January 19, 2021

The Honorable Ajit Pai, Chairman
The Honorable Jessica Rosenworcel, Commissioner
The Honorable Geoffrey Starks, Commissioner
The Honorable Brendan Carr, Commissioner
The Honorable Nathan Simington, Commissioner
Federal Communications Commission
45 L Street NE
Washington, D.C. 20554

Dear Chairman Pai, Commissioner Rosenworcel, Commissioner Starks, Commissioner Carr, and Commissioner Simington:

We write to you today in response to the overwhelming bipartisan support Congress has expressed, in the *William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021* ("*NDAA*"),[1] for addressing the harmful interference that would be caused by the initial *Ligado Order*.[2] A broad cross-section of commercial and federal users across industries and professions rely on L-band satellite services, which are fundamental to our economy, national security, and safety. Given Congress' decision to codify multiple provisions aimed at the "devastating, not to mention costly,"[3] impacts of the initial *Ligado Order,* we respectfully urge the Federal Communications Commission ("Commission") to grant the pending request for an immediate stay and reconsider that decision.[4]

As you are aware, the NDAA included provisions that: (1) require an independent technical review of the *Ligado Order*; (2) require the Department of Defense ("DoD") to submit an estimate to Congress of the full range of damages caused by the *Order* to the Federal government; (3) prohibit DoD from contracting with any entity that engages in terrestrial service in the L-band absent a certification from the Defense Secretary that such service does not cause harmful interference to any DoD Global Positioning System ("GPS") devices; and (4) prohibit DoD's use of taxpayer funds made available via the NDAA to mitigate the damages incurred by DoD. As one of the NDAA's principal authors stated, those provisions were necessary because Ligado's proposed terrestrial network would "jeopardize our Nation's [GPS], impacting not just the military and commercial aviation"[5] but the aerospace, agriculture, aviation, construction, ground transportation, mapping, marine, meteorological, public safety, satellite communications, and surveying industries and professionals, as well as all those who rely on L-band satellite operations. Indeed, the provisions were supported by what the Chair of the Senate Armed

[1] Pub. L. 116-283.

[2] In the Matter of Ligado Amendment to License Modification Applications IBFS File Nos. SESMOD-20151231-00981, SAT-MOD-20151231-00090, and SAT-MOD-20151231-00091, Order and Authorization, IB Docket No. 11-109, FCC 20-48 (Apr. 22, 2020).

[3] 166 Cong. Rec. S7843 (2020) (statement of Sen. James Inhofe, "National Defense Authorization Act") ("Inhofe Statement").

[4] Congressional action on the NDAA adds support to National Telecommunication and Information Administration's ("NTIA") request for stay, which was supported by the Coalition of L-band Network Operators and Users. Petition for Stay of the NTIA, IB Docket Nos. 11-109, 12-340 (filed May 22, 2020) ("NTIA Petition"); Letter from Coalition of L-band Network Operators and Users to Marlene H. Dortch, Secretary, FCC, IB Docket Nos. 11-109 and 12-340; IBFS File Nos. SES-MOD-20151231-00981, *et al*. (June 3, 2020).

[5] Inhofe Statement.

Services Committee termed one of the "largest group[s]" that has "ever come together"[6] in opposition to an agency decision, including fourteen federal agencies and departments, a broad coalition of industries and professions, and the American people who use L-band services every day.

To ensure that the objectives of the NDAA provisions and the intent of Congress can be achieved, the Commission must act on the pending and broadly supported request of NTIA and stay[7] the initial *Ligado Order*.[8] Absent a stay, Ligado could move forward with deployments, potentially mooting the Congressional requirement of an independent technical evaluation of Ligado's proposed network and complicating further remedial efforts. As the Commission has long recognized, an agency must ensure that its actions do not render statutory provisions "superfluous"[9] – which is precisely what would happen if Ligado remained able to move forward before the congressionally prescribed evaluation occurred. Likewise, failure to issue the requested stay would frustrate Congress's purpose in mandating independent review. Even when Congress has been silent on the specific question at hand, an agency is required to act "consistent with the congressional purpose."[10]

Failure to stay the *Ligado Order,* and to thereby respect that congressional purpose, would be especially problematic given Congress's clear view that the *Ligado Order* insufficiently and/or erroneously assessed the real-world risks of the harmful interference that would be caused by Ligado's proposed terrestrial network, which itself militates strongly in favor of a stay.[11]

---

[6] *Id.*

[7] NTIA, along with seven other parties, also petitioned the Commission to reconsider the *Ligado Order.* Those petitions remain active. *See* Petitions for Reconsideration of Air Line Pilots Association, International (filed May 20, 2020); the American Transportation Builders Association, the American Farm Bureau Federation, and the Association of Equipment Manufacturers; Aviation Industry Organizations; Iridium Communications Inc., Flyht Aerospace Solutions Ltd., Aireon LLC, and Skytrac Systems Ltd; Lockheed Martin Corporation; Trimble Inc.; and the Resilient Navigation and Timing Foundation, IB Docket Nos. 11-109 and 12-340 (filed May 22, 2020).

[8] The Commission should also not proceed with any companion rulemakings causing harmful interference to weather forecasting and hydrology services that could result in Ligado deployments. Allocation and Service Rules for the 1675-1680 MHz Band, *Notice of Proposed Rulemaking,* 34 FCC Rcd 3352 (2019).

[9] Implementation of Section 25 of the Cable Television Consumer Protection and Competition Act of 1992 13 FCC Rcd 23354, 23290, ¶ 85 (1998), citing Hohn v. United States, 524 U.S. 236, 249 (1998); Kawaauhau v. Geiger, 523 U.S. 57, 62 (1998); Arcadia v. Ohio Power Co., 498 U.S. 73, 78-79 (1990).

[10] *See, e.g., Black Citizens for a Fair Media v. FCC*, 719 F.2d 407, 423-34 (D.C. Cir. 1983) ("[i]mplicit in every congressional delegation of power" is the requirement that the agency will act in a manner "consistent with the congressional purposes expressed in the statutory scheme," and courts should not defer to agency's view on whether action comports with the statutory scheme, because "every agency rule or decision presumptively carries the implicit message that the agency views it as consistent"). *See also Morton v. Ruiz*, 415 U.S. 199, 237 (1974) (agency action not afforded deference unless consistent with congressional purpose.).

[11] *See* NTIA Petition at 2-3, quoting Fla. Pub. Services Comm'n Request for Interpretation of the Applicability of the Limit on Change in Intrastate Allocation, Section 36.154(f) of the Commission's Rules, 11 FCC Rcd 14324, 14326 ¶ 3 (1996)); Washington Metro. Area Transit Comm'n v. Holiday Tours, Inc., 559 F.2d 841, 843, (D.C. Cir. 1977); Va. Petroleum Jobbers Ass'n v. Fed. Power Comm'n, 259 F.2d 921, 925 (D.C. Cir. 1958); Indiana & Sprint Corp., 32 FCC Rcd 4058, 4059 ¶ 4 (2017) (stay warranted where petitioner demonstrates that '(i) it is likely to prevail on the merits; (ii) it will suffer irreparable harm, absent a stay; (iii) other interested parties will not be harmed if the stay is granted; and (iv) the public interest favors a grant of the stay.'" (citation omitted)); City of Boston, Mass., and Sprint Nextel, 22 FCC Rcd. 2361, 2364 ¶ 8 (2007); Comcast Cable Commc'ns, LLC Petition for Emergency Stay, 20 FCC Rcd. 8217 ¶ 2 (2005); Cincinnati Bell Telephone Company, 8 FCC Rcd 6709 (2003).

In light of the clear and unambiguous intent of Congress to "protect[] our low-band spectrum from interference,"[12] we strongly urge the Commission to stay and reconsider the *Ligado Order*.

Sincerely,

AccuWeather, Inc.
Aerospace Industries Association
Agricultural Retailers Association
Air Line Pilots Association, International
Aircraft Electronics Association
Aircraft Owners and Pilots Association
Aireon
Airlines for America (A4A)
Airo Drone, LLC
ALERT Users Group
American Association of Airport Executives
American Bus Association
American Farm Bureau Federation
American Geophysical Union (AGU)
American Meteorological Society (AMS)
American Rental Association
American Road & Transportation Builders Association
American Society of Civil Engineers
American Sportfishing Association
American Trucking Associations
American Weather and Climate Industry Association (AWCIA)
Associated Equipment Distributors
Association of Equipment Manufacturers
Association for Unmanned Vehicle Systems International (AUVSI)
Aviation Spectrum Resources, Inc.
BoatU.S.
CalAmp Corp.
CoBANK
Collins Aerospace, a Division of Raytheon Technologies
Cargo Airline Association
CNH International
Cubic Corporation
DTN
Equipment Dealers Association
Frontier Airlines
General Aviation Manufacturers Association
GeoOptics, Inc.
Geospatial Equipment & Technology Institute (GETI)
Helicopter Association International
Hellen Systems, Inc.
The Intelligent Transportation Society of America
International Air Transport Association
Iridium
Lockheed Martin Corporation
Marine Retailers Association of the Americas
Maxar Technologies
Microcom Environmental
Narayan Strategy
National Agricultural Aviation Association
National Air Carrier Association
National Air Traffic Controllers Association
National Air Transportation Association
National Business Aviation Association
National Cotton Council
National Defense Industrial Association (NDIA)
National Society of Professional Surveyors (NSPS)
National Weather Association (NWA)
NENA: The 9-1-1 Association
NetJets Association of Shared Aircraft Pilots (NJASAP)
NEXA Capital Partners, LLC
PlanetIQ
Polar Air Cargo
Regional Airline Association
Resilient Navigation and Timing Foundation
The Semaphore Group
SKYTRAC
Space Science and Engineering Center at the University of Wisconsin-Madison
Spire Global
Subsurface Utility Engineering Association (SUEA)
Trimble
University Corporation for Atmospheric Research (UCAR)
U.S. Contract Tower Association
U.S. Geospatial Executives Organization (U.S. GEO)
Vertical Flight Society
Weather Elevate

[12] Inhofe Statement.