

United States Senate

WASHINGTON, DC 20510

June 24, 2019

The Honorable Wilbur Ross
Secretary
Department of Commerce
1401 Constitution Ave., NW
Washington, DC 20230

Dear Secretary Ross:

President Trump has made winning the global race to 5G a priority for his administration. Earlier this year, the President stated, “The race to 5G is a race America must win.... It’s a race that we will win.” Realizing this is both an economic driver and national security priority, Congress and the Federal Communications Commission (FCC) also have taken concrete steps to ensure the United States continues to be a world leader in this technology. Unfortunately, I am concerned that agencies and individuals within your Department are undermining the President’s and Congress’ shared goals, ultimately jeopardizing our country’s economic and national security priorities.

The completion of the 24 GHz auction earlier this month brought us one step closer to winning the race to 5G. But I was surprised to learn that at the very tail end of a 5+ year process, the National Oceanic and Atmospheric Administration (NOAA) and the National Telecommunications and Information Administration (NTIA), both within the Department of Commerce, as well as the National Aeronautics and Space Administration (NASA), all of a sudden raised concerns that emissions from the 24 GHz band might interfere with and adversely impact weather forecasting. FCC Chairman Ajit Pai recently testified before the Senate Committee on Commerce, Science, and Transportation that NOAA’s claims are based on a study that is “fundamentally flawed.”¹ Chairman Pai previously explained in a letter to Senator Maria Cantwell that the FCC has yet to see “any credible evidence or validated study showing that existing limits will insufficiently protect weather-sensing satellites.”² He also concluded in his testimony that, “[i]f the Department of Commerce’s position were to prevail...the spectrum [would] be unusable for 5G domestically.”³

It has come to my attention that one of your senior advisers may be placing personal animosity ahead of our country’s 5G goals. This threatens the clearly stated goals and priorities of the President and Congress and also undermines the NTIA’s mission to “expand the use of spectrum by all users.”⁴ Spectrum deliberations are best conducted by engineers working collaboratively together to solve challenges, not bureaucrats trying to defend their turf.

These last minute objections come at a particularly sensitive time. This October, representatives from the Department of State, the lead department for World Radiocommunications Conference (WRC), along with

¹ *Oversight of the Federal Communications Commission: Hearing before the S. Comm. on Commerce, Science, and Transportation, 116th Cong.* (June 12, 2019).

² Letter from Ajit V. Pai, Chairman, Federal Communications Commission, to Senator Maria Cantwell, Ranking Member, Senate Committee on Commerce, Science, and Transportation (June 11, 2019).

³ *Supra* note 1.

⁴ About NTIA, <https://www.ntia.doc.gov/about> (last visited June 21, 2019).

other appropriate representatives from our government, will attend the WRC, an event that only happens every four years and is crucial in securing America's 5G leadership on the global stage. Preparation for WRC has long been in motion, and this dispute weakens our country's leverage and ability to further secure America's leadership at this conference.

In August, representatives within our government will attend a WRC preparatory meeting for the Americas region. Given the importance of these meetings and the need for the United States to establish its position well before those meetings commence, please provide the following no later than July 10, 2019:

1. Technical studies prepared by NOAA, NTIA, the Department of Commerce or outside consultants related to out of band emissions in the 24 GHz band.
2. Correspondence, emails, memos, or data regarding 24 GHz emission levels and the impact on weather forecasting or similar issues whether in support of or counter to the FCC's adopted levels.
3. A written commitment:
 - a. To support the U.S. winning the race to 5G through significantly expanding commercial wireless industry access to spectrum as the President has declared; and
 - b. That you have directed your staff, NTIA, and NOAA to support the U.S. position on 24 GHz and all other issues in the international WRC negotiations and all preparatory meetings and outreach.
4. A written explanation of:
 - a. Why NOAA used data from a sensor that was never built to brief members of Congress about concerns related to the 24 GHz auction;
 - b. Why NOAA, NTIA, or the Department of Commerce did not raise objections to the use of the 24 GHz band when the FCC sought comment to use this band for commercial use in 2014;
 - c. Why NOAA did not seek reconsideration of the FCC's rules at the time they were adopted;
 - d. Which passive sensors or passive sensor parameters NOAA, NTIA, the Department of Commerce or their outside consultants studied related to 24 GHz out of band emissions and why; and
 - e. Why NOAA, NTIA, the Department of Commerce and/or their outside consultants decided not to move forward with the study on 24 GHz out of band emissions prepared by NOAA and previously submitted to the U.S. preparatory process for ITU Task Group 5/1.
5. A staff briefing on or before July 12, 2019.

Thank you for your attention to this matter. Should you have any questions about this request, please contact Mimi Strobel at mimi_strobel@ronjohnson.senate.gov or (202) 224-5323.

Sincerely,



Ron Johnson
United States Senator

cc: Mick Mulvaney
White House Chief of Staff