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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <https://commerce.senate.gov>

March 25, 2025

The Honorable Pete Hegseth
Secretary
Department of Defense
1000 Defense Pentagon
Washington, D.C. 20301-1000

Dear Secretary Hegseth:

I write today regarding concerning information that has come to the attention of the Senate Committee on Commerce, Science, and Transportation (herein after “the Committee”) indicating that Biden-era Pentagon officials and career staff engaged in a deliberate campaign to circumvent the Anti-Lobbying Act, the Hatch Act, and various appropriations riders prohibiting agencies of the executive branch from producing materials to support or defeat legislation pending before the Congress. Specifically, the Committee has been made aware that multiple Pentagon officials and career staff during the Biden administration engaged directly with members of the United States defense industrial base and encouraged, and potentially pressured, them to lobby the Congress in opposition to legislation related to reauthorizing the Federal Communications Commission (FCC) spectrum auction authority. This kind of jawboning is corrosive to the trust between elected lawmakers and Pentagon officials and is precisely why Congress outlawed direct lobbying by executive branch agencies in the first place.

Last month, the Committee held a hearing on the crucial role commercially available electromagnetic spectrum plays in spurring economic growth, job creation, and positioning American companies at the forefront of global innovation in telecommunications. Similarly, witnesses testified how American leadership in new telecommunication technologies is critical to the security of global telecommunication networks and our own national security, and that important economic benefits come with such advancement. In other words, freeing up spectrum for commercial use benefits Americans all over the country, now and into the future.

Unfortunately, our policies on spectrum management, and in particular how federal incumbent users occupy certain bands, have put the United States at a distinct disadvantage. China, an adversarial communist surveillance state, continues to find ways to infiltrate and control worldwide communication networks. From their state-subsidized push of Huawei and ZTE

network infrastructure,¹ to their efforts to dominate global standards setting in everything from quantum computing to 6G,² to their recent “Salt Typhoon” cyber espionage offensive, China’s malicious intentions have been clear. This is true in spectrum management as well. It is public knowledge that China’s Ministry of Industry and Information, which is already ahead of the U.S. in 5G mid-band allocations, has announced the opening of more spectrum bands for future 5G and 6G use, making it the first country in the world to do so.³ Increasing commercial access to spectrum in the United States, and in particular freeing up some of the large swaths of underutilized spectrum occupied by federal departments and agencies, is essential to our economic and national security interests. That Pentagon officials were allegedly hampering congressional efforts to reauthorize the FCC’s spectrum authority only adds to the urgency of this issue.

Public reporting reveals the fissure over spectrum authority rose to the highest levels of government. Almost two years ago former Department of Defense Secretary Lloyd Austin and Commerce Secretary Gina Raimondo endorsed federal legislation that would have allowed for the auction of 5G-friendly airwaves held by the Pentagon.⁴ Senior Commerce and Defense leadership agreed that the congressional language “protects critical national security missions, enables cutting-edge innovation, and ensures that the international community sees the United States as a leader on spectrum issues.”⁵ That language would have given the President authority to make a final determination on whether to conduct a spectrum auction if the Commerce and Defense Departments disagreed. Astonishingly, then-Chairman of the Joint Chiefs of Staff Mark Milley opposed allowing the President to decide whether to allow for an auction according to a leaked Pentagon memo.⁶ In the waning days of his administration President Biden issued General Milley a rare, pre-emptive pardon, along with others like Anthony Fauci, that shielded General Milley from prosecution for any offense under the law or the Uniform Code of Military Justice for a ten-year period.⁷ Earlier this year, in one of your first acts in office, you revoked retired General Milley’s security clearance and ordered an investigation into his conduct and

¹ Brian Fung, *How China’s Huawei Took the Lead Over U.S. Companies in 5G Technology*, THE WASH. POST (April 10, 2019), <https://www.washingtonpost.com/technology/2019/04/10/us-spat-with-huawei-explained/>.

² *China is Writing the World’s Technology Rules*, THE ECONOMIST (Oct. 10, 2024) (on file with committee staff).

³ Chris Donkin, *China’s Authorities Allocated Spectrum in the 6GHz Frequency Band for 5G and 6G Services, Asserting It was the First Country to Reserve the Resource Expected by the Mobile Industry to Enable Future Connectivity*, MOBILE WORLD LIVE (June 28, 2023), <https://www.mobileworldlive.com/asia-pacific/china-claims-world-first-6ghz-allocation-for-5g-6g/>.

⁴ Letter from Sec. of Com. Gina Raimondo & Sec. of Def. Lloyd Austin III to Sen. Cantwell, Chairwoman, S. Comm. on Com., Sci., & Transp., Sen. Cruz, Ranking Member, S. Comm. on Com., Sci., & Transp., Rep. McMorris-Rodgers, Chairwoman, H. Comm on Ener. & Com., Rep. Pallone, Ranking Member, H. Comm on Ener. & Com., Sen. Reed, Chairman, S. Comm on Arm. Serv., Sen. Wicker, Ranking Member, S. Comm on Arm. Serv., Rep. Rogers, Chairman, H. Comm on Arm. Serv., and Rep. Smith, Ranking Member, H. Comm on Arm. Serv. (Mar. 3, 2023) (on file with committee staff).

⁵ *Id.*

⁶ James Mingus, LTG., Director of Joint Staff, *Memorandum for Chief Information Officer of the Department of Defense* (Mar. 3, 2023) (on file with committee staff).

⁷ Brad Dress, *Why Biden pardoned Mark Milley ahead of Trump taking office*, THE HILL (Jan. 20, 2025), <https://thehill.com/policy/defense/5094993-biden-pardon-milley-trump-feud/>.

military grade.⁸ In light of these facts, General Milley’s leaked non-concurrence memo is particularly curious.

In the last few years, special interests have taken an active role in lobbying on spectrum issues, spending tens of millions of dollars to maintain an unacceptable status quo. During the Biden administration major defense contractors spent the following amounts on lobbying, at least in part, on spectrum issues according to Lobbying Disclosure Act reports:⁹

Company	Amount
Lockheed Martin	\$64,690,000
Raytheon	\$24,910,000
Honeywell	\$29,570,000
Boeing	\$52,760,000

The Standing Rules of the Senate provide the Committee on Commerce, Science, and Transportation exclusive jurisdiction over communications matters, which includes both the FCC and the National Telecommunications and Information Administration which, by law, manages federal use of spectrum. Similarly, the Standing Rules of the Senate provide the authority and duty “to review and study, on a continuing basis” matters relating to the Committee’s jurisdiction.¹⁰ So that the Committee may better understand the actions taken by Pentagon officials and staff during the Biden administration to undermine progress on legislative matters within the Committee’s jurisdiction, please provide the following documents and written responses to the following requests by no later than April 8, 2025, according to the attached instructions:

1. All documents and communications between or among DOD officials, employees, or consultants referring or relating to “spectrum,” “FCC auction authority,” “mid-band spectrum,” “mid-level bands,” “5G,” “6G,” “legislation,” “spectrum pipeline,” “Spectrum and National Security Act,” dating from January 2021 to January 2025.
2. All communications between or among officials, employees, or consultants of the DOD and employees of any third-party organizations referring to “spectrum,” “FCC auction authority,” “mid-band spectrum,” “mid-level bands,” “5G,” “6G,” “legislation,” “spectrum pipeline,” “Spectrum and National Security Act,” dating from January 2021 to January 2025.
3. A copy of the 25 February 2023 Best Military Advice Memo to the Secretary of Defense and information on all employees who participated in drafting this document.

⁸ Ana Faguy, *Pentagon strips Gen Mark Milley of US security detail and clearance*, BBC NEWS (Jan. 29, 2025), <https://www.bbc.com/news/articles/cp3jd798kpzo>.

⁹ Research on file with Committee staff. Staff researched Seante Lobbying disclosures for Spectrum related lobbying descriptions.

¹⁰ S. Rules XXV(1)(f), XXVI(8).

The Honorable Pete Hegseth

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Thank you for your attention to this matter. If you have any questions, please contact [REDACTED]
[REDACTED] on my Committee staff at [REDACTED]

Sincerely,



Ted Cruz
Chairman