

**NOMINATION TO THE NATIONAL
AERONAUTICS AND SPACE ADMINISTRATION,
THE DEPARTMENT OF COMMERCE, AND
THE FEDERAL COMMUNICATIONS COMMISSION**

HEARING

BEFORE THE

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

ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

NOVEMBER 10, 2020

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

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**NOMINATION TO THE NATIONAL
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TUESDAY, NOVEMBER 10, 2020

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

The Committee met, pursuant to notice, at 2:31 p.m., in room SR-253, Russell Senate Office Building, Hon. Roger Wicker, Chairman of the Committee, presiding.

Present: Senators Wicker [presiding], Thune, Cruz, Fischer, Capito, Lee, Scott, Blumenthal, Markey, and Rosen.

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

The CHAIRMAN. The hearing will come to order. Welcome. Today, the Committee will consider three nominations for important roles within the Committee's jurisdiction.

The nominees before us today are Gregory Autry, the nominee for the Chief Financial Officer at the National Aeronautics and Space Administration; Daniel Huff, who has been nominated to be Assistant Secretary of Commerce for Legislative Affairs; and Nathan Simington, nominated to be a Member of the Federal Communications Commission. Welcome to all three of you.

The Chief Financial Officer at NASA is charged with overseeing financial and budgetary matters for the agency. Dr. Greg Autry has been nominated for this key role.

Dr. Autry previously worked as a Professor at the University of Southern California and was the Director for the Pacific Commercial Space Flight Initiative from 2018 until 2020.

He currently serves as the Vice President of Space Development for the National Space Society. Since 2018, he has served—since 2018 he has served as a Member of the Commercial Space Transportation Advisory Committee, COMSTAC.

In 2017, he served as the interim White House Liaison for NASA. Dr. Autry also has taught at Florida Tech International Space University Center for Space Entrepreneurship at the Kennedy Space Center, and that is a mouthful.

Greg Autry received a BA in history and computer science from California Polytechnic University in 1999. Dr. Autry also received his MBA from the University of California Irvine in 2002 and his Ph.D. in management, economics, and public policy in 2013 from

the University of California Irvine's Paul Merage School of Business.

The Department of Commerce has a wide range of policy areas within its portfolio and the Assistant Secretary of Commerce for Legislative Affairs is an important liaison between the department and Congress on all of them.

Daniel Huff is the nominee for this position. Mr. Huff is currently serving as a detailee through the Office of Presidential Personnel in the Executive Office of the President where he works as an Advisor.

When he began his service as a detailee this spring, Mr. Huff worked for the Department of Housing and Urban Development as the General Deputy Assistant Secretary for the Office of Fair Housing and Equal Opportunity where he began working in the spring of 2019.

However, his home agency employer recently became the Department of Commerce's International Trade Administration where he is now a Deputy Chief of Staff.

From 2011 to 2019, Mr. Huff worked as a counsel at the U.S. House of Representatives Committee on the Judiciary and earlier in his career he worked as crime and terrorism counsel at the Senate Judiciary Committee.

He received his BA in mathematics, economics, and history from the University of Toronto in 2002 and his JD from Columbia Law School in 2005.

The Federal Communications Commission is the Nation's independent government agency which regulates interstate and international communications matters.

Mr. Nathan Simington has been nominated to serve as a member of the FCC for a term of 5 years. From July 1, 2019, Mr. Simington has been a senior advisor for the National Telecommunications and Information Administration, NTIA, at the Department of Commerce since June 2020.

Before joining the NTIA, Mr. Simington was senior corporate counsel for Bright Star Corporation in Miami, Florida, where his portfolio included wireless credit, mergers and acquisitions, tower services operations and logistics, head of security, and regulatory compliance. Prior to joining Bright Star, Mr. Simington practiced law as an associate at major law firms in Chicago and Washington.

Nathan Simington graduated from Lawrence University in 2001 with a Bachelor's degree in music and received Master's degrees from the University of Rochester in 2006 and 2007. In 2011, Mr. Simington received his JD degree from the University of Michigan Law School.

I would like to thank all of the nominees for testifying today and for your willingness to serve in these positions, and as a matter of fact, some of you went to extra effort to testify in person and we very much appreciate that.

I now turn to the Acting Ranking Member of the Committee, Senator Blumenthal, for his opening remarks. You are recognized, sir.

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

Senator BLUMENTHAL. Thank you, Mr. Chairman. Thank you for having this hearing. Thank you to each of the nominees for your public service in the past and in the future. Never more important than we have public servants of integrity and ability in these kinds of very important positions.

I want to focus on the FCC in particular. As all of us know, whether we are parents or teachers or involved in our education system, distance learning has been both a blessing and a curse.

It has exposed huge inequities in our society from the homework gap, digital divide, and other kinds of needs that have not been addressed, quite simply, in providing distance learning for students during this pandemic. And there has been simply inadequate access which we need to remedy.

We need to provide electronic devices and Internet access to low-income students or other students and young people and seniors.

In Connecticut, a study by the Connecticut Conference of Municipalities recently showed that 36 percent of our seniors have no access to broadband connection. Thirty percent or more in communities of color have no sufficient access.

The FCC needs to do more. After Hurricane Katrina, it did do more than it is doing now. The FCC took sweeping action to keep connected those whose lives had been upended by the disaster and it dedicated \$200 million to fund connectivity efforts.

I have advocated and so have many of my colleagues using Lifeline and E-Rate to do more.

Mr. Simington, I suggest that that will be a very important challenge to you and the FCC, going forward, so far unmet.

I also note that you were selected to replace Commissioner O'Reilly, whose nomination was pulled after he expressed some doubt about President Trump's Section 230 Executive Order.

Commissioner O'Reilly told C-SPAN that he had, quote, "deep reservations". They, meaning Congress, provided any intentional authority for the FCC on this matter, referring to Section 230.

In a later speech, he appeared to challenge the Order on First Amendment grounds. But Chairman Pai and Commission Carr seemed to be intent on moving forward.

I am very concerned that you have been sent to the FCC on a mission to execute that Order. In fact, President Trump tweeted just this afternoon, "We need action now on this very important nomination."

As you may know, it is not that often that the President of the United States tweets about a nominee appearing before a Committee that very afternoon, which seems to make clear what he hopes and expects from you, which I think should trouble us on this Committee and in the Senate.

The FCC cannot be simply an instrument of political policy or bullying. This Committee should take seriously the risk that the FCC will have diminished independence and, in fact, become a tool of the President, this President, for the next 70-plus days because that is how long he will be there, but possibly of the interest groups that have spurred the President's involvement in this issue.

So I look forward to asking about these topics, but equally important the others who have been nominated as well to NASA and the Department of Commerce. These positions are extremely important and I hope that you too will preserve the independence of your agencies.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Blumenthal.

We are going to have opening statements in a moment. But there is a required question that I think we will get out of the way before we get into specific issues.

The Committee has a history of asking nominees at the beginning of the nomination hearings to state for the record that they pledge to work with Congress and the Committee in a cooperative manner.

So let me ask you specifically this question. If confirmed, will you pledge to work collaboratively with this Committee and provide thorough and timely responses to our requests for information as we work together to address this important—to address important policy issues?

Dr. Autry?

Mr. AUTRY. Certainly, that is critical.

The CHAIRMAN. And Mr. Huff?

Mr. HUFF. Yes, certainly.

The CHAIRMAN. And Mr. Simington?

Mr. SIMINGTON. Yes, Mr. Chairman.

The CHAIRMAN. OK. Now, at this point, I guess we will begin with Dr. Autry. Your statements will be admitted into the record in full and you are recognized for five minutes to summarize your opening statement. So we welcome you here and eager to hear from you, sir.

**STATEMENT OF DR. GREG AUTRY,
NOMINEE TO BE CHIEF FINANCIAL OFFICER,
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

Mr. AUTRY. Thank you, Chairman Wicker, Ranking Member Cantwell, Acting Ranking Member Blumenthal, members of the Committee and your staff.

It is an honor to be here, nominated by the President and considered by this august body for this important appointment. I am cognizant of the timing of this hearing and thank you again for being here under these circumstances.

I would also like to thank my wife, Susan, and my son, Gage, for attending, and my stepdaughter, Kristin, who was unable to because of the restrictions.

I was raised by a single mother under often difficult circumstances. Watching Neil and Buzz walk on the surface of the Moon pulled me from a confusing environment into a world of amazing possibilities.

I saw a better future for myself, for our nation, and humanity. NASA's amazing scientific accomplishments in the robotic exploration of our solar system inspired my choice of a STEM career in computing. I founded a series of tech startups and worked as an engineer and a manager in the corporate world.

Upon completing an MBA at UC Irvine's Merage School of Business, I was invited to join the faculty. I found I had a real passion for teaching management, entrepreneurship, and economics to engineers.

I began researching the space industry in 2003. My Ph.D. thesis explored governmental influence on industry emergence within the space context.

As a faculty member at USC's Marshall School of Business, my deep connection with America's traditional space firms and startups built a reputation as an expert researcher and commentator on the business of space.

I have also been proud to advocate for human and civil rights in China, U.S. manufacturing jobs, and the protection of American intellectual property. I have helped many students secure space jobs.

I have supported several in their applications to the Brooke Owens Fellowship, which provides mentoring for undergraduate women. I have also mentored many startups. One of these, Relativity Space, has raised over \$175 million. They are using private capital to refurbish older test stands and buildings at NASA's Space Flight Center.

Serving on the NASA Agency Review Team gave me the opportunity to delve deep into the agency's projects and accounting.

Former NASA CFO David Radzanowski has written a letter to this committee, noting "Dr. Autry understands the role of the CFO and its responsibilities. I believe you can count on him to continue to deliver the high-quality management, oversight, and reporting that has distinguished the Office of the Chief Financial Officer at NASA for the last decade."

The 1,800 employees in the Office of the CFO have been doing a great job under superb leaders. If confirmed, I look forward to joining Administrator Bridenstine and his excellent team in implementing the agency's ambitious goals.

I have been an advocate for NASA's many fold missions including planetary exploration, astronomy, earth sciences, aircraft research, and human exploration. I have been a longtime supporter of the International Space Stations, COTS, and the commercial crew program.

Reaching Mars via the Moon will require all that America has to offer. I have been a public supporter of all the components of the Artemis system including the Space Launch System, Orion Capsule, and Lunar Gateway.

Artemis gives SLS/Orion a mission worthy of their capabilities, an issue that concerned me prior to the administration's bold commitment to deep space exploration and economic development of cis-lunar space.

NASA's talents, the immense capabilities of its prime contractors, the innovative spirits of new startups are all part of national competitive advantage that will make this an American century in space, returning value to our taxpayers, and empowering humanity. This task demands innovative financial leadership that I am ready to provide.

Why spend money in space when we have problems here on Earth? During Apollo, our Nation was engaged in an intractable cold war, a bloody ground conflict in Vietnam. There were bitter

disagreements at home over the draft, civil rights, racial injustice, and women's equality.

Several beloved American leaders were assassinated, protests roiled our campuses, and riots rocked our cities. The Hong Kong flu pandemic killed nearly 100,000 Americans in 1969.

Among that chaos, NASA's moon landing stands as an iconic inspirational moment of those times. Space exploration shifted our tech sector into overdrive and gave us insights and solutions for our environmental challenges.

The payback has been huge. America can afford to have a future. If I am confirmed as the CFO of NASA, I look forward to working with you to ensure that the funds required to build that future are wisely spent and accounted for in accordance with the appropriations of the U.S. Congress.

Thank you again for your consideration. I hope you will move to confirm my nomination and I am eager to address any concerns or questions you may have.

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

PREPARED STATEMENT OF DR. GREG AUTRY, NOMINEE TO BE CHIEF FINANCIAL OFFICER, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Thank you, Chairman Wicker, Ranking Member Cantwell, Members of the committee and staff.

It is an honor to be here, nominated by the President and considered by this august body for this important appointment. I am cognizant of the timing of this hearing and thank you again for being here under these difficult circumstances. I'd also like to thank my wife Susan, daughter Kristen and son Gage for attending.

I was raised by a single mother, under often difficult circumstances. Watching Neil and Buzz walk on the surface of the moon pulled me from a confusing environment into a world of remarkable possibilities. I saw a better future for myself, our Nation and humanity. NASA's amazing scientific accomplishments in the robotic exploration of our solar system inspired my choice of a STEM career in computing. I've founded a series of tech startups, selling a couple of them. I've worked as an engineer and manager in the corporate world.

Upon completing an MBA at UC Irvine's Merage School of Business, I was invited to join the faculty. I found I had a real passion for teaching management, entrepreneurship and economics to engineers. I began researching the space industry in 2003. My PhD thesis explored governmental influence on industry emergence within the space context. As a faculty member at the University of Southern California's Marshall School of Business my deep connection with America's traditional space firms and startups built a reputation as an expert researcher and commentator on the business of space. I have also been proud to advocate for human and civil rights in China, U.S. manufacturing jobs and protection of America's valuable intellectual property.

I've helped many students secure space jobs and internships. I have supported several in their applications to the Brooke Owens Fellowship, which provides mentoring for undergraduate women. I've also mentored many startups. One of these, Relativity Space, has raised over \$175 million. They are using private capital to revitalize older test stands and a derelict 200,000 square foot building at NASA's Stennis Spaceflight Center.

Serving on the NASA Agency Review Team in 2016 gave me the opportunity to dive deep into the agency's projects and accounting. Former NASA CFO, David Radzanowski, has written a letter to this committee noting that, "Dr. Autry understands the role of the CFO and its responsibilities . . . I believe you can count on him to continue to deliver the high-quality management, oversight and reporting that has distinguished the Office of the Chief Financial Officer at NASA over the last decade."

The 1,800 employees in the Office of the CFO have been doing an excellent job under superb leaders. If I am confirmed, I look forward to joining Administrator Bridenstine and his excellent team in implementing the agency's ambitious goals.

I have been an advocate for NASA's manyfold missions including planetary exploration, astronomy, Earth sciences, aircraft research and human exploration. I've been a longtime supporter of the International Space Station, COTS and the commercial crew program.

Reaching Mars, via the moon, will require all that America has to offer. I've been a public supporter of all the components of the Artemis program including the Space Launch System, Orion Capsule and the Lunar Gateway. Artemis gives SLS/Orion a mission worthy of their capabilities, an issue that did concern me prior to this administration's bold commitment to deep space exploration and economic development of cis-lunar space. NASA's talent, the immense capabilities of its prime contractors and the innovative spirit of new startups are all a part of the national competitive advantage that will make this an "American Century in Space," returning value to our taxpayers and empowering humanity. This task demands innovative financial leadership, that I am ready to provide.

Why spend money in space when we have problems here on Earth? During Apollo, our Nation was engaged in an intractable Cold War and a bloody ground conflict in Vietnam. There were bitter disagreements at home over the draft, civil rights, racial injustice and women's equality. Several beloved American leaders were assassinated. Protests roiled campuses and riots rocked our cities. The Hong Kong flu pandemic killed nearly 100,000 Americans. Amongst that chaos, NASA's moon landing stands as the iconic inspirational moment of those times. Space exploration shifted our tech sector into overdrive and gave us both insights into and solutions for our environmental challenges. The payback has been huge. *America can afford to have a future.* If I am confirmed as the CFO of NASA, I look forward to working with you to ensure that the funds required to build that future are wisely spent and accounted for in accordance with the appropriations of the United States Congress.

Thank you again for your consideration. I hope you will move to confirm my nomination. I am eager to address any concerns or questions you may have.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Gregory Willard Autry, Greg Autry, Greg W. Autry.

2. Position to which nominated: Chief Financial Officer, NASA.

3. Date of Nomination: July 21, 2020.

4. Address (List current place of residence and office addresses):

Residence: Information not released to the public.

Office: Information not provided.

5. Date and Place of Birth: April 25, 1963; Torrance, CA.

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).

Susan Autry, wife, Retired Public School Principal.

Gage Autry, son, 23, Student, University of Southern California, Major. Accounting. Graduated June 2020. Part time employment at Elevated Materials, bookkeeping, customer service. Currently applying for USAF Office Training School.

Kristen Wilkens, step-daughter, 42, Art Professor, Librarian.

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

PhD 2013—University of California, Irvine, The Paul Merage School of Business. Management (focus Economics & Public Policy)

MA 2002—University of California, Irvine, The Paul Merage School of Business. Masters in Business Administration

BA 1999—California Polytechnic University, Pomona. History

Incomplete (BS) 1982—University of California, Irvine. Computer Science (left school to pursue entrepreneurial ventures in 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.

Interim White House Liaison, National Aeronautics and Space Administration (NASA), Temporary Presidential Appointment. January, February 2017

Founder, Southern California Commercial Spaceflight Initiative

University of Southern California. 2018 to present

Assistant Clinical Professor

University of Southern California, Lloyd Greif Center for Entrepreneurial Studies, Marshall School of Business. August 2014 to present

CEO, Network Corps

Enterprise application development firm focused on Health Care solutions for Kaiser Permanente. Apple authorized developer. (Sold network-engineering division to Enhanced Technologies)

January 1997–August 2014

CEO, Wired Images

Digital Web Content production for Internet retailers, sold to PlanetRx.com. 1999–2000

Technical Services Manager, CompuCom Systems

Managed service operations for IT solutions at CompuCom after they acquired my startup (Riverside Doctor Micro). 1994–1997

CEO, Riverside Doctor Micro Computer Services

Apple authorized dealer and Computer services firm sold to CompuCom Systems (NASDAQ: CMPC) in 1994. 1986–1994

Programmer, Hemascience Labs/Baxter Fenwal

Software development for medical device. 1985–1986

Software Engineer, Honeywell Training and Control Systems Division

Software for production engineering on various military projects. 1984–1985

Manager, Bronco Computer Store, Cal Poly Pomona

Established campus computer store at the university. 1984

CoFounder & CEO, HAL LABS

Entertainment Software developer. Founded in high-school, this firm developed Atarisoft PAC MAN for Apple II and was eventually reorganized by my partner as Future Point and sold to Blizzard Entertainment. 1981–1994 (full time 1981–1983)

9. Attach a copy of your resume. 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.

Member, Commercial Space Transportation Advisory Committee (COMSTAC), a Federal Advisory Committee (FACA) within DoT. 2018–2019. Reappointed 2020–2022

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.

President, Greg Autry Consulting Group, LLC 2019–

President, Netcrew Inc (DBA Network Corps) 1994–2014

Secretary, 121c inc (DBA Elevated Materials) 2015–2016

Board Member, 121c inc (DBA Elevated Materials) 2015–

Advisor, Relativity Space, 2019–

Editorial Board, New Space Journal, 2015 to current

Presidential Transition Team NASA Agency Review Team, 2016–2017

Advisory Council on Sustainability Education, University of California Irvine, 2012–2013

Leader, U.S. Young Scholar & Experts Delegation to the Republic of China (Taiwan), 2012

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.

Republican Party (registered voter)

National Space Society, 2017, Board Member, VP
 Coalition for a Prosperous America, 2018–, Advisory board
 American Jobs Alliance, 2012–2016, Board member
 Sigma Eta Pi, 2016—faculty advisor, student entrepreneurship club
 Member, Committee on the Present Danger, China 2020–
 Board of Directors, National Space Society, 2018–2020
 Vice President of Space development, National Space Society, 2019–
 Advisory Board, Coalition for a Prosperous America, 2017–
 Board Member, American Jobs Alliance, 2012–2016

I would never join or support any organization that restricted 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.

I have not been a candidate for an elected public office.

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.

Republican Party (registered voter)

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.

Rep. Dana Rohrabacher (R, CA) 2011—\$250, 2013—\$400, 2014—\$400, 2014—\$400, 2016—\$400, 2018—\$400.

I hosted a small fund raiser at my home for Rep. Rohrabacher in May of 2018.

Senator Ted Cruz (R, TX) 2018—\$400 (from memory, don't find this online)

Rep. John Culberson (R, TX) 2018—\$500

Mark Takano (D, CA) 2013—\$50

Chris Hearsey for Congress (D primary MD) 2016—\$49

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

I was elected President of my PhD cohort in 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.

I'm a prolific writer and speaker. I have spent some time reviewing and hired a research assistant to help me compile a list, attached.

18. List 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.

Facebook:

GregWAutry <https://www.facebook.com/gregwastry/>

Greg.Autry1 <https://www.facebook.com/greg.autry1>

Active

Instagram

GregWAutry <https://www.instagram.com/gregwastry/>

Active

(do NOT confuse me with gregautry.cga)

Twitter:

@GregWAutry <https://twitter.com/GregWAutry>

Active

(do NOT confuse me with @CGAGreg)

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.

March 21, 2013, *Cyber Attacks: An Unprecedented Threat to U.S. National Security*, Subcommittee on Europe, Eurasia, and Emerging Threats, House Foreign Affairs Committee

March 28, 2012, *The Price of Public Diplomacy with China*, Subcommittee on Oversight and Investigations, House Foreign Affairs Committee.

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?

During my service on the NASA Agency Review Team and as interim White House Liaison, I spent three months of 7-day weeks, reviewing every program and budget within the space agency along with a team of experts. I had access to the agency's internal financial documents as well as its leadership and staff. I was briefed directly by and spent time with NASA CFO, David Radzinowski. I worked closely with Greg Kennedy, who served as interim CFO as a member of the Trump "Beachhead Team" in 2017. I remain friends with both Mr. Radzinowski and Mr. Kennedy to this day and have their expertise and experience to call on at any time. I am well acquainted with NASA's previous and current leadership including the Administrator, whom I knew well before he was appointed to that position. I am also acquainted with the leadership at most of the NASA centers.

I have two decades of research and service within the space industry. I publish frequently and am often a featured speaker at space related conferences. This has provided me with a unique standing in the industry and already have good working relationships with the executives and representatives of NASA's major vendors. I've also had the opportunity to work with many other agencies in the space arena such as FAA's Office of Space Transportation, the Office of Space Commerce in the Dept. of Commerce and the National Space Council. I have worked with Members of Congress and their staffs on space policy issues. I have visited the European Space Agency (ESA) and the Japanese Agency (JAXA) as well and have cordial relationships there. I believe I am well respected by almost all the stakeholders that care critical to the success of NASA. These are relationships most new CFOs would need to spend years cultivating. A head start on that relationship building will move the agency forward quickly, at a time when it has a very aggressive goal of placing astronauts on the Moon by 2024.

Our NASA Agency Review Team established an outline for the White House's NASA budget priorities. As NASA's White House Liaison and a member of the "Beachhead Team" I assisted in preparing the 2018 White House budget request for NASA. This included meeting with OMB and negotiating budget items. I also met with members and staff of appropriations, commerce and technology committees in the House and Senate to discuss the agency's requirements and their priorities.

I hold a Masters in Business Administration degree and a PhD in Management with an emphasis in Economics and Public Policy and in Strategy. I have 18 years of experience teaching and mentoring business students. Many of these students are executives or managers at large firms. My expertise has been in assisting commercial space startups. A firm founded by two students I've mentored, Relativity Space, has raised over \$175m in venture financing.

I've served for two years on the Commercial Space Transportation Committee, FACA at FAA. COMSTAC provides input to the FAA's Office of Commercial Space Transportation (AST) on rulemaking and industry promotion. I currently chair the Safety Working Group, which is compiling recommendations for industry guidelines and best practices in protecting the private civilian passengers on soon to be flying U.S. commercial spacecraft.

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?

Pursuant to the Chief Financial Officer's Act, an Agency CFO is statutorily empowered to "direct, manage and provide policy guidance and oversight of agency financial management personnel, operations and activities" of their agencies. Managing the team responsible for this work is the primary function of the CFO. The OCFO is composed of a team of civil service professionals including three Deputy CFOs and an Associate Deputy CFO. Each NASA center (research facilities around the country) has a Center CFO and staff. The professional expertise of these individuals in governmental cost accounting and in managing the uniquely high-risk pro-

grams is substantial. As Chief Financial Officer, it would be my responsibility to Manage the Office of the CFO and its activities across NASA Headquarters, nine NASA Centers, the NASA Shared Services Center and one Federally Funded Research and Development Center (JPL).

The most important specific tasks of the NASA OCFO are:

Providing accurate, timely and actionable budget and financial information to the Office of the Administrator, to the heads of the Mission Directorates and to the Center Directors.

Ensuring agency compliance with Federal Law and Generally Accepted Accounting Principles (GAAP) and Federal Account Standards Board (FASAB) standards.

Ensuring agency systems and internal controls are compliant with the Federal Managers Financial Integrity Act (FMFIA), OMB circular A-123 and the Digital Accountability and Transparency Act.

Providing accurate budget and financial information to the White House, OMB, Congress and public through the President's Annual budget, NASA's four-year strategic plan, annual financial reports and performance plans and in response to specific requests.

Working with the Executive Office of the President and OMB to develop the President's budget and subsequently with Congress for budget approval. The OCFO includes a Agency Appropriations Liaison specifically tasked for working with the House and Senate Appropriations Committees and Budget Committees.

Providing tools and research to support NASA mission development and operations over extended timelines in areas such as cost estimation, joint confidence levels (cost and schedule forecasting), independent program assessments and enterprise risk management. Risk management at NASA is a singularly important endeavor and crosses many domains including the financial. It is important to note that nearly every program at NASA is, by the nature of the agency, an attempt to accomplish something that has never been previously attempted by any organization. While our space agency is renowned for its incredible successes, planning and conducting operations hundreds or even millions of miles from Earth will not always go as planned. The anticipated failure rate of programs at NASA is much higher than at most governmental agencies. It is also important to recognize that NASA risk management often incorporates human safety elements, particularly in the Human Exploration Mission Directorate.

Most NASA programs are multi-year efforts and several span decades. Delays and budget overruns, while always undesirable, are not surprisingly common with NASA programs. Providing continuity to long-run programs and managing down fanatical risk without impeding innovation or increasing risk to human safety is a task unique to the NASA CFO. NASA greatly improved its financial reporting and recent agency audits have praised the agency's efforts.

I've had professional experience working in and managing budgets in organizations both large and small; from \$100,000 to \$300 million. Most budget principals scale to larger baselines. The majority of my experience has been in entrepreneurial ventures and small businesses and startups and I view that as a positive. The goal at NASA today should not be to keep the traditional, large organizational bureaucracy on course but to do more with less and to do it faster. The practical and responsive nature of dynamic startup organizations is a perspective badly needed in governmental agencies in general and in keeping with the innovative nature of this administration and the space agency itself.

I have worked within large organizations including the University of California system, the University of Southern California. In 2017, I worked at NASA Headquarters coordinating 2018 NASA budget request with the White House and OMB. This included meeting with Congressional and Senate appropriations staff.

In the private sector I've been employed by two multinational corporations, Baxter (Healthcare) and Honeywell. At CompuCom systems I worked with the approximately \$300 million budget for Southern California operations within a \$2 billion budget. I also directed service teams in multiple locations across the Western United States. While the services personnel reported to me through my local managers, constant coordination was also required with the independent sales managers at each location.

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

#1 The Budget

There has never been a more important time for strategic, space savvy leadership in NASA Office of the CFO. The agency is facing its biggest financial management challenge since the days of booming budgets under the Apollo program. NASA has been blessed with visionary support from President Trump and Vice President Pence. They have assembled a highly regarded space leadership team at NASA, the National Space Council, DoD, OSTP and Commerce. The White House has also issued an aggressive set of space policy directives and established ambitious goals for NASA. These goals include a sustainable human return to the Moon with the first landing in 2024. They have also called for the commercialization of Low Earth Orbit (LEO Commercialization) and of lunar resources. These goals are to be achieved with the increased use of public-private partnerships, cross agency cooperation (NSC, DoT, FCC, Commerce) as well as increased engagement with and financial support from our international partners.

NASA has received strong bipartisan support for its work on these missions and the agency's budget has received the first significant increase in nearly thirty years. In nominal terms the NASA budget remained nearly flat between 1992 and 2024 at approximately \$19 billion. However, without adjustment for inflation or the growth of government NASA's share of total Federal spending fell by more than half, from approximately 1 percent to just 0.42 percent. The White House 2020 NASA budget request was \$22.619 billion, and Congress passed a \$22.629 billion budget, which was signed by the President in December 2019. The President has requested \$25.246 billion for FY 2021.

While the budget is larger the goals are even bigger. "Accomplishing a whole lot more, with just slightly more," must be the agency's mantra. The White House, Senate and House all have slightly different priorities. The NASA Administrator and CFO are often in the crosshairs of the fine points of those differences. Meeting the White House's ambitious goals while maintaining all the programs that the Congress demands be kept will not be easy to do, nor to explain even in the best of circumstances. The agency has wisely leveraged private sector investments to lower NASA's investment and risk via carefully structured RFPs for the Lunar Gateway and the Human Landing Systems (HLS). Managing these public-private partnerships effectively will be crucial to the success of this program and the OCFO will play a key role in that process.

The recent COVID-19 pandemic and accompanying economic impacts make these far from the best of times to conduct an ambitious space exploration program. Framing the NASA mission within the realm of national R&D and infrastructure development is critical. I have done a great deal of writing and speaking on the ways in which the space investments of the 1960s and 1970s fueled the technology driven economic expansions of the 1980s, 1990s and 2000s. The Congress and the American public must see the immediate benefits in employment and the future economic growth associated with NASA's work.

#2 Getting to the Moon by 2024

NASA's headline Artemis program must make rapid, visible progress in fulfilling the Vice President's ambitious directive to place the first woman and next man on the lunar surface by 2024. Significant delays or failures in this program, could put the agency's reputation at risk and undermine public support,

Over the last two decades, the agency has suffered a series of high-profile delays, embarrassments and program cancellations. George W. Bush's Constellation Program was canceled by an Obama White House that saw it as behind schedule and over budget. Tepid support from the Obama White House, under funding and vendor management issues resulted in delays on development of HEOMDs primary exploration tools, the Space Launch System and the Orion Deep Space Multi-Purpose Crew Vehicle. Reduced Congressional funding and vendor management issues resulted in delays for the Commercial Crew systems designed to return Americans to the International Space Station on U.S. rockets and space craft. The Obama White House's Asteroid Redirect Mission was also canceled by the incoming Trump team at the recommendation of the Agency Review Team I served upon.

I have great confidence that NASA can transcend this recent history. The agency enjoys a growing budget, bipartisan congressional support and a very strong new leadership team. Administrator Bridenstine has demonstrated the agency's new sense of alacrity and commercial savvy in last year's awards for the Lunar Gateway Power Propulsion Element (PPE) and Minimal Habitat (MHM). Newly appointed Associate Administrator Doug Loverro has followed that path with the selection of three Human Landing System (HLS) systems. The Office of the CFO will play a critical role in securing and managing the funds required to complete the Artemis landing, safely and on schedule.

The cooperation of America's best international partners will also be required to make Artemis a success. Associate Administrator Gold has been doing great work in that regard with the Japanese and European Space Agencies. Ensuring that our international partners deliver funding and real value rather than seeing American taxpayers subsidizing foreign astronauts will be a critical oversight function of the OCFO.

#3 Enabling Commercialization

The Space economy is already over \$350 billion annually and projections from Bank of America suggest it will grow to \$2.7 trillion over the next two decades, or roughly the size of the UK economy. The White House, with broad Congressional support, has called for Commercializing Low Earth Orbit and the development of lunar resources. NASA plays a leading role in making this happen and stands to benefit from cheaper commercial solutions in space transportation, logistics and communications.

LEO commercialization is case where a relatively small amount of well-placed NASA funding. Doing so will leverage existing industry capabilities and attract new private investments that will fulfill both NASA mission requirements and produce sustainable new capabilities and infrastructure in the growing space economy. The retirement of the International Space Station, sometime between 2025 and 2030 poses a challenge for NASA's access to Low Earth orbit, a vital location for experimentation and potentially for departure of future space exploration systems. Abandoning human LEO activities to our international competitors is not a viable geopolitical choice. Successfully commercializing operations there will free the agency and its budget for deep space exploration at the Moon and eventually on Mars.

NASA's efforts to spark commercial efforts aboard the ISS National Laboratory via its support of the Center for the Advancement of Science in Space (CASIS) have been slow and at times, troubled. It is critical that NASA effectively assist in the transition to commercial space services in LEO, lead by American firms, without getting bogged down in the attempt to force the creation of markets or lured into picking the winners or losers in that market.

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.

Outside of my teaching for USC and International Space University/Florida Tech (summer), I am occasionally paid small amounts (\$100–\$300) when I publish in Foreign Policy or the LA Times. This totaled less than \$2,000 for 2019. I'm a regular Forbes Contributor and they have an agreement to pay for articles. I've not received any monies and I don't anticipate it would exceed \$1,000 a year at this point.

I am occasionally paid for speaking to groups in public or private venues or for webinars/conference calls. The paid speeches are typically on Global Trade and China relations and audiences are usually corporate executives or investment professionals trying to understand the shifting trade landscape. (I'm never paid for speaking on space at conferences).

I have worked several times with Signum Global a US–UK advisory group. There is no formal agreement, but I am typically paid \$1,000 to \$1,500 for a phone call and \$3,000 to \$5,000 plus travel for a personal appearance.

I would cease all these relationships upon nomination. There should be no linger entanglements.

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 would resign from all such positions upon nomination.

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.

I am an investor in 121C Inc. (DBA Elevated Materials). The firm upcycles Carbon Fiber waste from the aerospace industry into various products (skateboards, drone frames, drums). I am not involved in daily operations, but I do advise on business strategy and have assisted with investor and supplier relationships. The company does regular business with Toray, SpaceX, Virgin Orbit and Virgin Galactic. It has done work and is positioning to increase business with most other aerospace firms and suppliers including Boeing and Northrup Grumman. I don't see any direct conflict of interest—the scrap upcycling is not of financial interest to NASA and is broadly supported by all aerospace firms. However, I would remove myself from my advisory role and any other functions with the firm.

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.

I don't see any such situation.

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

I have directed a Southern California Commercial Spaceflight Initiative at the University of Southern California which has received contributions from the space industry in cash and in kind of about \$40,000 for the period 2018–2019. The funds are primarily used in support of a small annual academic workshop. For reasons internal to USC the Initiative has not be active in 2020. I don't really see this as a conflict of interest, but I would cease my relationship with that effort for practical reasons. Either another professor would take up the effort or it would be suspended, and remaining funds returned to the donors or allocated to other university projects supporting students and aligned with their wishes.

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 have worked for free as an advocate for trade reform and commercial space legislation. Specifically, I helped the Coalition for a Prosperous America oppose the Transpacific Partnership (TPP) trade agreement. This involved writing, speaking and visiting with Members of Congress and their staff. I was never paid or compensated. My airfare and hotel were occasionally covered. Coach, and hotels less than \$200/night.

I worked independently as a concerned citizen in support of increased NASA budgets and the Commercial Space Launch Competitiveness Act of 2015 (CSLA). I met with Members of Congress and their staff to discuss these issues. Several members of the House Science and Technology Committee in particular, have respected my input on matters of U.S. national competitiveness in space and were willing to meet with me individually. I was acting purely as a concerned citizen and not paid nor guided by any organization or firm.

Neither of these activities were partisan in nature. Both my efforts were successful with broad, bi-partisan support. In the space arena in particular, there was virtually no opposition to the Cruz-Nelson supported CSLA.

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.

I had a business dispute that was settled in arbitration in 1994.

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 cannot think of any specifically.

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.

GREG AUTRY—CURRICULUM VITAE

Education

PhD 2013 *University of California, Irvine, The Paul Merage School of Business Management, Economics & Public Policy (+ Strategy Comprehensive)*

MBA 2002 *University of California, Irvine, The Paul Merage School of Business*

BA 1999 *California Polytechnic University, Pomona*
History (+ 72 units of Computer Science)

Academic/Governmental/Non-Profit Experience

Director, Pacific Commercial Spaceflight Initiative, Aldrin Space Institute 2018–Current (formerly the Southern California Commercial Space Flight Initiative at the University of Southern California)

Adjunct Professor, Florida Tech/International Space University Center for Space Entrepreneurship, June 2019–Current (summer entrepreneurship course at Kennedy Space Center)

Assistant Clinical Professor, University of Southern California, Lloyd Greif Center for Entrepreneurial Studies, Marshall School of Business. August 2014–July 2020

Vice President of Space Development, National Space Society, 2018–Current

Chair, Safety Working Group of the U.S. Commercial Space Transportation Advisory Committee (COMSTAC), FAA, Two-Year appointment by Secretary of Transportation as a Special Government Employee (SGE) to Federal Advisory Committee (FACA). Reappointed for additional two-year term, April 2020 and appointed Chair of Safety Working Group, May 2018–Current

Member, Presidential Transition Agency Review Team, National Aeronautics and Space Administration (NASA), December 9, 2016–January 20, 2017

Interim White House Liaison, National Aeronautics and Space Administration (NASA), Temporary Presidential Appointment. January 20–February 24, 2017

Adjunct Professor, Lloyd Greif Center for Entrepreneurial Studies, Marshall School of Business, University of Southern California. August 2013–June 2014

Adjunct Lecturer, Paul Merage School of Business, University of California, Irvine. 2003–2014

Adjunct Lecturer, Argyros School of Business and Economics, Chapman University. Spring 2013

Entrepreneurial and Professional Experience

CEO, Network Corps

Enterprise application development firm focused on Health Care solutions for Kaiser Permanente. Apple authorized developer. (Sold network-engineering division to Enhanced Technologies) January 1997–August 2014

CEO, Wired Images

Digital Web Content production for Internet retailers, sold to PlanetRx.com. 1999–2000

Technical Services Manager, CompuCom Systems

Managed service operations for IT solutions at CompuCom after being acquired. 1994–1997

CEO, Riverside Doctor Micro Computer Services

Apple authorized dealer and Computer services firm sold to CompuCom Systems (NASDAQ: CMPC) in 1994. 1986–1994

Programmer, Hemascience Labs/Baxter Fenwal

Software development for medical device. 1984–1986

Software Engineer, Honeywell Training and Control Systems Division

Software for production engineering on various military projects. 1983–1984

CoFounder & CEO, HAL LABS

Entertainment Software developer. Founded in high-school, this firm developed Atarisoft PAC MAN for Apple II and was eventually reorganized by my partner as Future Point and sold to Blizzard Entertainment. 1981–1994

Boards and Service

Advisor, Relativity Space

Have advised former USC students Jordan Noone and Tim Ellis since the founding of their 3D Printed Rocket startup. Signed as official Advisor in 2019. Firm has raised over \$175m to date.

Member, Commercial Space Transportation Advisory Committee (COMSTAC), 2018–Current

Federal Advisory Committee within FAA. Appointed by Elaine Chao, Secretary of Transportation, 2018. Reappointed by Secretary Chao, 2020.

Member of the Board, National Space Society

World's largest non-profit advocacy organization for space settlement. Founded by Werner von Braun (NSI) and Gerard K. O'Neill (L5). 2018–2020

Board Member, Interstellar Labs

New Space Startup headquartered in Paris, France. Dedicated to producing enhanced environmental control and life support systems (ECLSS) via a closed environment habitat (biadome) research and eco-tourist destination. Facilities targeted for construction in Mojave California and Kennedy Space Center. 2019–Current

Board Chair, 121C Inc./Elevated Materials

Commercial spacecraft carbon fiber upcycling. Manufacturers consumer products including three successful Kickstarter campaigns. USC Student startup. Raised over \$1.5million in private investment. 2014–Current

Chair, Southern California Commercial Spaceflight Initiative Workshop, Los Angeles, CA. October 2019

Speakers I recruited included: Lt. Gen. Steven Kwast (USAF ret.); Kevin O'Connell, Director of the Office of Space Commerce; Brigadier General Steven Butow, Defense Innovation Unit.

Chair, International Space Development Conference 2019, Washington, D.C., Jul. 2019

Speakers I recruited included: NASA Administrator Jim Bridenstine. NASA Associate Administrator for Science Mission Directorate Thomas Zurbuchen, National Space Council Executive Secretary Scott Pace.

Editorial Board, New Space Journal, 2015–current

Advisory Board Member, Coalition for a Prosperous America, 2017–Current

Board Member, China California Heart Watch, 2011–2012

Board Member, American Jobs Alliance, 2012–2016

Member, White House Presidential Transition Team (NASA) 2016–2017

Senior Economist, Coalition for a Prosperous America, 2013–2016

Member, Advisory Council on Sustainability Education, University of California Irvine, 2012–2013

Leader, U.S. Young Scholar & Experts Delegation to the Republic of China (Taiwan), 2012

PhD Class President, The Paul Merage School of Business, University of California, Irvine, 2008

PhD Dissertation

Title: Governmental Roles in the Emergence of New Communities of High Technology Organizations

Committee: Peter Navarro, Claudia Bird Schoonhoven, Yan Gong

Proposal Defended: July 18, 2012; *Dissertation Defended*: July 25, 2013 *PhD Awarded*: September 2013

Description: This dissertation examined the government influence on the environment in which a new community of entrepreneurial organizations emerges. The research context is New Space, entrepreneurial firms pursuing commercial space

launch, satellite and related businesses. This dissertation contributes to the entrepreneurship, community ecology and institutional theory literatures.

Research Interests

Governmental influence on entrepreneurial environments

Commercial spaceflight and UAS policy

Innovation policy, trade policy, technology transfer and national competitive advantage

Publications

Selected Published Academic Papers and Case Studies

Bhattacharya, B., Autry, G & Perry V. 2020 “Rocketing into the Future of Manufacturing”, *Harvard Business School Publishing Case Catalog*

Autry, G. & Obasaju, L. 2018 “Mojave Spaceport: Entrepreneurship in the Public Sector”, *Harvard Business School Publishing Case Catalog*

Autry, G. September 2018. “Commercial Orbital Transportation Services: A Case Study for National Industrial Policy,” *New Space Journal*. Vol. 6, No. 3.

Autry, G., Huang, L. 2014. “An Analysis of the Competitive Advantage of the United States of America in Commercial Orbital Human Spaceflight,” *New Space Journal*. 2(2): 83–110 Based on research commissioned by the FAA Office of Commercial Space Transportation

Autry, G., Huang, L. 2016 Strawther, Zhu, “XCOR Aerospace: New Space, New Place?”, *Harvard Business School Publishing Case Catalog*

Autry, G., Huang L., Dann, Kim, Siward, “RelishMIX: Building Social Media Management Tools for Hollywood”, *Harvard Business School Publishing Case Catalog*

Autry, G. 2011. “Space Policy, Intergenerational Ethics and the Environment,” *Proceedings of the American Institute of Aeronautics and Astronautics Annual Conference (SPACE 2011)*, AIAA 2011-7033

Academic Conference Papers and Presentations

Autry, G. and Davidian, K. 2019, “Process Approach for Organizational Change and Innovation Research”, Research Caucus, Academy of Management Conference, Boston MA. Panel: Andy Van de Ven, Jennifer Woolley, Andy Aldrin

Autry, G. and Davidian, K. 2014 “Overview of U.S. National Competitive Advantage in Human Orbital Spaceflight,” *Proceedings of the American Institute of Aeronautics and Astronautics Annual Conference (SPACE 2014)*

Huang, L. and Autry, G. “Rebels with a Cause: Perceptions, Beliefs, and the Cooperative Dynamics of Entrepreneurs in the Emergence of the New Space Industry,” This paper was accepted for presentation at the 2014 Babson College Entrepreneurial Research Conference

Published Book

Navarro, P. and Autry, G. 2011. *Death by China: Confronting the Dragon, A Global Call to Action*. Prentice Hall/Pearson. Amazon Bestsellers Rank (4/25/2018): #3 International Economics, #5 Political Freedom, #1 Trade & Tariffs

Textbook Contracted for Publication

Autry, G. *Small Business Management: The New Entrepreneurial Dynamic*. Proposal was peer reviewed and has been accepted for publication by Flatworld. The anticipated publication date is Fall 2020

Book in Progress

Autry, G. *The Meek Shall Inherit the Earth: The Entrepreneurial Space Race*. This book will survey the entrepreneurial teams creating spacecraft technology startups in the emerging community known as “New Space”

Selected Business Press Articles

Autry, G. September 20, 2019 “President Trump’s China Policy is Working, but You’d Never Know if From the Media Reports,” *LA Times*

Autry, G. June 20, 2019 “Space Research Can Save the Planet—Again,” *Foreign Policy*

Aldrin B. and Autry, G. September 20, 2017 “It doesn’t take a rocket scientist to run NASA”, *Space News*

Autry, G. 2012 “New Space”, *Global Trade*: 82–91

Autry, G. and Navarro P. 2009 “Leveraging Business Cycle Ups and Downs,” *Financial Executive Magazine*: 36–41
Forbes Contributor (regular)

Numerous other pieces in: Space News, The San Francisco Chronicle, The Los Angeles Times, The Orange County Register, The Baltimore Sun, Huffington Post

Documentary Film

Navarro, P. (Director); Addis, M.; Autry, G.; Zarinko, J.; (Producers); Sheen, Martin (narrator), *Death by China*, 2012

Selected Conference Presentations and Panels

“China U.S. Trade Tensions”, *UBS European Conference*, London, UK. November 12, 2019

“The Economist Debate: Free Trade”, *World Trade Symposium* (The Economist), New York City, November 7, 2019.

“Mission Opportunities: Gateway to the Three Comma Club”, Panel Moderator with: General Seven Butow; Col. Charles Miller Belmont; Tow Cwik, NASA JPL; Steven Isakowitz, CEO Aerospace Corp. *Air Force Space Pitch Day*, San Francisco, CA. November 6, 2019

“Failure is an option: Lessons from the Commercialization of U.S. Spaceflight”, *UDIP Conference*, Oxford University, UK. Plenary Session, August 1, 2019

“Japan—U.S. Conference on Peace in Northeast Asia 2019”, Panelist with former senior US, Japan, Korea, China diplomats and military leaders, Tokyo Japan, January 17, 2019

“Space Force”, Panel Moderator with: Doug Loverro, former Deputy Sec. Def.; Terry Virts, former NASA Astronaut; George Nield, Former FAA Ast. Admin.; Brian Weeden, Secure World Foundation. *Politicon*, Los Angeles, CA, October 12, 2018

“Commercial Space Regulation” Panel Moderator with: Rep. Dana Rohrabacher, Dr. George Nield, Lorretta Whitesides. *International Space Development Conference*, Los Angeles, CA, May 27, 2018

“Funding Innovation” *Space Symposium, Tech Track Speech*, Colorado Springs, CO, May 14, 2018

“Space Policy in the Trump Age” *Space Technology and Investment Forum*, Plenary Session, August 30, 2017

“Commercial Spaceflight” *Heritage Foundation, Eagle Forum Collegians Summit* Washington, D.C., July 19, 2017

“The View from Beijing: Chinese Space Efforts Past, Present and Future” *Space Technology and Investment Forum*, Plenary Session, August 2016

“Debate on the Trans Pacific Partnership v. Dan Ikenson, CATO” *American Manufacturing Strategies Summit*, Costa Mesa, California, November 2015

“Overview of U.S. National Competitive Advantage in Human Orbital Spaceflight” *American Institute of Aeronautics and Astronautics (SPACE 2014)*, San Diego, California, September 2014

“Overview of PARTS Analysis”, *Emerging Space Industry Leaders Workshop*, Stanford University Department of Aeronautics and Astronautics, Stanford, California, May 29–30, 2014

“Space Policy, Intergenerational Ethics, and the Environment” *American Institute of Aeronautics and Astronautics (SPACE 2011)* Long Beach, California, September 2011

“California’s New Space Industry”

Panel Moderator, *California Democratic Party Convention*, Sacramento, California, April 29, 2011

Congressional and Parliamentary Testimony and Presentations

“China’s Endgame Strategy—Leveraging U.S. Capital and Research to Leapfrog America in Cyber, Military and Space Tech” *Congressional Defense Forum Foundation Policy Forum*, Capitol Hill, Rayburn Congressional Office Building, Washington, D.C., June 23, 2017

“Cyber Attacks: An Unprecedented Threat to U.S. National Security” *Testimony to the U.S. House of Representatives, The U.S. House Foreign Affairs Subcommittee on Oversight and Investigations*, Washington, D.C., March 21, 2013

“The Price of Public Diplomacy with China”

Testimony to the U.S. House of Representatives, The U.S. House Foreign Affairs Subcommittee on Oversight and Investigations, Washington, D.C., March 28, 2012

“Exposing the Cost of China’s Cyber Assault Against America”
Congressional Defense Forum Foundation Policy Forum, Capitol Hill, Rayburn Congressional Office Building, Washington, D.C., September 20, 2013
 “Grounding China’s Reality Distortion Field”
Presented at the House of Commons, Ottawa, Canada, November 2, 2011

Grants

FAA Office of Commercial Space Transportation grant, \$65,000 annually sub-award via the Aldrin Space Institute, Florida Institute of Technology. Raised matching funds from industry participants including Deloitte, SpaceX, Virgin, Aerospace Corp, JPL and NASA Ames. *Pacific Commercial Spaceflight Initiative*

Interdisciplinary Teaching Grant, \$20,000, Greg Autry (Marshall School of Business), Dana Milstein (Dornsife College of Letters, Arts and Sciences—Writing Program), and Vahe Perroomian (Dornsife College of Letters, Arts and Sciences—Physics and Astronomy)—*Terraforming Mars: A Sustainable Habitation and Development of Humanity’s Second Home*

Awards & Certifications

FAA Remote Pilot in Charge Certification (commercial drone operator part 107), April 2017

Microsoft MCSE (certified systems engineer), 1997

Cisco CCNA (certified network administrator), 1998

PhD (peer) Teaching Awards 2010 and 2011, “Good with MBA Students Award” 2012

2012—Outstanding Teaching Assistant: Full Time, Fully Employed, and Executive MBA cohorts

2011—Outstanding Teaching Assistant: Fully Employed and Executive MBA cohorts

2010—Outstanding Teaching Assistant: Full Time, Fully Employed, and Executive MBA cohorts

The CHAIRMAN. Thank you very much, Dr. Autry.

Next, Mr. Huff, you are recognized for five minutes, sir.

STATEMENT OF DANIEL HUFF, NOMINEE TO BE ASSISTANT SECRETARY FOR LEGISLATIVE AFFAIRS, DEPARTMENT OF COMMERCE

Mr. HUFF. Thank you, Mr. Chairman, Ranking Member, Ranking Member Pro Tempore. It is an honor to be here. I grew up, of course, Jewish and I had a number of Catholic friends and they had confirmations, and I did not. So it is now nice to be here as a part of a confirmation process.

But, you know, I think that talking about being an honor to be here, it really is, and it is a phrase that is used, I think, in a perfunctory way and I do not mean it in that way at all.

I grew up in Boston surrounded by history. My mother used to read to me about Sam Adams and Paul Revere and John Hancock and his big signature, and that really instilled in me a love for the country and set me on a path to public service.

My first job in Washington was with Senator Specter from Pennsylvania and I remember sitting behind him in the Senate Judiciary Committee in the staff row and looking out and just being so thrilled to even be there, and if you had told me then that I would one day be on the other side of the dais I do not think I would have believed you. So I want to say believe me when I say it really is an honor to be here.

What interests me about the Commerce Department really is its broad jurisdiction. When I went off to college, I asked my father, you know, what should I study, and he taught math at Harvard and he said, well, you know, you really should get the building

blocks of modern analysis, mathematics, economics, learn some history too, and that will sort of set you up to understand a lot of very different things.

And so it did, and the Commerce Department looks at marine fisheries and patents and trade and economic data and all sorts of tremendously different things, statistics at the Census Bureau, and just being in an environment where you get to learn and work with and learn new things every day about new issues really fascinates me.

But, of course, in any job interview you have to explain not simply why you want the job but why they should want you, and I think that I bring to the table certain unique characteristics.

In particular, I served almost a decade on the Senate and House Judiciary Committees. That gave me real perspective on how to serve as a bridge between Congress and agencies, because I have seen oversight and legislative efforts between Congress and the Executive Branch from across administrations of both parties.

I have seen it from both sides. I, essentially, know the things that—the gimmicks and the games and sort of the negotiations, the really good things that happen, and I think that gives me a special perspective and would really situate me well to be—I do not want to say perhaps an advocate is the wrong word but a strong voice for Congress's prerogatives with the agencies.

The other thing that I think I bring to the table perhaps more of a unique way is as a proven history of coming up with creative solutions to problems.

I did this for my former boss, Chairman Bob Goodlatte, and I think—I hope I could do it here, too, because I know between the Executive Branch and the legislative branch issues arise and sometimes you have to find some compromise, and I sort of take—I am not good at everything but I am good at coming up with fresh ideas and I think that I could come up with a fresh perspective that, hopefully, can help resolve certain issues in certain circumstances and keep things between the branches moving well.

I guess a third point is that on the House Judiciary Committee I did a lot of work on state issues—issues of state taxation, and that really introduced me to a lot of state and local level officials, and I really learned to see how they view the Federal Government.

And part of the Commerce Department's portfolio really does deal in trade issues and things that affect states in a very local way and I think that having those relationships and the benefit of that perspective will also make me an effective person in this role, which governs not just relationships between the Executive Branch and Congress but also between the Executive Branch and state and local officials.

So, in closing, I want to thank President Trump for nominating me and my friends and family for being with me every step of the way.

And with that, Mr. Chairman, I yield back the balance of my time.

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

PREPARED STATEMENT OF DAN HUFF, NOMINEE TO BE ASSISTANT SECRETARY FOR
LEGISLATIVE AFFAIRS, DEPARTMENT OF COMMERCE

Chairman Wicker, Ranking Member Cantwell and distinguished Members of the Committee, thank you for allowing me to appear before your Committee, it is an honor.

Saying “it’s an honor” is something of a stock phrase in Washington, but I do not mean it in a perfunctory way. I grew up in Boston where history was all around me. My mom used to read to me about Paul Revere, Sam Adams and the Boston Tea Party. It filled me with pride in our country and set my sights on a path to public service. My first job in Washington was as a staff member on the Senate Judiciary Committee. I vividly remember sitting at hearings like this one in the staff row behind Senator Specter brimming with excitement. If you had told me then that I would one day be on the other side of that dais, I don’t think I would have believed you. So thank you again for affording me the opportunity to appear before you as you consider my nomination.

What I love about the Commerce Department is its broad jurisdiction. From marine life, to the census, to international trade to patents, it spans a breadth of scientific and economic knowledge with which the members of this Committee are intimately familiar. When I went off to college, I was not sure in what to major. My dad, who taught math at Harvard, suggested a broad path of study. He told me that mathematics and economics are the language of modern policy analysis and that I should focus on getting the building blocks. I added history for good measure. I believe that my broad educational background in these areas makes me uniquely suited to communicate with you, if confirmed, about the myriad of issues within the Department’s jurisdiction. I love learning new things and, I know that, if confirmed, the Commerce Department portfolio would be an endless source of interesting issues for me to help you tackle.

But of course, as with any job interview, I need to explain not just why I want the job, but why you should want me.

The position of Assistant Secretary for Legislative Affairs requires a deep understanding of both the Senate and House. The Assistant Secretary serves as a bridge between the Department and Congress.

I spent nearly a decade as counsel to the House and Senate Judiciary Committees. In those roles, I was responsible for both oversight and legislative initiatives. Accordingly, I have deep experience with, and healthy respect for, the oversight responsibilities of Congress. I know what it is like to make reasonable oversight requests only to have them stonewalled by an agency. Having seen both sides, I will be an effective advocate for Congress’s prerogatives within the Department.

In addition, I have a proven record of finding creative solutions to problems. As issues arise between Congress and agencies, whether on oversight requests or constituent needs, I would be able to inject fresh thinking that could help foster compromise.

Finally, the Assistant Secretary position is responsible not just for relationships with Congress, but also with the States. As a staff member on the House Judiciary Committee, I was the lead staffer on a number of interstate commerce issues, most prominently the Internet sales tax issue. Through this work, I built relationships at the state and local level and came to a better understanding of the way that these jurisdictions view and interact with the Federal government. If confirmed, I believe this perspective would be valuable in helping to advance the Commerce Department’s trade promotion agenda.

In closing, I want to thank President Trump for nominating me, and my family and friends who have been with me every step of the way.

With that, I am happy to answer any questions. Thank you Mr. Chairman.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Daniel Huff; Dan.
2. Position to which nominated: Assistant Secretary for Legislative Affairs, Dept. of Commerce.
3. Date of Nomination: 7/21/20 (approximately).
4. Address (List current place of residence and office addresses):
Residence: Information not released to the public.
Office: Eisenhower Executive Office Building, 1650 Pennsylvania Ave NW, Washington, DC 20502.
5. Date and Place of Birth: July 2, 1979; Boston, MA.

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).

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

- a. Columbia Law School, JD, 2005
- b. University of Toronto, BA, 2002

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.

- a. Detailee, Executive Office of the President, Office of Presidential Personnel
- b. Department of Housing and Urban Development, General Deputy Assistant Secretary
- c. Stonington Global LLC, Independent advisor
- d. House Judiciary Committee, Counsel
- e. Middle East Forum, Director of the Legal Project
- f. Senate Judiciary Committee, Counsel
- g. Advisor, Tancredo for President
- h. McKinsey & Company, Management Consultant

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.

Partner/Founder, YayNay LLC

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.

Republican Jewish Coalition

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. None.

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

- Harlan Fiske Stone Scholar, Columbia Law School
- University of Toronto Scholarship
- Howard Ferguson Scholarship; University College, U. of Toronto

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.

- *Eiden Probe, Trump Taxes Raise Similar Questions*, The Wall Street Journal (Nov. 24, 2019), <https://www.wsj.com/articles/biden-probe-trump-taxes-raise-similar-questions-11574634388>

- *Robert Mueller Has a Money Problem*, The Wall Street Journal (Mar. 24, 2019), <https://www.wsj.com/articles/robert-mueller-has-a-money-problem-11553468712>
- *Will the Market Adrenaline Last?* Fox News.com, May 10, 2010
- *Why Is America Curbing Free Speech, and Giving Extremists What They Want?* Fox News.com, Sept. 24, 2010
- *Is the First Amendment in Jeopardy?* Fox News.com, Jul. 6, 2010
- *The latest terrorist tactic: litigation*, The Daily Caller, Jan. 11, 2011
- Ayaan Hirsi Ali & Daniel Huff, *It's time to fight back against death threats by Islamic extremists*, The LA Times, Sept. 27, 2010
- *Profiling airline passengers is constitutional and effective*, The Daily Caller, Dec. 10, 2010
- *Islamic Extremist Targets Facebook Users*, FrumForum, Oct. 29, 2010
- *The Speech Act should not pre-empt state law*, The National Law Journal, Aug. 9, 2010
- *A Silver Lining at the Human Rights Council*, The Legal Project Blog, Mar. 26, 2010
- Eitan Meyer & Daniel Huff, *OIC places the United States in its crosshairs*, The Legal Project Blog, Dec. 27, 2009
- *Extraordinary Rendition: Constitutional Issues*, Law Library of Congress, Washington, D.C., Dec. 5, 2007. Video available here.
- *Islamists New Weapon: Libel Law*, FrumForum, Jan 25, 2010, <http://frumforum.com/entry/islamists-new-weapon-libel-law>
- *Lawfare: The Use of Law as a Weapon of War*, New York County Lawyers' Association, with John Bolton and others, moderated by James Taranto, Mar. 11, 2010. (My remarks focused on how predatory lawsuits threaten the vital role private citizens have played in aiding the government in the identification of terrorists and sources of terror financing.)
- *Islamists' Twin Assault on Free Speech*, teleconference town hall, Oct. 28, 2010. Audio available here.
- I believe I wrote an opinion piece in the university paper in the 2001–2002 school year regarding terrorism, but I don't recall if it was actually published and have been unable to find a copy. If found, I will forward.

18. List 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.

<https://www.instagram.com/huffsomefun/?hl=en> (dormant)

<https://www.snapchat.com/add/huffun> (dormant)

<https://twitter.com/realdanhuff> (dormant)

<https://www.instagram.com/danhuff1776/?hl=en> (dormant)

<https://www.facebook.com/dan.huff.927> (dormant)

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?

The position of A/S for Legislative Affairs requires a deep understanding of both the Senate and House. The A/S serves as a bridge to Congress. I spent nearly a decade as counsel to both the House and Senate Judiciary Committees. In that role, I was responsible for both oversight and legislative initiatives. Accordingly, I have deep experience with and healthy respect for the oversight prerogatives of Congress. I know what it is like to make reasonable oversight requests only to have them stonewalled. On the legislative side, I was the lead staffers on a number of interstate commerce issues most prominently the Internet sales tax issue. Through this work, I better understood the importance of strong national frameworks to keep the U.S. competitive globally.

My broad educational background in economics, mathematics and law makes me uniquely suited to understand the myriad issues within the Department's vast jurisdiction from the Census Bureau, to PTO, to NIST to NOAA.

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?

If confirmed as A/S for Legislative Affairs, my role in those issues would necessarily be limited. That said, I managed over 400 people as a General Deputy Assistant Secretary (GDAS) at HUD. As GDAS, I introduced a number of process improvements into daily operations including a centralized database of commonly used forms. Prior to coming to Washington, I was a management consultant with McKinsey and Company where I helped advise senior business leaders in Fortune 500 companies on management issues.

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

- *The Census*—By law, the President must receive the count by December 31, 2020, and report to the House Clerk within one week of the opening of the 117th Congress. Making sure not just that the count is done properly, but that it is perceived as done so it is critical. Congress will have many questions heading in into the fall so it is critical to have someone there who can serve as an effective bridge.
- *Fair Trade*—With the economy already hurt by the COVID-virus making sure U.S. manufacturers compete on a level playing field is even more important to getting America back on its feet. The Commerce Department needs to redouble its efforts to ensure robust enforcement of, for example, section 232 tariffs as well as antidumping and countervailing duty laws.
- *Leadership in Space*—Certain space related responsibilities have been transferred to the Commerce Department from DOD. These include critical policies to avoid in-space congestion and collisions as commercial space commerce increases and ensure the integrity of space-based position, timing and navigation services. These duties in the final frontier will require much analysis and hard work.

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.

McKinsey & Company Retirement Program:

1. Special Situations Enhanced-Liquidity USD
2. Passive U.S. Bonds

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. Per my ethics agreement I will step away from my involvement with YayNay LLC.

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.

None. The OGE has cleared me following my divestiture of stock in Microsoft.

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.

None. I have a passive interest in a startup software company I founded, YayNay LLC, in which I would no longer be active pursuant to my OGE 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.

As part of my approximately 1 month consulting job with Stonington Global, I advised on their efforts to aid their client B&H camera with issues relating to sales tax collection 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? 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.

N/A.

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, to the best of my ability.

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, to the best of my ability.

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, to the best of my ability.

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.

DANIEL HUFF
Washington, DC

EDUCATION:

COLUMBIA LAW SCHOOL, New York, NY

J.D., May 2005

Honors: Harlan Fiske Stone Scholar

UNIVERSITY OF TORONTO, Toronto, Canada

B.A., Mathematics, Economics, and History, June 2002

Honors: University of Toronto Scholarship (full tuition); Howard Ferguson Scholarship – University College

BAR ADMISSION, New York

EXPERIENCE:

EXECUTIVE OFFICE OF THE PRESIDENT

WASHINGTON, DC

Advisor, Office of Presidential Personnel (Detailee)

Spring 2020 – Present

- Advised on an array of personnel-related legal issues including the technicalities of the Vacancies Act
- Developed innovative approaches to various strategic and technical issues

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, DC

General Deputy Assistant Secretary, Office of Fair Housing and Equal Opportunity

Spring 2019 – Winter 2020

- Developed and oversaw key HUD policy initiatives featuring innovative approaches.
- Introduced a series of high-impact operational improvements as part of supervising enforcement staff of 400+.

U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON THE JUDICIARY

WASHINGTON, DC

Counsel to Chairman Bob Goodlatte & Former Chairman Lamar Smith

Spring 2011 – Winter 2019

- Led high-profile investigation that uncovered Obama DOJ's practice of forcing settling defendants to donate money to activist groups. Found rare "smoking gun" email. Translated oversight into action by drafting legislation to halt the abuse and shepherded the bill through to House passage (H.R. 732, the Stop Settlement Slush Funds Act of 2017). The success was highlighted in *The Wall Street Journal*, *Fox News*, and other major outlets.
- Managed investigation of the Obama DOJ's secret deal to shield controversial practices from Supreme Court scrutiny. Uncovered that the Civil Division dropped a fraud investigation in exchange for the defendant withdrawing its unrelated S. Ct. challenge. Deposed senior Administration officials including the AAGs of the Civil and Civil Rights Divisions.
- Resuscitated stalled investigation of DHS culminating in a much-publicized report on recidivism by criminal aliens whom DHS failed to deport. Effort required data cleaning, analysis and delicate negotiations with DHS and FBI.
- Spearheaded innovative oversight of OIRA and the regulatory state focused on diminishing marginal returns to regulation, the gaming of cost-benefit analyses, and the mismatch between the Obama Administration's rhetoric and actions on overregulation. Conducted oversight of agency regulatory reform efforts in the Trump Administration.
- Responsible for ongoing oversight of DOJ's Antitrust, Civil, Civil Rights, ENRD, Tax, U.S. Trustee Program and various grant making components. Forged deep expertise in their substantive jurisdictions, functions and policy issues and conducted regular hearings.

THE MIDDLE EAST FORUM

WASHINGTON, DC

General Counsel & Director, Legal Project

Fall 2009 – Winter 2010

- Managed Legal Project (LP) staff working on both cases and public policy efforts to defend the free speech rights of authors, cartoonists, and activists commenting on radical Islam and terrorism related issues.
- Conceived and spearheaded numerous LP initiatives, including developing a CLE course for attorneys featured in Philadelphia and DC and a popular legislative proposal to address Islamic extremist threats against free speech.

U.S. SENATE COMMITTEE ON THE JUDICIARY

WASHINGTON, DC

Crime & Terrorism Counsel to Ranking Republican Arlen Specter

Summer 2007 – Fall 2009

- Advised on a wide range of civil, criminal, and national security law topics, including the USAM, the McNulty Memo, the FCPA, drug diversion, FISA, and a constellation of issues relating to terrorism investigations. Leveraged detailed knowledge of Senate procedure to Republican advantage during debates.
- Researched legal and practical issues involved in identifying and removing criminal aliens, identified three principal problem areas, and drafted legislative solutions for each.

McKINSEY & COMPANY

NEW YORK, NY

Management Consultant Associate, Healthcare & Banking Groups

Summer 2005 – Spring 2007

- Advised senior corporate leadership in a variety of industries, including banking, insurance, and pharmaceuticals, regarding a range of challenges such as market entry strategies and operations.
- Conducted primary on-site research to understand industries and operations, summarized the new information clearly and concisely, and used it to develop timely strategic insights for presentation to industry executives.

SELECT PUBLICATIONS:

Opinion Contributor: *The Wall Street Journal*, *LA Times*, *National Law Journal*, *FoxNews.com*: *The Compulsory Process Clause as a Limit on Extraterritorial Criminal Jurisdiction*, 15 *Tex. Rev. of Law and Politics* 129 (2011);

The CHAIRMAN. Thank you very much for that testimony. Mr. Simington, you are recognized for five minutes, sir.

STATEMENT OF NATHAN SIMINGTON, NOMINEE TO BE A COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION

Mr. SIMINGTON. Chairman Wicker, Ranking Member Cantwell, and Acting Ranking Member Senator Blumenthal and distinguished members of the Committee, it is an honor and a privilege to appear before you today.

I am humbled to have been nominated by President Trump to serve as a Commissioner of the Federal Communications Commission and it is an honor to have this committee consider my nomination.

I would like to begin by expressing my gratitude to you and your staffs. Thank you for giving me the opportunity to meet with you and discuss issues of great concern to you and your states.

Now more than ever, during the COVID pandemic, telecommunications are at the center of how we work, study, and carry out our lives. If I am so fortunate as to be confirmed, I commit to continued close engagement with all of you and the public good.

If the Committee will indulge me a moment, I would like to recognize my family. In attendance today are my sons, Adrian, who is 14, and Lawrence, who is eight. My beloved wife, Larisa, and our son, George, who is three, are unable to attend.

My family is the center of my life and I am greatly blessed to have their love. I would also like to thank my parents, Erroll and Ruth Simington, for their constant support and encouragement. In addition, I would like to extend my congratulations to Messrs. Huff and Autry on their nominations.

I come before this Committee at a momentous time. America is where innumerable communications technologies were born, from the transistor to the laser to the communications satellite.

The first cellular phone call was placed by an American engineer on the streets of New York. American telecommunications innovation has been an enormous boon to the world.

And yet, too many Americans remain disconnected. As a boy from a farming family, growing up we had a telephone and three snowy television channels at our farmhouse.

But my parents had a computer in the basement, too, and it was my passport to a world of technology and education. I value connectivity because this childhood experience put me on the road to appear before this august committee today.

We have a tremendous opportunity before us as a nation to complete the long project of closing the digital divide. Our fellow Americans cannot, must not, be left disconnected, even as communications technology advances. The opportunities before us will remain beyond our grasp so long as so many Americans are foreclosed by geographical or other barriers from reaching them.

Furthermore, for the first time, American telecommunications leadership may be in question. The persistence of the digital divide is a factor in this.

If some Americans are denied access to advanced technologies, we are denying ourselves the benefit of their contributions and this lack can compound once it becomes generational. Philo Farnsworth,

so the story goes, invented television image scanning while plowing a field.

May this union of the pastoral and the cutting edge inspire us to ensure that all of our children are able to fully realize their potential.

My journey has taken me from my family farm to higher education and opportunity in America. I was a top lawyer at an international wireless mobility company and I am now fortunate to work at the executive branch's telecommunications agency, the National Telecommunications and Information Administration.

I believe this experience gives me a valuable perspective on the challenges and opportunities before the industry, the Commission, and the American people.

So I would like to briefly outline the view and approach that, if I am confirmed, I would bring to the Commission under the umbrella of four principles.

First, regulatory stability. We have all reaped great benefits from vigorous competition in telecommunications. The Commission must always place the public interest first and to do so to improve consumer welfare it must be careful not to chill development by going over the line with intrusive, disruptive, and burdensome regulation.

Second, universal connectivity. I would like to point out two success stories, the recent improvements of service and reach.

Since 2015, broadband has grown much faster and much cheaper. The volume of data carried over each megahertz of consumer wireless has increased by over 4,000 percent and we are much closer to closing the digital divide than we were a few short years ago.

This is a record to be proud of. If I am confirmed, I will continue to uphold Congress's mandate to the Commission under Section 254, while always looking for opportunities to improve and extend the connectivity.

Third, public safety and national security. Congress has directed the Commission to keep the spectrum commercialization pipeline full. But conflicts have arisen with public uses.

Congress, the Commission, and public users can reconcile these conflicts and get win-win outcomes. The COVID pandemic has demonstrated the strength of America's networks under strain while exposing weaknesses in delivery of vital services.

I understand the conflicts and challenges. If I am confirmed, I will protect public interests even as sorely needed spectrum commercialization continues briskly as directed by Congress.

Fourth, public interest. The Commission's efforts are justified in the end only if the American people are well served. The Commission must prevent illegal marketing, keep 911 up to date, balance the rights of television companies, and restrain unwanted robocalls, which is perhaps the issue that most unifies Washington.

These issues are not as flashy as the policy debates over spectrum auctions or broadband build outs. But for many Americans, they are where telecoms' rubber meets the road.

If I am confirmed, I will be a strong advocate for the Commission's public interest mandates and engage with Congress and the public in furtherance of them.

Chairman Wicker, Ranking Member Cantwell, Acting Ranking Member Blumenthal, and members of the Committee, please accept my thanks once more for considering my nomination and I look forward to answering your questions.

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

PREPARED STATEMENT OF NATHAN SIMINGTON, NOMINEE TO SERVE AS A
COMMISSIONER, FEDERAL COMMUNICATIONS COMMISSION

Chairman Wicker, Ranking Member Cantwell, and distinguished Members of the Committee, it is an honor and a privilege to appear before you today. I am humbled to have been nominated by President Trump to serve as a Commissioner of the Federal Communications Commission, and it is an honor to have this Committee consider my nomination.

I would like to begin by expressing my gratitude to you and your staffs. Over the past several weeks, you have given me the opportunity to meet with you and discuss issues of great concern to you and your states. Now more than ever, telecommunications are at the center of how we work, study, and carry out our lives. Thank you for sharing your insights on the Commission's role in advancing the public interest; thank you as well for discussing current challenges and possible solutions. If I am so fortunate as to be confirmed, I commit to continued close engagement with all of you in the public good.

If the Committee will indulge me a moment, I would like to recognize my family. In attendance today are my sons Adrian, who is fourteen, and Lawrence, who is eight. My beloved wife Larisa and our son George, who is three, are unable to attend. My family is the center of my life and I am greatly blessed to have their love. I would also like to thank my parents, Erroll and Ruth Simington, for their constant support and encouragement. In addition, I would like to extend my congratulations to Messrs. Huff and Autry on their nominations.

I come before this Committee at a momentous time. America is where innumerable communications technologies were born, from the transistor to the laser to the communications satellite. The first cellular phone call was placed by an American engineer on the streets of New York. American telecommunications innovation has been an enormous boon to the world.

And yet, too many Americans remain disconnected. As a boy from a farming family, when I was growing up, we had a telephone and three television channels at our farmhouse. But I had a computer in the basement too, and it was my passport to a world of technology and education that was like sheer magic. This was long before commercial internet, but I have never forgotten the experience of designing an adder circuit on a fuzzy green screen, with a copy of the 1986 World Book at my elbow to look up unfamiliar words. I value connectivity in part because this childhood experience put me on the road to appear before this august Committee today.

We have a tremendous opportunity before us, as a nation, to complete the long project of closing the digital divide. Our fellow Americans cannot, must not, be left disconnected even as the world enters the fifth generation of wireless communication. The opportunities before us will remain beyond our grasp so long as so many Americans are foreclosed, by geographical or other barriers, from reaching them.

Furthermore, for the first time, American telecommunications leadership may be in question. The persistence of the digital divide is a factor in this. If some Americans are denied access to advanced technologies, we are thereby denying ourselves the benefit of their contributions, and this lack can compound once it becomes generational. Philo Farnsworth, so the story goes, invented television image scanning while plowing a field. May this union of the homely and the cutting-edge inspire us to ensure that all of our children are able to realize their potential.

My journey has taken me from my family farm to opportunity in America. I was a top lawyer at an international wireless mobility company, and I am now fortunate to work at the executive branch's telecommunications agency, the National Telecommunications and Information Administration. I believe this experience gives me a valuable perspective on the challenges and opportunities before the industry, the Commission, and the American people. With this in mind, I would like to briefly outline the view and approach that, if I am confirmed, I would bring to the Commission. I will discuss this under the umbrella of four principles.

My first principle is regulatory stability. We have all reaped great benefits from vigorous competition in telecommunications, enabled by private infrastructure in-

vestment. The Commission must always place the public interest first. And to do so, to improve consumer welfare, it must be thoughtful about potential chilling effects on development if its regulatory efforts go over the line and become intrusive, disruptive and burdensome.

By sticking to stability, competition and consumer protection, we stand the best chance of seeing continued telecommunications development and modernization. We will support innovation and entrepreneurship and promote consumer welfare. And we will modernize to continue creating good jobs and increasing productivity. If I am confirmed, I will support the Commission's ongoing commitment to light-touch regulation.

My second principle is universal connectivity. The commission's record over the past few years should be assessed by looking at two success stories: the improvement of service and the growth in connectivity. Since 2015, broadband has grown much faster and much cheaper. Since 2012, the volume of data carried over each megahertz of consumer wireless spectrum has increased by over 4,000 percent. And we are much closer to closing the digital divide today than we were a few short years ago. This is a record to be proud of. If I am confirmed, I will continue to uphold Congress's mandate to the Commission under Section 254 while always looking for opportunities to improve and extend connectivity. The Commission's current efforts to expand access are exciting. I would love to do my part in delivering on them.

My third principle is public safety and national security. Congress has directed the Commission to keep the spectrum commercialization pipeline full, but conflicts have arisen with public uses. Congress, the Commission, and public users can reconcile these conflicts and achieve win-win outcomes. The COVID pandemic has demonstrated the strength of America's networks under unprecedented strain; however, it has also exposed weaknesses in our ability to deliver vital services. As a senior advisor at a public agency, I understand the conflicts and challenges that we face in vindicating these vital interests. If I am confirmed, I will ensure that public interests are protected while sorely needed spectrum commercialization continues briskly in accordance with the will of Congress.

My fourth principle is serving the public interest. All of the Commission's efforts are justified, in the end, by whether the American people are well-served by telecommunications. The Commission must prevent illegal marketing, keep 9-1-1 up to date, balance the rights of television providers, and restrain unwanted robocalls—perhaps the issue that most unifies Washington. These issues may not be as flashy as the policy debates over spectrum auctions or broadband buildouts, but for many Americans, they are where telecom's rubber meets the road. If I am confirmed, I will be a strong advocate for the Commission's public interest mandate functions, and I will commit to having an open door and top-notch responsiveness to concerns from Congress and the public.

Chairman Wicker, Ranking Member Cantwell, and Members of the Committee, please accept my thanks once more for considering my nomination. I look forward to answering your questions.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used):

Nathan Alexander Simington.

2. Position to which nominated: FCC Commissioner.
3. Date of Nomination: September 16, 2020.
4. Address (List current place of residence and office addresses):

Residence: Information not released to the public.

Office: National Telecommunications and Information Administration, Department of Commerce, 1401 Constitution Avenue NW, #4899, Washington, D.C. 20230.

5. Date and Place of Birth: January 31, 1979; Saskatoon, Saskatchewan, Canada.

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).

My wife's name is Larisa Loredana Simington. She is currently a full-time homemaker and was last employed as a music professor at Eastern Michigan University, in 2011.

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

Juris Doctor, University of Michigan, 2011

Master of Arts, University of Rochester, 2007
 Master of Music, University of Rochester, 2006
 Bachelor of Music, Lawrence University, 2001

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.

I worked in various teaching and part-time positions while an undergraduate and in graduate school. In 2007–2008, I worked for a year as an assistant at marketRx, a pharmaceutical market-research company that has since been acquired by Cognizant Technologies. While in law school, I worked as a research assistant for Prof. Cindy Schipani at the University of Michigan Ross School of Business, then as a summer associate at Mayer Brown LLP's Chicago office. Upon graduation, I was a Public Interest Law Initiative Fellow while studying for the bar, then formally began my legal career with Mayer Brown LLP upon completion of the bar exam.

I practiced law in Chicago for four years, with Mayer Brown LLP and Kirkland & Ellis LLP. During this period, I worked with and learned from some of the most prominent asset finance lawyers in the world. I then practiced for two years with Chapman and Cutler LLP in Washington, D.C., again specializing in asset finance and related areas of securities and bankruptcy law. In 2017, I was recruited to work at Brightstar Corp. by the then-head of their financial services group.

At Brightstar, I was core leadership on the financial services team. We designed and implemented retailer and carrier financial products currently in use worldwide. This business was very successful and grew to have the highest revenue per employee of any group within Brightstar.

Thanks to my success in this area, I found myself asked to take increasing responsibility. In addition to financial services, I became responsible for global treasury, distressed credit, acquisitions and divestments, audit and internal compliance, domestic sales channels, and our Sprint relationship. In this expanded role, I had daily contact with the senior leadership team, including the general counsel, the chief financial officer and the treasurer, and frequent contact with executives at SoftBank, our corporate parent. I directly supervised all lawyers worldwide below the general counsel level with respect to any portfolio under my control. I was the legal lead for over \$800 million of credit facilities worldwide and for an American trade credit program with an annual turnover of over \$4 billion. I turned down a promotion to Associate General Counsel in order to accept my current position with the Department of Commerce.

My experience with Brightstar has put me on the front lines of the wireless industry, from domestic retail dealers to carriers overseas. I know current economic and financial concerns intimately and I am deeply informed on accounting, operations, and above all, capital management issues. To win the race for 5G, establish universal access and fulfill the mandate of the FCC, America must coordinate across government and private industry to remove the barriers holding back the dynamism of our wireless sector. Spectrum initiatives, though necessary, will not win this race by themselves. America must also help its carriers and tower companies to maximize capital efficiency while incentivizing the broadest penetration of advanced technologies into consumer markets. I know the operational and financial landscape and, as an FCC commissioner, I will make sure that American industry has the assistance and support that it needs to unleash its full creativity on this issue.

9. Attach a copy of your resumé. A copy of my resumé is 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.

I have no previous government experience.

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.

Senior corporate counsel—Brightstar Corp. (2017–2020)
 Associate—Chapman and Cutler LLP (2015–2017)
 Associate—Kirkland & Ellis LLP (2013–2015)
 Associate—Mayer Brown LLP (2011–2013)
 PILI Fellow—Active Transportation Alliance (2011)
 Summer Associate—Mayer Brown LLP (2010)
 GMAT Instructor—Veritas (2009–2010, part-time)

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.

I have been a member of the Illinois state bar since 2011. The Illinois state bar does not discriminate on the basis of sex, race, color, religion, national origin, age, or disability. I am a member of the Kirkland & Ellis alumni organization. The Kirkland & Ellis alumni organization does not discriminate on the basis of sex, race, color, religion, national origin, age, or disability. I am a member of the University of Michigan alumni organization. The University of Michigan alumni organization does not discriminate on the basis of sex, race, color, religion, national origin, age, or disability. Other than those and my church membership, I have no applicable affiliations to disclose.

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.

I have never been a candidate for or held any public office.

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.

I am a registered Republican, but otherwise have no memberships or offices in any party or election committee. I have never held a paid position with a campaign or served in a campaign in any advisory capacity or position.

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.

I have never made any political contributions.

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

University of Michigan Law School—Dean’s Scholarship, \$60,000 (2008–2011)
Presser Graduate Award, \$10,000 (2005)

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.

While in private practice, I co-authored a client alert titled “SEC proposes amendments to money market fund rule”. This alert is available online at <https://www.lexology.com/library/detail.aspx?g=c4731b5d-6999-401b-8682-7d6afd1ff6e>.

While a college student, of legal drinking age, I wrote an untitled column about craft beers for *The Laurentian*, Lawrence University’s student-run newspaper. Most of the columns are not available online, but I was able to find two archived columns:

“Southern Germany brings tradition and individual talent to beer”, available at <http://www.laurentian.com/archives/106248>, and “Let your beer reflect the seasons: May is for light German beers”, available at <http://www.laurentian.com/archives/105372>.

Other than the above, I have authored no books, articles, columns, Internet blog postings, or other publications, individually or with others, and I have given no relevant speeches.

18. List 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.

Major Platforms:

Facebook: <https://www.facebook.com/nsimington>
(active account with few posts.)

Twitter: <https://twitter.com/nsimington>
(nominally active account, 2 tweets, no deleted or concealed tweets.)

LinkedIn: <https://www.linkedin.com/in/nsimington/>
(active account.)

Youtube: https://www.youtube.com/channel/UCyUXyl_PMKosUGipvdF9GYA
(active account used for media viewing and family videos with no public uploads.)

Miscellaneous:

<https://www.violinist.com/directmy/bio.cfm?member=nsimington>
(dormant, last active in 2007.)

<https://www.flickr.com/photos/28863214@N08/>
(dormant, still contains a few family pictures.)

<https://www.chess.com/member/nsimington>
(active.)

<https://www.hulver.com/scoop/user/nathan/>
(dormant, last active in 2014.)

Google+ account linked to my gmail account; this was dormant at the time that Google+ was discontinued in 2019.

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.

I have never testified before Congress in any capacity either orally or in writing.

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 currently serve as Senior Advisor at the National Telecommunications and Information Administration (NTIA) within the Department of Commerce. NTIA serves as the President's principal advisor on telecommunications policies and shares, with the FCC, the task of regulating the use of wireless spectrum in the United States. In this role, I have worked on a wide variety of broadband and spectrum matters, including the American Broadband Initiative, FirstNet, the World Radiocommunication Conference, and interagency spectrum management and repurposing initiatives. I also work on securing global supply chains and initiatives to replace existing insecure wireless infrastructure.

I have extensive experience working on telecommunications issues in the private sector. For over three years, I worked at a global telecommunications company that provided logistics, consulting and operations services to most of the world's most important manufacturers and wireless carriers, as well as industry intermediaries such as distributors and insurance companies. In this job, I quickly rose to become the top internal attorney beneath the general counsel and frequently served as the lead attorney to senior executives and the board of directors on "bet-the-company" issues.

Prior to my in-house experience, I worked as counsel for prominent law firms, including both Kirkland & Ellis and Mayer Brown. In those jobs, I routinely lead deals with complex regulatory requirements, including liaison work with the SEC to bring over \$50 billion of trust assets into compliance with new regulatory requirements. I also worked on utility projects and on wireless device and cell tower deals, thus becoming familiar with the legal and business nuances of each.

My public and private-sector experience provides me with the background needed to help the FCC carry out its vital responsibilities—from extending America's global leadership in 5G and other next-generation technologies, to ensuring the security of America's networks and supply chains, to promoting the buildout of high-speed networks to every community in this country.

America has been the world leader in telecommunications since the earliest days of radio. Beyond technological leadership, America has also led the world in connectivity. We must remain true to our heritage in pursuing the goal of universal access to the latest and foremost communication technologies.

Now, for the first time, strategic rivals have emerged to threaten American primacy and, thereby, our economic position, our technological leadership, our national security, and our promises to the American people of continuing leadership and access to advanced telecommunications. My experience in cutting-edge management practices in the wireless industry gives me a window into the challenges facing every wireless-industry executive team. My experience at NTIA gives me a front-

line perspective on the challenges of onshoring and secure supply chains. As a commissioner, I would work with companies across the telecommunications sector to identify and resolve current challenges, and I would do so without either weakening the market model that American freedom requires or placing undue burdens on the public purse. In particular, the Universal Service Fund (USF) managed by the FCC is a key component by which America ensures that all citizens are able to obtain necessary telecommunications access. My expertise in telecommunications finance will help the FCC in its mission to make the most of the USF in order to benefit all Americans, including those whose communities are currently underserved or for whom access is prohibitively expensive.

This is a vital part of fostering a competitive and dynamic market for wireless innovation. With 50 percent of worldwide Internet use taking place via smartphone, and 20 percent of Americans using smartphones as their sole Internet device, there is no closing the digital divide without careful attention to cost barriers imposed by device and service costs. To extend American leadership in 5G wireless and win the race to nationwide universal 5G, the FCC must engage productively with industry to reach free-market solutions to current capital constraints. The FCC's expert work on spectrum will be complemented and strengthened by work on the financial front. I have the necessary industry insight to solve these problems, and I believe that this is the most impactful work I could do to strengthen America and help the American people. I want my children to grow up in an America full of renewed promise and true to the American heritage of innovation and achievement.

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?

I have extensive relevant real-world management experience. I worked closely with my former employer's CFO and Treasurer on a daily basis. I have managed many billion-dollar bond deals. I closed one of the largest asset-based loans in the wireless industry during the COVID crisis, and I designed complex accounting-based financial products in present use worldwide. Additionally, as senior counsel at my former employer, I led the legal team for data-security auditing and compliance. This required an organization-wide audit and validation of controls of all kinds. In order to obtain the necessary certifications, we had to examine every contract and process to make sure that our clients could have total faith in our data integrity and security when we were handling sensitive personal or health data.

I am very familiar with lean, high-productivity operations. I was core management on our product team with highest profitability per employee; we reached this goal by constantly working to identify the best uses of resources and exercising great care in our choices about where to allocate them. I am also familiar with fraud identification and examination techniques. As a commissioner, I would work closely with the Office of the Managing Director to obtain necessary reporting before formulating my own assessment of controls and audit reports. I would work with the audit team to ensure that controls are affirmatively followed and understood at the operational level. And I would contact other agencies to determine their concerns, if any, with present FCC processes and outcomes.

This experience will prove especially relevant to management and oversight of the USF. The USF supplies vital programs relating to universal access. As an FCC commissioner, I will ensure careful oversight of the USF to maintain public confidence in the FCC's stewardship and continued success in its mission.

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

The FCC faces many challenges. The first major challenge is freeing spectrum for consumer use while ensuring that Federal agencies can continue to carry out their missions unobstructed. This poses technical and regulatory obstacles to private and public actors as we work together to win the race to 5G. Winning this race will provide a cornucopia of great innovations to all Americans. These include low-latency industrial controls through the "Internet of Things", new personal medical devices and telemedicine to improve pandemic responses, and even self-driving cars. 5G is how we will reach the promise envisioned in 1990s in the earliest days of consumer internet. But to get there, we must harmonize these new spectrum and bandwidth needs with established defense and infrastructure needs. Regulators, agencies and industry must collaborate to find the best outcome for all.

The second major challenge is telecommunications supply chain security. Achieving true supply-chain security will include reforms at all levels, including software audits, semiconductor manufacturing re-onshoring, tower equipment pulls and replacements, and the fostering of a stronger domestic high-tech sector. Secure supply chains will be a boon to all Americans, bolstering national security, preventing industrial espionage and ensuring the security of personal data. This also represents

an opportunity to accelerate the buildout of more modern Internet and wireless infrastructure. The FCC already plays a significant role in this effort, but it will remain a challenge for years to come.

The third major challenge is closing the digital divide to reach full digital inclusion. To reach this goal, the FCC must foster continued growth in connectivity without undermining market-based solutions. The FCC will achieve this by an intelligent use of regulatory and oversight powers to encourage coordination between government and industry to achieve widespread prosperity and sustainable progress.

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 have no such financial arrangements other than interests in three retirement accounts. One of my retirement accounts is a Vanguard account sponsored by Kirkland and Ellis. The second is an interest in the Chapman and Cutler master trust operated by OneAmerica. The third is a JP Morgan account sponsored by Brightstar. Upon appointment, I would divest from all of these and roll the funds into my present U.S. Government retirement account.

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.

I have no such commitments, agreements or expectations, whether formal or informal.

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.

I have no such investments, obligations, liabilities or other relationships.

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.

I have no such business relationship, dealing or financial transaction potentially constituting or resulting in an actual or possible conflict of interest.

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

My present agency, NTIA, is a co-regulator of wireless spectrum with the FCC. NTIA is also the President's advisor on telecommunications policy. In both capacities, NTIA routinely communicates with and petitions the FCC. As an FCC commissioner, I would not allow this present institutional affiliation to affect my judgment or decisions relating to matters before or involving the FCC. Furthermore, the FCC is an independent agency, so as an FCC commissioner, I would have heightened accountability to Congress as well as the executive branch. In my opinion, I have not had involvement with any NTIA matters currently before the FCC to an extent requiring recusal, but in any situation involving a potential conflict of interest, I would seek advice from Federal ethics counsel prior to taking any action.

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 have never been involved in any activities in which I was 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.

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.

I have never been disciplined or cited for a breach of ethics, professional misconduct, or retaliation, 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.

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.

I have never been investigated, arrested, charged, or held by any law enforcement authority, whether Federal, State, or otherwise, other than for a minor traffic offense.

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.

Neither I, nor any business or nonprofit of which I am or were an officer has ever been involved as a party in an administrative agency proceeding, criminal proceeding, or civil litigation, with the following exceptions:

1. *Brightstar Corp.* As a large international corporation, Brightstar Corp. routinely engages in civil litigation as both plaintiff and defendant. Brightstar Corp. is not, on information and belief, currently implicated in any administrative proceedings. On information and belief, there are four currently pending civil cases in the United States to which either Brightstar Corp. or its primary United States operating company, Brightstar US, LLC, are a named party:

Ben Nash v. Brightstar Corp., Case no. 3D19-2093, before the Third District Court of Appeal of the State of Florida, and *Brightstar Corp. v. Chaim Tzvi Nash AKA Ben Nash, and PCS Wireless, LLC*, Case no. N20M-09-011, before the Delaware Superior Court. These cases involve a dispute over certain used wireless devices and associated pricing practices. The amount in controversy is approximately \$10 million.

Brightstar US, LLC vs. Reliance Communications, LLC, Case no. 0611601/2019 before the New York Superior Court. This case is a suit brought by Brightstar against a wireless device distributor for nonpayment. The amount in controversy is approximately \$6 million.

Brightstar Corp. et al., v. Warren Barthes et al., Case no. 2019-030740-CA-01, before the Circuit Court for the Third District of the State of Florida. This case is a suit brought by Brightstar against the former owner of a business acquired by Brightstar alleging malfeasance prior to and subsequent to acquisition. The amount in controversy is approximately \$10 million.

2. *NTIA*. As a major Federal government agency, NTIA is routinely a party to administrative proceedings and is also involved in civil litigation from time to time. However, the NTIA is currently not party to any administrative proceedings.

The sole currently pending Federal case to which NTIA is a named party is *In Re Subpoena to National Telecommunications and Information Administration*, Case No. 1:19-mc-00040-RDM. This matter is before the U.S. District Court for the District of Columbia. NTIA was subpoenaed by Frontier to produce records related to a qui tam case involving a Broadband Technology Opportunities Program grant, which is pending in U.S. District Court in the Southern District of West Virginia—*CityNet, LLC v. Frontier West Virginia Inc., et al.*, (Case No. 2:14-CV-15947). The U.S. Government declined to intervene in the qui tam case. The subpoena matter has been stayed since April 16, 2020, pending the resolution of the Frontier bankruptcy proceedings. NTIA is represented by the Office of the U.S. Attorney/District of Columbia in the subpoena matter.

Additionally, there are two matters in which NTIA officials acting in their official capacities are named defendants.

The first is *Rock the Vote. et al., v. Trump. et al.*, Case No. 3:20-cv-06021. This case was filed in the U.S. District Court for the Northern District of California on August 27, 2020. The plaintiffs have asserted various First Amendment claims against NTIA Deputy Administrator Doug Kinkoph, as well as President Trump, Attorney General Barr, Secretary Ross and OMB Director Russell Vought in their official capacities. The Department of Justice/Civil Litigation/Federal Programs is representing the U.S. Government in this case.

The second is a complaint filed in Canada on August 24, 2020, by one Graham Schreiber, against various defendants, including current and former U.S. Government officials. The subject of the complaint appears to be Internet domain names.

NTIA Sr. Telecommunications Policy Advisor Suzanne Radell, who has served as a U.S. Government representative on the Internet Corporation for Assigned Names and Numbers Governmental Advisory Committee, is named in the complaint (along with almost 100 other individuals and companies). The Department of Justice/Civil Litigation/Office of Foreign Litigation is representing the U.S. Government and is working through local counsel in Canada and through the State Department to assert the U.S. Government's sovereign immunity to the suit.

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.

I have never been convicted, pled guilty, or pled *nolo contendere* to any criminal violation other than a minor traffic offense.

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.

I have never been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis.

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

I do not feel that there is any additional information that should be disclosed in connection with my nomination.

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, absolutely. The FCC's nature, as an independent agency established by statute, makes it especially accountable to Congress. Insufficient responsiveness to Congress, including individual Members, calls the democratic mandate of the FCC into question. It would be a staffing priority for me to establish dedicated outreach channels in order to strengthen my connection to both sides of the congressional aisle, and I would be certain to treat requests from members in the minority with the utmost attention and respect.

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, unquestionably. Whistleblowers can be unpopular among established members of a bureaucracy, including upper management. However, as a corporate lawyer, I firmly believe that suppressing the truth always makes everything worse, and the truth always, always comes out. Internal malfeasance festers and can bring healthy companies down, ruining the livelihoods of thousands of innocent people.

I believe whistleblowers are a vital and valuable resource to any organization. I have no prior Washington career and have no commitment to bureaucratic continuity to weigh against my intention to expose and resolve problems as soon as they manifest. I find the idea of retribution against witnesses viscerally offensive and damaging to any agency's democratic mandate—no officer of an agency has any legitimate power except that which is delegated to them by the American people in accordance with the Constitution.

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?

I will do so with pleasure. Congress has entrusted the FCC with a large budget drawn from regulatory fees; these fees are charged for access to resources held in trust for the American people. FCC personnel have been entrusted with the money, time and position to become some of the foremost experts in the world on their technical and regulatory issues. This includes an obligation to inform Congress, especially through its designated Committee, of the fruits of this expertise in comprehensive but digestible formats. If the FCC fails in this duty, it is depriving Congress of the power to legislate appropriately, so this is a major public trust.

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?

It would be both my duty and pleasure to testify before any such committee at any time and for any reason that such committee deemed appropriate.

NATHAN A. SIMINGTON

SUMMARY

I am a highly experienced lawyer with an extensive record of leadership and responsibility. I am a Senior Advisor at the National Telecommunications and Information Administration (NTIA) within the Department of Commerce (DOC), where I report to the Assistant Secretary. I am closely involved with major NTIA spectrum and wireless initiatives, such as FirstNet, the American Broadband Initiative and the World Radiocommunication Conference; I also work on secure supply chains and other wireless infrastructure security projects. Prior to this, I reported to the General Counsel of Brightstar Corp., a wireless device services, logistics and insurance company with 5,000 employees and over 100 subsidiaries on five continents. I advised the C-suite on credit, treasury and M&A worldwide and managed data security audit and compliance.

COMPETENCIES

Spectrum sharing, broadband and wireless infrastructure, telecommunications regulation, wireless infrastructure and device finance, supply chain security, corporate management and data security, fraud examination, securities and investment structure.

EXPERIENCE

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION (DEPT. OF COMMERCE) Washington, D.C.
Senior Advisor June 2020-Present

Portfolios: spectrum sharing, emergency-response broadband and wireless, federal broadband and wireless funding, expanding internet and cell-phone access through infrastructure improvements, policy and regulatory support to scientific arm of agency.

BRIGHTSTAR CORP. Miami, Florida
Senior Corporate Counsel June 2017-June 2020

Portfolios: wireless credit, M&A, treasury, tower services, operations and logistics, structured products, data security, regulatory compliance.

Responsibilities as lead counsel: divestment of Canadian cell tower services division; logistics, credit and settlements for \$4 billion Sprint distributorship business during T-Mobile acquisition; compliance counsel for medical devices and telemedicine services group; European data privacy counsel; credit counsel for principal credit facilities worldwide; structured products counsel for international finance group.

CHAPMAN & CUTLER LLP Washington, D.C.
Associate July 2015-June 2017

Responsibilities: represented wireless network operators, credit card issuers, auto manufacturers, healthcare receivables funding companies and equipment leasing companies on securities, bankruptcy and finance matters. Lead counsel on SEC compliance programs for "Regulation AB II" transition, covering over \$50 billion of bond programs.

KIRKLAND & ELLIS LLP Chicago, Illinois
Asset Finance & Securitization Associate Sep. 2013-July 2015

Responsibilities: represented cell tower companies, utilities, leading global automotive manufacturers and leading banks. Lead associate on 20-attorney team to plan restructuring of a state agency.

MAYER BROWN LLP Chicago, Illinois
Tax Transactions and Finance Associate, Summer Associate Oct. 2011-Sep. 2013, Summer 2010

Responsibilities: represented leading credit card and automotive companies in tax and structured finance matters; joint author on white paper re 2a-7 compliance for money-market funds; also practiced in FATCA and domestic C-corp tax.

EDUCATION

UNIVERSITY OF MICHIGAN LAW SCHOOL, J.D. Ann Arbor, Michigan; 2011
 • Dean's Scholarship (\$20,000 per year)

UNIVERSITY OF ROCHESTER, M.Mus., M.A. Rochester, New York; 2006, 2007
 • Presser Music Award (Bucharest, 2005) – Theodore Presser Foundation

LAWRENCE UNIVERSITY Appleton, Wisconsin; 2001
 • B. Mus., Music Theory and Composition and Violin Performance (double major)

The CHAIRMAN. Thank you very much, Mr. Simington, and thank you all.

Senator Cruz has a tight connection to a flight back home to Texas and so I am going to let him step in front of me and, Senator Cruz, you are recognized for five minutes, sir.

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

Senator CRUZ. Thank you, Mr. Chairman. I appreciate your graciousness. As you noted, you now have an enormous chit in your pocket, which I expect you to call in at some point.

Dr. Autry, let us start with you, and as you may recall in 2015 President Obama signed my bill, the Commercial Space Launch Competitiveness Act, into law, and a follow up to that legislation, the Space Frontier Act, passed the Senate last Congress.

A provision of that legislation authorizes a lower Earth orbit commercialization program. In your judgment, how much progress do you expect the agency to make in the next 5 years for commercialization planning and what support does the agency need from Congress to boost commercialization efforts?

Mr. AUTRY. Thank you, Senator Cruz.

I do not know if you recall, we had a breakfast in a McDonald's in John Wayne Airport a couple years ago before we were both on a flight to Houston. I think I thanked you then. I would like to thank you again for your support of space and, in particular, the 2015 Commercial Space Launch Act and the follow-up legislation.

LEO commercialization is important. As you know, there has been some fits and starts. To be clear, the job of CFO at NASA is not a policy position and my job is to make sure that we do what you folks want done and that we report back to you accurately that it has been done.

That said, my personal opinion is that it is critically important that we need to get everything we can out of our huge investment and the partners' investment in the International Space Station.

I believe there has been progress at CASIS and ISSNL after some fits and starts in that. I am glad to see that the PORT has been assigned to a vendor that will add an additional module specifically for commercial development.

As you may know, there have not been funds coming forward for the Free Flyer program and I understand there are differing opinions on that.

I look forward to getting into the agency and understanding what they intend to do with the \$15 million they do have for that money and what their objectives are and report back to you at that time on what I have learned.

But at this point, I do not have any further details on that other than I support, in general, where we are going and getting everything we can out of station.

Senator CRUZ. Well, I appreciate that very much, Dr. Autry, and you have shown to the folks at home just how sexy and glamorous working in the space industry is. Having breakfast at McDonald's in John Wayne Airport is pretty highfalutin.

Mr. AUTRY. And Senator Cruz flies coach. I can tell you that.
[Laughter.]

Senator CRUZ. A lot.

[Laughter.]

Senator CRUZ. I try to do my part.

All right. Let us shift. I look forward to working with you on these issues and also working with you on issues concerning royalties for inventions and discoveries on station.

That has been an issue we have been working in a bipartisan manner in this committee and working with NASA, and so I look forward to working with you, going forward, on those issues.

Mr. AUTRY. Good. Again, it is not a policy position, but I think there is opportunities there that the CFO can engage in with your leadership.

Senator CRUZ. Thank you.

Mr. Simington, let us shift to a very important topic, Big Tech. As you know, I have been very vocal that I am deeply concerned about the conduct of Big Tech and I think Big Tech's pattern of censorship and silencing views with which they disagree poses the single greatest threat in this country we have to free speech and poses the greatest threat we have to our democracy.

What are your views on the issue of Big Tech censorship?

Mr. SIMINGTON. Thank you very much, Senator. In brief, the question of Big Tech censorship is—although it is not primarily the concern of the FCC, I do not believe, nonetheless, these are issues of great concern to all of us.

I think there has been an implicit bargain struck that we are now starting to call into question that there would be an open Internet with a free exchange of ideas and freedom as the primary basis.

There is nothing—there is nothing illegal about having a partisan website or about having partisan traffic online, or about determining what sort of views should be allowed on a website and, of course, we would not want to contravene the First Amendment.

But, on the other hand, I think a lot of people have found themselves recently unable to establish certainty about what they can say online, what will happen to the content of their speech and where, if not on the most popular venues or the venues with the greatest functionality, where online they are actually able to speak at all.

Senator CRUZ. As you know, Chairman Pai has announced a rulemaking on Section 230 of the Communications Decency Act. Do you agree that that rulemaking is a good idea? Do you think Section 230 is in need of reform?

Mr. SIMINGTON. Senator, I do, and I note that the General Counsel of the FCC has outlined the process by which he believes it is proper to accept jurisdiction.

Senator CRUZ. Thank you, and I would ask if you are confirmed that you keep front and center the free speech values embodied in our First Amendment and the necessity of robust open debate.

The most recent step of Big Tech censoring the *New York Post*, a major media outlet, constituted a dramatic escalation in those censorship efforts, and I think this is going to be an ongoing issue that we will wrestle with on the executive side and the legislative side for a long time.

Thank you, Mr. Chairman.

The CHAIRMAN. And thank you, Senator Cruz. Safe—and safe travels to you.

Senator BLUMENTHAL.

Senator BLUMENTHAL. Thank you, Mr. Chairman.

As you may know, Mr. Simington, I have been a leading advocate of reform of Section 230 in the U.S. Senate and, certainly, a—I hope an advocate of free speech values.

But I will be very blunt with you, I am deeply concerned that the President's Executive Order is, in effect, an assault on the credibility and legitimacy of the FCC. The NTIA, during your time there, in effect, acted as an arm of the President in supporting seeming retaliation against political rivals.

Specifically, consumers deserve an independent FCC free from political interference and possible manipulation, whether it is on Section 230 or anything else, and I would like to know whether you helped to draft the NTIA's petition for rulemaking on Section 230?

Mr. SIMINGTON. Thank you. Thank you, Senator.

Yes, I played a minor role in drafting the petition. The petition's substantive legal arguments had been, largely, outlined prior to my joining the NTIA.

But there is a lot of work in bringing a piece of legal work to completion. I helped with the blocking and tackling. I helped with editing and cite checking.

I, of course, discussed with the other members of the NTIA political staff the public relations and responses. Once it became clear that I was to be considered for this position that we are—the nomination which we are discussing today, then at that point I ceased any active work on the petition whatsoever and I was not involved in any of the drafts of response comments.

Senator BLUMENTHAL. Well, you wrote a document to the Americans for Tax Reform to promote the Executive Order, didn't you?

Mr. SIMINGTON. No. I am afraid, Senator, I do not believe that I ever sent a document to Americans for Tax Reform in any capacity.

Senator BLUMENTHAL. Did you take other steps to promote or defend the NTIA petition after it was published?

Mr. SIMINGTON. One strategy item that was discussed that never came to fruition was to draft an op-ed for the agency head to place in the New York—I am sorry, in the—in the *Wall Street Journal*.

I believe that op-ed was proposed, discussed, edited, but it did not, ultimately, wind up being submitted.

Senator BLUMENTHAL. So your active involvement was before the NTIA petition was submitted?

Mr. SIMINGTON. I am sorry if I have been unclear, Senator. My involvement with the petition continued briefly after it was submitted, probably two or three weeks. As far—however, it terminated prior to the NTIA response.

Senator BLUMENTHAL. Well, let me—let me come back. The Americans for Tax Reform, you submitted in a private forum?

Mr. SIMINGTON. No, I have never submitted a document of any kind to Americans for Tax Reform, Senator.

Senator BLUMENTHAL. Did you present orally?

Mr. SIMINGTON. No, I have never presented—I have never given any kind of formal presentation or address to Americans for Tax Reform.

Senator BLUMENTHAL. Did you—have you had any discussions with the White House about the issue of the FCC's planned rule-making on Section 230?

Mr. SIMINGTON. No, I have not discussed planned—any contemplated future action of the FCC on the part of 230 with the White House.

Senator BLUMENTHAL. How about on the topic of Section 230 reform?

Mr. SIMINGTON. Yes. During the time when I was being considered for nomination to the FCC, I had a conversation about a variety of topics of which 230 was a relatively minor part with members of the Presidential Personnel Office.

Senator BLUMENTHAL. Well, in light of your participation in the NTIA petition and your discussions with the White House, I think you need to commit now to recuse yourself from voting on rule-making with respect to Section 230.

Will you commit to do so?

Mr. SIMINGTON. I appreciate the question, Senator. In my judgment, which I do not consider final, I believe it would be premature to make such a commitment. As—

Senator BLUMENTHAL. Why would it be premature to make such a commitment? You have been involved in this issue in a formal way in an organization that has, in effect, advocated the President's position and you have talked to the White House about that position.

Mr. SIMINGTON. Yes, that is correct. It would be—Senator, it would be difficult to avoid the conversational topic. It was not the focus of my conversations at the White House.

However, I appreciate your concerns, and if I am confirmed, the first thing that I will do will be to go to the FCC Ethics Office and discuss this matter in detail and, of course, will abide by the recommendations as to recusal.

Senator BLUMENTHAL. On another matter, do you believe that the FCC has the ability to interpret E-Rate rules to allow schools to use their funds for students who are stuck at home right now?

Mr. SIMINGTON. That is an excellent question, Senator, and one of—a matter of grave concern to us all because, as many people say, the schoolroom has become the kitchen table.

Senator BLUMENTHAL. Well, will you commit to interpreting the E-rate rules to allow schools to use their funds for students to do that?

Mr. SIMINGTON. I sympathize with the result of—such a commitment would entail and, of course, I would pursue whether it would be possible to make that determination if appointed to the Commission.

I am not privy to the Commission's internal deliberations in determining that that was not the interpretation that they wished to adopt and—

Senator BLUMENTHAL. Let me ask you, in the past I have asked the Chairman of the FCC to commit to using Lifeline funds for this purpose.

Just one more question, Mr. Chairman.

Will you commit to using at least \$1 billion for Lifeline?

Mr. SIMINGTON. I believe the current Lifeline budget is about \$2.4 billion of which about \$900 million and some is actively used. There is capacity for more of Lifeline to be used and I would be delighted to explore with you and your office and the Commission, if confirmed, methods of doing so.

Senator BLUMENTHAL. Let me just say, Mr. Simington, I am deeply troubled by your lack of specificity on E-rate funds, on Lifeline, but most important, your apparent refusal to commit to recusing yourself, and I will put a hold on your nomination as long as you decline to make that commitment because I believe that the independence of the FCC above all, whether we agree or disagree with the outcome of its decision, is of paramount value.

And I know that you have been sent to the FCC instead of Mr. O'Reilly because he was fired. He stood up to the President. We need the FCC to be independent.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Blumenthal.

Let us just nail down a couple of things here.

Mr. Simington, if Senator Blumenthal is under the impression that you participated in drafting or participating in the writing of a policy paper for Americans for Tax Reform, he is under a mistaken impression. Is that your testimony?

Mr. SIMINGTON. Yes, that is correct, Mr. Chairman. I am unsure where this was reported or how the distinguished Senator got this impression.

The CHAIRMAN. But, nevertheless, it was—it was not you?

Mr. SIMINGTON. That is correct.

The CHAIRMAN. OK. And then with regard to my friend's request that you commit to recuse yourself from any deliberations of Section 230, would I be correct to assume that you are going to be guided by the—by the advice that you will receive from counsel including counsel in whatever ethics department you have there at the FCC? Is that your testimony?

Mr. SIMINGTON. That is my testimony, Mr. Chairman.

The CHAIRMAN. And so it would be premature to assume what their advice would be, but you will be guided by that?

Mr. SIMINGTON. Senator, I would defer absolutely to the advice of ethics counsel.

The CHAIRMAN. OK. And then—and then your participation in this NTIA petition for rulemaking of Section 230 was merely, sort of, being called into the game after the decision was already made and involved in what you call blocking and tackling. Is that right?

Mr. SIMINGTON. Yes, that is—

The CHAIRMAN. So and just explain to us what that would be. It does not sound like you were calling the shots on that.

Mr. SIMINGTON. That is an accurate characterization, Mr. Chairman. I did not draft—I did not draft any of the original versions of the petition. My comments were made on finished versions.

I did not coordinate or devise the legal strategy, and I would estimate that the number of words actually written by me in the petition would be on the order of 5 to 7 percent.

The CHAIRMAN. OK. Well, let us move then to the RDOF, the Rural Digital Opportunity Fund auction, which will make some \$60 billion available to providers to serve unserved areas.

Given the need for broadband today, I believe that providers should start building these new networks as soon as possible. So this summer I introduced the Accelerating Broadband Connectivity Act, which would reincentivize RDOF auction winners to start construction within 6 months of receiving funds and start service within 1 year.

I assume that would be music to your ears, Mr. Simington, and would you like to say today that the Accelerating Broadband Connectivity Act is the right approach to accelerating the deployment of broadband through RDOF and why?

Mr. SIMINGTON. Thank you, Mr. Chairman.

I appreciate—I would like to state my appreciation, for the record, for your leadership on this as well as that of Senators Capito and Blackburn.

Assuming a passage and, obviously, if I were appointed, I would, of course, work with Congress in whatever determination they made as to how to deliver and implement and fund programs. I applied the sharp increase in timeline from completion in eight years to completion in three.

During the time of this pandemic when, as many members of the Committee have noted, the ability to deliver services is greatly impacted. I believe that this will put services in front of people who desperately need them much quicker than it would otherwise.

The CHAIRMAN. Thank you very much. And then let us see if we can squeeze in something about rip and replace. You know, the President signed our Secure and Trusted Communication Network Act into law.

While rip and replace is an important step toward securing rural networks we need to do more. What additional steps are available to the FCC to help secure our communications networks and encourage the development of next-generation technologies?

Mr. SIMINGTON. Thank you very much, Mr. Chairman. I will be brief since time is short.

I think that the—

The CHAIRMAN. But as you have seen, leeway is given to certain senior members.

Mr. SIMINGTON. Well, thank you, Mr. Chairman. I appreciate any leeway.

So, but nonetheless, to help this happen something that is immediately within the FCC's powers is to make judicious use of waivers and to enable the use of test bids in order to promote domestic development in technology.

Fundamentally, we find ourselves in this situation because we have become dependent on technology originating offshore that is incredibly difficult to audit.

I have a copy of a report, which I would be happy to share, with your office that states that a single capacitor placed in the appropriate way can enable the security on a chip to be cracked.

So the more control we have over the provenance and fabrication of chips the better, and the more we can develop our industry for

that purpose and enable it at the FCC level, the better. If confirmed, this would certainly be a priority for me.

I think as well this raises the larger question of engagement with Congress for joint actions to promote electronics, entrepreneurship, and domestic manufacturing, and enhanced activities in the—on the level of software supply chain security, which is going to be the security issue of greatest concern in the age of greater adoption of all around.

The CHAIRMAN. Thank you very much, and if I might take a point of personal privilege, I assume that Adrian and Lawrence are sitting right behind you.

Mr. SIMINGTON. They are, Mr. Chairman.

The CHAIRMAN. Would they like to stand and give a wave to members of the Committee? Good to have you gentlemen with us. I hope this is not your last hearing before the Senate Commerce Committee.

Thank you very much, and I am over my time.

Senator Fischer, I believe, is next, joining us remotely.

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

Senator FISCHER. Thank you, Mr. Chairman. Thanks for holding this nomination hearing today.

Mr. Simington, according to the FCC's annual reports, between 2012 and 2018 American states and jurisdictions diverted more than \$1.2 billion in 911 fees to non-911 programs. Do you share concerns about the effects this fee diversion away from 911 services causes?

Mr. SIMINGTON. Thank you, Senator. I do share this concern. Committed funds are committed for a purpose. Obviously, money is fungible, but the intent of the program is potentially violated if committed funds are diverted.

Senator FISCHER. Do you have any suggestions on ways that we could prevent states and other jurisdictions from diverting those fees?

Mr. SIMINGTON. Senator, this is—this is a question that—this is a question upon which I would need to consult with the enforcement bureau with the other Commissioners and with expert staff on the Commission in order to determine an action plan.

There are several items docketed internally within the FCC for dealing with this, but I am not privy to the level of detail as to how far these are advanced.

Senator FISCHER. Thank you. Also, in response to the pandemic Congress provided the FCC with funding through the CARES Act to support expanded telecommunications, broadband connectivity, and devices needed for telehealth services.

Mr. Simington, do you believe that there are important takeaways from how the Commission stood up the COVID-19 telehealth program and how quickly they were able to get the entire appropriated amount disbursed?

Mr. SIMINGTON. Thank you, Senator.

Yes, I applaud the efforts of the FCC on many fronts in ruling out a COVID-19 response, whether that was, as you say, getting telehealth up and running and functioning quickly.

Of course, there are individual problems that have been discovered along the way. But, overall, we are very happy that it is there. In addition, the FCC has—went out and secured the historic Pai pledge to get private—the private industry to step up and make things easier for people who are suffering service disconnections and service lapses due to COVID.

In general, I am very impressed by the response of America's regulatory bodies and networks under this time of great and unprecedented strain.

Senator FISCHER. As we are looking at the—another COVID package, I guess I am not asking if you are going to give advice to Congress at this point.

But do you believe that Congress should consider prioritizing additional funding for this program? If you were going to prioritize this program where—I guess I am asking you how important do you feel it is?

Mr. SIMINGTON. Thank you, Senator.

Telehealth is a type of program that is—that is, in some ways, unprecedented at the FCC because it entails—it entails looking at the network infrastructure that is supporting the telehealth activities, which may vary immensely between locations, even similarly situated locations.

It involves delivery of services. There are great geographical disparities in where telehealth is needed and it is not always obvious just on the basis of terrain or broadband penetration.

There has been a great focus on delivering education services. Obviously, that is important. But telehealth has been the cornerstone of USF for a long time and telehealth relief is, obviously, more needed now than ever.

So I would applaud Congress prioritizing this and I, if confirmed, would look forward to implementing this on the front lines with Congress.

Senator FISCHER. I would agree with you on that. Telehealth, I think, during this pandemic has just been vital in so many areas and so many states, and I think it has only highlighted how important it is and, really, what the opportunities are for it as we continue in the future.

Next, sir, I would like to ask you about the Universal Service Fund and the high-cost program. It is a main avenue of Federal support for broadband network deployment in high-cost rural areas.

Will you commit to ensuring this program has the sustainable resources needed to provide voice and broadband services in rural areas?

Mr. SIMINGTON. Thank you, Senator.

As you note, the high-cost program is used to deliver a variety of services, the demand for which rises and falls. For example, land lines, obviously, are falling but in some areas remain the best connection and with the most established infrastructure.

Without being privy to the internal deliberations of the FCC on how it allocates funds, I cannot commit to a specific funding level.

However, that is not to say that I do not recognize this as a key priority and I would work very closely with you and your office to

ensure that necessary USF funds, particularly within the high-cost program, are delivered in order for services to maintain.

Senator FISCHER. And would you commit to ensure that the Universal Service Fund as a whole has the proper oversight to prevent waste, fraud, and duplicative spending?

Mr. SIMINGTON. Thank you, Senator.

I will absolutely commit to that, and there are many investigations over the last few years over into just exactly the sort of thing that you are talking about. Obviously, this is an enforcement priority at the FCC and if I become a Commissioner and I am confirmed, then it would continue to be a priority for me to ensure enforcement is working properly.

Senator FISCHER. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. And thank you, Senator Fischer.

Senator Markey is next, joining us remotely also.

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

Senator MARKEY. Thank you, Mr. Chairman, very much.

Mr. Simington, right now in the United States we have an educational crisis. We have millions of children, more than 10 million, most likely, who do not have the Internet at home and that is leading to a homework gap that is leading to a learning gap which is leading to, ultimately, an opportunity gap for these young people, in the third grade or the fifth grade.

If you do not have the Internet at home, you are going to be left behind and you are going to know that you have been left behind.

Now, the Federal Communications Commission under Chairman Ajit Pai has ruled that the FCC cannot allocate E-rate funding for at-home learning, and since I am the author of the E-rate program I absolutely disagree with that interpretation and I think it is very shortsighted, but it is wrong as well.

What is your interpretation, Mr. Simington, as to whether or not the Federal Communications Commission can use E-rate funding to help children at home get the connections which they need?

Mr. SIMINGTON. Thank you, Senator.

This is, of course, a question of vital concern. I think we all agree that learning in the home is how learning is taking place for the vast majority of America's students right now and I think we can further agree that deficiencies in equipment and facilities contribute to both the homework gap and the digital—well, they are symptoms of the digital divide and they contribute to the homework gap, and I agree with you that this is a matter of grave concern.

As to the—as to the interpretation advanced by the Chairman, the Chairman, of course, sets the agenda of the Commission. But at the end of the day, the Commission is a collegial body and I view all decisions coming out of the Commission as being informed by that collegiality.

And, as such, if I am confirmed to the Commission I would be one vote among five and one voice among five, and as such I would have to consult with the—

Senator MARKEY. So what would—what would your voice be saying, Mr. Simington? Would it be saying, let us do it, or would you say, let us not do it? Would you agree with Chairman Pai or would you not?

Mr. SIMINGTON. So I would need to discuss with the other Commissioners how they—how they arrived at this interpretation and what fears they have about other—about knock-on effects if this interpretation is adopted that you urge, and I cannot commit to a particular interpretation today but I certainly would commit to taking your concerns seriously, Senator, and to working with you—

Senator MARKEY. Well, let me—let me—let me add on—let me add on here. You know, the Department of Interior also made a request.

The Trump Department of Interior also made a request to the Federal Communications Commission to broaden its interpretation because, obviously, out in the Native American community there is a real need to have an expansive interpretation of the kind of virtual learning that can take place. And so Trump's own Department of Interior made this request as well.

Do you think the Department of Interior made a mistake in making a request to the FCC that they broaden the interpretation so that there can be a greater, more expansive use, especially amongst the Native American community?

Mr. SIMINGTON. Thank you, Senator.

So I, certainly, would not say that it is ever a mistake to make such a request. The FCC is charged with making the determination and I have to—I have to assume that the FCC used their best judgment and took all aspects of the situation into account.

That is not to say that I would come to the same conclusion. I do not want to prejudge the issue. But it is to say that I would need exposure to the internal deliberations that were—to get a full picture of how the FCC as a whole came to that interpretation.

Senator MARKEY. Well, I know what Ajit Pai's decision was. He decided that he did not have the authority, which I totally disagree with, and the totality of the situation just boils down to him making a decision that it was the incorrect interpretation of the statute, which he is completely and totally mistaken about.

So, again, this is a crisis. We have an incredible educational crisis in our country, especially amongst the poor and black and brown and immigrant children, Native American children.

They are going to be left behind because the FCC has taken this extremely narrow interpretation of the use of E-rate funding and it is a huge mistake, and again, we are fighting hard to add money into whenever the next coronavirus package comes down the line to add \$4 billion so that the funding would be there.

But it is a step beyond which I think we really have to go because the funding should have been coming right out of the E-rate program. That was my intent when I created the E-rate program and it still is today.

So thank you, Mr. Simington, and thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Markey.
Senator Thune.

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

Senator THUNE. Thank you, Mr. Chairman, for holding this hearing today and I appreciate all of our nominees' willingness to serve in these important positions.

Mr. Simington, Universal Service Fund at the FCC has had a significant impact on states like South Dakota that have large rural areas. But more work needs to be done to connect rural Americans with reliable broadband services.

As part of that effort, the FCC is currently conducting the first phase of the Rural Digital Opportunity Fund, the RDOF fund, which will provide \$16 billion of funding for broadband services.

As Commissioner at the FCC, will you commit to ensuring that any potential high-cost USF recipients are thoroughly vetted up front to confirm their ability to deliver on broadband service promises?

Mr. SIMINGTON. I am delighted to make that commitment, Senator.

Senator THUNE. I, along with several of my colleagues on this Committee, have supported efforts to bolster the private sector's ability to build out 5G networks and believe any efforts to nationalize 5G would have an adverse effect on the United States' ability to win the race to 5G. Can you say—express whether you have concerns or not with the idea of nationalizing 5G?

Mr. SIMINGTON. Delighted to do so, Senator.

So, first of all, I would like to state that I support the long-standing auction and commercialization regime that has been legislated by Congress. Congress has made its intention clear about every two years—actually, almost like clockwork—that we are to continue commercializing spectrum, and if confirmed, I would certainly abide by the will of Congress on this point.

Furthermore, I note that a commercialization regime via some other means such as a commercialized grant regime would contradict the path by which the United States unequivocally won the race to 4G and having a 4G economy.

Beyond this, it is unclear to me how a U.S. Government network could be commercialized, legally speaking, and I guess the last point I would make on this is that spectrum is not a network and so far I have heard no proposals about building nationalized fiber, backhaul, towers and, as such, I am not sure that the—I am not sure that the prospects of so-called nationalized 5G are as real a threat as they are, obviously, an apparent one.

But, of course—but, of course, that does not mean that we should create uncertainty in the market by leaving the issue out there. I think it is important to—for me to reassert that the—that Congress's regime is the one that I would consider myself bound by unless and until Congress were to radically change direction.

Senator THUNE. Good, and I hope the FCC would continue to reject the idea of nationalizing.

During the COVID-19 pandemic we have seen increased demand for higher download and increasingly important upload speeds. At the same time, the continued deployment of 5G will require the densification of fiber networks in order to expand 5G in rural America.

How important is it for Federal programs to ensure that broadband networks meet the needs of consumers today and in the future as we continue to eliminate the digital divide?

Mr. SIMINGTON. Thank you, Senator. That is an excellent question, and for the—for the answer I would point in part to the funding mechanism for RDOF—rather, the tiering mechanism for RDOF, which contemplates both support for a minimal level of service and superior support for higher levels of service.

So under the RDOF proposal as currently in place, 25/3, which is the considered the minimal Federal standard for broadband, does qualify for support, and if you look at a map of broadband coverage of the country as a whole, clearly, there are large swaths of the country where something is better than nothing and entering the modern age is—you know, is better than being left behind.

As against that, 25/3 might not be totally future proof either, and in areas where there is already existing service at that level we would not want to fund anything duplicative, for example. So it would be ineligible for RDOF anyway.

But the highest—the highest tier of latency and of upload/download speed is eligible for the most support and so it works as a sliding scale so that we are able to get some support where it is needed and we are able to get the highest level of support for higher priority projects such as, for example, in an area that has the potential for highly advanced industrial automation by Internet of Things to have true 1/1 gigabit and get there right away and not wait another 10 years.

Senator THUNE. And you referenced this already, but spectrum we have got mid, low, high band spectrum, all of which are important. Will you commit to work with us to identify and move forward on opening up additional bands that can help advance U.S. leadership in wireless connectivity?

Mr. SIMINGTON. I absolutely will, and I note that the NTIA has a current commitment to do this, which I actively support and I worked with OSM on.

Senator THUNE. Great. Final question. I understand you have already been asked this a couple different times, but let me just ask as well whether you would support a complete repeal of Section 230, if not, why, and as you perhaps know, I have a bill along with Senator Schatz to reform Section 230 and there are other bills out there as well. So what is your view on that?

Mr. SIMINGTON. Thank you, Senator, and thank you for your leadership and my thanks to Senator Schatz as well for his leadership on the PACT Act.

My view is that—is that 230s repeal is, obviously, a matter for Congress. There have been calls for it on both sides of the aisle and there has been strong resistance on both sides of the aisle.

Not being a legislator and not having any immediate prospects to becoming one, my views would just be advisory. As far as 230 reform and its possibilities at the FCC, my sense is that the FCC has indicated its ability to accept jurisdiction but has not necessarily indicated any particular direction and, certainly, not, to my knowledge there is no—there is no Notice of Proposed Rulemaking out there, and I suspect the FCC, having taken so long to accept jurisdiction, will engage on a long process of being, first of all, guid-

ed by Congress to determine what Congress's future desires are for the direction of 230; second, establishing an evidentiary record and, again, in consultation with Congress; and third, making—looking for all the things that could go wrong because, in my judgment, 230 is an important law and we do not want to touch it and break a bunch of other things.

Senator THUNE. OK. Thank you.

Mr. Chairman, I will submit a question for our other panelists, and congratulations on your nominations.

The CHAIRMAN. Thank you, Senator Thune.
Senator Rosen.

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

Senator ROSEN. Thank you. Thank you, Chairman Wicker. I appreciate—I appreciate you calling on me today. My questions are for Mr. Simington this afternoon and I want to talk a little bit about rural broadband and its impacts on maternal health.

You know, in Nevada and across the country rural communities have been grappling with the impact of the coronavirus pandemic.

We have all had to quickly adapt technologically, migrating to virtual tools and systems including distance learning, telework, and, of course, telemedicine. It has been incredibly—it has been incredible to see the way technology, specifically telehealth, has enabled patients to receive care safely.

While telemedicine is not a complete substitute for receiving an in-person evaluation, it is useful in many applications including keeping pregnant and new mothers safe while accessing maternal care.

That is why I introduced the Data Mapping to Save Moms' Lives Act alongside Senators Fischer, Young, and Schatz. This bipartisan legislation would direct the FCC to consult with the CDC to incorporate data on maternal health outcomes into the FCC's broadband health maps in order to show where poor broadband access and high rates of poor maternal health outcomes—well, see where they overlap. In this way, we want to determine where the telehealth services are needed the most.

So, Mr. Simington, can you please talk about the importance of accurate mapping, particularly for understanding how access to broadband affects health outcomes amongst our high-risk and vulnerable population, and is mapping health outcomes something that you will be committed to doing and pursuing if you are confirmed to the Commission?

Mr. SIMINGTON. Thank you, Senator, and first, let me begin by thanking you for your work in advancing this legislation and for identifying an issue that perhaps goes too often ignored.

I would—I would certainly like to—I would certainly like to reiterate my support for the idea of telemedicine and for the concept of finding ways to deliver telemedicine more broadly and more efficaciously.

But you have asked me to talk about mapping so I am going to focus on that. The difficulty until now is that mapping has resided in a disparate collection of agencies, and a number of different agencies have had different agencies have had different mandates

that deliver—to deliver broadband subsidies or broadband build-outs at different levels of service.

There just has not been a uniform clearinghouse establishing a single standard, and we are still not at a single standard. I want to be perfectly clear.

The standards contemplated under the Broadband Data Act, although a great improvement, are still some time from being implemented so and that is particularly painful because we are in the middle of RDOF right now and we face the prospect of breaking ground before we have gotten to the best quality of geo-mapping and, in some cases, just operating with bare census tracks, although we are doing our best to get beyond that.

The first thing that I would do to—if I were confirmed to the Commission to try to forward the goal of your legislation—that is, of tying mapping to better understanding health outcomes—would be to look once more around the Federal Government and see what additional mapping resources could be brought to bear and, in particular, at the NTIA we have maps that contain certain proprietary overlays over the Department of Agriculture maps.

I have discussed—I have discussed the pros and cons of bringing those into the FCC process internally within NTIA. This is certainly something I would continue to pursue if I were to be confirmed as a Commissioner.

The second thing is—

Senator ROSEN. And—I am sorry. Let me—it is a matter of time. I have got just about a minute. I want to ask you one more thing quickly. Will have some questions for the record as well.

But Nevada is home to 27 tribes, and according to the FCC less than half of rural tribal households have access to fixed broadband service.

So in just about the minute I have left, we have a lot of issues in our tribal communities and I am an original co-sponsor of the Extending Tribal Broadband Priority Act, which would require the FCC to open a new 2.5 gigahertz rural tribal priority window that would last at least 180 days.

So would you support creating a new tribal priority window so that tribes across this Nation can address their disparities in broadband?

Mr. SIMINGTON. Thank you, Senator. I would be delighted to endorse a tribal priority window. As you know, there was controversy between the FCC and a number of senators over the length of the priority window with the tension being between allowing more tribes to participate and breaking ground sooner.

I think that the way to rectify this is to do better outreach to tribes earlier in the process in order to allow them to make more effective use of a shorter priority window.

I say shorter. In this case, shorter might be better if it allows groundbreaking in 30 days instead of 180 days. But this would be a matter that I would continue to discuss with you and your staff to ensure the best outcome for underserved tribal communities.

Senator ROSEN. Thank you. I appreciate that. Particularly in the pandemic, some of those time lines that might have been more achievable need to be extended now as we respond to coronavirus.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Rosen.
Senator Capito.

**STATEMENT OF HON. SHELLEY MOORE CAPITO,
U.S. SENATOR FROM WEST VIRGINIA**

Senator CAPITO. Thank you, Mr. Chairman, and I want to thank our panelists today for joining us.

Like many others, I have—my questions are for Mr. Simington. I appreciate the phone call that we had, Mr. Simington, and I would like to kind of jump off of what you have already been discussing, which is the RDOF.

As we know, on October the 29th, 2020, just several weeks—well, not even several weeks ago, the RDOF kicked off and I think it holds great promise.

I mean, it has been held out to our state of—my state of West Virginia has having maybe almost as much as \$700 million to close that digital divide.

So I guess my question is, one, how long do you feel that, as this is moving forward, are we going to be able to get a clear perspective in individual states of how successful the RDOF has been, how many local folks are bidding and whether the coverage there is as grand and as large as we hoped that it would be? Do you have any perspective on timing and what those indicators could be?

Mr. SIMINGTON. Thank you, Senator. Apologies. My mic was off.

So the—so you raise a great point about RDOF and about timing indicators. I will note that this is one factor that leads me to be optimistic about the possibility of an accelerated broadband connectivity fund to get RDOF delivered faster.

The timing—the timing implications of the current build-out schedule, just to rehearse those, are 20 percent delivery in—20 percent delivery, then 40 percent delivery, then 60 percent delivery, leading to completion of the original estimate by the end of year six with additional build-outs in year seven and eight to clear the original estimate if there is—if there was an under estimate or to pick up—pick up places to provide this service.

The difficulty is an 8-year build-out schedule does not help anyone who needs service right now, and the accelerated—the ABC fund approach would require delivery of service by the end of year one to at least some households. So that is one—that is one promising approach that I would support.

The other difficulty, of course, with—is the tension between time—between time to get the maps right and time to break ground. The longer we take to get the maps right the longer it takes to break ground, and this has been a chronic problem throughout RDOF in the planning phases that has led to, eventually, the auction taking place in anticipation of—in anticipation of the use of census tracts for much of the mapping.

So I share your concerns and would look forward to discussing both of these issues further and, if confirmed, obviously, I would closely monitor RDOF throughout its life.

Senator CAPITO. Well, I am hoping that the broadband data, which you have already addressed, will help us with the mapping issues and that can also help us with the RDOF.

But the other thing that I have great concern about, having seen buckets of money coming in to our state in particular aimed at, you know, filling out the middle mile or getting it to that last house, and then, you know, a bundle of excuses by providers as to why that has not occurred.

No claw back of any of the dollars and the lack of delivery of services at a level which has been promised has been very disappointing.

So I guess I would prevail upon you, when I vote for your confirmation—hopefully, you will be confirmed—that the enforcement mechanisms that are in place are actually used and are tough enough to make sure that, you know, the promises made are the promises kept.

And I think that, you know, in many rural areas it has been a lot of promises and a lot of money, quite frankly, that still has not delivered the service that I think the areas are due and expect and, certainly, in this COVID environment very much want.

So I want to join with you and get an assurance from you that the enforcement mechanisms and the oversight would be there at the FCC if you were to be confirmed?

Mr. SIMINGTON. Senator, I am delighted to offer you—to offer you full cooperation and active support and active coordination on—coordinating on enforcement to the fullest degree to ensure that monies spent on connectivity achieve connectivity without getting bogged down in a mire of waste, fraud, and abuse.

Senator CAPITO. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Capito.

Senator Lee, you are the last one in the queue so you are recognized for five minutes.

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

Senator LEE. Thank you so much, Mr. Chairman. I assume that means I have unlimited time.

The CHAIRMAN. I do not think that is quite what I said, no.

Senator LEE. OK. Just making sure.

Thanks to all of you for being here. In the few minutes that we have got remaining in the hearing I want to cover a few important issues.

Mr. Simington, thanks for the time that you have given to me so far to discuss issues that are before the Commission and that involve the Commission. It has been helpful and I want to spend some time today following up on a couple of things that you and I have previously discussed but have not been able to get through completely.

I want to begin by talking a little bit about spectrum policy. As you know, spectrum is absolutely essential to the development of technology, the kinds of technologies that we are increasingly relying on, and because spectrum is a finite resource—it does not exist to an unlimited degree—we have to figure out ways to better use it and to better manage it.

Some of that can be done through technology. Some of it also has to be done through improved public policy and through ways that

we can figure out how best to allocate the spectrum for both licensed and for unlicensed purposes.

One serious issue that I think is holding us back from better spectrum management and decisionmaking involves the dysfunctional interagency process dealing with spectrum. The FCC handles commercial spectrum bands and the NTIA handles government spectrum bands.

So one question I wanted to ask you is should NTIA or a Federal agency be able to veto an FCC decision to license a band for a commercial purpose?

Mr. SIMINGTON. Thank you, Senator.

This is—this is, indeed, a major question. As you note, there have been repeated conflicts over particular spectrum auctions and particular bands, and it is leading increasingly to recourse to legislative solutions which, of course, we would all deplore, hoping it be handled appropriately between the agencies.

As to the question of whether the NTIA should be able to veto the FCC, unfortunately, I am not sure that the Memorandum of Understanding is 100 percent clear. Different positions have been asserted by different agencies.

Oddly, the NTIA has asserted that it is a co-regulator while certain language in—on FCC decisions—I am sorry, on FCC Report and Order that I have reviewed suggests that each agency may act unilaterally.

So I think coming up with a more robust memorandum of understanding to address this exact point would be highly—would be highly efficient in helping the agencies to resolve conflict.

But I suspect, Senator, you are asking me if as a matter of policy I believe that that should be the case, and I would say that that would—that would seriously impugn the ability of the FCC to serve as the commercial spectrum regulator in the United States.

Senator LEE. Fair point and well said.

What about when a particular Federal agency—let us just say, hypothetically, the Department of Defense—steps in and is the one trying to halt it and it does so by saying national security. This cannot happen because of national security. If this happens, dogs and cats will be living together in the streets. The wrath of God, Book of Revelation type stuff. Complete apocalypse will be at our door.

Should that make a difference if the agency trying to veto it is asserting a national security interest and reason why that license should not move forward?

Mr. SIMINGTON. That is an excellent question, Senator, as well and very timely. I am going to answer it with respect to the Ligado matter specifically.

So as you know, Ligado was a 5–0 decision by the FCC. If the question is did the FCC appropriately follow its statute and obey its legal standard, I would say that the answer has just got to be yes. I do not see any other way to read the record.

As against that, the—we find ourselves in a little bit of a legal tangle because the Department of Defense also has a statute that says it cannot tolerate threats to military GPS and it is illegal for the DOD to consent to anything that would threaten military GPS,

and that is the avenue through which the DOD is pushing back on this specific decision.

So we have, so to speak, the immovable object and the irresistible force. Now, I think that this is—I think that this is a regrettable state of affairs and there is no way to, so to speak, formalistically resolve it within the system because we have two different legal standards that are—that are just inevitably in conflict and this is why we need a better interagency process that is capable of taking, perhaps, national security concerns into account without rising to the level of a veto.

I know the veto would make the DOD, effectively, the spectrum regulator of last resort and, presumably, commercial license holders would be vastly unsettled by that outcome.

So much more careful thought is needed on this in order to keep all the equities attended to.

Senator LEE. All right. Gets even worse, of course, when that hypothetical Federal agency steps in and convinces Congress to resolve the issue for it, based on political considerations and scare tactics.

Do you think that Federal agencies currently, as a general matter, do they use their spectrum allocations effectively and efficiently?

Mr. SIMINGTON. Thank you, Senator.

This is—this is a very interesting question because there is no doubt that on any given megahertz commercial operators send vastly greater quantities of signal.

I mean, I noted—I noted in a statement—in my opening remarks that commercial usage of—commercial output over a given megahertz have expanded by about 4,000 percent over about the last 8 years and that is—that is, of course, greater than any comparable expansion of Federal activity.

Now, as to the question of efficiency of use, the difficulty is that some bands and some uses are not susceptible to the sort of extremely dense uses you would see in the commercial world. So this really becomes a case by case question.

Senator LEE. Mr. Chairman, I am undyingly deferential to you as the Chairman. I see my time has expired. I have one more question. It is a small question. It is not one—

The CHAIRMAN. Does any member have an objection?

Without objection.

Senator LEE. Thank you.

The CHAIRMAN. The Senator may proceed.

Senator LEE. All right. So I would like to know whether you regard the Internet as a public utility and whether, if confirmed, you would ever consider classifying the Internet or support classifying the Internet as a Title 2 common carrier?

Mr. SIMINGTON. Thank you, Senator.

Whether by the Internet we mean edge providers or whether we mean broadband delivery services, commercial wireless, I see—I see no reason to pursue reclassification.

I think it would be much better for us to continue under Title 1 classification instead of changing the rules again after 3 years.

Senator LEE. Thank you. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Lee.

The hearing record will remain open for two weeks. During this time, senators are asked to submit any questions for the record with the final submission deadline being close of business Tuesday, November 24, 2020.

The Committee then asks the witnesses that upon receipt of any questions for the record you submit your written answers to the Committee as soon as possible but no later than the close of business on Tuesday, December 8, 2020.

With that, we conclude the hearing. Thank the nominees for their willing to serve and for their testimony.

This hearing is adjourned.

[Whereupon, at 3:53 p.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TAMMY DUCKWORTH TO
DR. GREG AUTRY

Question 1. NASA's CFO oversees a \$22.6 billion budget that covers a range of projects with different needs. What in your past work experience enables you to lead such a large and critical budget?

Answer. Thank you, Senator Duckworth. I appreciate the opportunity to discuss my qualifications.

My service on the NASA agency review team provided me with an unparalleled opportunity to delve deeply into NASA programs, budgets and accounting. As the business professor on the team, I was often tasked with budget analysis and with engaging the Office of the CFO during our research. I would encourage you to reread the letter that then NASA CFO David "Radz" Radzanowski has sent to this committee in support of my nomination. He writes:

"Dr. Autry understands the role of the CFO and its responsibilities to Congress, the NASA Administrator, the Office of Management and Budget and the White House. I believe you can count on him to continue to deliver the high-quality management, oversight and reporting that has distinguished the Office of the Chief Financial Officer at NASA over the last decade."

The CFO's job is not one of managing the details of a \$28 billion budget (NASA appropriations for FY 2020 were \$22.6b, offsetting revenues from work done for other agencies and unobligated balances carried over from the previous year add more than \$5b to total budgetary resources.) NASA CFO is a leadership position managing 1,200 civil servants and 600 contract employees in the Office of the CFO. These highly qualified NASA personnel are fully capable of doing the bookkeeping, accounting and reporting. The agency recently issued another excellent Annual Agency Financial Report for FY2020 and received a 10th consecutive "Clean" opinion from the external auditor. I concede that I expect my supporting team to be more knowledgeable about the details of process and procedure than I.

I have extremely broad management and finance experience. I've led small, innovative organizations as well as teams and budgets inside a large corporation distributed across several states. My management expertise resulted in me being requested by the University of California, Irvine to join their faculty following the completion of my MBA there. After several years of teaching, I was encouraged to pursue a PhD in Management and I was hired by the Marshall School of Business at the University of Southern California. My USC workshops attracted highly respected business and governmental space figures.

I've taught management, accounting, finance and economics to executives, professionals and entrepreneurs for two decades. Many of the students I've mentored have gone on to great success in space firms. I would note that Relativity Space, whose founders I have mentored since their time at USC, just secured a new \$500 million investment at a valuation of over \$2 billion. This is on top of their previously raised \$177 million.

I possess a unique understanding of private sector space operations and insight into the agency from a programmatic and process viewpoint. The current and previous administration have, with Congressional support, expanded public-private partnerships significantly. The contracting landscape is evolving, and the vendor pool is expanding in ways that are challenging to career professionals at GAO and OMB. Moving ahead, maximizing the value of both traditional contractors and entrepreneurial firms requires an understanding of how they operate, what resources they have, and how they view their relationship with governmental. If confirmed, I will add significant value in ensuring that Congress gets what they expect from appropriations.

Question 2. The CFO plays a very important role in promoting and securing funding for critical scientific programs. The 2018 NASA budget request that you worked

on included cuts to climate studies and STEM programs. How did you come to the conclusion to cut these important programs?

Answer. Thank you, Senator, for the opportunity to address this. The CFO isn't a policy making position, and the CFO does not establish the priorities of NASA budget. If confirmed it will be my job to implement the will of Congress as represented in appropriations. My efforts at securing science funds will be directed by the NASA Administrator with input from the Science Mission Directorate and the Decadal Survey.

I am passionate educator and mentor to STEM students. My own STEM career was inspired by NASA's accomplishments. My wife has been a public-school teacher and principle. Your committee has received many letters in support of my nomination from leading space scientists and engineers I have had the pleasure to work with. These include Dr. Alan Stern, PI on the New Horizons probe to Pluto; Dr. Scott Hubbard, NASA's former "Mars Czar," former Ames Director and professor of Astronautics at Stanford; along with most of the leadership at USC's renowned department of Astronautics, where Neil Armstrong earned an MS during his Apollo days. *How* STEM education is supported at NASA is not the decision of the CFO. I will implement the will of Congress under the direction of the NASA administrator.

My record on NASA's role in understanding and improving the stewardship of our planet is clear. I would not have 20 solar panels on my roof or own two electric cars without NASA's important investments in STEM. While I don't take personal responsibility for the FY2018 budget request, I will note that it did protect most of the very large increases that had been implemented in preceding years. The 2018 request for "Earth Systemic Missions" was \$778 million vs. the 2007 budget of \$473 million.

Question 3. If confirmed as NASA's CFO, would you support funding for climate studies and STEM programs?

Answer. CFO is not a policy position, and my personal beliefs and priorities will not set the budget. If confirmed, my job will be to manage Congressional appropriations responsibly, under the guidance of the NASA Administrator. I will do so at the highest ethical standard and provide accurate reports to stakeholders on how these funds were allocated. The NASA Administrator and Science Mission Director will advocate for programs they believe will return the most value from our taxpayer investment. Their choices will be informed by the decadal survey.

My personal record supporting NASA's role in Earth Science research and in developing technologies that mitigate pollution is clear. It is critical that we understand our own planet's atmosphere, oceans and climate, and that we learn from the history of our neighboring worlds as well. Learning what events caused Mars to lose most of its atmosphere and surface water, and how the surface of our "sister planet" Venus was transformed into a hellish landscape by a natural runaway greenhouse gas syndrome, may give us insights into our own biosphere.

NASA inspired my own STEM career in computing. And inspired me as a first-generation college student. I have spent a great deal of time connecting STEM students with careers in aerospace. Nothing would make me happier than being able to connect students with NASA, its rich educational resources, internships, and activities. Congress, the White House and the NASA Administrator will determine the best organizational mechanisms for this.

Question 4. Can you please state whether you accept the overwhelming scientific consensus demonstrating that humans are the primary driver of climate change over the last 100 years?

Answer. As noted, the CFO is not a policy position. I take our environment seriously. Lessons my stepfather, instilled in me still ring true, "Always leave the camp cleaner than you found it" and "Leave nothing but footprints." I grew up in the Los Angeles of the 1970s, where the air was nearly as unbreathable as Beijing's is today. American ingenuity solved that problem. We should do our best to limit any emissions in ways that support American standards of living and competitive economic development. Someday, space-based solar power systems may provide zero pollution energy at night and under winter cloud cover (serious shortfalls of ground-based systems).

That said, I am a social science researcher trained in economics and management theory and not a climate scientist. I should not interpret data and models that I do not fully understand. I would not expect a climate scientist to "accept" an economic theory, even if it were the dominant paradigm advocated by most leading economists. Science must not be politicized. From my outsider understanding of the topic, a majority of climate scientists believe that human activities have contributed

to the emission of gases that can induce climate change and that this poses a significant ecological threat. That concerns me.

If confirmed, my job will be to manage Congressional science appropriations responsibly, under the guidance of the NASA Administrator. I will do so at the highest ethical standard and provide accurate reports to stakeholders on how these funds were allocated.

Question 5. The stated mission of the office of the CFO for NASA is “*To be the credible expert, trusted advisor and source of quality information on matters related to finance and resources, including the management of associated risk, for NASA programmatic and institutional decision making.*” How will you be able to help a leading U.S. scientific agency understand and prepare for the effects of climate change?

Answer. I will follow the will of Congress and support Congress in doing their job of appropriations by providing accurate financial reporting and timely answers to inquiries. However, I am not qualified to determine *how* the agency should “understand and prepare for climate change.” I must leave that understanding to NASA’s excellent scientists, and the preparations to engineers and facilities staff at our field centers. Where appropriate, I will strive to honestly convey the concerns and needs of these experts to Congress.

I would politely suggest to Congress that when considering infrastructure spending bills, appropriations should be included for urgently needed repairs to NASA’s aging infrastructure. The agency is burdened with a number of facilities constructed in the 1950s and 1960s that are badly in need of repair, updating, and environmental remediation. I look forward to working with you to ensure those facilities remain capable of supporting NASA’s missions, and that they are safe for our workers under any anticipated conditions.

Question 6. International cooperation is essential to the future of progress in space, from the International Space Station to addressing space junk. On Russian television you said that China is worse than 1930s Nazi Germany government and you are a member of the group Committee on Present Danger: China, which believes that “As with the Soviet Union in the past, Communist China represents an existential and ideological threat to the United States.” Do you see any benefits to cooperating with China in the space domain?

Answer. Thank you, Senator Duckworth, for the opportunity to address this extremely important question. The position of CFO is not a policy making one and my job will be to implement the will of Congress as directed by the NASA administrator under the guidance of the White House.

I could not agree more with you about the critical importance of international cooperation in space. NASA has been, and continues to be, an agency that represents America at its best and positively engages with many nations in the grandest of human endeavors, with full transparency—something that some other national space agencies cannot claim.

With specific regard to China, let me first say I sincerely wish that my admonitions over the last two decades had not been as prescient as they have turned out to be. I could enumerate the offenses of the current Chinese regime, but we all know what those are and how large their scale is. The U.S. Senate has reacted to recent gross violations of civil rights in Hong Kong and human rights among the Uighur peoples. I sincerely thank you for that.

My respect and admiration for the people of China is backed by activities of record. I have traveled extensively in China as a researcher, tourist and volunteer. The committee has received letters in support of my nonmention from many of my Chinese American colleagues, students and friends. Wei Jingsheng, widely regarded as the *Father of Chinese Democracy*, wrote:

When in California, I have made an effort to visit Dr. Autry at his university and to show my support for his work in business, economics, space and civil rights.

I am not alone in my concern. A Pew research report last month showed that an unfavorable view of China is held by 73 percent of Americans, 73 percent of Canadians 73 percent, 75 percent of South Koreans 75 percent, 81 percent of Australians 81 percent and 86 percent Japanese.

There are areas where cooperation with the Chinese regime in space will be required due to treaty obligations and safety concerns. There are also other areas where cooperation with China may be desirable. In particular, the exchange of scientific data and materials may accelerate our knowledge of the solar system without risk to our IP or security. These choices will be made by NASA Administrator, guided by the White House and Congress.

Question 7. If the U.S. does not engage with China in space, are any other countries poised to counterbalance China's ambition and ensure that the space domain remains open and accessible?

Answer. Another excellent question. Again, the CFO is not a policy making position, but my record on advocating for international engagement in space is very public.

Our goals in space must include expanding human knowledge as well as developing the economic and material potentials of that domain. These activities will benefit the American taxpayers who fund them, but will also return value to everyone on Earth, as NASA has for decades.

As we take our first steps into the solar system, we must be careful to avoid repeating the historical errors of the age of exploration and take carry only Lincoln's "better angels of our nature," with us. There should be no place in the future of humanity for totalitarianism, censorship, religious oppression or ethnic persecution. The world expects no less of the United States.

Many free nations have already joined our scientific and human exploration efforts in space. NASA's current work on the Artemis Accords, which will establish bold goals and set strong standards and behavioral norms in space, will benefit all nations. The swift adoption of these bilateral agreements by an expanding group of very diverse nations is a testament to the respect the world has for our space agency and our democratic institutions.

Question 8. If confirmed, how will you engage with China productively to prevent further militarization of the space domain and a counterproductive new "space race"?

Answer. Again, the CFO is not a policy making position or diplomatic position. It is significantly removed from military policy and geopolitical strategy. Engagement choices will be made by the White House, Department of State, Congress and the NASA Administrator.

As an economist and business expert let me note that a "space race" need not be military nor counterproductive. Competition in scientific discovery, human exploration, technological innovation and commercial development can be a powerful, positive force. Whether that competition is on an Olympic ice rink or in space, bold attempts to enhance national prestige have often been a force for good. Many tangible benefits to humanity were spawned by the first Space Race including GPS, satellite communications, Earth imaging and the research computing network that eventually became the Internet.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. JON TESTER TO
DR. GREG AUTRY

Question. NASA's EPSCoR program brings much-needed research investment to places outside the major tech hubs, including Montana, and has long enjoyed broad bipartisan support in Congress. Why has the Trump administration worked so hard to eliminate not just this program but the entire Office of Education at NASA, including in the FY2018 budget that you helped to develop?

Answer. Thank you, Senator Tester, for the opportunity to address this. The NASA CFO isn't a policy making position, and the CFO does not establish the NASA budget. If confirmed it will be my job to implement the will of Congress as represented in appropriations.

My record in support of governmental funding for research investment is a strong and public one. As a business professor I specialized in teaching engineering students, and as a researcher I focused on the role of government in the emergence of new industries. I have noted my own STEM career was inspired by NASA's accomplishments in the 1960s and 70s. I went from being a first-generation college student to a professor at a leading university, mentoring STEM student.

Regarding past decisions, I cannot speak for the White House on their broader goals. Specifically, I had no input whatsoever on any decision involving the EPSCoR program at the National Science Foundation.

I do not take personal responsibility for the entire 2018 budget request nor the specific decisions concerning NASA's Office of Education. I don't believe anyone opposed NASA STEM engagement and the issue was more about the most effective mechanism for delivering it. I would need to look into the current state of this issue and report back to you. An outside study to determine whether a dedicated office at NASA HQ is the most effective way for NASA to deliver value to STEM education might be useful. If confirmed, I will implement Congressional STEM education appropriations under the guidance of the NASA Administrator.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. KYRSTEN SINEMA TO
DR. GREG AUTRY

Planetary Defense. NASA is tasked with the responsibility of planetary defense, however recent studies and reports indicate that planetary defense research and activities are underfunded at the agency.

Question. How will you work with your NASA colleagues to ensure that this critical responsibility is adequately funded so that missions can meet their optimal timelines for launch?

Answer. Thank you, Senator Sinema, for bringing up this important topic. The dramatic photos of comet Shoemaker-Levy 9 slamming into Jupiter taken by NASA's Hubble space telescope promoted the first Congressional response to the NEO threat. Much is already being done. The Catalina Sky Survey, based at the University of Arizona, has discovered roughly 50 percent of the 20,000 known Near Earth Objects (NEOs). NASA's Planetary Defense Coordination Office is working with powerful partners in government and industry. DoD, DoE, NSF and FEMA are already engaged in this process with NASA's Planetary Defense Coordination Office (PDCO). In September, NASA signed an MOU with the newly created U.S. Space Force that includes cooperation on Planetary Defense. Whenever appropriate we should seek align the interest of America's private investors with NASA's goals in order to maximize return to our taxpayers.

NASA is also engaging our international partners in addressing this global threat. The Asteroid Impact and Deflection Assessment (AIDA) mission, which combines ESA's Hera mission with NASA's Double Asteroid Redirect Test (DART) spacecraft which will test deflection techniques in space. Non-spacefaring countries can also contribute, and the International Asteroid Warning Network (IAWN) is good example of this.

If confirmed, I will prioritize bringing myself up to speed on the critically important NEOSM (Near-Earth Object Surveillance Mission) project and other proposals for tracking threats to our planet, and keep you informed on the progress.

Testing mitigation options is important as well. Most important, as referenced in your question, is insuring the launch of NASA's DART spacecraft next July. DART benefits from years of investments Congress has supported in NASA's Solar Electric Propulsion (SEP) systems, also being used on the upcoming Lunar Gateway. As CFO it would be a priority of mine to ensure that the DART project stays on schedule for its critical launch window. The target binary asteroid will not wait for us to be ready. If confirmed, I will do what is in my power to clear any bureaucratic delays and work with you and with OMB to make sure the funds appropriated for this are well and properly used, and that you are kept informed of the progress on the project. I look forward to working with you on planetary protection efforts if I am confirmed.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
DANIEL HUFF

Current Role at the International Trade Administration. In a letter to the Committee dated November 5, 2020, you noted that you are currently serving as Deputy Chief of Staff at the International Trade Administration (ITA) while also being detailed back to the White House as an Advisor in the Office of Presidential Personnel (OPP).

Question 1. Please detail your current responsibilities at ITA.

Answer. I am entirely focused on my White House detail and therefore not involved in the day to day operations of ITA.

Question 2. Please specify the amount of time, during your term as an employee of ITA, that you have spent working on matters at ITA and the amount of time you have spent working on matters at OPP.

Answer. I am focused entirely on the White House detail until it ends.

Question 3. As part of your detail at OPP, do you play any role in recommending or vetting any nominees, Schedule C, on non-career SES appointees for positions at the Department of Commerce? If so, please detail specific nominees you have been involved with including their names and the positions for which they have been considered.

Answer. My role at PPO is focused on legal issues and strategy. I am not involved in recruitment or vetting. However, I did pass on the resume of an acquaintance, Trey Mayfield, to the team that handles recruitment, and I believe he is now a lawyer in the GC's office at Commerce.

Question 4. In your position at either ITA or OPP, have you been involved in the creation of any new Schedule C or non-career SES positions? If so, please list each position, when that position was created, and the name of the person (if any) currently occupying the position.

Answer. No.

Question 5. In your position at either ITA or OPP, have you been involved in the conversion of any Schedule C or non-career SES positions to positions in the career civil service. If so, please list each position, when that position was converted, and the name of the person (if any) currently occupying the position.

Answer. No.

Question 6. Please explain your role, if any, in the vetting or hiring of Nathan Simington to serve as a Senior Advisor at the National Telecommunications and Information Administration (NTIA).

Answer. None. As noted above, I focus on legal issues and strategy at PPO.

Question 7. Please explain your role, if any, in the vetting of Nathan Simington in connection with his nominations to serve as Commissioner on the Federal Communications Commission (FCC).

Answer. As noted above, I focus on legal issues and strategy at PPO. However, I do recall that I sat in on his interview with PPO.

Repeal of Fair Housing Rule at HUD. Your resume indicates that, prior to assuming your current duties, you served as the General Deputy Assistant Secretary, Office of Fair Housing and Equal Opportunity, at the U.S. Department of Housing and Urban Development (HUD). In this position, your resume indicates that you “developed and oversaw key HUD policy initiatives featuring innovative approaches.”

Question 8. Please detail any role you had in the July 2020 repeal of a 2015 Obama Administration rule (the “Affirmatively Furthering Fair Housing” or AFFA rule) that required communities receiving housing grants to take steps to eliminate segregation in their communities.¹ Under the new rule, communities would be allowed to just self-certify these efforts.²

Answer. I helped advise on and draft the rule. I recognize that not everyone agrees with it, but the legal and policy justifications set forth in the rule’s preamble are persuasive.

Transparency in the Release of Scientific Information and Data. On October 27, 2020, the *New York Times* reported that the Department of Commerce issued a memorandum in August 2020 that prohibits the release of any “internal or external communications” unless they are “approved by political staff at the department at least three days before being issued.”³ According to the article, this policy applies to “social media posts, news releases and even agencywide e-mails.”

Question 9. Please detail any role you had in the drafting of this memorandum.

Answer. None.

Question 10. Please detail any role you currently have, either in your position as Deputy Chief of Staff at ITA or as an Advisor in OPP, in the enforcement of the policy in this memorandum.

Answer. None.

Question 11. Does the policy announced in this memorandum also apply to communications, including e-mails and telephone calls, with Members of Congress or Congressional staff?

Answer. Because I am not involved in enforcing it, I am afraid I am not in a position to provide the answer to this. However, if confirmed, I would be pleased to work to get you a prompt reply.

Question 12. Does this memorandum have any exceptions that allow for Department employees to exercise their whistleblower rights with regard to the Office of Inspector General or Congress?

Answer. Because I am not involved in enforcing it, I am afraid I am not in a position to provide the answer to this. However, if confirmed, I would be pleased to work to get you a prompt reply.

¹See Evan Weinberger, *Trump Administration Repeals Obama-Era Fair Housing Rule*, Bloomberg Law, July 23, 2020, available at <https://news.bloomberglaw.com/banking-law/trump-administration-repeals-obama-era-fair-housing-rule>.

²*Id.*

³Christopher Flavell and Lisa Friedman, *As Election Nears, Trump Makes a Final Push Against Climate Science*, N.Y. TIMES, Oct. 27, 2020, available at <https://www.nytimes.com/2020/10/27/climate/trump-election-climate-noaa.html>.

Question 13. Please provide a copy of this memorandum. If you refuse to provide the memorandum, or any portion thereof, please provide a detailed explanation of this refusal, including the any specific privilege you are invoking and the name of the official directing you to invoke such privilege.

Answer. I understand that the Department is waiting for a formal request by letter from Ranking Member Cantwell for the memorandum. I appreciate why that formality may frustrate you, but because I am not yet confirmed, and the President's term is almost over, I have no leverage to pressure the Department to release it otherwise. That said, if confirmed, I would do my utmost to get you the document promptly.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DAN SULLIVAN TO
NATHAN SIMINGTON

It is important to understand that telecommunications services in remote, high cost areas such as Alaska must have support from predictable and stable FCC programs that help make the business case for service—including Alaska's version of the high cost USF program, the Alaska Plan. On August 23, 2016, the Commission adopted the Alaska Plan Order, which freezes \$1.5 billion in funding over ten years and allocates that money to maintain, extend, and upgrade broadband service across certain areas of Alaska. The plan has been a significant success, and invaluable for Alaska. Due to the predictability provided by stable high cost funding in Alaska since the plan went into effect, over 50,000 locations in Alaska have had broadband deployed or upgraded, thousands of Alaskans are benefiting from upgraded wireless coverage, and major construction is happening in the middle mile space. The Alaska Plan will go through FCC staff review later this year and into next: wireline early next year and wireless beginning in 2021. As part of the plan, service providers have agreed to meet certain performance obligations—this review will look at these performance obligations.

Statement: Thank you, Senator, for the opportunity to address your questions and concerns. I am aware of the unique circumstances, challenges, and geographical situation of Alaska. I am also aware that Congress and regulatory bodies have been most successful in addressing Alaskan issues when they have taken Alaska's unique situation into account. I hope that my responses show both a present commitment to Alaskan issues and a desire to both work with your office and your constituents in good faith and to see for myself how better to serve the people of Alaska.

Question 1. Would you agree that predictable and stable funding is crucial in order to provide service in remote, high cost areas like Alaska?

Answer. Yes. And frankly, I do not believe the FCC's approach to universal service in Alaska has provided the predictable and stable funding necessary for providers to build and maintain service in remote, high cost areas. Among other things, this has had a negative impact on health care providers in the state that need connectivity to serve their communities and on the Alaskans that live and work in those areas. For instance, the FCC's 2019 revisions to the Rural Health Care (RHC) Program are credibly claimed to be producing anomalous and arbitrary rates that are the opposite of predictable and stable outcomes. The slow pace with which the FCC is acting on Alaska issues only compounds these problems.

I believe strongly in regulatory certainty, rural connectivity and the expanded provision of vital services, such as health care, through telecommunications. Predictable and stable funding is crucial everywhere, but especially to provide service in remote, high cost areas like Alaska. Indeed, health care providers in Alaska and the wireless and wireline providers that serve them face a unique set of challenges. When it comes to building and maintaining networks in Alaska, the FCC needs to do a better job of taking those challenges into account when reaching its decisions. Without predictable and stable funding, providers in Alaska simply cannot make the investments necessary to bridge the digital divide.

As someone who grew up in rural Canada, I believe I have a valuable perspective on the challenges of serving remote communities, and if I am confirmed I would bring that perspective to the FCC.

Question 2. Will you commit to ensure that the Alaska Plan's reviews are completed through a fair and transparent process and with a reasonable outcome which will not delay or diminish broadband service in Alaska?

Answer. Yes. If the FCC is to faithfully carry out its statutory, universal service obligations, it must complete the Alaska Plan review in a manner that provides a fair and transparent process and reaches a reasonable outcome. Indeed, fairness, transparency and the preservation of broadband service in Alaska must be baseline goals for the Commission's implementation of the Alaska Plan.

Question 3. Will you commit to not reducing high cost funding to Alaska, including the Alaska Plan, Alternative-Connect America Cost Model (A-CAM), and Connect America Fund (CAF) II?

Answer. Yes. The Alaska Plan, A-CAM and CAF II are already in progress. As such, it would be an extraordinary action to cut them and, based on the evidence I have reviewed, I see no reason or benefit to doing so.

Question 4. It is obvious more funding is needed to finish extending broadband service to all rural Americans. Will you commit to increasing funding for broadband? If so, how do you think that should be distributed?

Answer. I agree that additional funding will be necessary to extend broadband to every rural American. Current funding levels will not be enough to get the job done. If I am confirmed, I will work to ensure the FCC actually meets its obligations that Congress codified in Section 254 of the Communications Act. I commit to ensuring the level of funding necessary for the FCC to meet that statutory mandate. I will seek to ensure that such funding is distributed in a manner consistent with the principles of universal service established pursuant to section 254, with a particular focus on closing the digital divide in rural and high-cost areas, including Alaska. The circumstances leading to the persistence of the digital divide vary among communities, and the Commission should tailor its distribution of funds to ensure that each community is able to obtain meaningful connectivity. Expanding connectivity in high-cost and remote Alaskan communities must be reflected in the FCC's USF decisions. I am committed to reaching decisions that do just that, if I am confirmed.

Question 5. What are your thoughts on introducing 5G terrestrial service into the 12 GHz band?

Answer. It is critically important that we find way to make more spectrum available for 5G deployment. I favor exploring whether it is possible to use this potentially underutilized band in a way that results in a "win-win" for incumbent users, 5G operators, and the public at large.

In order to create market certainty, the Commission should therefore make it a priority to act on the petitions currently before it regarding this band. If this band proves viable for terrestrial service, it may take years to resolve the required license reclassifications. Potential users will need to begin planning the necessary capital raises and go-to-market strategies. Current users will need lead time to modify installations and adjust to coexistence with terrestrial service. One thing is certain: we cannot wait in the race to 5G.

Question 6. If you are confirmed, will you commit to come to Alaska early in your term for over a week to experience the geography, climate, and other factors that make Alaska a uniquely challenging environment for telecommunications services?

Answer. Yes. If confirmed, I would be honored to travel to Alaska for over a week early in my term. I am eager to see the challenges, successes, and ongoing needs of Alaska and Alaskans. If confirmed, I do not believe that I would be able, without visiting Alaska, to effectively assess, respond to or support Alaskans' unique conditions or needs. Hopefully my time in Alaska will help guide me to make the right decisions and give me material to further enhance my ability to advocate with colleagues on issues important to your state.

The Universal Service Administrative Company (USAC) and the FCC is administering the Rural Health Care (RHC) USF program in a manner that is destructive to Alaska. It has had severe negative effects on our carriers, our health care service providers, and the availability of service for some of the most vulnerable populations in the country—many whose only option is telemedicine. Issues include retroactive funding cuts, years-long languishing funding requests and appeals, a slow and opaque process, and new rule changes that will disproportionately impact Alaska.

Question 7. Will you commit to work with me to solve these issues as expeditiously as possible?

Answer. Yes. I believe the FCC's USF decisions are credibly claimed to be producing arbitrary and anomalous results in Alaska. As noted above, the FCC's 2019 RHC decision is just one example. The slow pace with which the FCC has reached these determinations has only compounded the problems. Providers—whether serving health care facilities or remote communities in Alaska or elsewhere—need greater certainty and predictability to make the massive investments necessary to build and extend broadband service.

Question 8. Will you commit to work to convince your fellow commissioners to help solve these issues as expeditiously as possible?

Answer. Yes. If confirmed, I would work to ensure that my FCC colleagues understand basis for the credible claims of arbitrary and anomalous results the agency's decisions may be producing in Alaska and convince them that the agency should take expeditious action to address those issues.

Question 9. If some of your fellow commissioners continue to treat Alaska unfairly, how will you push back?

Answer. There are a number of issues the FCC could resolve right now that would bring much needed certainty and predictability to communities in Alaska. If I am confirmed, I would make it clear to my FCC colleagues that we should take up and resolve those issues before the agency votes on unrelated proceedings that do not rise to the same level of importance. I would work to ensure that the FCC satisfies Congress's mandate to the FCC under Section 254 and, furthermore, Congress's mandate to take Alaska's unique circumstances and needs into account when considering matters before the FCC. I would vote accordingly, advocate to my fellow commissioners that they do the same, and ensure that we as a Commission are held to public account when we fail to fulfill our obligations.

In recent years, USAC's processing of funding requests for the RHC program has slowed to a snail's pace. Many funding requests are tied up at USAC due to bureaucratic indecision, and USAC makes frequent administrative errors requiring applicants such as health care providers to appeal to the FCC. USAC's processes are entirely opaque, so applicants have no visibility into where their applications and appeals may stand, and USAC gives them no time-frame for decision. All of these problems impose great administrative costs, and leave service providers as well as rural health care providers in an impossible position. It undermines efforts to deliver effective tele-health services, which is especially important in a crisis such as we now are facing with COVID-19. Alaska has carriers with pending rate approvals from 2 and 3 years ago. Some have finally been approved (not disbursed), although at dramatically reduced rates, and some have still had no action. I have relentlessly pushed the Chairman and the FCC to expedite these processes. I have received pre-confirmation commitments from at least one Commissioner to address these issues, but to no avail.

Question 10. Would you agree that RHC program participants should be fairly compensated in a timely manner?

Answer. Yes. RHC program participants must be fairly compensated in a timely manner. Failure to do so will disincentivize participation in RHC to the great detriment of patients and communities reliant upon the program. In recent years, the FCC has not acted in a timely enough manner and its decisions may now be producing anomalous results.

Question 11. Would you agree that withholding funding for multiple years after services have been rendered is an unacceptable way to run a program?

Answer. Yes. Applicants are entitled to clear and timely determinations regarding their eligibility for funding. If an applicant is entitled to funding under the statute and the Commission's rules, there is no justification for withholding that funding—whether for one year or multiple years. It's critically important that applicants and providers understand the rules of the game up front, and that those rules not be changed midstream.

Question 12. Would you agree that changing rates after services have been rendered resulting in retroactive funding cuts is not a fair or transparent way to run a program?

Answer. Yes. Applicants are entitled to clear and timely determinations regarding their eligibility for funding. Once reached, such determinations should not be subject to retroactive revision. It is critically important that applicants and providers understand the rules of the road up front, and that those rules not be changed midstream.

Question 13. Would you agree that allowing appeals to languish for years is an unacceptable way to run a program?

Answer. Yes.

Question 14. Will you commit to working expeditiously on reforms to USAC's processes to improve transparency and to prevent delayed and vital support? Will you commit to advocating for this with your fellow commissioners?

Answer. Yes.

Question 15. Will you commit to advocating for expeditious rate approvals and reviews? Will you commit to advocating for this with your fellow commissioners?

Answer. Yes.

Question 16. What do you believe is a reasonable time period for a rate approval or review under this program?

Answer. The public interest would be best served by providing carriers with certainty and predictability. The program should have clear processes and standards so that post-hoc reviews and approvals are rare, not routine; review causes uncertainty and delay. But when a review is needed, it should take weeks, not years. Lengthy reviews, in the absence of the need for extensive discovery, are unaccept-

able and do not further the public interest. When the Commission does approve a rate, that rate should be good not just for the backward-looking year but for the future as well. That would help mitigate some of the harms that flow from the FCC's recent, drawn out rate approval processes.

Applicants are entitled to clear and timely determinations regarding their eligibility for funding. If confirmed, I commit to working with your office so that the FCC's processes provide certainty to applicants.

Question 17. Will you commit to impose strict deadlines on USAC and the Bureaus, and insist that applications and appeals do not languish for years? Will you commit to advocating for this with your fellow commissioners?

Answer. Yes.

Question 18. Will you commit to much greater FCC oversight of USAC? Will you commit to advocating for this with your fellow commissioners?

Answer. Yes. Every FCC Commissioner has an obligation to ensure that USAC is a good steward of Americans' hard-earned dollars and that the FCC's universal service program is administered in a manner that is fair and efficient. That is the best way to ensure that Congress's mandate for universal service in Section 254 is met: "There should be specific, *predictable* and sufficient Federal and State mechanisms to preserve and advance universal service." Greater FCC oversight of USAC decisions will further this goal. Any uncertainty or instability is the Commission's problem and, if confirmed, I will commit to addressing this issue.

The FCC revised its RHC Program rules in August 2019. I had requested an expedited rulemaking from Chairman Pai as a part of Commissioner Carr's confirmation process to address many of the problems our state had been experiencing with the program and to lay out clear rules for the future. These rules are anything but helpful to Alaska, and anything but clear.

The rules group rural communities into rurality tiers and provide subsidy awards only for the difference between the median of rural rates and the urban rate for functionally similar services in the same tier. In Alaska, there are four tiers, but even in the most rural tiers, many communities with very different costs of service are in the same tier. For example, communities in the same tier may be served by different technologies (satellite vs. fiber or terrestrial wireless networks), be of different population sizes, be closer to or farther from the nearest fiber network, have access to fewer or more competitive networks, or have different topography, significantly affecting the cost to serve them. The rules short-change communities where rates are above the median (sometimes way above) due to the very high cost of service. *These are the Alaskan communities that have the least broadband infrastructure and the most limited access to health care providers, and thus have the greatest need for support from the Rural Health Care program.* The FCC also delegated the work to set median rates for each service to USAC, which does not have the authority, information, or experience to make these critical support decisions. Petitions for reconsideration of the rules have been pending for almost a year, and yet the FCC has so far refused to stay the effective date of these new rural and urban rate rules. Additionally, the Alaska delegation sent a letter to the Chairman back in April requesting that the FCC delay the implementation of these rules in light of the pandemic. Many health care providers are strained enough without trying to navigate an incomplete and new process. The Chairman did not address or act on this request.

The bidding season for Funding Year 2021, which is governed by USAC's new median rate database and cost model waivers, has already begun. The database is a disaster and will not work—especially in Alaska. Our carriers will have to file cost model waivers for most services on a case-by-case basis, which will be stuck in the same impossibly slow review and appeals process at USAC and the Bureaus.

Question 19. Would you agree that ignoring petitions for reconsideration without acknowledgment or response while going ahead with a new program is unfair and poor governance?

Answer. Yes. I believe that petitioners are entitled to a timely response to their petitions, and that timely disposing of such petitions—one way or the other—is simply good governance. Likewise, communicating timely with petitioners is also fundamental to good governance.

Question 20. Will you commit to support delaying these new rate-setting rules while the pending petitions for reconsideration are fully addressed? Will you commit to advocating for this with your fellow commissioners?

Answer. The petitions for reconsideration and applications for review, presently before the full Commission, raise fundamental questions that should be resolved before the bidding for 2021 takes place. As noted above, there are credible claims that the current approach is producing arbitrary and anomalous results. If confirmed, I

would support action that provides more certainty, more predictability and more reasonable rates, whether that action is a suspension, waiver, or delay of new rate-setting rules. Relief should be provided as soon as possible, and if confirmed, I would commit to working with my colleagues to accomplish this result.

Question 21. Given that the that the database is clearly not ready and it will likely result in a disproportionate impact on Alaska, will you commit to support delaying these new rate-setting rules in light of the pandemic until at least bidding season 2022? Will you commit to advocating for this with your fellow commissioners?

Answer. There are steps the FCC could take right now to address the arbitrary and anomalous outcomes that its 2019 RHC decision is credibly claimed to be producing. If confirmed, I would support taking the immediate actions necessary to ensure fair rates and a stable, predictable outcome for Alaska—whether that action involves delaying rates or taking other steps. I commit to advocating for those actions with my fellow commissioners if I am confirmed. COVID-19 has clearly produced a once-in-a-century challenge and clearly any rulemaking needs to take it into account.

Question 22. Will you commit to work with Alaska's stakeholders and me to fix the program? Will you commit to advocating for this with your fellow commissioners?

Answer. Yes.

Alaska's health care and telecom providers are struggling to keep up with increased demand, financial strain, and diminished workforce because of COVID-19. In early April, the Alaska delegation wrote to Chairman Pai asking that he take certain steps in response to COVID-19 to facilitate the delivery of tele-health services in rural Alaska. We requested suspending the new RHC rural rate setting rules from August 2019, which I have already mentioned. We also recommended waiving the funding cap on Rural Health Care support for Funding Year 2021 to meet increased telehealth demands. The FCC has imposed a cap on annual RHC support of \$581 million (adjusted for inflation), which makes it the smallest of the Universal Service programs. This cap limits the program's ability to provide adequate support in response to rapidly increasing demand due to COVID. We also recommended suspending audits and investigations, and extending response deadlines for responding to USAC and FCC inquiries so tele-health providers can focus on providing essential services during the COVID-19 pandemic.

Question 23. Will you commit to support waiving the funding cap on RHC support due to the pandemic for Funding Year 2021 to the extent that demand exceeds the cap imposed by the FCC? Will you commit to advocating for this with your fellow commissioners?

Answer. As noted above, the FCC's August 2019 decision is credibly claimed to be producing certain arbitrary and unjustified results. This is clearly not in the public interest. If I am confirmed, I will investigate the complaints about the August 2019 decision and advocate for the FCC to take immediate, corrective action where warranted. The urgency of this is only sharpened by the acute additional need caused by the COVID-19 pandemic. If my findings suggest it is advisable to suspend certain audits and investigations, I will recommend and advocate doing so. As a commissioner, I would take seriously my obligation to act against unfair results that are not in the public interest.

Question 24. Will you commit to support suspending audits and investigations, and extending deadlines for responding to FCC and USAC inquiries? Will you commit to advocating for this with your fellow commissioners?

Answer. The FCC has waived a number of rules due to impacts associated with COVID-19. If confirmed, I would support continuing or providing additional regulatory relief where compliance is not in the public interest due to the demands of addressing COVID-19. If confirmed, I would also advocate that my fellow commissioners do the same. In addition, I commit to working with your office to obtain the information necessary to acquire an informed judgment about the need to suspend audits and investigations, and to extend deadlines for other responses to FCC and USAC inquiries.

Question 25. Will you commit to support further waiving of the gift rule for the RHC and E-Rate due to COVID-19? Will you commit to advocating for this with your fellow commissioners?

Answer. In my opinion, waiving the gift rule during the COVID-19 pandemic has produced significant public interest benefits. Unless there is evidence that I am currently unaware of, I do not see how the public interest is supported by not further waiving the gift rule. If confirmed, and based on the information currently available to me, I would support further waiving of the gift rule.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO
NATHAN SIMINGTON

POLITICO Report. On November 23, POLITICO published a story by reporter John Hendel titled “Trump’s FCC nominee sought to enlist Fox’s Laura Ingraham in anti-tech fight” (<https://www.politico.com/news/2020/11/23/fcc-nathan-simington-laura-ingraham-anti-tech-439806>). The story stated the following:

Federal Communications Commission nominee Nathan Simington reached out to Fox News this summer in an attempt at “engaging” host Laura Ingraham to support President Donald Trump’s quest to make it easier to sue social media companies like Facebook and Twitter, according to e-mails obtained by POLITICO.

Simington, a senior adviser in a key Commerce Department tech agency, wrote that the popular Fox News host could help sway the FCC to act on Trump’s proposal before Election Day. He also suggested that democracy hinged on the ability of the commission—which has not traditionally regulated social media—to target Silicon Valley companies.

“Any additional support we might be able to obtain could help to get the FCC on board more quickly and thereby ensure a freer, fairer social media landscape going into the elections this fall,” Simington wrote in a June 22 e-mail to a Fox News staffer. “This is of concern both to the presidency and also down-ballot, and given the emerging role of social media as a replacement for mass media, our democracy will be weakened if we cannot respond to this issue quickly and effectively.”

Simington, who works for the Commerce Department’s National Telecommunications and Information Administration, wrote the e-mail months before Trump nominated him for a five-year term on the FCC.

Trump has spent the final months of his reelection campaign and presidency feuding with the dominant social media platforms after they started fact-checking his posts on topics such as the pandemic and alleged election fraud. In a May executive order, Trump asked the FCC to reexamine a congressionally created liability shield that protects online companies from suits over how they handle user-posted content.

Ingraham, whom Trump frequently has cited favorably, has echoed the GOP’s attacks on the tech industry and years earlier had eyed joining the administration. Fellow Fox News host Tucker Carlson publicly backed Simington’s FCC nomination in an October segment where he pressured Senate Republicans to speed up.

During your testimony to the Committee at your confirmation hearing, you indicated that you had a minimal role in developing and advocating in support of the petition. This story suggests, Mr. Simington, that you were less than truthful with the Committee about your involvement with—and actions related to—NTIA’s section 230 petition.

Question 1. Did you send e-mails to Fox News staff or staff for other media organizations seeking support for the Section 230 petition?

Answer. Yes. I sent one e-mail to a Fox News staffer seeking to raise awareness of the NTIA Section 230 petition. Other than that, I did not communicate with any other media organization about the Section 230 petition. This e-mail was routine advocacy for earned media support and as such was part and parcel of the role I serve at NTIA.

Question 2. With whom within NTIA, at the White House, or in the Trump campaign did you consult in advance of sending the foregoing e-mails?

Answer. I consulted with Adam Candeub, then Deputy Assistant Secretary at NTIA. If there had been sufficient interest from Fox News, I would then have spoken with NTIA’s media communications personnel to ensure proper content and presentation oversight and to receive overall agency clearance. I did not consult with anyone at the White House or President Trump’s campaign regarding communication with Fox News either in advance of sending the e-mail or subsequently.

Question 3. Please produce to the Committee copies of all e-mails sent from your personal or professional e-mail accounts related to NTIA’s Section 230 petition. Please also produce records of any phone calls, text messages, or other contacts you made with personal or professional devices related to the petition.

Answer. Records generated in the course of my official duties are agency records, not in my personal custody. I commit to working with the NTIA’s legislative affairs

and general counsel's office to provide the committee with responsive records, subject to Executive Branch confidentiality interests.

Question 4. In what other activities did you engage to develop support for the Section 230 petition? Please provide complete records of all such activity.

Answer. Records generated in the course of my official duties are agency records, not in my personal custody. I commit to working with the NTIA's legislative affairs and general counsel's office to provide the committee with responsive records, subject to Executive Branch confidentiality interests.

To summarize in the interim, I communicated directly with a member of the Fox News staff via one e-mail and one immediately subsequent phone call. I communicated internally within NTIA about the text of an op-ed to be proposed to the *Wall Street Journal*, but I had no communications with the Wall Street Journal itself. I spoke briefly in a regularly scheduled meeting of Digital Liberty's "Friends of Technology," as discussed in more detail in my letter of November 13, 2020, addressed to you, Chairman Wicker, and Senator Blumenthal. Other than these listed activities, I engaged in no other activities to develop support for the Section 230 petition.

Question 5. Did you have any conversations with staff of Fox News or any other media organization seeking support for your nomination to the FCC?

Answer. I had no such conversations.

Question 6. Please explain what you meant by your comment that the Section 230 petition would "ensure a freer, fairer social media landscape going into the elections this fall. . . . This is of concern both to the presidency and also down-ballot. . . ."

Answer. The petition describes NTIA's view that granting the petition will ensure a freer and fairer social media landscape, which in turn will enhance democratic dialogue. I was presenting the views in that e-mail within the scope of my official duties.

Question 7. You were aware in advance of your nomination hearing that various news organizations had filed FOIA requests for your communications related to the Section 230 petition. The e-mail was sent from your official account, and you knew that it would be disclosed as part of any response to these FOIA requests. In light of those facts, please explain why you refused to disclose this information to the Committee either in advance of your hearing or in response to questions from Committee members.

Answer. In the course of my official duties, I comply with all Federal record-keeping laws. That includes ensuring that all agency records are maintained and accessible under the Freedom of Information Act, subject to the statute's exemptions. I have disclosed to the Committee all the information that was requested of me prior to, during, and after the hearing. I did not refuse to disclose this information, or any other information, to the Committee.

The video record of the hearing will show that, during the course of Senator Blumenthal's questions about activities in support of the petition, I answered completely, to the best of my ability, consistent with the thrust of the Senator's questions and with respect for the constraints on each member's allotted time. I have reviewed my testimony before the Committee, and I confirm that my responses were truthful and accurate.

Question 8. In light of this story, do you still maintain that you had a minimal role in relation to the petition? If you answer in the negative, please explain why you maintained in front of the Committee that you had such a minimal role.

Answer. I had a minimal role in the petition. I believe my role in the petition to be fully reflected in the documentary record, including the e-mails you cite. In the context of the roles others played, my role was indeed minor.

Question 9. In light of the questions that this report raises concerning your candor with this Committee, would you agree to a request that the majority hold your nomination in abeyance until such time as you have produced the requested materials and made yourself available for additional conversations with the Committee?

Answer. I believe that my answers to the Committee—during my confirmation hearing and as set forth in my responses to questions for the record—are sufficient for the Committee to determine whether to advance my nomination.

Political Independence & FCC Section 230 Rulemaking. In response to a *decision by Twitter* to mark two of his erroneous tweets with fact-checking labels, President Trump issued an Executive Order ordering your agency—the Department of Commerce—to file a petition with the Federal Communications Commission to undercut Section 230 and punish tech platforms for engaging in moderation activities.

According to your own testimony in front of the Committee (and subsequent clarification), you had a role in preparing that petition for filing, as well as promoting and defending that petition after filing. And it has been widely reported that FCC

Commissioner Mike O'Rielly's re-nomination was pulled by the White House because he had expressed concerns about the legality and propriety of the executive order and the resulting NTIA petition.

Consumers deserve an independent FCC free from political machinations. And it is equally important for Americans to have confidence that appointees to these commissions act based on the law and the record before them, not at the direction of the president or with a presupposed determination on the outcome of a regulatory proceeding.

Question 10. Do you acknowledge that it would be inappropriate for the FCC to help the White House retaliate against those who express their right to free speech in a manner that angers the President?

Answer. I acknowledge and fully agree that it would be inappropriate for the FCC to help any party (whether the White House or otherwise) to retaliate against any other party for any reason whatsoever. I am not privy to President Trump's decision-making process that led him to issue the Executive Order on Preventing Online Censorship. I do know that I wholly embrace the opening paragraph of that EO: "Free speech is the bedrock of American democracy. Our Founding Fathers protected this sacred right with the First Amendment to the Constitution. The freedom to express and debate ideas is the foundation for all of our rights as a free people." If I am fortunate enough to be confirmed, I will be an impartial and independent voice on the Commission and follow the law regardless of the political context.

Question 11. Did you make any commitments to the White House about your ultimate decision in the Section 230 proceeding or any other proceeding before the agency?

Answer. I have made no commitments to the White House or anyone as to my ultimate decisions on any matter if confirmed.

Question 12. How can this Committee be assured that you will act in a fully impartial and independent manner as an FCC commissioner?

Answer. I believe my experience and past record demonstrate my impartiality and independence. I commit to act in a fully impartial and independent manner as an FCC commissioner, if confirmed.

Question 13. How would you respond to those that claim that your role in developing and defending the petition shows that you have a closed mind on this issue, or would approach it predisposed to reject arguments against the FCC acting on the petition?

Answer. First, I refer you to my answer in question 12. Second, I must note that my job as a senior advisor at NTIA was to advocate on behalf of that agency. My job as a commissioner, should I be confirmed, will be to exercise independent judgment—regardless of whether my judgment conforms to that of the Executive Branch and regardless of the party in power. In short, I commit to act in a fully impartial and independent manner as an FCC commissioner.

Recusal. It is standard practice for FCC commissioners—especially newly-confirmed commissioners—to recuse themselves from any proceeding in which they have personally engaged in a substantive manner in their previous role. Previous reports indicated that you played a central role in developing the petition NTIA filed at the FCC proposing changes to section 230 sought by the administration, while more recent reports indicate that you had a key role in developing public and political support for the petition, including by tying the petition to the 2020 presidential election.

Your personal role in advocating changes to the FCC's rules raises serious concerns about your ability to weigh the record in this matter on an impartial basis. Already, a wide cross-section of stakeholders have raised questions about the legal authority of the FCC to adopt rules under Section 230, as well as the appropriateness of the FCC's actions in this matter. But many have doubts whether you will credit these arguments, given that refuting them was central to the petition that you helped craft and promote.

Question 14. Will you commit to this Committee that you will recuse yourself in the pending Section 230 rulemaking, especially in light of the evidence of your efforts to build public and political support for that petition?

Answer. If I am fortunate enough to be confirmed, I pledge to defer to the advice I will receive from appropriate counsel at the FCC on whether I should recuse myself from further participation in the Section 230 proceeding.

Question 15. Mr. Simington, you indicated that you would consult with relevant ethics officials about recusal on this issue. Have you had any such discussions with any relevant ethics officials, including at the White House and the FCC? Would you agree that Congress and the public deserves clarity on this matter prior to this

Committee acting on your nomination? Would you request that the majority delay consideration of your nomination until the ethical questions surrounding your role in the section 230 petition are resolved?

Answer. I have not yet discussed recusal with the relevant ethics officials, as such discussions would be premature. I trust that my answers to the Committee—during my confirmation hearing and as set forth in my responses to questions for the record—are sufficient for the Committee to determine whether to advance my nomination.

General Spectrum Policy. The FCC's spectrum decision-making process may be irreparably broken. Time and time again, the agency has run roughshod over other Federal agencies and key stakeholder communities in its quest to hand more spectrum over to commercial wireless companies.

We all understand the importance of making spectrum available for mobile services, including 5G. But the public interest in spectrum cannot always bend toward the wireless companies and away from public safety, national security, science, space, and other essential spectrum uses.

As I said a few months ago when the current members of the FCC appeared before us, the Federal government needs a better process for making these spectrum decisions.

And if the FCC cannot be a cooperative part of that process, then Congress may have to think about changes to how spectrum policy is developed.

Question 16. Mr. Simington, given that you claim to have significant experience with Federal spectrum issues at NTIA and that agency has questioned several of this FCC's spectrum moves, do you agree that the consultation process between the FCC and the Federal government is broken?

Answer. The relationship between the FCC and the Executive Branch should certainly be improved. I pledge to work with your office and this Committee to improve this process going forward. For example, the memorandum of understanding ("MOU") between the NTIA and FCC in regard to spectrum management decisions could be updated and clarified. A more robust MOU to address this point could be helpful in assisting the FCC and the Executive Branch agencies in resolving conflicts.

Question 17. You indicated during your confirmation hearing that you believed that the spectrum coordination process could be improved. How would you propose that we fix this process to make sure that public safety, national security, science, and other essential stakeholders have a real voice at the table in these decisions?

Answer. The FCC faces conflicting imperatives, as Congress has directed it to continue commercializing spectrum even as much of the most viable spectrum for commercialization remains committed to public safety, national security, science and other vitally important applications. It should be incumbent upon the FCC to develop a complete record before it makes a decision. I will fully support all efforts by the Commission to make sure that public safety, national security, science, and other essential stakeholders have a real voice at the table in these decisions and that decisions are made that balance these interests in a prompt but thoughtful manner.

Ligado. This is a unique and unprecedented moment for spectrum policy. NTIA—the agency for which you work—along with the entirety of the Executive Branch believe that the FCC's approval in April 2020 of Ligado's terrestrial wireless plans threatens the Nation's GPS system.

I joined a bipartisan letter with 31 of my fellow senators urging the FCC to reconsider and stay its decision given the threat to GPS. NTIA has formally asked the FCC to pause, rethink, and reconsider its decision in light of the significant threat it poses to our Nation's safety and security. And I have received a commitment from two of your potential colleagues at the Commission—Commissioners Rosenworcel and Starks—that they would support a pause on Ligado, as well as the Commissioner that you would replace.

Question 18. Given the unprecedented pushback and the high stakes involved for public safety and the larger economy, would you agree the right course of action is for the FCC to halt Ligado's plans to deploy its network until these serious concerns about harmful interference to GPS are satisfactorily resolved?

Answer. This is a perfect example of the coordination problems between the FCC and the NTIA. On my review of the Ligado decision, I believe that I have identified process and communication errors that led to the present state of uncertainty. I note that a number of Executive Branch agencies are subject to statutory constraints requiring them, based on their understanding of the Ligado decision, to oppose its outcome. For example, the Defense Department is subject to a statutory prohibition on

allowing the GPS network to come to harm. As such, if confirmed, I would immediately undertake such research, outreach, and actions, subject to FCC legal obligations and restrictions, as I would determine to be necessary to address Executive Branch agency concerns.

5.9 GHz and Auto Safety. As I'm sure you're aware, the FCC's action to open up the 5.9 gigahertz band to unlicensed uses has generated significant controversy. While I recognize that demand for wireless spectrum is only growing, the FCC must ensure that we protect critical transportation safety use of this band. It is a key band supporting technologies reducing vehicle-related crashes and potentially saving thousands of lives each year. In fact, the Department of Transportation strongly opposes the FCC action to allow unlicensed use of this band, and had asked the agency to pull the item from its November agenda.

Question 19. Mr. Simington, would you agree that Federal spectrum policy is stronger when it is the result of cooperative decision-making between the FCC and impacted Federal agencies?

Answer. Yes, I agree. The FCC is subject to the Communications Act in ways that other agencies are not, which may lead to conflicting imperatives between the FCC and such agencies as the Department of Transportation. However, the FCC cannot operate effectively without cooperating to the maximum extent possible with other Federal agencies—particularly those impacted by FCC decisions. Federal spectrum policy is greatly harmed when agency conflicts cannot be resolved via interagency process and coordination.

Question 20. Given the controversy surrounding this proposal, would you favor taking a step back on this proceeding and reconsidering the FCC's recent decision until such time as the Department of Transportation's concerns can be adequately addressed?

Answer. I do not have access to the FCC's internal deliberations. However, if confirmed, I would consult with the staff and the other Commissioners in order to formulate a definitive view of the question. I would, of course, be willing to consider any petition for reconsideration that is appropriately before the Commission. I believe that petitioners are entitled to a timely response to their petitions, and that disposing of such petitions—one way or the other—is simply good governance. Once I have an opportunity to examine the record, I would support staying these rules pending action on the petitions for reconsideration where good cause has been shown.

Question 21. The FCC's recent decision in the 5.9 GHz proceeding represents yet another example of the FCC moving forward over the objections of another agency. In this case, it was the Department of Transportation. If confirmed, what would you do to improve the Federal spectrum management process and ensure that the FCC conducts spectrum policymaking in a cooperative and collaborative manner?

Answer. This question is important because it speaks to the different statutory standards of accountability between the FCC and the Executive Branch agencies. Ultimately, the FCC is accountable to its statutory standards under the Communications Act. These statutory standards may be incompatible with those of other agencies; as such, the FCC may be legally required to act in a way that is unacceptable to other Executive Branch agencies. This issue highlights the importance of improving legal and technical communication between the FCC and the NTIA and of having the NTIA serve as a greater clearinghouse for Executive Branch concerns. In immediate furtherance of this goal, I would support taking a fresh look at the FCC-NTIA Memorandum of Understanding and of building out institutional and personal communications between the two agencies.

Weather Spectrum. Last year, FCC Chairman Pai chose to move forward on a plan to put spectrum in the 24 gigahertz band to market that failed to adequately protect weather spectrum immediately adjacent to that band. He moved ahead over the objections of the Department of Commerce, NASA, NOAA, and the American Meteorological Society.

This very public, intra-government squabble demonstrated how little Chairman Pai respects the role of other agencies, and specifically the expert science agencies, in the broader Federal spectrum management process and how broken that process is. More importantly for this particular slice of spectrum, Chairman Pai's move put critical operations that are key to vital weather forecasting operations at risk.

At the International Telecommunications Union's World Radio Conference in 2019, the international community disagreed with Pai's move and adopted more stringent protections based on sound science and analysis.

But even those more stringent standards may cause damage to important weather forecasting data—as NOAA concluded in a study it recently submitted to congressional appropriators.

Question 22. If confirmed, would you support the FCC immediately adopting the more stringent interference standards agreed to by the international community?

Answer. I do not have access to FCC internal deliberations on this matter. As such, I am not yet in a position to provide an informed judgment on what constitutes a reasonable set of interference standards in this area. I do commit to seeking to obtain that information and taking such steps as are necessary to ensure the adoption of reasonable interference standards.

Question 23. Will you also commit to working collaboratively with NASA and NOAA to find ways to deploy 5G that will minimize the damage to critical weather safety data?

Answer. Yes.

Question 24. Will you also commit to encourage industry to work collaboratively with NOAA and NASA on these issues?

Answer. Yes.

Serving the Public Interest. Mr. Simington, a significant amount of the FCC's work concerns weighing how the proposed action serves the public interest. For example, the FCC uses a public interest standard to determine whether to approve mergers—small and large. The previous FCC based the Open Internet rules—in part—on a public interest analysis. This public interest standard, in my view, is critical to the FCC's work. The current FCC has contorted this standard to allow for corporate interests—and mega mergers—to prevail.

Question 25. Mr. Simington, what does the public interest standard mean to you and how will it guide you in your decision-making processes as an FCC commissioner, if confirmed?

Answer. If I am confirmed, I will be a strong advocate for the FCC's public interest mandate. As I discussed during my confirmation hearing, the public interest is where telecom's rubber meets the road. For example, I will ensure that the FCC continues to fulfill its obligation to prevent illegal marketing, keep 9-1-1 up to date, improve spectrum management, and restrain unwanted robocalls. Applications to transfer control of licenses and authorizations, like all actions of the FCC, should be reviewed with our public interest mandate at the center of our inquiry.

Question 26. If confirmed as an FCC commissioner, will you pledge to protect the interests of American consumers instead of corporate interests?

Answer. Yes. I pledge to act in the public interest, including protecting consumers, promoting economic growth, and connecting all Americans.

Local News. I released a report a few weeks ago about the decline in local news in the United States, and possible actions policymakers can take to bolster local journalism.

Question 27. The FCC has a role in ensuring the health of the broadcast industry and making sure broadcasters operate in the public interest. In my mind, that public interest obligation should include making investments in truly local journalism. Should you be confirmed, how would you propose to help ensure the health of local broadcast news operations?

Answer. Local broadcasting is a critical component in our media landscape. Promoting competition, diversity and localism are fundamental commission mandates. I am deeply committed to ensuring our policies are consistent with these goals and will do my best to ensure that they are, if confirmed.

Broadcast Consolidation and Deregulation. The current FCC has systematically eliminated a number of longstanding rules designed to preserve the "local" in local broadcasting. For example, it threw out the rule requiring broadcasters to have a studio in their local community, allowing for the nationalization of local news. And it abandoned decades-old limits on broadcast consolidation based on legal analysis so thin that a court called it effectively non-existent.

Question 28. Mr. Simington, localism and diversity have been core tenants of broadcast policy at the FCC. Do you believe that these decisions by the FCC actually further those goals? Are rampant media consolidation and nationalization of broadcast operations truly consistent with the public interest?

Answer. I have not had an opportunity to review the record in those proceedings, but I share your goals of promoting a vibrant local broadcasting marketplace in all parts of the country.

Tribal Issues. Mr. Simington, our Nation's Tribal communities lag far behind everyone else in access to communications services, especially broadband. According to a report issued by the FCC in May 2019, less than half of households in Indian Country have access to high-speed broadband service. This represents a nearly 27-point gap compared to non-Tribal rural areas. According to the same report, this gap only widens when compared to the country-wide average; 31 percent of households on Tribal lands lack access to high-speed broadband service compared to seven percent of Americans in non-Tribal areas. Indian Country has waited long enough for broadband. The FCC needs to do better.

Question 29. Mr. Simington, how would you propose the FCC improve its coordination and consultation with Tribal nations on issues under its jurisdiction?

Answer. I commit to fully engage with the FCC's Office of Native Affairs and Policy and the Native Nations Communications Task Force, and such other assets as are appropriate and necessary, to improve the agency's coordination and consultation with Tribal nations on issues under its jurisdiction.

Question 30. Mr. Simington, Tribal stakeholders have complained for years that the FCC's universal service programs consistently underinvest in improving communications networks on Tribal lands. Legislation that I crafted with Senator Udall, which just advanced through the Senate Committee on Indian Affairs, would help rectify this underinvestment by dedicating at least five percent of universal service funds to Tribal lands. Do you support this legislation? What steps should the FCC take to make sure that move universal service money is dedicated to the needs of our Tribal communities?

Answer. The FCC has provided increased support on tribal lands, through increased Lifeline subsidies and through the Rural Tribal Priority Window in the 2.5 GHz band, but clearly more support is needed considering the persistence of a severe digital divide in Indian Country. I fully support further efforts—whether through legislation or action at the FCC under existing authority—to ensure that Tribal communities bridge the digital divide.

Question 31. Mr. Simington, the Government Accountability Office issued a report a few years ago noting that one of the reasons the FCC has underinvested in Tribal lands is the poor data it collects on broadband availability and the maps it generates as a result. As you know, Congress just passed legislation to reform the FCC's broadband data collection and mapping. Would you agree that the FCC should pause distribution of a significant portion of its universal service Connect America Fund money until its maps are reformed and we better understand the broadband gap in this country?

Answer. I believe that closing the digital divide is one of the most pressing issues facing our Nation today. I further believe that the current Commission has struck an appropriate balance between the need to move quickly and the need to gather more accurate data. I will, if confirmed, support all efforts the Commission may make to gather complete and accurate data to support efforts to close the broadband gap. The situation on Tribal lands illustrates the tension between speed and accuracy. It is almost certainly the case that fewer people on Tribal lands will gain connectivity if Connect America Fund monies are distributed on the basis of current mapping than they would be on the basis of improved mapping. However, improved mapping will delay buildouts, meaning that no one will gain connectivity during the interval in which improved maps are prepared.

E-Rate and Rural Health Care Programs. Mr. Simington, as I hope you are aware, the FCC's E-Rate and Rural Health Care programs have been very successful in connecting the Nation's schools, libraries, and rural healthcare facilities to broadband. In fact, I and my colleagues have argued that the FCC needs to leverage the success of these two programs to further expand broadband connectivity during the ongoing COVID-19 crisis for remote learning, telehealth, and to help close the digital divide in many of our communities.

Question 32. Mr. Simington, in the information you provided to the Committee, you have suggested that one of the major contributions you think you can make to the FCC is to help better manage universal service. Many of us in Congress believe, however, that the E-Rate and Rural Health Care programs are highly successful now. Would you commit to taking no steps as a Commissioner that would undermine, undercut or underfund these two programs?

Answer. Yes.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. AMY KLOBUCHAR TO
NATHAN SIMINGTON

Accessible, Affordable Internet for All Act. A recent study found that 17 million K–12 students do not have access to high-speed Internet and 7 million do not have computers at home. My bill—the Accessible, Affordable Internet for All Act—includes dedicated funding to enable schools and libraries to make use of Wi-Fi hotspots and devices (such as laptops and tablets) to help students learn from home.

Question 1. Do you believe the FCC is doing enough to ensure that students are connected to high-speed Internet during the pandemic?

Answer. I believe there is always room for improvement in government programs, E-Rate included. The pandemic has only underscored the importance of keeping students connected. If confirmed, I look forward to working with this Committee and my fellow commissions to looking at ways to modernize the program.

Question 2. If confirmed, what would you do to ensure we connect every student to high-speed internet, and will you commit to supporting efforts to improve the E-Rate program?

Answer. I commit to supporting efforts to improve the E-Rate program. I will support such actions as are authorized under the Communications Act to ensure that that students are connected to high-speed internet, during the pandemic and beyond.

T-Mobile/Sprint Merger. Last October, the FCC voted along party lines to approve the proposed merger of T-Mobile and Sprint. As Ranking Member of the Antitrust Subcommittee and a member of this Committee, I repeatedly raised concerns about the harmful effects of eliminating one of the only four nationwide wireless network operators. The Trump Administration’s settlement with T-Mobile recognized that the transaction posed a threat to mobile competition and required the sale of certain assets to Dish Network, a satellite television provider with no existing mobile network.

Question 3. In your view, what impact will having only three nationwide wireless carriers have on our country’s ability to deploy 5G?

Answer. I believe the FCC and the DOJ correctly assessed that Dish has every incentive, and the ability, to enter the U.S. wireless market as a fourth nationwide facilities-based network competitor. I strongly believe in facilities-based competition and fully intend to support policies that drive investment, innovation, and competition in the wireless market.

Question 4. If confirmed, what actions will you take to ensure that T-Mobile and Dish honor their commitments to the FCC and that Dish actually emerges as a viable mobile network operator?

Answer. If confirmed, I will ensure, to the extent of my ability as an individual Commissioner, that T-Mobile and Dish honor their commitments to the FCC. The public interest would be well served by the emergence of Dish as a full-fledged facilities-based network competitor.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. RICHARD BLUMENTHAL TO
NATHAN SIMINGTON

Section 230. During your November 10 nominations hearing, I asked you whether you had presented at Americans for Tax Reform in defense of the NTIA’s petition on Section 230. Your response at the time was: “No, I’ve never presented, I’ve never given any kind of formal presentation or address to the Americans for Tax Reform.” Additionally, you stated that you had “played a minor role in drafting the petition.”

In a November 13 letter, you acknowledged that you had spoken at an event put on by Digital Liberty on August 7 (after the petition was sent to the FCC), indicating that you spoke “for five minutes on the topic ‘NTIA’s CDA 230 Petition’. . .to outline the rulemaking requested under the NTIA petition.” You wrote that you were “unaware that Digital Liberty is affiliated with ATR.” The first sentence of the “About Us” page of Digital Liberty is “Digital Liberty is a project of Americans for Tax Reform that advocates for free market technology, telecommunications, and media policy.”

Additionally, according to e-mails obtained by Politico through a Freedom of Information Act request, you also coordinated outreach to Fox News, attempting to encourage host Laura Ingraham to support the order, writing “this is of concern both to the presidency and also down-ballot” and to push the FCC. Finally, in another e-mail, Deputy Assistant Secretary Adam Candeub described your role as “instrumental in drafting these regs.”

Question 1. Please describe in full your role with respect to the NTIA's petition and subsequent engagements on Section 230, including in drafting, outreach, media, agency coordination, and other participation, before and after submission of the petition.

Answer. Beginning in June 2020, the Deputy Acting Secretary of the NTIA informed me that I would be working on the petition. He furnished me with his initial draft about two weeks after I joined the NTIA. My assignments consisted of sourcing and identifying items in the news regarding relevant complaints about the restriction of speech on social media; researching the cost structures, information content, and moderation policies of proprietary online services of the 1990s; reviewing drafts for completeness, consistency, and correctness; and reviewing sources cited in order to ensure that they were characterized fully and correctly.

Question 2. During your nomination hearing, in response to a question from Chairman Wicker, you stated that you would "estimate that the number of words actually written by me in the petition would be on the order of 5 percent to 7 percent." What is the 5–7 percent of the petition that you wrote?

Answer. The material in the petition originally drafted by me is found primarily on pages 6–7 (current controversies over content moderation on social media,) 9–13 (characterization of proprietary online services and contemporary social media company business models,) and 43–44 (examples of inconsistent and unpredictable standards for content moderation on contemporary social media.)

Question 3. Given that you told Chairman Wicker, "I didn't draft any of the original versions of the petition," when Mr. Candeub wrote that you were "instrumental in drafting these regs," was he wrong?

Answer. I would like to think that I was a valued contributor to the team that produced and managed that petition, but I did not draft the original version either of the petition or of the regulations. My job at NTIA was to advance the policy views of the Administration. That is what I did on Section 230, just as with all other matters that I worked on.

Question 4. What was the purpose behind participating in the Digital Liberty roundtable, given that the NTIA's petition had already been submitted to the FCC?

Answer. I engaged in limited advocacy in the ordinary course for general support of the petition. Such advocacy is part and parcel of the role I serve in at NTIA.

Question 5. Please list all meetings, whether public or private, that you have solicited or held with non-Federal government entities regarding the NTIA petition on Section 230.

Answer. The only such meeting I have to report is the Digital Liberty roundtable previously discussed.

Question 6. Why did you seek to promote the NTIA petition on Section 230 on the Wall Street Journal and Fox News, and did you approach any other media outlets in this effort?

Answer. I engaged in limited advocacy in the ordinary course for general support of the petition. Such advocacy is part and parcel of the role I serve in at NTIA. I did not approach the Wall Street Journal myself, and other than these two media outlets, I did not approach or discuss approaching any others.

Question 7. Based on FOIA requests, Politico has portrayed you as having been actively involved in the drafting of the Op-Ed that was written for the Wall Street Journal. Please provide the draft Op-Ed, describe your involvement, and explain why the Op-Ed wasn't placed.

Answer. Records generated in the course of my official duties are agency records, not in my personal custody. I commit to working with our agency's legislative affairs and general counsel's office to provide the committee with responsive records, subject to Executive Branch confidentiality interests. I have no information as to why the Op-Ed was not placed.

Question 8. You stated that you had "not discussed plans, [or] any contemplated future action of the FCC on the part of 230 with the White House" but acknowledged discussing Section 230 with members of the Presidential Personnel Office while you were under consideration for the FCC nomination. Please describe the conversations regarding Section 230 you had with the White House or these members of the Presidential Personnel Office specifically.

Answer. I had a conversation about a variety of topics with members of the Presidential Personnel Office, including about my work at NTIA. Section 230 was part of that discussion. I told the Presidential Personnel Office that Section 230 was an important part of America's online freedom regime and that any legislative and regulatory reforms must be thoughtful and careful so as not to undermine the positive aspects of Section 230 as a law. However, this conversation was limited to my gen-

eral views on Section 230. It did not include any discussion of plans or contemplated future action of the FCC relating to Section 230.

Question 9. According to the e-mail you sent to Fox News, you believe that the Section 230 petition was important for the electoral prospects of the President and Republican candidates. Please explain why the NTIA, a Federal agency responsible for telecommunication policy, acted to specifically benefit Republican electoral prospects.

Answer. The petition describes NTIA's view that granting the petition will ensure a freer and fairer social media landscape, which in turn will enhance democratic dialogue. I was presenting the views in that e-mail within the scope of my official duties.

Question 10. During the hearing, you declined to commit to recusing yourself from any matters involving the NTIA Petition on Section 230. Do you maintain the position that you will not commit to recusal?

Answer. If fortunate enough to be confirmed, I pledge to defer to the advice I will receive from appropriate counsel at the FCC on whether I should recuse myself from further participation in the Section 230 proceeding.

Question 11. One of the most important duties of a commissioner on an independent regulatory body is to approach issues with an open mind, and to make decisions based upon the record before the agency (not one's predisposed position). Given your role at NTIA—and now acknowledged commentary and potentially advocacy on behalf of the petition and its partisan political implications—how can the public be assured that you can approach the FCC rulemaking on this matter in an open and neutral manner consistent with the duties of a Commissioner? Doesn't that fact alone suggest that you should recuse yourself from this matter?

Answer. My answers to this Committee, verbally and in writing, have been complete and correct to the best of my knowledge and ability. I must note that my job as a senior advisor at NTIA was to advocate on behalf of that agency. My job as a commissioner, should I be confirmed, will be to exercise independent judgment—regardless of whether my judgment conforms to that of the Executive Branch and regardless of the party in power. In short, I commit to act in a fully impartial and independent manner as an FCC commissioner.

Question 12. In the Restoring Internet Freedom Order, the FCC twice stated “we also are not persuaded that section 230 of the Communications Act is a grant of regulatory authority that could provide the basis for conduct rules here.” Given the legal argument you have represented in the NTIA petition, why would the FCC not have the authority to write rules for net neutrality and other matters involving Title I services under Section 230?

Answer. The General Counsel of the FCC has outlined the FCC's view as to why it is proper to accept jurisdiction. If confirmed, I would examine the record and reach my own conclusions about the proper role of Section 230 as to the petition and any other FCC proceedings.

Rivada Networks. On September 18, the Department of Defense released a request for information (RFI) on “innovative solutions and technologies for dynamic sharing of the department's current spectrum allocation to accelerate spectrum sharing and 5G deployment.” This RFI has raised concerns that the DOD is considering a proposal by the company Rivada Networks to create a wholesale 5G network using DOD spectrum holdings.

Question 13. What discussions have you had within the NTIA or with other government agencies, including the Office of the President, regarding the Rivada Networks' proposal to use, wholesale, or share DOD spectrum holdings for commercial wireless purposes?

Answer. None.

Question 14. Do you support Rivada Networks' calls for the creation a wholesale 5G network based on DOD spectrum holdings? Do you support DOD issuing a Request for Proposals that would facilitate DOD utilizing Rivada's approach to spectrum sharing?

Answer. I support the auction regime that has been legislated by Congress. Some sort of grant regime to establish a nationalized network would contradict the manner in which the U.S. won the race to 4G. It is also unclear how a DOD 5G network could be commercialized, legally speaking. Spectrum is not a network; I am not sure the prospects of nationalizing 5G is a real threat, but we should not create uncertainty in the marketplace by leaving the idea out there.

Question 15. Do you believe that it is appropriate for DOD spectrum assets to be leased or reused for a commercial wholesale network by a private sector company?

Do you believe that DOD has the legal authority to engage in such activity without NTIA or FCC authorization?

Answer. I think the idea of some sort of nationalized commercial network using DOD spectrum is a distraction from the important work that the FCC and the rest of government needs to do to give American industry the tools they need to lead the world in 5G.

Question 16. Please describe any work you have done on this matter at the NTIA.

Answer. None.

C-Band. On February 28, the FCC voted on a 3–2 basis to reallocate and auction 280 Megahertz of the 3.7–4.2 GHz Band for the purpose of commercial wireless services. This C-Band spectrum is currently used for satellite transmissions, and satellite companies have opposed plans to move or repack their operations.

As a part of this transition, the FCC proposed to offer incumbent satellite operators the option to accelerate their move in exchange for payment of their relocation costs—as much as \$5.2 billion—plus a \$9.7 billion accelerated relocation payment. Critics of this arrangement have questioned the legal basis for and appropriateness of such transactions. I would appreciate your view and expertise given your background in telecommunication regulations and procurement law.

Question 17. Do you believe that the FCC has the authority to require in auction rules that winning bidders financially remunerate incumbent satellite operators over and above their relocation costs, as required under the February Order?

Answer. I have not had an opportunity to review the record on this complex matter, nor have I had the benefit of briefings from stakeholders on these issues. If confirmed, I would educate myself on all of these matters and render an independent and impartial judgment if this issue is placed before me.

Question 18. Do you believe that the decision to pay incumbent satellite operators nearly \$10 billion dollars is an appropriate use of revenue that would otherwise go to rural broadband deployment or to the U.S. Treasury?

Answer. I have not had an opportunity to review the record on this complex matter, nor have I had the benefit of briefings from stakeholders on these issues. If confirmed, I would educate myself on all of these matters and render an independent and impartial judgment if this issue is placed before me.

Question 19. Please describe any work you have done on this matter at the NTIA.

Answer. I have not worked directly on the C-Band auction. Most of the NTIA's policy work on this matter was complete prior to my joining the NTIA. I have not worked on the very recently-arising matters involving concerns about altimeters relating to C-Band interference.

Ligado Networks. On April 20, the FCC unanimously approved an application by Ligado Networks to deploy a low-power terrestrial nationwide network in the band used by GPS operators. The Department of Defense and other Federal agencies opposed this decision, citing concerns about interference with existing GPS receivers. In response to a question from Senator Lee, you stated that the FCC followed its statute and obeyed its legal standard. I appreciate your background knowledge on this matter, and willingness to discuss it with the Committee.

Question 20. Do you support the FCC's unanimous approval of the Ligado Networks petition or would you act to stay the Ligado decision?

Answer. Serious potential real-world harms have been credibly alleged regarding implementation of the systems permitted by the license revisions granted under the petition. I have not had the opportunity to review FCC internal deliberations and engage with FCC technical experts. Considering the seriousness of the alleged harms, if confirmed, I would make review of the full Ligado record a top priority.

Question 21. Do you believe that the standard of "harmful interference" used in the FCC decision was the correct standard for evaluation of the petition?

Answer. The "harmful interference" standard used by the FCC is found in 47 CFR §2.1(c). This definition is identical to that found in the International Telecommunication Union (ITU) Radio Regulations. It is possible that the FCC's standard could be further refined in the future.

Question 22. Do you believe the mitigation measures required by the FCC are adequate toward addressing concerns related to interference with GPS receivers?

Answer. I do not have a settled view of the technical questions raised—and indeed, there appears to be a split among U.S. Government technical experts on this question. If confirmed, I will make it a priority to require U.S. Government technical experts to further develop the record so that Congress and the FCC do not have to pick sides in a politicized conflict.

Question 23. How would you propose to resolve the disagreement between the DOD and the FCC?

Answer. I have spoken to senior DOD figures at some length about both revisions to their testing regime and potential legal strategies to employ. I believe that ultimately, there must be a meeting of the minds among technical experts, which must be reflected by legal and policy decisions informed by both technical information and respect for the mandates given to the respective agencies by Congress.

Question 24. Please describe any work you have done on this matter at the NTIA.

Answer. Ligado was the first item that I reviewed and briefed upon joining the NTIA. I read the report and order, the publicly available technical materials, and relevant procedural materials in order to explain the ruling and its significance to the Office of the Assistant Secretary. Subsequently, I did a further technical and legal review in order to develop recommendations for the Department of Defense on legal and evidentiary strategies for the currently pending petitions for stay and reconsideration.

Lifeline. The Coronavirus pandemic and social distancing are a resounding demonstration of the importance of Lifeline. In normal times, Lifeline is underutilized—and those that depend on the program say that the benefits are not as robust as they should be given the pressing need for broadband in our daily lives. During a pandemic—when schools are shut down, businesses are limited, and thousands of families face new economic challenges—a robust Lifeline program is more essential than ever so that people have the ability to communicate and stay connected.

As a result of a Wireline Competition Bureau order released on November 18, Lifeline's Minimum Service Standards will now increase by 1.5 Gigabytes per month. Chairman Pai has supported such an increase in the standard, but other Commissioners have supported a pause-and-study approach out of concern about the impact of such an increase. There is a real possibility of Lifeline becoming unsustainable or less competitive if assumptions, possibly made based on poor data, prove to be inaccurate.

Question 25. Do you support increasing the minimum service standards as the Wireline Competition Bureau did on November 16?

Answer. I do not have sufficient information to provide an informed judgment on the appropriate minimum service standards. I do understand, however, that absent WCB action on November 16, the minimum service standards would have been significantly more difficult for non-facilities-based providers to meet. I fully support any effort to improve the Lifeline program as a means of closing the digital divide.

Question 26. The FCC established the National Verifier to cut down on waste, fraud, and abuse—and to make it easier for those who do need Lifeline to access it. This is a goal I think we all share. However, the Verifier still lacks access to key eligibility databases and needs urgent support. How would you fix the Verifier system?

Answer. I fully support the National Verifier system, and look forward to reviewing and, to the extent necessary, developing the record to improve its functionality. I will support any effort to reduce waste, fraud and abuse in this critical program.

Question 27. Unfortunately, many eligible subscribers who could benefit from the Lifeline program are unaware that it exists. Only 7 million subscribers are enrolled in Lifeline while approximately 38 million are eligible. Please list three steps you would take to improve Lifeline to meet the needs of those families who need it.

Answer. I am deeply committed to closing the digital divide. I will support and actively advocate for any Commission efforts to improve Lifeline to meet the needs of those families who need it.

1. I support efforts by the FCC and other parts of government to publicize the availability of Lifeline-supported services.
2. I support ensuring that Lifeline providers meet their obligations to advertise their Lifeline services.
3. I support efforts the Commission may take to close the digital divide and improve awareness of the Lifeline program.

E-Rate. On March 16, Senator Markey, myself, and sixteen Senate colleagues wrote to the FCC asking the Commission to help provide connectivity under the agency's E-Rate program for students engaged in remote learning during the pandemic. We asked the FCC to temporarily allow E-Rate funding to be used to provide home wireless devices and hotspots to students. Chairman Pai, however, has refused to interpret the Communications Act to allow schools to support their students in these challenging times—taking an unnecessarily limited view on the agency's authority that is not shared by all Commissioners.

Question 28. What is your position on whether the FCC can re-interpret the definition of “classroom” under the statute, or otherwise waive rules under emergency authorities, in order to allow schools to use E-Rate funding to provide devices and broadband Internet access services to students learning from home?

Answer. If confirmed, I look forward to reviewing the record and the law on the question of whether Section 254 precludes using E-Rate funding for that purpose. Learning in the home is more important than ever. I commit to engaging with my colleagues and the staff at the FCC to determine what our statutory authority is in this area.

Question 29. Please list three steps that the FCC should take right now to address the Homework Gap—to support Connecticut families who do not have broadband due to its high cost.

Answer. I have clearly stated my commitment to closing the digital divide. I will support and actively advocate for any Commission efforts to improve E-Rate—and Lifeline—to meet the needs of those families who need it.

1. Applicants are entitled to clear and timely determinations regarding their eligibility for funding. It’s critically important that applicants and providers understand the rules of the game up front, and that those rules not be changed mid-stream.
2. I support improving the administration of the E-Rate program through improved oversight of USAC.
3. I support efforts by the Commission to close the digital divide, including efforts to raise awareness and the effectiveness of Lifeline and E-Rate.

5.9 GHz. In September 2020, the NTIA filed a letter with the FCC supporting the FCC’s concept of reallocating parts of the 5.9 GHz band for use in Wi-Fi networks. The Department of Transportation opposed this proposal, arguing that the 5.9 GHz Band should be reserved for existing automotive safety purposes. On November 18, the FCC decided to move forward with plans to reallocate more than half of the 5.9 GHz band over the concerns of the DOT.

Question 30. Do you agree with the FCC’s decision to open up the 5.9 GHz band for Wi-Fi use based on its proposed arrangement?

Answer. As discussed above, I would, of course, be willing to consider any petition for reconsideration that is appropriately before the Commission. I believe that petitioners are entitled to a timely response to their petitions, and that disposing of such petitions—one way or the other—is simply good governance. Once I have an opportunity to examine the record, I would support staying these rules pending action on the pending petitions for reconsideration where good cause has been shown.

Question 31. Please describe any work you have done on this matter at the NTIA.

Answer. I have not worked on this matter. The affected spectrum is not allocated to the Federal government, so it is not regulated by the NTIA.

24 GHz. The FCC auctioned licenses to the 24 GHz band during its “Spectrum Frontiers” proceeding in early 2019, describing the auctions as important for the race to 5G. Since then, the National Oceanic and Atmospheric Administration (NOAA) and NASA have complained that the FCC’s plan could severely interfere with weather satellite transmissions. The dispute between NASA, NOAA, the Department of Commerce, and the FCC brought in the NTIA to mediate between different positions.

Question 32. Do you believe the 24 GHz auction will cause harmful interference to weather satellites?

Answer. I do not have sufficient information to provide an informed judgment on what constitutes a reasonable set of interference standards in this area, but commit to seeking to obtain that information and taking such steps as are necessary to ensure the adoption of appropriate standards.

Question 33. What steps do you think the FCC should have taken to avoid conflict between weather forecasters, Federal agencies, and commercial spectrum needs?

Answer. I am not familiar enough with the record in this proceeding to identify specific steps the FCC might have taken, but I pledge to work with your office and this Committee to improve this process going forward. For example, the MOU between the NTIA and FCC in regard to spectrum management decisions could be updated and clarified. A more robust MOU to address this point could be helpful in assisting the agencies in resolving these types of conflicts.

Question 34. Please describe any work you have done on this matter at the NTIA.

Answer. None.

USF Reform. You state in your questionnaire that “My expertise in telecommunications finance will help the FCC in its mission to make the most of the [Universal Service Fund] in order to benefit all Americans, including those whose communities are currently underserved or for whom access is prohibitively expensive.”

USF reform is likely to come up soon. The USF Contribution Factor is now 27 percent (and is projected to exceed 30 percent in the first quarter of next year), a dramatic increase in the past four years. At the same time, demand for these programs is increasing—especially during this national crisis.

Question 35. What specific steps would you propose to reform the USF contribution mechanism and make sure programs like E-Rate and rural healthcare have the funds they need to meet demand?

Answer. The USF Contribution Factor is not sustainable over the long term. If confirmed, I look forward to working with Congress and my potential colleagues at the FCC and on the Joint Board to determine what specific steps we need to take to ensure the FCC fulfils its obligations under section 254 of the Communications Act.

Question 36. Do you support expanding the Rural Healthcare Fund and, if so, how do you plan to fund such expansions?

Answer. I support the Rural Healthcare Fund and commit to determine what specific steps we need to take to ensure the FCC fulfils its obligations under section 254 of the Communications Act.

Question 37. Do you believe the FCC has appropriately overseen and taken proper enforcement actions within the Rural Healthcare Fund to protect against waste, fraud, and abuse by carriers?

Answer. I support the Rural Healthcare Fund and commit to determine what specific steps we need to take to ensure the FCC fulfils its obligations under section 254 of the Communications Act, including prevention of waste, fraud, and abuse. I support greater transparency, responsiveness and expeditiousness in adjudicating such cases so that enforcement actions are more effective in cases of waste, fraud, and abuse and so that carriers are not disincentivized from participation out of fear of becoming embroiled in a lengthy and uncertain dispute process.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JON TESTER TO
NATHAN SIMINGTON

Question 1. If confirmed, you will serve in the minority at the FCC, a position that demands collaboration and compromise. Describe a policy achievement from your time at NTIA that faced initial opposition from your leadership.

Answer. The NTIA is one of many peer organizations worldwide involved in the Government Advisory Committee (GAC) of the Internet Corporation for Assigned Names and Numbers (ICANN). Recently, the GAC found itself confronted with a proposed governance change at ICANN that would make the process of determining website ownership much slower, much more burdensome, and much less certain. However, there was significant concern within NTIA leadership about the difficulties of building international consensus against these changes, because they were motivated by compliance concerns with the European Union’s General Data Protection Regulation (GDPR). Therefore, in order to resist the proposed ICANN changes, I had to build consensus within the NTIA and within the U.S. government that vital national interests were at stake and that non-American members of GAC would support our proposed approach in defending them.

I took the lead role in analyzing the changes and their likely implications for a long list of concerned American parties, including individual plaintiffs, national security, law enforcement, child welfare organizations, intellectual property owners, technology-sector companies, and pharmacy boards. After drawing together the excellent work in identifying and publicizing these concerns that had already been done by members of Congress and representatives of Federal agencies, the NTIA decided that national and international consensus was a strategy that could win and needed to be attempted. NTIA succeeded first in building internal consensus within the U.S. Government, then international consensus among non-American members of GAC, to obtain a forceful and detailed denunciation of the proposed changes. These criticisms now have the imprimatur of the international community as a whole and are part of the permanent decision record. They will be the basis for further American resistance and have preserved our non-consent as a basis for future American policy.

Question 2. I am pleased to see the FCC is waiting for updated Broadband Data Maps before distributing \$9 billion with the 5G Fund. What does the FCC need from

Congress to ensure that the Fund proceeds as accurately and expeditiously as possible?

Answer. Consistent with FCC requests, Congress must provide the FCC funding sufficient to fulfill its obligations under the Broadband DATA Act.

Question 3. I am concerned that it will be far easier to upgrade 4G infrastructure than to build 5G from scratch in places without service. When carrying out the 5G Fund, what will you do to ensure that carriers prioritize unserved areas over places that already have decent 4G coverage?

Answer. In my view, the 5G Fund appears to be structured to address exactly this question because of its prioritization of areas lacking coverage. Between the 5G Fund, the merger conditions set forth in the T-Mobile/Sprint order, and Dish Network's obligations, we expect that 5G coverage will be nationwide in reasonably short order.

Question 4. Indian Country is far behind the rest of the Nation when it comes to connectivity: according to a 2019 FCC study, just 47 percent of households in rural Tribal areas have access to a home broadband Internet connection, compared to 94 percent of Americans overall. The FCC's Tribal broadband factors and set-asides in the universal service programs have made little meaningful progress toward closing the Tribal digital divide. What new ideas will you bring to this challenging problem?

Answer. I commit to fully engage with the FCC's Office of Native Affairs and Policy and the Native Nations Communications Task Force, and such other assets as are appropriate and necessary, to improve the agency's coordination and consultation with Tribal nations on issues under its jurisdiction.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. KYRSTEN SINEMA TO
NATHAN SIMINGTON

Broadband Mapping. Earlier this year, Congress passed the Broadband DATA Act to address issues with broadband data collection and mapping efforts. According to a GAO report published on October 1, FCC officials noted the FCC could not begin collecting new data until Congress appropriates funding for this work. Recently, the FCC established rules for its 5G Fund for Rural America, which will distribute up to \$9 billion over the next decade and the FCC has moved ahead in the Rural Digital Opportunity Fund auction to award up to \$16 billion.

Question 1. What will you do to ensure mapping data used by the FCC adequately reflects broadband availability prior to distribution of this funding?

Answer. The difficulty with mapping has come from the fact that responsibility for mapping efforts has resided in different agencies. There has not been a uniform clearinghouse or even a uniform set of standards for defining what service levels constitute broadband. I hope that, with its new mandate under the Broadband DATA Act, the FCC can serve as the clearinghouse for precise and accurate broadband deployment data to inform the appropriate priority distribution of USF funding.

Question 2. Have you previously worked on issues concerning broadband mapping? If so, please explain.

Answer. The OTIA office at NTIA coordinates and manages the ABI relationship and the National Broadband Availability Map (NBAM). I have worked on analysis and evaluation of mapping policy to explore ways of using NBAM, which is a unique Federal resource. My work on this includes looking at mapping best practices to coordinate mapping through the Federal Funding Workstream's Mapping Subgroup to assess and integrate Federal information from a variety of sources, including the DOI Bureau of Land Management and the USDA Forest Service, and to provide NBAM data to such recipients as the USDA Rural Utilities Service, the DOC Economic Development Administration, and the Appalachian Regional Commission.

Tribal Broadband. 18 percent of tribal reservation residents have no Internet access at home, wireless or land-based. Further, 33 percent rely on Internet service from a smartphone at home. I worked with the FCC to ensure the tribal priority filing window for the 2.5GHz band. This was an opportunity never before offered to Tribes and was a great step in the direction to address the broadband gap that has existed in Indian Country for far too long. Ultimately, 12 of the 22 Tribes in Arizona received licenses.

Question 3. Will you utilize priority filing windows for Tribes in future spectrum auctions? If so, how will you determine which spectrum auctions will have a priority filing window for Tribes?

Answer. I would be delighted to explore ways to utilize a Tribal priority window going forward. There has also been controversy over the length of the priority window. The tradeoff is between shorter windows to allow quicker building and longer windows to allow more participants. We should do better outreach to Tribes earlier in the process to maximize the impact of this program and allow shorter windows to be more effectively used.

Question 4. How will you and the Office of Native Affairs and Policy (ONAP) work with tribal communities eligible for spectrum band auctions to provide robust consultation with Tribes and ensure Tribes have all needed resources to apply to these licenses?

Answer. I commit to fully engage with the FCC's Office of Native Affairs and Policy and the Native Nations Communications Task Force, and such other assets as are appropriate and necessary, to improve the agency's coordination and consultation with Tribal nations on issues under its jurisdiction.

Question 5. Have you previously worked to help close the digital divide in Indian country? If so, can you discuss specifically how you worked with tribal governments and tribal communities to ensure robust consultation?

Answer. In my current position, I have advised on facilitating Tribal collaborations with middle mile broadband service providers and improving the application process for the FCC's 2.5 GHz spectrum license auctions.

Homework Gap. In Arizona, as many as 350,000 households—13 percent of all households in the state—don't have an Internet subscription. The Internet is a necessity for Arizona students to access online learning, especially during the COVID-19 crisis. The E-rate program works to ensure students have equal access to education and communication networks throughout this national emergency.

Question 6. Do you believe E-Rate can help tackle the Homework Gap for students that lack reliable Internet access?

Answer. I have clearly stated my commitment to closing the digital divide. I will support and actively advocate for any Commission efforts to improve E-Rate—and Lifeline—to meet the needs of those families who need it.

Question 7. What, if any, changes would you make to the E-Rate program to help the program advance its mission?

Answer. I am deeply committed to closing the digital divide. I will support and actively advocate for any Commission efforts to improve E-Rate—and Lifeline—to meet the needs of those families who need it.

Section 230. As you know, in May, the Administration ordered NTIA to file a petition with the FCC, requesting the FCC to moderate online content through Section 230 of the Communications Decency Act. On July 27, 2020, NTIA filed a petition requesting the FCC initiate rulemaking to clarify provisions of Section 230.

Question 8. You started as a Senior Advisor for NTIA in June 2020. What was your involvement with this petition and with other NTIA activities related to Section 230?

Answer. As stated during my confirmation hearing, I played a minor role in drafting the petition. The substantial legal arguments had been outlined before I joined NTIA, but I helped finalize the petition. I also engaged in routine advocacy for earned media support of the petition, including the e-mails cited by other senators. Such advocacy is part and parcel of the role I serve in at NTIA, and in the context of the roles others played, my role was minor. Once it became clear I would be considered for this nomination, I ceased any active work on the petition.

Question 9. In your view, what is the extent of the FCC's authority to enforce or interpret Section 230 of the Communications Decency Act?

Answer. If confirmed, I would examine the record and reach my own independent and impartial conclusions about the proper role of Section 230 in any proceedings that come before me. In particular, I would want to be certain that there are no compelling objections to the FCC's rulemaking authority. I note that the FCC's General Counsel has determined that rulemaking is permissible, but considering the complexity and contentiousness of the question, and continued opposition to rulemaking, I would want to have absolute certainty on the matter myself prior to considering the substance of any such items as might arise on the FCC's agenda.