consumers by creating economies of scale, enabling greater investment in research and development, promoting innovation, and protecting a local business from closing. We also don't want to make it too difficult for family businesses—like Missouri's own Orscheln Farm and Home, which Tractor Supply Company agreed to acquire—to profit from their life's work. Mergers can even save lives. For example, gene-sequencing company Illumina and its former start-up, Grail, state that they can accelerate the pace at which Grail's early stage cancer screening—a simple blood test that screens for more than 50 different cancers in asymptomatic patients—can reach the market through a vertical re-acquisition to leverage Illumina's scale and manufacturing and clinical capabilities. Yet, the FTC has been working to block the merger, in concert with the European Commission, even though both Illumina and Grail are American companies.

- Mr. Bedoya, do you think there are ways the FTC could overreach when it comes to making it too difficult for companies to engage in transactions or acquisitions? If so, what are those ways?
- Are you concerned that the FTC's decision to block the Illumina-Grail transaction may delay the public's access to Grail's lifesaving tests?
- Are you concerned that the FTC's decision to block the Illumina-Grail transaction will disincentivize other companies from developing the next ground-breaking technology?

Answer. I very much appreciate your concern with these cases, but I believe that I should not comment on any matter currently before the Commission. As a general matter, not specific to these cases, I certainly think that the FTC could overreach if it went beyond the statutory mandates with which it has been charged.

Question 3. Over the last several decades, the Supreme Court has held that the purpose of Congress' antitrust laws is to protect consumers, not competitors.

- Mr. Bedoya, do you have a view of the Supreme Court's 'consumer welfare' theory of antitrust law?
- Would you adhere to the interpretation of antitrust statutes that the courts give?

Answer. I emphatically support efforts to ensure that consumer welfare is interpreted in a manner that encompasses not just price, but also output, innovation, consumer choice, and quality. There are critiques of the standard as to its ability to protect competition with respect to large technology platforms. If confirmed, I believe that I would be bound to enforce the antitrust laws in a manner in line with statutory intent and court precedent.

Question 4. This summer, President Biden signed an executive order on promoting competition, in which he encourages the FTC to promulgate rules in seven different areas of the economy, including through a catch-all direction to regulate “any other unfair industry-specific practices that substantially inhibit competition.” I’m concerned that such expansive language and assertions of rulemaking authority are not well-supported. After all, Congress never granted the FTC broad rulemaking authority to determine what is and is not an unfair method of competition. Rather, when Congress has given the FTC rulemaking authority, it has been limited very specific procedures and circumstances, and intended—in the words of former FTC Commissioner Maureen Olhausen—to “complement its case-by-case adjudicatory authority, not supplant it.” I’m also concerned that this approach wouldn’t be accepted by the courts. Just over a week ago, the U.S. Court of Appeals for the 5th Circuit decided to block OSHA’s emergency vaccine and testing mandate, stating that it raised separation of powers concerns “over the Mandate’s assertion of virtually unlimited power to control individual conduct under the guise of a workplace regulation” and that “Congress must speak clearly if it wishes to assign to an agency decisions of vast economic and political significance.” Mr. Bedoya, do you have a view of the Supreme Court’s ‘consumer welfare’ theory of antitrust law?

- Mr. Bedoya, do you think that Congress has expressed a clear intent for the FTC to have broad rulemaking authority over the economy?
- Do you think there are limits to the FTC’s regulatory power, and if so, what are they?

Answer. I do not believe that Congress has expressed a clear intent for the FTC to have broad rulemaking authority over the economy. It has, however, clearly given the agency authority to issue rules in certain circumstances, for example to curb prevalent unfair or deceptive trade practices (section 18).

I think there are clear limits on that regulatory power. For example, under section 18 Magnuson-Moss rulemaking, the Commission is only able to issue rules regarding unfair or deceptive conduct deemed “prevalent.” Even then, it has to give advance notice to Congress and ample opportunity for public comment, with the subsequent possibility of judicial review.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARSHA BLACKBURN TO
ALVARO BEDOYA

Question 1. Senator Blumenthal and I, through our positions on the Consumer Protection Subcommittee, have held several hearings looking at the impacts of tech platforms on kids and teens. I understand you spent a good deal of your career focused on privacy issues and how privacy impacts different populations. How do you think Congress and the FTC should be addressing kids’ privacy and kids’ behavior online given the way that big tech platforms have penetrated our kids’ lives?

Answer. As a parent, I am deeply concerned with kids’ and teenagers’ ability to navigate the Internet and tech platforms. This strikes me as one of the most urgent issues facing Congress and the Commission, and if confirmed, this would be a top priority for me.

First, I think that existing privacy protections for children should be extended to more teenagers, ideally through 17.

Second, I think that the actual knowledge standard in COPPA should be modified to a constructive knowledge standard.

Third, I think that Congress and the Commission should investigate the degree to which many of these technologies are affirmatively designed to addict people.

Fourth, I think that Congress and the Commission should comprehensively study the issue of addiction, ideally with the support of child psychologists and other subject matter experts.

Fifth, I think that Congress and the Commission should study the information asymmetries—a longtime focus of Commissioner Wilson’s—that leave parents in the dark about the potential harms of technology on their children. As I indicated in my hearing, if confirmed I am particularly eager to work with Commissioner Wilson on the issue of children’s privacy.

Question 2. I have watched with concern steps the FTC took recently to disincentivize merger and acquisition activity across all industries. For example, in September, the FTC withdrew its Vertical Merger Guidelines and then last month took steps to reinstate its prior approval authority for mergers it deems “anti-competitive.” Do you agree with these actions? What clarity should businesses have when pursuing transactions before the FTC?

Answer. Both of these are actions which I would like to study further, if confirmed, particularly with the assistance of expert staff. I believe that the Commission should do everything possible to provide clarity into the review process and its criteria for evaluation.

Question 3. I have seen a number of tweets you posted over the last few years that were overtly political, including calling President Trump a “racist and white supremacist.” You also served on the board of Free Press, an organization that has been explicitly partisan in its approach. Do you believe you can be a fair and independent member of the FTC, rather than one who is beholden to political interests?

Answer. I appreciate the chance to address this. Yes, I do. I believe that my bipartisan work as a Senate staffer, my research and advocacy at Georgetown Law, and statements of support from Republicans, including both Commissioner Noah Phillips and Commissioner Christine Wilson and various former Senate staff colleagues, speak to my commitment to impartiality and bipartisanship.

In the Senate, I worked across the aisle (1) to build a bipartisan coalition of Senators to press the FTC and the Department of Justice to investigate and prosecute stalking app developers; (2) with the office of Senator Mike Lee to protect small businesses in the 2013 comprehensive immigration reform bill; and (3) with the office of Senator Dean Heller to help negotiate and craft the transparency provisions that eventually became part of the USA FREEDOM Act.

At Georgetown Law, the Center on Privacy & Technology my team’s research on the Federal biometric exit program supported bipartisan oversight of Customs and Border Protection by Senators Ed Markey and Mike Lee. My team’s research on DHS face recognition searches of DMVs led to a bipartisan and bicameral oversight letter led by Senator Ron Johnson and Gary Peters.

As a private citizen and law professor, I did speak out on social media when I strongly disagreed with the actions or statements of elected officials, particularly when they affected my family. That said, looking back, there were many instances in which I said or shared things that I regret today. What’s more, it could not be clearer to me that the role of commissioner is a law enforcement function that will require me to set aside all of my personal political beliefs and work across the aisle to protect American consumers and businesses.

If confirmed, I am committed to serving as an unbiased and impartial commissioner.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MIKE LEE TO
ALVARO BEDOYA

Question 1. During the hearing I mentioned that FTC Chair Khan is still “zombie” voting with former Commissioner Chopra’s proxy on matters before the Commission even though Mr. Chopra has left the Commission to be the Director of the CFPB. Do you support Chair Khan’s use of “zombie voting” on matters before the Commission?

Answer. I certainly understand the concern with this practice. If confirmed, I will reach out to the Office of General Counsel to study this issue closely.

Question 2. On July 1, 2021, the FTC voted 3–2 to rescind the Commission’s “2015 antitrust policy statement.” Do you agree with the Commission’s decision to rescind the antitrust policy statement? Why?

Answer. I do not know how I would have voted, as I was not present on the Commission and thus not privy to briefings or discussions between the Chair, the staff, and Commissioners. That said, I do believe it is clear from legislative history and the structure of the statute that section 5’s unfair methods authority was meant to go beyond the confines of what is prohibited under the Sherman and Clayton Acts. Further, I believe that if the agency is to be called upon to protect competition in the face of large and powerful technology platforms, it needs every tool at its disposal.

Question 3. During the hearing, you noted that you agreed that the FTC should use its Section 5 authority to engage in rulemaking on “unfair methods of competition.” What specific rules do you believe the Commission should undertake using

this authority? And are those rules “expressly delegated?” What limits (if any) are there to the use of this rulemaking authority?

Answer. I do not have a preconceived idea of what rules should be issued under a section 6(g) rulemaking on unfair methods of competition. It does appear to me that the authority has been expressly delegated to the Commission by Congress. Rulemaking under section 6(g) would be subject to the constraints of the Administrative Procedures Act.

Question 4. During the hearing, you mentioned that you needed more time to consider whether you were in agreement with the FTC’s recent decision to withdraw its Vertical Merger Guidelines. Do you support this decision by the Commission? Why?

Answer. I would like to study this further, if confirmed, particularly with the assistance of expert staff. I believe that the Commission should do everything possible to provide clarity into the review process and its criteria for evaluation.

In general, I am acutely concerned with vertical integration among large technology platforms, and believe that this practice has harmed competition in the tech sector.

Question 5. During the hearing, I asked about the FTC’s 3–2 decision to eliminate procedural rules related to Magnuson-Moss Section 18 rulemaking authority. Do you support this decision by the Commission? Why?

Answer. Yes, I do. I believe that the Commission should be nimble in its ability to curb prevalent unfair or deceptive trade practices, and that the statutory requirements of Magnuson-Moss rulemaking—which cannot, as a constitutional matter, be undermined by any agency action—remain quite robust.

Question 6. During the hearing, you noted that you supported the FTC’s decision to only require the support of a single commissioner to sign off on investigations as opposed to the practice of having a majority of Commissioners. Why do you support this decision? Does this decision avoid a collaborative, bipartisan process at the Commission?

Answer. I believe that the agency needs to be nimble in its ability to respond to potential instances of unfair or deceptive trade practices or threats to competition. It is my understanding that using omnibus authorizations for investigations has been the longstanding practice of the Commission in its consumer protection work, and that this move has brought the Bureau of Competition in line with the Bureau of Consumer Protection.

Question 7. There was a recent case called *LabMD v. FTC* where the 11th Circuit vacated an order by the FTC because it found the FTC lacked specificity in its order and commanded LabMD to meet an indeterminable standard for reasonableness. What lessons should be learned from the LabMD case? Are there changes that you would implement to prevent this abuse of power that the 11th Circuit identified?

Answer. I believe that it speaks to the fact that section 5 is a less than an ideal means through which to protect data security. This is why I believe it is imperative that Congress pass strong and detailed data security legislation to protect business and consumer data.

Question 8. Our country is in a nationwide debate regarding online political bias and censorship. Tech CEO’s often make promises in public about how their company operates in the marketplace. How often have we heard public statements that say, “We don’t sell your data” or “You own your data” or “We don’t censor your data or content.” Or how about Twitter CEO, Jack Dorsey, who stated: “We do not look at content with regards to political viewpoints or ideology. We look at behavior.” The statements may or may not be true. But in the Internet context, it’s become a common complaint from consumers that what a CEO says or how a company holds out their businesses operations is different than how the platform operates. If consumers are harmed by relying on these CEO or corporate statements, is this an area that the FTC could find constitutes a “deceptive trade practice?”

- I believe consumers could benefit from increased tech company transparency regarding these particular business practices. And I along with Senators Moran and Braun have introduced S. 427, the Promoting Responsibility Over Moderation In the Social-Media Environment (PROMISE) Act, which would require greater consumer transparency over these business practices by requiring companies to disclose their content moderation practices and follow through on these promises made to consumers. Would increased transparency and disclosure from these tech companies empower consumers?

- And do you support my bill, the PROMISE Act?

Answer. I am acutely concerned with content suppression and manipulation by dominant online platforms. As a private citizen, I think it is a problem when one

person or a handful of people effectively control the speech of hundreds of millions of people.

A deceptive trade practice involves (1) a claim or material omission that is (2) likely to mislead a reasonable consumer, (3) to that consumer's detriment. In addition to these statutory factors, the FTC would need to assess whether the platform was exercising First Amendment-protected editorial control over the content it chooses to disseminate and whether the corporate statements were commercial speech. This is a fact-and law-specific inquiry that will turn on the industry and the transaction in question.

That said, as a general matter, if a technology platform claims to run content moderation in one way, but does it in a different way in a manner that misleads most reasonable consumers, and in a way that harms them, then it is conceivable that under certain circumstances this could constitute a deceptive trade practice.

I absolutely think that greater transparency and disclosure from tech companies empower consumers. The PROMISE Act strikes me as a simple and strong step forward towards that goal.

Question 9. The Congress is actively debating Federal data privacy legislation? What is your stance on Federal data privacy legislation?

- What should the regulatory definition of "data" constitute?
- Do consumers "own" their data? Is there a limit to a consumer's ownership rights over data?
- What consumer "harms" or "injuries" should the government prevent or have rules that protect against?
- What is a consumer's "reasonable expectation" of privacy online? What information should a consumer be presented with regarding the use of their data?
- Is preemption a necessary component of Federal data privacy legislation? If so, to what extent?
- Is a private right of action (in any form) a necessary component of Federal data privacy legislation?
- In your opinion, should the Commission be granted additional APA rulemaking power to carry out data regulations? And what rules should the Commission pursue under Section 5 to address data privacy concerns?

Answer. I used to be a skeptic of Federal comprehensive privacy legislation, but now I believe that Congress has the will and expertise to issue a strong comprehensive privacy law, and strongly support this effort.

I don't have a preconceived view of what "data" should encompass, but I do think that any regulatory regime must try to anticipate future data streams and technologies, and be sufficiently flexible to encompass them, either directly or through expert rulemaking.

While I have occasionally used the expression that you "own" your data, I have tried to avoid it as I do not think it adequately captures the nature of sensitive data, or the fact that consumers sometimes pay for a service through their data.

I believe that data privacy legislation should protect against non-consensual collection of sensitive information and the use of sensitive information in a manner that a reasonable consumer does not expect or in a manner that breaches a duty of loyalty to that consumer. I also believe that sensitive data collection should not occur in secret.

Generally speaking, I think that consumers reasonably expect that their sensitive information will not be collected without their knowledge or consent, and that it will not be used to their detriment. I believe that consumers should be informed of what data is being collected from them, what it will be used for, who it will be shared with, and when it will be deleted.

In an ideal world, Congress would pass a strong Federal data privacy law, and that law would preempt individual state standards. If Congress were unable to pass a strong law, then floor preemption would be appropriate.

I have generally supported private rights of action as effective means to protect consumer privacy. However, there are good faith arguments to limiting them.

I do think that Congress should grant the Commission APA rulemaking power to implement any data privacy legislation, as existing section 5 rulemaking is limited, under section 18, to a subset of prevalent unfair or deceptive data practices.

Question 10. As you may know, the FTC first implemented the Contact Lens Rule in 2004 after Congress passed the Fairness to Contact Lens Consumers Act. And last year, the FTC unanimously approved an amended version of the Contact Lens Rule. I'm a strong supporter of the Rule, which requires contact lens prescribers to give their patients a free and portable copy of their lens prescription and keep a record of the patient's receipt of prescription. This allows patients to shop around

in a competitive marketplace and choose the option that works best for them. Are you a supporter of the Contact Lens Rule and the FTC's efforts to enable a competitive marketplace?

Answer. Yes, and as a contact lens user I am a beneficiary of this rule.

Question 11. The FTC has scheduled a ten-year regulatory review of the Business Opportunity Rule, which requires business opportunity sellers to give prospective buyers specific information to help them evaluate a business opportunity. Do you have any views on the FTC's review of the Business Opportunity Rule? And will you commit to ensuring that small businesses are not met with unnecessary regulatory burdens?

- If confirmed, will you commit to objectively considering all public comments and conversations during this regulatory review to ensure that consumers are protected and small businesses are shielded from burdensome regulations?

Answer. I do not at present have any specific views on the Rule. I am, however, sympathetic to the specific needs of small businesses and will of course work to ensure that they are not met with unnecessary regulatory burdens.

Yes, if confirmed, I will gladly commit to this.

Question 12. What is your stance on the FTC's authority to use 13(b) to pursue restitution or disgorgement? Given that the Supreme Court recently ruled that the FTC unlawfully used Section 13(b) to seek equitable monetary relief, would you support Congressional efforts to ensure use of this authority for this purpose is accompanied by procedures that ensure due process?

Answer. Section 13(b) has been a critical tool to return millions of dollars to American consumers and businesses. I support the Commission's bipartisan effort to give the Commission the ability to seek monetary relief for consumers and businesses. In general, I always support efforts to protect due process, but am concerned that moving to a process such as that allowed under section 19 would unnecessarily delay the return of ill-begotten funds to victimized consumers and businesses.

Question 13. Section 6(b) is used by the FTC to require a company to file reports or answers in writing to specific questions about its business practices. When should Section 6(b) authority be used? Should there be limits to its use?

- The production of documents is expensive. How would you balance the invocation of the authority with the expense to the business?

Answer. I think that section 6(b) is a powerful tool to allow the FTC to learn about business practices in a way that informs and refines future enforcement actions. While section 6(b) is a broad authority, the Paperwork Reduction Act imposes significant limits on that authority. The Commission would require approval from the Office of Management and Budget (or a waiver from Congress) to send the same set of questions to more than nine entities, or to entities that comprise a substantial majority of an industry. If confirmed I will keep in mind the burden of document production on businesses prior to approving such a study.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. RON JOHNSON TO
ALVARO BEDOYA

Question 1. You stated during the hearing, that you believed "that if the Commission is to be called on to police Big Tech, that it needs every tool at its disposal."

- What are the tools at the FTC's disposal?
- What is your philosophy on policing Big Tech?

Answer. The FTC has a broad range of tools at its disposal, from consumer and business education, to investigations, law enforcement actions, consent decree monitoring, and, in some circumstances, rulemaking.

I am concerned that large technology platforms have come to dominate our personal and professional lives and, indeed, our society, and that they have often used that power in a way that violates our privacy and stifles competition.

Question 2. You are known to be a critic of surveillance technologies.

- What are your views on the digital surveillance tools used to censor illegal and illicit content on social media platforms?
- What are your views on expanding these tools to censor content based on political viewpoints?

Answer. I support targeted efforts by social media platforms to protect against illegal or illicit content. For example, I support automated comparison of user-uploaded images to law enforcement databases of hashed images of child exploitation in order to identify and take down matching images.

I am emphatically opposed to the use of any tools to censor social media content based on political viewpoints.

Question 3. Do you believe that censorship of political viewpoints by social media platforms is an unfair or deceptive practice?

Answer. As a private citizen, I think it is a problem when one person or a handful of people effectively control the speech of hundreds of millions of people.

A deceptive trade practice involves (1) a claim or material omission that is (2) likely to mislead a reasonable consumer, (3) to that consumer's detriment. In addition to these statutory factors, the FTC would need to assess whether the platform was exercising First Amendment-protected editorial control over the content it chooses to disseminate and whether the corporate statements were commercial speech. This is a fact-and law-specific inquiry that will turn on the industry and the transaction in question.

That said, as a general matter, if a technology platform claims to run content moderation in one way, but does it in a different way in a manner that misleads most reasonable consumers, and in a way that harms them, then it is conceivable that under certain circumstances this could constitute a deceptive trade practice.

Question 4. Will you commit to ensuring the continued independence of the FTC?

Answer. Yes, absolutely.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. RICK SCOTT TO
ALVARO BEDOYA

Question 1. Last Congress, I introduced the PRIME Act (S. 2208, 116th Congress), which would require online retailers to display the country of origin for each product they sell. Do you believe the FTC has the authority to enforce such a law?

Answer. Yes, I do.

Question 2. What authority do you believe the FTC has to protect the privacy of Americans' data online, and if confirmed as FTC commissioner, what actions would you take to protect the personal data of Americans online?

Answer. The Commission's principal privacy authorities fall under section 5 of the Federal Trade Commission Act, specifically its prohibition against unfair or deceptive trade practices, the Children's Online Privacy Protection Act, the Gramm-Leach-Bliley Act, and the Fair Credit Reporting Act.

I am committed to rigorously protecting Americans' privacy. If confirmed, on my first day as Commissioner, I would do two things on this front.

First, I would make it a priority to investigate practices targeting children online, specifically practices that deny parents information regarding the harms presented by online platforms.

Second, I would urge the Commission to act more aggressively to combat the threat posed by "stalking apps," which allow domestic abusers to secretly geolocate and track their victims, and which remain frighteningly prevalent in the U.S.

Question 3. In the past, you have been politically active on social media. If confirmed as FTC commissioner, will you promote the right to free speech on online platforms and protect consumers from censorship practices that are being used by multiple social media platforms?

Answer. I believe in the right to free speech. As a private citizen, I think it is a problem when one person or a handful of people effectively control the speech of hundreds of millions of people.

I am also a proponent of free speech. The issue is that, if I am confirmed, I will myself become a government official, and my own actions with respect to social media companies will be subject to First Amendment scrutiny.

One potential avenue to address misleading content moderation might be the FTC's authority to combat deceptive trade practices. A deceptive trade practice involves (1) a claim or material omission that is (2) likely to mislead a reasonable consumer, (3) to that consumer's detriment. In addition to these statutory factors, the FTC would need to assess whether the platform was exercising First Amendment-protected editorial control over the content it chooses to disseminate and whether the corporate statements were commercial speech. This is a fact-and law-specific inquiry that will turn on the industry and the transaction in question.

That said, as a general matter, if a technology platform claims to run content moderation in one way, but does it in a different way in a manner that misleads most reasonable consumers, and in a way that harms them, then it is conceivable that under certain circumstances this could constitute a deceptive trade practice.

In my view, the clearest resolution to this particular problem would be congressional action.

Question 4. President Biden recently sent a letter to the FTC urging them to investigate whether oil and gas companies are intentionally keeping gasoline prices high.

- As an independent agency, do you believe investigating is a request or a requirement from the President of the United States?
 - Do you believe that the FTC has the appropriate authority to undergo this investigation?
 - What would your focus and scope be for this investigation if you are confirmed?
- Answer. The FTC is indeed an independent agency, and so the letter would constitute a request rather than a requirement, and the agency would not be obliged to follow it.

If heightened gasoline prices were a product of conduct prohibited by the Sherman Act, the Clayton Act, section 5 of the FTC Act, or any other of the laws that the Commission is charged with enforcing, then I do believe the Commission would have the authority to conduct the investigation.

I am not expert in the nature of oil and gas markets, and so, if confirmed, I would rely on the advice of staff to effectively oversee the investigation.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
JAINIEY K. BAVISHI

Habitat Restoration for Pacific Salmon Conservation

Pacific salmon recovery will not happen without rapid advancement of habitat restoration project that has been limited by funding. In the Infrastructure Investment and Jobs Act (“IIJA”) (P.L. 117–58), I secured significant funding in support of this effort. Specifically, the IIJA contains funding for salmon habitat restoration through NOAA’s Pacific Coastal Salmon Recovery Fund and several NOAA-based programs restore coastal habitats. In the Build Back Better (“BBB”) Act (H.R. 5376) that will soon be considered by the Senate, I have fought for historic funding level of funding for these projects as well as for stock assessments and fisheries science to help scientists identify the cause of salmon mortality at sea.

However, securing funding is the first step. Over the next five years, we will need to work with NOAA to implement these programs quickly and efficiently.

Question 1. These funding levels are far beyond levels NOAA has received before and legislation demands they are spent quickly. If confirmed, what steps will you take to ensure salmon habitat restoration funding—as well as all IIJA and BBB funding—is distributed as quickly as possible and will be invested in projects that will have measurable outcomes?

Answer. I understand that Pacific salmon are critically important to the health and economy of the Pacific Northwest, and protecting these species and their habitat is a top priority for NOAA. If confirmed, I will work closely with staff in the National Marine Fisheries Service to expedite these funds as quickly as possible so that States, Tribes, and local stakeholders can continue their work to protect, conserve, and restore populations of salmon and their habitat. I will bring to bear my recent experience in administering resilience-oriented and other programs in New York City, where I manage—and must expedite—a \$20 billion portfolio to meet the critical needs of the city’s communities; many of which have been chronically underserved over the past several decades. I will also commit to working closely and regularly with you and your staff to ensure that we expedite the funds in line with your specific intent.

Question 2. Tribal consultation will be essential in salmon habitat restoration funding distribution. How will NOAA work with Tribes to focus salmon restoration efforts toward projects that can recover salmon runs needed to support treaty fisheries and underserved communities?

Answer. Tribal communities play an important role in the recovery and restoration of salmon and engaging with local tribes on salmon restoration is a top priority for NOAA. If confirmed, I commit to working with you and Tribal communities on ways NOAA can engage meaningfully in salmon restoration and recovery in the Pacific Northwest to support treaty fisheries.

Question 3. Salmon habitat restoration is needed to recover vital salmon runs. Concurrently, these projects can also boost carbon sequestration. Coastal ecosystems such as mangroves, tidal marshes, and seagrass meadows sequester and store more carbon per unit area than terrestrial forests. Investments in this “blue carbon” are an important step in reaching our climate goals and protecting our fragile ecosystems from climate change. What other investments in science and restoration can

be done to help leverage NOAA's habitat restoration efforts to also combat climate change and improve resilience?

Answer. Pacific salmon are critically important to our culture, recreation, and economy. If confirmed, I look forward to learning more about NOAA's science for the recovery of Pacific salmon and their habitat, and working with our scientists in the National Marine Fisheries Service to ensure our habitat restoration efforts improve restoration and resilience of and sequestration of carbon in these coastal ecosystems.

Culverts

The IIJA includes the first ever National Culvert Removal, Replacement and Restoration Grant program to restore salmon passage in blocked as a result of transportation infrastructure. This program will invest \$1 billion dollars in competitive grants to states, local governments, and Tribes to address salmon-blocking culverts.

Historically, infrastructure such as roads and railways were built in a manner to impede fish migration, which resulted in devastating impacts to salmon and other species. This program is a key part of our strategy to remediate aging infrastructure and recover salmon.

Question 1. NOAA scientists have expertise in salmon and habitat restoration. If confirmed, can you ensure that NOAA will provide the salmon recovery scientific expertise to the Department of Transportation to support the National Culvert Removal, Replacement, and Restoration Grant Program?

Answer. I understand that partnerships among the Federal agencies, including the Department of Transportation, are key to restoring healthy salmon runs and securing the economic and cultural benefits they provide for future generations. If confirmed, I look forward to learning more about NOAA's expertise in salmon and habitat restoration and commit to ensuring our scientists continue to conduct the research, monitoring, and analyses needed to ensure Pacific salmon recovery. I look forward to working with you and our Federal partners on this important topic.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ROGER WICKER TO JAINIEY K. BAVISHI

Question 1. I introduced and passed the bipartisan Modern Fish Act to improve the management of recreational fisheries by incorporating the best available science. In the Gulf of Mexico, states like Mississippi have invested significant time and money to develop a more accurate understanding of how much fish recreational fishermen harvest. Despite this effort, NOAA has proposed ignoring the more accurate and higher quality state data and treating the less accurate Federal data from the Marine Recreational Information Program as though it is of equal quality. The calibration approach NOAA suggested was based on years 2017 and 2018, which if used would result in a 60 percent decline in Mississippi's recreational red snapper season. If NOAA had instead used 2020 to calibrate, Mississippi would see a 48 percent increase in their quota. How can our stakeholders have confidence in a Federal data set that is neither accurate nor precise?

Answer. If confirmed, I look forward to learning more about the red snapper fishery, which I know is of great economic and cultural significance to the state of Mississippi and the entire Gulf of Mexico region, and the Great Red Snapper Count, which I understand is being re-examined by the Gulf of Mexico Fisheries Management Council now. It is critical that NOAA base management decisions on the best peer reviewed scientific information available. I will commit to learning more about NOAA's Marine Recreational Information Program and to working with you and NOAA on this issue as the program pertains to Gulf of Mexico fisheries. If confirmed, I will work closely with National Marine Fisheries Assistant Administrator, Janet Coit, who brings state-level fisheries experience to the table from her work in Rhode Island, something that I believe is critical to red snapper and other fisheries deliberations.

Question 2. NOAA has an important role to play with respect to climate science. The agency collects observations and data, conducts cutting edge science, and runs weather and climate models. However, the agency has no statutory role in regulating greenhouse gas emissions. How will you ensure that NOAA remains a science-based organization, and does not become an advocacy agency for a political agenda?

Answer. Like President Biden, Secretary Raimondo, and Dr. Spinrad, I know that climate change poses an existential threat to communities across the country, and NOAA can meet this challenge by advancing environmental stewardship and economic opportunity. NOAA has the products and services to help communities address the climate crisis and become more resilient in the face of climate change.

NOAA's products and services can support local, state, and Tribal governments, the private sector, and Federal agency partners to make informed decisions in the face of a changing climate.

Question 3. Much of your career has been spent in New York City and DC. Rural areas have different needs and priorities than the cities. What steps do you plan to take to learn about the needs of places like Mississippi?

Answer. If confirmed, I will draw on past experiences in rural areas, such as my work to support communities in Louisiana, Mississippi, and Alabama recover from Hurricane Katrina. I also look forward to learning more about NOAA's work in supporting rural communities and how NOAA's products and services can continue to support economically, socially and environmentally vulnerable communities.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. RICK SCOTT TO
JAINIEY K. BAVISHI

Question. Florida has experienced several hard-hitting hurricanes that devastated our communities. We know first-hand that preparedness saves lives, and NOAA's work to develop and improve weather predictive services has been critical to our preparedness efforts. How do you plan to improve NOAA's weather forecasting services to ensure families have the best information to stay safe?

Answer. Thank you, Senator, for your long-standing interest in, and support of, NOAA's hurricane preparedness, forecast, warning, and recovery mission. Hurricanes are one area that truly cuts across, and is supported by, everything that NOAA does: from observations to forecasts and warnings, to work with coastal communities, fisheries, and across the blue economy. I recognize the importance that weather has on industries to the economy of Florida and our nation, and to every individual's life and property. If confirmed, I will ensure that NOAA leads with data and sound science, and I look forward to working with you to ensure that NOAA and its National Weather Service are the gold standard for weather, water, and climate forecasting.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
ARUN VENKATARAMAN

1. Supply Chains. Within Washington state, one in three Washington jobs depend on trade, with 40 percent of exports in aircraft and aircraft parts, which relies on a large global supply chain. We are therefore particularly affected by the considerable supply chain disruptions this year

If you are confirmed, you will be charged with promoting the international sale of U.S. goods, assisting American small and medium-sized businesses during a period of historic turmoil within the global supply chains.

Question. How can Commercial Service leverage its authority and expertise, including over 100 domestic offices and 70 international locations, to help U.S. manufacturers navigate the ongoing supply chain disruptions and to continue being successful internationally?

Answer. America's strong recovery from the pandemic, with the associated increases in economic activity, have resulted on strains in our global supply chains. The economic recovery has highlighted the lack of resilience in our supply chains, compounded by infrastructure that has been neglected for decades. We have seen the costs of this outdated infrastructure with respect to our economy, our competitiveness, and for our workers and families. For example, the Southern California warehouse system did not grow to match the extraordinary surge in demand at our ports. We have seen increased demand for semiconductors for cars, medical devices and consumer electronics but most of these chips are made in other countries so we have less visibility into this supply chain than we should. It is important to note that government doesn't run these supply chains, but the Biden Administration is using every tool available to help the private sector to address these challenges. For example, President Biden and his team worked with some of our major ports to get them to expand their hours to 24/7.

The Global Markets business unit within the International Trade Administration, including the U.S. and Foreign Commercial Service, can contribute to ensuring the security and resilience of global supply chains in a manner that protects U.S. interests. Foreign Commercial Service officers can draw on their expertise about local economic policies to identify specific policy barriers maintained by host governments, such as export restrictions. These barriers can then be addressed in the supply chain discussions that are being incorporated into all Commerce Department en-

gagement with trading partners. Recognizing that supply chains are established and shaped by industry rather than government, the U.S. and Foreign Commercial Service can inform U.S. industry more fully about the consequences of depending on certain markets as part of global supply chains based on political and economic features of those markets, thereby ensuring that industry factors in resilience and security at the early stages of business planning.

If confirmed, I will work with the interagency and the private sector to promote the Commercial Service's work in supporting new opportunities for U.S. firms and their workers to participate in global supply chains and securing supply chains in critical products. I would welcome the opportunity to work with you and your staff in this effort.

2. International Competition. Twenty five percent of small and medium sized enterprises struggle to meet weekly capital costs, making it difficult to upgrade equipment or build inventory. According to reporting by research firm McKinsey, the United States requires up to \$250 billion over ten years to upgrade plants and equipment in traditional manufacturing sectors like automobiles. Meanwhile, competitors like Japan and Germany offer their companies financing and free or low-cost facilities. U.S. companies also face far greater financial expectations, such as an expected of 12–14 percent return for investors, versus 5–7 percent in Asia.

The United States Innovation and Competition Act champions investment in more research and development and in programs like the NIST Manufacturing Extension Partnership. It also supports a better mapping of U.S. supply chains and the use of that data to better direct investment into U.S. manufacturing.

Question. Based on your experience, what other actions should the Department of Commerce take to invest in our small and medium sized manufacturers and to create a successful strategy for U.S. competition in foreign markets?

Answer. The Department of Commerce includes a number of bureaus (such as the International Trade Administration (ITA), NIST and USPTO) with tools and services that can enhance the international competitiveness of small and medium-sized manufacturers. Within ITA, the Global Markets business unit focuses on supporting small businesses export their goods and services to over 90 markets around the world. Building on this mission, Global Markets could expand its efforts to help existing exporters reach new markets. They could also take additional proactive steps to ensure that small businesses in underserved communities, including rural communities and communities of color, are aware of and can use exporting assistance provided by the federal government to reach new customers outside the United States. This includes the necessary market research and analytic tools to help them identify new markets and strategies. If confirmed, I look forward to working with you and your staff on these issues as well as my counterparts at USDA and SBA, and across the government, to identify additional actions that Global Markets can take to ensure that small and medium-sized manufacturers have the tools they need to grow and export.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. AMY KLOBUCHAR TO
ARUN VENKATARAMAN

1. Rural Export Center. While small and medium-sized enterprises account for 98 percent of U.S. exporters, rural businesses are often located far from transportation hubs, making it difficult for them to access international markets. I introduced the *Promoting Rural Exports Act* with Senator Hoeven to establish a Rural Export Center at the U.S. Commercial Service to help rural businesses access foreign markets and increase exports.

Question. Your testimony noted the importance of access to foreign markets for American companies. If confirmed, what steps do you plan to take to increase access to foreign markets for rural businesses?

Answer. U.S. Export Assistance Centers, including the Rural Export Center, provide export assistance and support for businesses, especially our small and medium sized businesses, farmers, ranchers, and fishermen, through offices located in 117 cities across the United States. These offices play a critical role in supporting our businesses and competitiveness, including in rural America, and are continuously working to increase their understanding of and responsiveness to the particular challenges faced by rural exporters.

The Rural Export Center (REC) provides research reports, through Rural America's Intelligence Service for Exporters (RAISE), training seminars and webinars. If confirmed, I will work to ensure our rural businesses, farmers and ranchers across the United States have the necessary market research and analytic tools to help

them identify new buyers, markets and strategies. I will also work across the government, including with USDA and SBA, to identify additional actions that Global Markets can take that would better help rural exporters reach consumers outside the United States. If confirmed I look forward to working with you to ensure exporters in rural and other underserved communities have access to the tools they need to grow their business through exports.

2. Brand USA. Inbound international travel has historically been the Nation's second largest industry export, generating \$233 billion and supporting 1.2 million jobs in 2019. But the pandemic brought an immediate 91 percent decrease in international visitors. My bipartisan legislation with Senator Blunt would help fund Brand USA—a proven partnership that promotes international tourism to the U.S.—which has supported more than 45,000 jobs a year and generated \$56 billion for our economy.

Question. Brand USA has partnered with the U.S. Commercial Service in the past to collect market data and plan trade events. If confirmed, what will you do to support this important sector of the economy?

Answer. The travel and tourism sector is critical to the U.S. economy and provides vital job opportunities for Americans at all educational levels. Brand USA, a non-profit corporation formed by statute and funded in part by fees paid by travelers from visa waiver countries, promotes the United States as a travel destination. It is my understanding the National Travel and Tourism Office, led by the Deputy Assistant Secretary for Travel and Tourism, leads work on travel and tourism for the U.S. Government in the tourism working groups or committees.

If confirmed, I look forward to working with the Assistant Secretary for Industry and Analysis and the Deputy Assistant Secretary for Travel and Tourism to support her and the Secretary's work on the Tourism Policy Council, which coordinates national policies related to travel and tourism to support this critical industry for regions across the country. If confirmed, I would also work closely with agencies through the Trade Promotion Coordinating Committee (TPCC), including the State Department and our Embassies, to encourage foreign travelers to come to the United States and help ensure that they support the sector's recovery from the pandemic. I look forward to working with you and your staff on these efforts.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ROGER WICKER TO
ARUN VENKATARAMAN

Question 1. The Commercial Service (CS) strengthens U.S. economic prosperity by promoting U.S. exports, attracting inward investment, and ensuring market access and a level playing field in international trade for U.S. companies and industries. The CS does this through a variety of programs, including its Rural America's Intelligence Service for Exporters (RAISE) initiative. Rural communities, like those in my home state of Mississippi, benefit from RAISE's export assistance activities. If confirmed, how would you strengthen efforts to assist rural communities in export promotion?

Answer. U.S. Export Assistance Centers, including the Rural Export Center, provide export assistance and support for businesses, especially our small and medium sized businesses, farmers, ranchers, and fishermen, through offices located in 117 cities across the United States. These offices play a critical role in supporting our businesses and competitiveness, including in rural America, and are continuously working to increase their understanding of and responsiveness to the particular challenges faced by rural exporters.

The Rural Export Center (REC) provides research reports, through Rural America's Intelligence Service for Exporters (RAISE), training seminars and webinars. If confirmed, I will work to ensure our rural businesses, farmers and ranchers across the United States have the necessary market research and analytic tools to help them identify new buyers, markets and strategies. I will also work across the government, including with USDA and SBA, to identify additional actions that Global Markets can take that would better help rural exporters reach consumers outside the United States. If confirmed I look forward to working with you to ensure exporters in rural and other underserved communities have access to the tools they need to grow their business through exports.

Question 2. One of the key objectives of the Commercial Service is to assist small businesses in their efforts to sell their products to the world. The international arena is more fiercely competitive now than it has perhaps ever been. I believe that American small businesses can compete with anyone if given adequate access to global markets. What would you say is the biggest obstacle to small businesses com-

peting on the world stage, and, if confirmed, what would you do to help them overcome that obstacle?

Answer. Export promotion of goods and services from the United States, especially by small & medium-sized businesses, is a core mission of the Global Markets business unit within the International Trade Administration. Among the principal challenges faced by these businesses is the ability to access and ensure the reliability of foreign customers. This is why our Commercial Service officers throughout the United States and across the world provide a suite of services to support our exporters, including research to help companies identify markets with high demand for their products and matchmaking opportunities to connect U.S. producers with potential customers overseas. I would welcome the opportunity, if confirmed, to prioritize helping existing small business clients of the Commercial Service export to new markets and bringing in new small businesses to export and reach new customers through the full use of the tools we can provide.

American business can compete against anyone when the playing field is level. If confirmed, I look forward to working with you as we support small businesses and ensure that small businesses have the tools they need to compete in overseas markets.

Question 3. With the horrendous port congestion we are seeing on our West Coast and increasing concerns about investing in a China controlled by the Chinese Communist Party, what efforts can the U.S. Commercial Service provide to encourage firms in a practice known as nearshoring, to move their operations closer to U.S. markets?

Answer. The United States needs to ensure the security and resilience of supply chains especially for critical products and technologies. If confirmed, I will work with stakeholders to support their efforts to move supply chains accordingly, especially outside of China, and source from trading partners with high standards, including in those countries closer to the United States. The U.S. and Foreign Commercial Service could also work with stakeholders to identify potential new customers in those nearby trading partners. If confirmed, I look forward to working with our allies and partners on measures to support strong and diversified supply chains, and to working with you and your staff on these issues.

Question 4. As firms look to move production from East Asia to Central America, what role can the U.S. Commercial Service play in Customs modernization, enhancing regional cooperation and basic trade promotion, and improving regional infrastructure?

Answer. Commerce, including the U.S. Commercial Service, is engaged in a number of efforts in Central America to promote customs modernization, regional cooperation, trade promotion, and the improvement of regional infrastructure. These activities range from policy and technical assistance interventions designed to motivate the countries to establish improved practices, engagement with the private sector to increase awareness of opportunities in the Central American markets, and support to interested U.S. companies in the context of specific commercial undertakings in these countries. This includes the U.S. Department of Commerce's Central America Customs, Border Management, and Supply Chain Program, ongoing since 2017, which is a multiphase effort to promote transparency, cooperation, and coordination among the Northern Triangle governments and improve interregional trade in Central America.

If confirmed, I look forward to working with you on these important issues.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. MARSHA BLACKBURN TO
ARUN VENKATARAMAN

Question. In your testimony, you mention your experience defending policy tools that are used to protect U.S. companies. Can you elaborate on how you plan to work with other countries to ensure they have a fair playing field to operate?

Answer. If confirmed, I will work with other business units in the International Trade Administration and with other agencies to help ensure that our businesses operate on a level playing field. This includes partnering with like-minded governments to take actions to combat unfair practices, such as non-market policies that contribute to global excess capacity. I would also work with those governments, if confirmed, to set new global rules and standards. In addition, for those trading partners with whom we have international agreements, I would work with stakeholders and colleagues in the Enforcement & Compliance unit and in USTR to hold those partners accountable to the non-discrimination and other commitments under those agreements so that U.S. firms get the fair access they deserve.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. RICK SCOTT TO
ARUN VENKATARAMAN

Question 1. In encouraging U.S. companies to export and expand their business opportunities into other countries, how will you work to ensure those U.S. companies are not assisting our adversaries or aiding dictatorship regimes, such as Nicaragua, Venezuela or Communist China?

Answer. I understand that the Global Markets business unit within the International Trade Administration works closely with partners across the Department of Commerce and the interagency to ensure that its approach to trade promotion and growing U.S. exports to other countries is in line with broader U.S. policy objectives. If confirmed, I would continue such efforts, including close coordination with the Department's Bureau of Industry and Security, to ensure that the export promotion efforts of the Department are aligned and in full compliance with export controls and other policies designed to protect the national and economic security of the United States.

Question 2. If confirmed, how will you work with American companies to encourage trade promotion that can counter Communist China's aggression towards certain countries?

Answer. The Chinese government's anti-competitive, unfair, and coercive practices hurt American workers and businesses. The Chinese government also undermines the competitiveness of U.S. firms through theft of intellectual property, cyber-based economic espionage, subsidies, and other non-market barriers. These challenges are not unique to the United States. Many of our allies and partners face the same challenges with respect to aggressive behavior from the Chinese government. If confirmed, I will work with stakeholders including U.S. companies to enhance the ability of our allies and partners to resist and respond to Chinese economic coercion, including through promoting long-term inclusive growth and stability in those economies and supporting secure and resilient supply chain linkages with the United States.