

**U.S. Senate Committee on Commerce, Science, and Transportation**

**Nominations Hearing of Ms. Gigi Sohn**

**February 9, 2022**

**Questions for the Record – Minority**

**Ranking Member Roger Wicker**

**Question 1:** *Were you advised by anyone in the White House or on this committee (including both members and staff) to sign the Locast settlement agreement immediately after the White House announced the President’s intent to nominate you to be an FCC Commissioner?*

**Response:** No.

**Question 2:** *Did you report to the White House or any member of this committee (including staff) that you had signed the Locast settlement agreement?*

**Response:** No.

**Question 3:** *At any point did you discuss the pending Locast settlement agreement in your interviews with the White House prior to being nominated? If not, why not? If yes, what was discussed? Were you provided any counsel from the FCC or the Office of Government Ethics (OGE) on how to proceed on the Locast matter?*

**Response:** I did not discuss the settlement agreement with the White House prior to being nominated because my interviews with the White House ended around June 2021, long before the district court made its decision in the Locast litigation and therefore long before settlement in the matter was contemplated. I also did not confer with the FCC or OGE on how to proceed on the Locast matter.

**Question 4:** *At any point in time was there a discussion with OGE about waiting to finalize your ethics agreement before the Locast settlement agreement was signed? If yes, why was it decided that your ethics agreement could be finalized before the settlement agreement was signed?*

**Response:** No.

**Question 5:** *After your first nomination hearing, I asked you in a question for the record: “Where did the money come from for the payment of the \$32 million settlement in connection with the Locast case? You responded: “[t]he settlement funds come from amounts collected to fund SFCNY operations after SFCNY pays its vendors.” You testified that the Locast settlement agreement barred you from writing about its contents. You could have informed the committee of this perceived legal constraint, but you chose not to and instead wrote something misleading.*

1. *Why did you not offer to discuss verbally the terms of the settlement with members of the committee in order to clear up any misunderstanding on this very important issue?*
2. *Should the committee be concerned about the lack of candor in your response?*

**Response:** I answered your question for the record truthfully and within the constraints of the confidentiality provisions of the settlement agreement—the Locast settlement was to turn over all used equipment and any money left after SFCNY pays its vendors, and all of that money came from amounts collected to fund SFCNY operations. In those same questions for the record, I offered that the Committee obtain a copy of the settlement agreement from the parties, which reveals the amount of money that the two parties agreed that SFCNY should pay the networks and describes the legal constraints.

I would have been happy to meet with any member of the Committee to discuss the settlement agreement on a confidential basis and have offered several meetings to many members of this Committee.

**Question 6:** *At any point during the settlement negotiations did you consider resigning your position from the board of Sports Fans Coalition? If not, why not?*

**Response:** No, because that would have been a dereliction of my duty as a board member to see the settlement and winding down of the organization to its conclusion.

**Question 7:** *White House officials have stated that you do not need to recuse yourself from any issues, if confirmed. When did you decide to recuse yourself from the FCC docket referenced in your January 27th letter to the commission?*

**Response:** I made a final decision to recuse myself on January 24, but I had been thinking about it on and off since after I submitted my first set of questions for the record on December 8, 2021.

**Question 8:** *Did anyone at the White House or did any members or staff on this committee advise or encourage you to develop a recusal proposal or assist you in developing the recusal? If so, who and when?*

**Response:** Nobody at the White House advised or encouraged me to develop a recusal proposal or assisted me in developing the recusal. I discussed the recusal and its parameters with Committee staff and they were supportive.

**Question 9:** *When did you begin to consider recusing yourself from certain FCC proceedings? Who came up with the idea? Please describe the process for developing the recusal, including your discussions with the White House and committee staff.*

**Response:** After hearing and seeing the concern of members of the Committee about my involvement with Locast at both the December 1 hearing and in the December 8 questions for the record, I first considered a narrow recusal. No one person came up with the idea—several times since December 8, I had discussions with my outside advisors and Committee staff about what the scope might be, what precedent there was, and whether there might be unintended consequences for me recusing myself.

**Question 10:** *Did you have any discussions with the White House, or members, or staff of this committee about the contours and scope of your proposed recusal before formally submitting your letter on January 27th? If yes, what feedback was provided to you?*

**Response:** I informed the White House of my plan to recuse myself voluntarily shortly before formally submitting the letter, but other than describing the proposal, I did not discuss it with the White House. As discussed above, I did confer with Committee staff about the scope of the proposal, precedent to support it and whether there might be unintended consequences. Committee staff gave me positive feedback on my proposal.

**Question 11:** *Did the White House sign-off or approve of your recusal before you submitted it to the committee last month?*

**Response:** The decision to recuse was mine alone.

**Question 12:** *Were any commitments made from Members of Congress or third-parties to support you publicly if you recused yourself from certain issues?*

**Response:** No.

**Question 13:** *Why shouldn't the companies that you have publicly disparaged have concerns working with you as a commissioner at the FCC, if you are confirmed?*

**Response:** If I am confirmed, as a member of an independent agency, I am bound by the law to decide matters based upon and supported by the record of a particular proceeding. If the FCC makes a decision that is not supported by the record of a particular proceeding, it is likely to be reversed by the federal courts of appeal.

**Question 14:** *A number of members discussed net neutrality during the hearing, and you reiterated your support for Congressional action on this topic. Would you support legislation that requires net neutrality principles (no blocking, throttling, paid prioritization, zero rating), without reclassifying broadband internet access service? If not, please explain why not.*

**Response:** I cannot make a judgment on proposed legislation without seeing the entire text. That being said, I would support legislation that 1) gives the FCC proper authority to oversee the broadband market and 2) either gives the FCC specific authority to adopt net neutrality rules itself or requires ISPs to abide by net neutrality rules.

**Question 15:** *On January 3rd and on January 18th a White House spokesperson described ethics concerns surrounding your nomination as "meritless." On January 27th you recused yourself from any matter where retransmission consent or broadcast copyright is dispositive. Was the White House wrong to describe ethical concerns as meritless given the need you expressed in your January 27th letter to recuse from these matters to avoid an appearance of impropriety? If they were not wrong to dismiss these questions as meritless, why must you recuse from these proceedings?*

**Response:** As government ethics officials had already determined, my involvement with Locast and the resulting settlement agreement raised no ethical concerns and required no additional

recusals. As I testified on February 9, I voluntarily recused myself from a narrow set of issues to address the concerns of a number of members of this Committee about my involvement with Locast, not because of any ethical concerns.

**Question 16:** *In your January 27, 2022, letter to the FCC, you voluntarily recuse yourself from matters specifically involving FCC Docket 10-71, and “any other matter where retransmission consent or television broadcast copyright is a material issue.” No mention was made of Locast or NY Sports Fans Coalition, Inc., in your January 27, 2022 letter. However, during your testimony before the committee on February 9, 2022, you repeatedly stated that your voluntary recusal letter was due to the “nexus” of your March 9, 2010, petition and the Locast issue.*

1. *Please explain to the committee the apparent disparity for why a recusal (or any other restriction in lieu of recusal) was required during your tenure as FCC staff, years before Locast was conceived.*
2. *Please explain the disparity between your January 27, 2022, voluntary recusal which did not reference Locast, and your testimony of February 9, 2022, in which you firmly linked the retransmission consent policy with the Locast settlement.*

**Response:** According to the FCC Office of General Counsel, I was not recused from participating in FCC Docket 10-71 when I was a staff member at the FCC. The National Association of Broadcasters was mistaken in asserting that I was recused from that docket at the time.

As I testified on February 9, it would have been the better course for me to have referenced explicitly the Locast litigation in my January 27 letter and I regret not doing so. I decided instead to reference only prior FCC precedent where Chairman Kennard voluntarily recused himself from a matter that he had personally participated in years earlier. However, given the steady and vocal concern from members of this Committee about my involvement in Locast and the focus of the recusal on retransmission consent and TV broadcast copyright, it is readily apparent that the recusal was tied to the Locast matter.

**Question 17:** *Would you withdraw your voluntary recusal if Senator Cantwell requests that you do so?*

**Response:** I have no intention to withdraw my voluntary recusal.

**Question 18:** *Do you believe Senator Cantwell should request that you withdraw your voluntary recusal? Yes or no?*

**Response:** I have no intention to withdraw my voluntary recusal.

**Question 19:** *Public Knowledge, an organization you founded and led for more than a decade, released a statement on February 2nd calling this hearing “pointless” and “senseless.” Did you have any communications with any employees at Public Knowledge regarding that statement?*

**Response:** No.

**Question 20:** *Do you believe the February 9th hearing to further consider your nomination was warranted?*

1. *Was there a legitimate reason for Senator Cantwell to call for this hearing, yes or no?*
2. *If yes, could you please share at least one reason why you think this hearing was necessary?*

**Response:** I defer to the judgment of the Chair on what is necessary.

**Question 21:** *Public Knowledge, in the same statement referenced in question 19, urged Commerce Committee members to call on Chair Cantwell to request you withdraw your recusal letter. Have you coordinated in any way with Public Knowledge to pressure Chair Cantwell to request you withdraw your recusal?*

**Response:** No.

**Question 22:** *Fight for the Future, a group you have financially supported and publicly praised, called for Senator Schumer to remove Senator Cantwell from her position as Chair of this committee because she held the February 9th hearing on your nomination. Do you believe that Senator Cantwell should be removed from her position as Chair of this committee?*

1. *Fight for the Future's statement was signed by Evan Greer who you have worked with and praised. Did you have any communication with Evan Greer or any other staff at Fight for the Future about its request that Senator Cantwell be removed from her position as Chair of this committee?*

**Response:** No, I do not believe that Senator Cantwell should be removed from her position as Chair of this Committee and I had no communication with Evan Greer or any other staff at Fight for the Future about this request.

**Question 23:** *Free Press, an organization you have financially supported and publicly praised, cited "the White House's indecision and delays" in announcing your nomination as a reason why the FCC does not have a full complement of commissioners. Why do you think it took so long for the White House to nominate you to this position? When did you first learn you were under consideration for this nomination?*

**Response:** My vetting and pre-approval process was completed by the end of June 2021. From that time until the day I was nominated, I did not know with certainty if, when, and for what position I would be nominated.

**Question 24:** *You signed your first financial disclosure on May 21, 2021, but President Biden did not announce his intent to nominate you to the FCC until October 26, 2021. Clearly you were preparing to be nominated to serve at the FCC. Were you told why there was a five month delay between when you completed your financial paperwork in anticipation of your nomination and when President Biden announced his intent to nominate you to serve as commissioner?*

**Response:** I was not told why there was a five-month delay between when I completed my

financial paperwork and when President Biden announced his intent to nominate me. I had no idea if, when, and for what position I would be nominated until less than 24 hours before I was nominated.

**Question 25:** *Former Commissioner Rob McDowell’s Ethics Agreement required him to recuse from a merger proceeding involving AT&T and Bell South. Then-Chairman Kevin Martin asked the FCC’s General Counsel to determine whether “the Government’s interest would be served” by Commissioner McDowell participating in the proceedings.<sup>1</sup> Should Chairwoman Rosenworcel direct the FCC’s General Counsel to determine whether the government is best served by you participating in proceedings where either retransmission consent or broadcast copyright issues are dispositive?*

**Response:** I would not be opposed to Chairwoman Rosenworcel making such a request if she believed that the government’s interest is best served by my participation.

**Question 26:** *In former Commissioner McDowell’s case, the FCC’s General Counsel found the government’s interest in the merger proceeding outweighed the appearance of a conflict of interest and authorized him to participate in the proceeding. However, an authorization to participate from the General Counsel does not require a Commissioner to participate in the proceeding. Commissioner McDowell ultimately decided to continue to abide by his Ethics Agreement and recuse from the proceeding to preserve the public’s trust in the impartiality of the decision the FCC reached in the matter. If the General Counsel authorizes you to participate in proceedings where either retransmission consent or broadcast copyright is dispositive, would you violate the terms or you voluntary recusal to do so?*

**Response:** I cannot comment on hypotheticals. Such a determination would depend on the particular proceeding in question, the status of the proceeding, and the General Counsel’s rationale for authorizing me to participate in the proceeding. However, I will note that Chairman Kennard was not accused of violating the terms of his voluntary recusal from a fairness doctrine-related docket when the General Counsel authorized him to participate in that docket.

**Question 27:** *Will you commit to abiding by the terms of your voluntary recusal, even if the General Counsel authorizes you to participate in a proceeding?*

**Response:** As noted above, I cannot comment on hypotheticals. My decision would depend on the particular proceeding in question, the status of the proceeding, and the General Counsel’s rationale for authorizing me to participate in the proceeding. However, I will note that Chairman Kennard participated in the docket from which he voluntarily recused after the General Counsel authorized him to participate in that docket.

**Question 28:** *On December 18, 2006, you praised former Commissioner McDowell for recusing from the proceeding, saying the proceeding was too important to be “clouded by the ethical questions that would have come up had the Commissioner taken part in the proceeding.” If you withdrew your voluntary recusal to participate in a proceeding where either retransmission consent or broadcast copyright is dispositive, even with the authorization of the FCC’s General*

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<sup>1</sup> Letter from Kevin J. Martin, Chairman, FCC, to Congressional Leaders (dated Dec. 1, 2006).

*Counsel, would your decision in the proceeding inevitably be clouded by ethical questions?*

**Response:** As noted above, I cannot comment on hypotheticals. My decision would depend on the particular proceeding in question, the status of the proceeding, and the General Counsel's rationale for authorizing me to participate in the proceeding. However, I will note that Chairman Kennard participated in the docket from which he voluntarily recused after the General Counsel authorized him to participate in that docket.

**Question 29:** *Fight for the Future, an organization you have financially supported and publicly praised, placed a billboard in Phoenix, Arizona calling Senator Sinema corrupt because of her stance on net neutrality.*

1. *Do you believe Senator Sinema is corrupt? Yes or no?*
2. *Do you think it was appropriate for Fight for the Future to place a billboard claiming that Senator Sinema is corrupt in Phoenix, Arizona? Yes or no?*

**Response:** No, I do not believe that Senator Sinema is corrupt and no, I did not agree with Fight for the Future's tactics in this instance.

**Question 30:** *Fight for the Future, an organization you have financially supported and publicly praised, described Senator Peters' vote to confirm Ajit Pai to be FCC Chairman as "disgusting." Do you agree with Fight for the Future that Senator Peters' vote to confirm former Chairman Pai was disgusting?*

**Response:** No, I do not agree.

**Question 31:** *Fight for the Future, an organization you have financially supported and publicly praised, described Senator Manchin's vote to confirm Ajit Pai to be FCC Chairman as "disgusting." Do you agree with Fight for the Future that Senator Manchin's vote to confirm former Chairman Pai was disgusting?*

**Response:** No, I do not agree.

**Question 32:** *Fight for the Future also solicited funds to place a billboard in West Virginia implying that Senator Joe Manchin's vote to confirm Former Chairman Pai was bought by the telecommunications industry.*

1. *Did you donate to this crowdfunding campaign?*
2. *Do you believe that Senator Manchin voted to confirm Former Chairman Pai because of campaign donations? Yes or no?*

**Response:** No, I did not donate to this crowdfunding campaign. I have no opinion as to why Senator Manchin voted to confirm former Chairman Pai.

**Question 33:** *On August 26, 2020, you tweeted in part “the only thing protecting our Republic is the Ds taking over the Senate.” Which Republicans on this committee do you think are a threat to this country?*

**Response:** I was not referring to any particular member of this Committee in this tweet.

**Question 34:** *On April 2, 2018, you tweeted “Sinclair is forcing its news anchors 2 repeat the same anti-media script. This alone is reason enough 4 @FCC & @TheJusticeDept 2 block its merger w Tribune.” Do you plan to vote against any broadcast license transfer to Sinclair for this reason?*

1. *How can the committee believe you would be an impartial commissioner, if confirmed, in light of the tweet referenced above?*

**Response:** I cannot pre-judge any particular matter on which I might vote if I am confirmed. If I am confirmed, as a member of an independent agency, I am bound by the law to decide matters based upon and supported by the record of a particular proceeding. My prior statements about any company or any issue are irrelevant. If the FCC makes a decision that is not supported by the record of a particular proceeding, it is likely to be reversed by the federal courts of appeal.

**Question 35:** *On May 18, 2017, you tweeted “[t]he \$\$\$\$ cable & Internet cos give to MoC is sometimes too great & they side against good policy & common sense. Largely problem w. R MoCs.” Which members of this committee do you believe side against “good policy & common sense” because of campaign donations?*

**Response:** I was not referring to any particular member of this Committee in this tweet.

**Question 36:** *On March 27, 2020, you tweeted that you heard “from a Hill staffer that Senate Rs didn’t want 2 “turbocharge” subsidy programs like #ERate & #Lifeline, even if for a limited time. How sad that their ideology has overtaken their duty 2 serve their constituents.” Which members of this committee do you believe have allowed their ideology to overtake their duty to serve their constituents?*

**Response:** I was not referring to any particular member of this Committee in this tweet.

**Question 37:** *You have argued on Twitter multiple times (Oct. 28, 2020, Nov. 6, 2020, Dec. 9, 2019) that Fox News is destroying democracy. Do you believe that tens of millions of Americans who watch Fox News are complicit in destroying democracy?*

**Response:** No. I have friends and family who watch Fox News and I watch it on occasion. I have appeared on the network as a guest several times.

**Question 38:** *What part of your job as a public interest advocate requires you to argue that Fox News is destroying democracy?*

**Response:** As I testified at both my hearings, my tweets about Fox News were made as part of a series of discussions around hearings concerning big tech platforms and their role and responsibility to moderate content on those platforms, including political misinformation and



disinformation. I was arguing that if Congress wanted to get the full picture of the impact of misinformation on our democracy, it should also look at misinformation on mainstream media.

***Question 39:*** *In your testimony, you admitted that, in light of the grave concerns of many members of this committee, it may take until April or later for you to be confirmed as the fifth FCC Commissioner. Meanwhile, there are numerous other qualified candidates who need not recuse themselves on any matter and who have not recently signed settlements absolving them from liability owed to the very industry players they are set to regulate. In light of this, and the alleged “deadlock” occurring at the FCC, why should you still be considered for this position? Why wouldn’t the American people be better served by a less polarizing fifth FCC Commissioner who need not recuse herself on any matter and who could actually be approved on a quicker, bipartisan basis?*

**Response:** I was asked at the hearing when I thought I might be confirmed. I answered conservatively based not “in light of grave concerns of...members of this committee,” but because of the uncertainty around Senator Lujan’s return.

I would note that many nominees for the FCC have had to recuse themselves from certain proceedings by law because they either worked for regulatees, represented them as clients, or served on their boards. Any nominee that has a family member with a financial interest in a regulatee also has to recuse themselves from proceedings involving that regulatee. I should not be held to a different standard than nominees who have worked for or represented regulatees.

I should be considered for this position for the same reason that President Biden nominated me, and as even my most fervent opponents admit—I am extremely well-qualified to be an FCC Commissioner. The American people would be well-served by a Commissioner who has spent her entire career working to ensure that everyone has access to affordable and robust communications networks.

***Question 40:*** *During your testimony, in response to Senator Scott you stated: “I have praised Republicans on Twitter . . . I have criticized Democrats—I can list those for you if you’d like in the QFRs. . . . Have I generally criticized Republicans more than Democrats? Praised Democrats more than Republicans? Probably. Given who I am that’s not a surprise. But it’s not a one-way street, so I want to make that very, very clear.”*

- 1. Taking you up on your offer, please list each instance in which you have publicly (e.g., over Twitter, in writing, interviews, speeches, etc.) criticized Democrats.*
- 2. Please quantify how many times in the past five years that you have publicly praised Republican elected officials versus praised Democrats.*
- 3. Please quantify how many times in the past five years you have publicly criticized Republicans elected officials versus criticized Democrats.*
- 4. Please identify with specificity any Democrats you criticized and any Republicans you praised during the past five years.*

**Response:** See Attachment A.

**Senator John Thune**

**Question 1:** *Can you describe in greater detail your role in the Locast settlement? Specifically, what was your involvement in the discussions that reduced the \$32 million settlement to \$700,000?*

**Response:** As a member of the Board of Directors of Sports Fans Coalition, NY, Inc., I voted to authorize the organization’s lawyers to try to settle the litigation rather than appeal. I played no role in discussing, developing, or negotiating particulars of the organization’s settlement, including the payment.

**Question 2:** *With respect to your January 27th recusal, you have taken the position that the recusal is not required or mandated by ethics of conflict of interest laws, but rather it is a “voluntary recusal.” Is that correct?*

**Response:** Yes.

**Question 3:** *With whom did you discuss your January 27th recusal letter before submitting to the FCC General Counsel? Did you share a copy of the letter with anyone in advance of submitting it to the FCC?*

**Response:** I conferred with several of my outside advisors and Committee staff about the scope, precedent, and possible unintended consequences of a recusal prior to submitting it to the FCC General Counsel. I did not share a copy of the letter with anyone in advance of submitting it to the FCC.

**Question 4:** *During the hearing, I asked you if there were any commitments made to support you publicly if you recused yourself from certain issues. In your response you said, “I don’t think I’ve gotten anything other than a lot of heartache....NAB is not supporting me, right, they are neutral which is what they were before.” However, on January 27, the same day you pledged to recuse yourself from certain matters before the FCC, NAB President Curtis LeGeyt issued a statement saying, “Sohn’s recusal agreement resolves the concerns NAB raised regarding her nomination. NAB appreciates Ms. Sohn’s willingness to seriously consider our issues regarding retransmission consent and broadcast copyright, and to address those concerns in her recusal. We look forward to the Senate moving forward with Ms. Sohn’s confirmation and are eager to work with her and the full complement of commissioners in the very near future.”*

1. *Do you believe it was misleading to suggest NAB remains in the same place on your nomination as they were prior to your recusal?*
2. *Did you, your advisors, or anyone else involved in your nomination discuss any aspect of your recusal with NAB prior to you sending the letter to the FCC Office of General Counsel? If so, who did and when?*

**Response:** I did not mislead the Committee. I testified that prior to my recusal, NAB did not support my nomination, which was a true statement. The same is true today—NAB does not support my nomination.

I am not aware whether anyone involved in my nomination discussed any aspect of my recusal with NAB prior to my sending the letter to the FCC Office of General Counsel.

***Question 5:*** *What steps should the FCC take to prevent waste, fraud, and abuse in the Affordable Connectivity Program?*

**Response:** I support the recent Commission action to implement the Affordable Connectivity Program (ACP), including the provisions designed to help prevent waste, fraud, and abuse in the program. I supported the Congressional decision to require use of the National Verifier in the ACP's predecessor program, and agree with using the National Verifier for the ACP. Ensuring that the states provide the necessary data to complete the National Verifier and that consumers can easily use the Verifier in order to take advantage of the ACP and other USF programs is essential. I also agree that the Commission should take all necessary steps to prevent waste, fraud, and abuse in the program.

***Question 6:*** *What steps should the FCC take to prevent waste, fraud, and abuse in the E-Rate Program?*

**Response:** I support the 2020 GAO recommendations that outline steps the Commission should take to better manage the fraud risk in the E-Rate Program. I also support the continued efforts of the FCC's Office of Inspector General to conduct its audits of the USF programs and to investigate instances of waste, fraud, and abuse in the E-Rate program.

***Question 7:*** *What specific steps should the FCC take to better coordinate with other federal agencies on spectrum issues?*

**Response:** I believe that Chairwoman Rosenworcel is doing an excellent job in improving the coordination between the FCC and other federal agencies. I wholly support her recent announcement of the Spectrum Coordination Initiative with NTIA.

***Question 8:*** *Do you support government-funded competition of broadband networks?*

**Response:** If you are asking whether I support the ability of a community to choose to build its own broadband network, the answer is yes. As noted in my previous questions for the record, I support community broadband networks because they foster competition and choice, two core values that have guided my career.

The real-world evidence in favor of community broadband is compelling. Community built and run networks have connected unserved rural communities, driven down incumbent prices, and created jobs. For example, a recent study found that Chattanooga's municipal network generated \$2.69 billion in economic activity and created 9,516 jobs over the past decade.<sup>2</sup> Moreover, my advocacy for community broadband is rooted in the belief that local governments should have the *option* to invest in their own broadband infrastructure if they so choose.

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<sup>2</sup> See Bento J. Lobo, Ph.D., CFA, Ten Years of Fiber Optic and Smart Grid Infrastructure in Hamilton County, Tennessee (August 31, 2020) ([https://assets.epb.com/media/Lobo%20-%20Ten%20Years%20of%20Fiber%20Infrastructure%20in%20Hamilton%20County%20TN\\_Published.pdf](https://assets.epb.com/media/Lobo%20-%20Ten%20Years%20of%20Fiber%20Infrastructure%20in%20Hamilton%20County%20TN_Published.pdf)).

**Question 9:** *In addition to the FCC's programs aimed at closing the digital divide, NTIA, USDA, and the Department of Treasury are disbursing funds to support the buildout of broadband networks. How would you characterize the coordination between the FCC, NTIA, and USDA given that they all have programs that support broadband?*

**Response:** I am not privy to the coordination efforts between the various federal entities who are currently working to disburse funding for broadband networks. But I do believe that it is essential for these entities to work in close coordination to ensure that the money is being spent appropriately and accordance with the law. At least with the Infrastructure Investment and Jobs Act (IIJA), Congress rightly required that money is not spent until the FCC completes its maps and requires the FCC to coordinate with NTIA. If confirmed, I plan to offer my assistance in this area.

**Question 10:** *Are you concerned that programs administered by NTIA, Treasury, and RUS are going to overbuild FCC-funded locations?*

**Response:** As I have noted many times in both hearings and the previous QFRs, I support the Infrastructure Investment and Jobs Act (IIJA) as it requires that the states receiving funding from NTIA to first fund connectivity in unserved areas and then and only then, in underserved areas. I understand that USDA's ReConnect program rules also require that 90% of the households in the proposed funded service area must lack sufficient broadband service. I know that you have concerns with the Treasury Department's final rules, but to the extent there will be any overbuilding, it will be in places where there is some connectivity but it is not robust enough for applications like telehealth, precision farming and other high bandwidth applications.

**Question 11:** *You have on multiple occasions expressed your clear disdain for conservative news outlets, including Fox News. In a September, 2019 tweet you tweeted "I agree that scrutiny of big tech is essential, as is scrutiny of big telecom, cable & media. And trust me, the latter have played their own role in destroying democracy & electing autocrats. Like, say, Fox News?" In an October 28, 2020 tweet, you stated "Fox News has had the most negative impact on our democracy", and in the same tweet you claimed Fox News is "state-sponsored propaganda."*

- 1. In your opinion, how has "Fox News had the most negative impact on our democracy" and "played their own role in destroying democracy?"*
- 2. Do you believe the FCC should consider the editorial decisions of companies when considering their fitness to hold a license?"*
- 3. In response to my question during the hearing, you suggested we should not be concerned about your statements regarding Fox News since it is not a regulatee of the FCC. Is Fox News part of the Fox Corporation that is a direct regulatee of the FCC as the ultimate owner of broadcast stations? Please explain your position further that your criticisms of Fox News should not be of concern to the Committee.*

**Response:** As I testified at both my hearings, my tweets about Fox News were made as part of a series of discussions around hearings concerning big tech platforms and their role and responsibility to moderate content on those platforms, including political misinformation and disinformation. I was arguing that if Congress wanted to get the full picture of the impact of

misinformation on our democracy, it should also look at misinformation on mainstream media.

I do not believe that the FCC should consider the editorial decisions of companies when considering their fitness to hold a license. In fact, the First Amendment and Section 326 of the Communications Act prohibits the Commission from censoring broadcast stations or infringing on the right to a free press. Fox News is not a licensee and is not regulated by the FCC. Whatever my personal opinions of Fox News might have been, they would have no bearing on any proceeding involving the Fox TV networks and its owned and operated stations. In those proceedings, I would be bound by the law to decide matters based upon and supported by the record of that proceeding. If the FCC makes a decision that is not supported by the record of a particular proceeding, it is likely to be reversed by the federal courts of appeal.

***Question 12:*** *In a 2018 tweet, reacting to a report regarding supposed Republican bias at Sinclair Broadcast Group, you tweeted “This, and its lack of candor during the failed merger with Tribune, calls into question Sinclair’s fitness to be a broadcast licensee. Will @FCC do anything when Sinclair’s licenses are up for renewal?” If confirmed, do you believe you can review matters involving Sinclair Broadcasting in a fair and neutral way?*

**Response:** Yes, I believe that I can review matters involving Sinclair Broadcasting in a fair and neutral way. Regardless of what I might have said three years ago about a merger that was blocked by the Trump FCC, it would have no bearing on any future proceeding involving Sinclair. In those future proceedings, I would be bound by the law to decide matters based upon and supported by the record of that proceeding. If the FCC makes a decision that is not supported by the record of a particular proceeding, it is likely to be reversed by the federal courts of appeal.

***Question 13:*** *Preventing illegal robocalls from reaching consumers continues to be a high priority and Congress made that clear when it passed the bipartisan TRACED Act. In your view, how is the FCC’s implementation of that law going?*

**Response:** It is my understanding that the FCC has met all of the statutory implementation deadlines under the TRACED Act. I believe that the Commission’s work is essential to help combat this continuing consumer problem and I support the Chairwoman’s efforts in this area. If I am confirmed, I look forward to working with my fellow Commissioners and the Committee on this issue.

***Question 14:*** *It is more difficult to identify trustworthy calls with certain networks, primarily those without IP technology. What can the FCC do to help authenticate calls across networks?*

**Response:** As I understand, the TRACED Act required the Commission to implement the STIR-SHAKEN call authentication protocol by June 30, 2021, but that Section 4(b)(5)(B) of the TRACED Act required that the Commission provide non-IP network providers with an extension until a non-IP network call authentication protocol is developed and “reasonably available.” I am not aware of the specific industry efforts to develop a non-IP network protocol. But if I am confirmed, I look forward to better understanding the current status of industry efforts and working with your office on this issue.

***Question 15:*** *You have used similarly sharp language when criticizing the FCC’s rural broadband policies—and rural broadband providers themselves. For example, you stated that the FCC has “made it as difficult as possible to give out the poor people’s money. And by the way, those poor people are overwhelmingly people of color. And made it really easy for broadband companies, rural broadband companies tend to be monopolies, to basically suck at the government teat to the tune of tens of billions of dollars.”*

*Do you stand by your statement that rural broadband companies “suck at the government teat”?*

**Response:** I do not recall making such a statement and I cannot find a reference to where I made such a statement. Regardless, I have been critical of how the FCC (and other government agencies) have spent ratepayer dollars on deploying broadband in rural areas. In my last public speech, made to the Association of Public and Land Grant Universities on January 28, 2021, I argued that the federal government needed: 1) more accurate broadband maps; 2) to engage in more due diligence in determining whether applicants for government funding had the technical, operational and financial ability to keep their promises; 3) to conduct continuing and in-person oversight to ensure that those who have obtained funding to build broadband networks are indeed building those promised networks; and 4) to hold accountable those who have not met their promise to build networks.

Even as I have been critical of how the federal government has spent money intended to close the digital divide in rural America, I have always been supportive of ensuring that rural America has robust and affordable broadband. That support is evident not only in the aforementioned speech, but in many interviews I have given to the press, the assistance that I have given to rural states and communities, and my work on and ongoing support for both the broadband provisions of the last COVID-19 relief bill, the American Rescue Plan, and the IJJA, which provides tens of billions of dollars for states and tribal communities to deploy broadband.

I will note finally that both NTCA – the Rural Broadband Association and the Rural Wireless Association support my confirmation.

**Senator Roy Blunt**

**Question 1:** *Ms. Sohn, thank you for providing clarification at your hearing into the justification for your voluntary recusal. Even if you had explained your recusal differently—on the basis of your Locast settlement—there remain concerns over its scope. There is an appearance of bias on your part toward the broadcast networks that litigated against Locast, not limited to the specific issues you identified in your voluntary recusal letter. Therefore, many have expressed concerns over your decision to limit your recusal to such a narrow set of issues for a limited period of time.*

*To avoid an appearance of bias when it comes to Locast’s litigation adversaries, will you recuse yourself from all proceedings in which the broadcast networks are interested parties?*

**Response:** I have crafted a voluntary, temporary, and narrow recusal to address Committee concerns over my involvement with Locast and I will not voluntarily recuse myself from any other proceedings involving the broadcast networks.

**Question 2:** *Do you think it would create an appearance of bias if you were asked to review a merger involving one of the parties to the Locast litigation?*

**Response:** No. If I am confirmed, and if I were asked to review a merger involving one of the parties to the Locast litigation, I would be bound by the law to decide matters based upon and supported by the record of that merger. If the FCC makes a decision that is not supported by the record of a particular proceeding, it is likely to be reversed by the federal courts of appeal.

**Question 3:** *Thus far, litigation related to Locast has only involved to the broadcast networks. What would you do, as a sitting FCC commissioner, if another aggrieved party like a local station affiliate were to initiate litigation related to Locast? Could that create additional recusal issues for you?*

**Response:** If I am confirmed as an FCC Commissioner, I would have to resign from the Sports Fans Coalition NY Board. If a local station affiliate were to initiate litigation, I would not be a party to that litigation, just as I was not a party to the previous litigation with an organization where I was serving as a Board member. In any event, the concerns and issues would be no different, so it would not present any additional recusal issues.

**Question 4:** *Why didn’t you step aside or resign from the Locast board while you were being considered as a nominee, to maintain an appearance of independence from litigation? If you could go back in time, would you have stepped aside or resigned during the vetting process?*

**Response:** I would not have changed anything. First, I believed that Locast was good for rural and low-income TV viewers and for TV broadcasters. Second, I believed that Locast would qualify for the non-profit exemption. And third, I did not know if and when I would be nominated. White House vetting is no guarantee of a nomination.

***Question 5:*** Did you tell the White House about your active litigation with the broadcasting networks prior to your nomination? Please provide the specific details of what information you shared with the White House with respect to Locast's litigation, and when you shared those details.

**Response:** To be clear, this was not *my* active litigation. I was never a party to the Locast litigation and never bore any financial responsibility. The White House was aware of my membership on the Sports Fans Coalition NY Board and the pending litigation involving its Locast service from the very beginning of my vetting process, which began in May 2021.

***Question 6:*** At your first hearing, you told this committee that as an FCC commissioner, you would work to support local broadcasting. Do you agree that Locast's operations were financially harmful to local broadcasters?

**Response:** I do not agree that Locast's operations were financially harmful to local broadcasters and Judge Stanton did not rule that Locast's operations were financially harmful to local broadcasters. He only ruled that Locast did not qualify for the exemption provided under the law for nonprofits to retransmit broadcast TV signals without paying fees.



**Senator Ted Cruz**

**Question 1:** *Ms. Sohn, in response to my questions about the settlement between the broadcasters and Sports Fan Coalition NY, Inc., you stated that you were unable to disclose the \$700,000 settlement to the Senate Commerce Committee because it was confidential. Specifically you said:*

*“I was not allowed. Okay. I was not permitted” As well as:*

*“Well, because I wasn't -- it's a confidential agreement.” And, in response to questions from Senator Wicker, you stated:*

*“I was bound not to discuss the details of the settlement agreement. I took that -- I took that confidentiality agreement very seriously.”*

*Additionally, in response to questions from Senator Thune and me about the settlement, you said you were “never a party to the litigation” and that “the settlement -- first of all, it's important I was not a party to the settlement.”*

*I just want to make sure I have this correct—you are stating that, as a matter of fact, you 1) were not able to disclose the \$700,000 settlement to the Senate Commerce Committee because it was confidential and 2) were never a party to the litigation and not a party to the settlement. Is this accurate? If not, please explain in detail what is inaccurate.*

**Response:** I signed the settlement agreement reflecting my voluntary agreement to abide by one paragraph of the settlement agreement, by which I became a party to the settlement. I am not and never was a party to the litigation. To the extent that I said at the hearing that I was not a party to the settlement, I misspoke. As a party to the settlement agreement, I was bound by the confidentiality provisions of that agreement.

**Question 2:** *Now the provision in the settlement agreement, which you stated prevents you from discussing the settlement agreement, is titled “6.0 Press Statements Regarding the Agreement and Consent Judgement” and it reads:*

*“No Party will communicate or authorize anyone to contact or communicate with the media or press (orally, in writing, or otherwise) concerning the Agreement or the Order, or issue any press release or other written statement disclosing the terms of the Agreement. If asked by the media or press about the Agreement, a Party or its counsel may only state that “The litigation is over” and refer the person inquiring to the Order.”*

*The operative word here is “Party,” yet you testified that you were “never a party to the litigation” and “not a party to the settlement” while, at the same time, claiming you are bound by this provision that covers parties to the settlement.*

- 1. So which is it—are you a party to the settlement or aren't you?*
- 2. If you are a party to the settlement, why did you testify otherwise? If not, then please*

*explain, in detail, how this provision applies to you.*

**Response:** I signed the settlement agreement and therefore I am a party to the settlement, although I am not a party to the litigation. To the extent I said at the hearing that I was not a party to the settlement, I misspoke. As a party to the settlement agreement, I was bound by the confidentiality provision of that agreement.

**Question 3:** *Your testimony is that you considered this confidentiality provision binding on you and thus you were unable to discuss the details of the settlement agreement. In fact, you testified that “I took very seriously my duty to keep the terms of the settlement agreement confidential” and that you “took that confidentiality agreement very seriously.”*

*Now the confidentiality provision clearly states that, if asked, “a Party or its counsel may only state that ‘The litigation is over’ and refer the person inquiring to the Order.” But in your answers to questions for the record from your first hearing, this was not the answer you gave to either Senator Wicker or Sullivan.*

*So why, if you “took that confidentiality agreement very seriously” did you provide a different answer than the one stipulated by provision 6.0?.*

**Response:** As per the confidentiality provision, I did not reveal any of the terms of the settlement agreement to either Senator, but instead offered that Senators Wicker and Blunt obtain the full settlement agreement from the parties so that they could review its terms.

**Question 4:** *Ms. Sohn, in response to my questions about the \$700,000 settlement, you stated you had not disclosed the settlement to the White House. Specifically the exchange was:*

*Senator Cruz: Yes or no, did you disclose the \$700,000 secret settlement to the WhiteHouse? Yes or no?*

*Ms. Sohn: No, I did not.*

*Senator Cruz: So you did not disclose it to the White House? The entire vetting they did --nobody asked about this?*

*Ms. Sohn: I was vetted long before...*

*I just want to be clear on this point—you did not disclose to the White House or anyone in the Executive Branch, at any point in the vetting process, this \$700,000 settlement?*

**Response:** I did not. The vetting process concluded long before the litigation was settled.

**Question 5:** Ms. Sohn, in your testimony you stated:

*“Also omitted was the fact that the enforceable term sheet setting forth the particulars of the settlement was signed on October 12, two weeks before I was nominated for this position. That term sheet is expressly referred to in the settlement agreement. On October 12, when the settlement between the networks and SFCNY was signed by their representatives, I had no idea whether or not I was going to be nominated or when that -- or if I was going to be nominated at all. And the parties didn't know either.”*

*However, your “Public Financial Disclosure Report (OGE Form 278e)” from last year, which you are required to complete as an “advice-and-consent nominee,” clearly states that you were filing the form for the position of “Commissioner, Federal Communications Commission.” Interestingly, it also shows that you electronically signed the forms on May 21, 2021.*

1. *When, specifically, did you know whether you would be nominated?*
2. *When, specifically, did you know when you would be nominated?*
3. *Why did you testify that “On October 12, when the settlement between the networks and SFCNY was signed by their representatives, I had no idea whether or not I was going to be nominated or when that -- or if I was going to be nominated at all.” if you had signed your financial disclosure report on May 21, 2021, which clearly stated you were being nominated to the position of “Commissioner, Federal Communications Commission.”?*
4. *What was the source of the almost 5-month delay from when you completed your financial disclosure report and when you were actually nominated?*
5. *Did the delay have anything to do with efforts by outside parties, such as your former boss FCC Chairman Tom Wheeler, to have you chair the FCC instead of Chairwoman Rosenworcel?*

**Response:** I was told that I would be nominated to be an FCC Commissioner less than 24 hours before I was nominated. I was told then that I was to be nominated the next day. I was told from the day my vetting process started that I should not assume that I would be nominated until I was actually nominated by President Biden.

My vetting process was not completed until the end of June 2021. I did not ask for an explanation and was not given one by the White House.

**Question 6:** *This committee has already had one bait-and-switch with Lina Khan being nominated and confirmed as a Commissioner to the Federal Trade Commission, but subsequently being designated as Chairwoman by the President. While this is the President's right under the law, it was somewhat deceptive and it is likely Senators might have approached Ms. Khan's nomination differently had they known she would be leading the FTC and not just a Commissioner.*

*Ms. Sohn, there is a concern the same thing might happen with you should you be confirmed, and that the President may designate you as the Chairwoman and demote Chairwoman Rosenworcel.*

1. *Have you had any discussions with the White House or anyone in the Executive Branch about such an arrangement? If so, who and what was the outcome of those discussions?*
2. *Will you commit that, even if such an arrangement were offered, you would not accept? If not, why not?*

**Response:** I have had no discussions with the White House or anyone in the Executive Branch about any arrangement by which I would be designated Chairwoman of the FCC and I do not expect that such an arrangement will be offered to me. Jessica Rosenworcel is the Chair of the FCC, and if I am confirmed, I look forward to working with her as the fifth Commissioner.

**Question 7:** *Ms. Sohn, in June 2018, you stated that “[t]he end of the 2015 net neutrality rules and the legal authority on which they are based will allow companies like Comcast, AT&T and Verizon to take control of consumers’ Internet experience and favor or disfavor websites, programming services and applications at will.” That was more than three years ago. What evidence do you have that ISPs have engaged in such activities after the FCC under Chairman Pai restored the classification of broadband services as information services?*

**Response:** As I noted in the questions for the record from my previous hearing, the 2017 net neutrality repeal was broader than the bright line rules—it removed FCC oversight over broadband entirely. Among other things, that left California firefighters without recourse when a broadband company throttled its service during the Mendocino complex fire, which at the time was the biggest in state history, and left consumers without recourse when Frontier charged monthly fees to consumers who bought their own modems. It also resulted in some small wireless providers having to slow or halt fiber deployment because pole owners either charged higher rates or refused to negotiate a rate.

In addition, researchers at Northeastern University and the University of Massachusetts at Amherst reviewed crowdsourced data from the Wehe app and found that for mobile internet service providers in the United States, “we don’t see evidence of internet service providers throttling only when the network is busy; as far as we can tell, it’s 24/7, and everywhere.” Professor David Choffnes, the lead researcher, noted that this throttling created a “slippery slope,” because “[t]oday it’s video, but what is it going to be tomorrow? When internet service providers decide to take control and make decisions on behalf of consumers and/or content providers, what’s going to be the fallout for those decisions? Is it actually in everyone’s best interests?”

It’s also important to note that there is ongoing litigation over the 2017 repeal, as well as a growing number of states that have passed their own net neutrality laws and regulations. California, Colorado, Maine, Oregon, Vermont and Washington State have passed net neutrality laws and Hawaii, Montana, New Jersey, New York, and Rhode Island have put in place net neutrality contracting requirements. The California law was recently upheld by the 9<sup>th</sup> Circuit Court of Appeals, which rejected a pre-emption challenge to the law. As a result, broadband providers have been cautious about their business practices.

***Question 8:*** Ms. Sohn, in April 2017, you asserted that “there’s a real chance the FTC actually won’t be able to regulate ISPs at all.” That obviously hasn’t come to pass, nor is it a logical reading of the FTC Act. On what legal basis did you make this statement?

***Response:*** In the absence of a citation or the context in which I allegedly made that statement, I will presume that I meant that if the FCC were to reclassify broadband as an information service (which it did in December of that year), then the FTC would not be able to regulate the network management practices of ISPs other than to enforce its Section 5 authority to prohibit “unfair or deceptive trade practices” in the event that an ISP were to be untruthful about how it managed its network.

***Question 9:*** Ms. Sohn, in an op-ed in 2017 written as an attempt to convince House lawmakers not to pass a Resolution of Disapproval of the FCC’s ISP Privacy Rules, you asserted that “ISPs like Comcast, AT&T, and Charter will be free to sell your personal information to the highest bidder without your permission.”

1. *Has that actually occurred in the more than four years since the Resolution of Disapproval passed?*
2. *Ms. Sohn, in 2017, you stated that “[t]he Federal Trade Commission has no legal authority to oversee ISP practices.” On what legal basis did you make this statement?*

***Response:*** Without the FCC’s ISP Privacy Rules, each ISP is able to set its own rules with regards to how it will use a subscriber’s data. A Federal Trade Commission October 2021 Staff Report on ISP privacy noted that although “several” of the ISPs it contacted for its study claimed not to sell the personal information collected, many of them “provide insufficient information to consumers regarding the myriad of ways that their data can be used, transferred, or monetized outside of selling it, often burying such disclosures in the fine print of their privacy policies,” and also noted that some ISPs policies allow them to use consumer data “for any purpose.”<sup>3</sup> In addition, the study found that ISPs have regularly violated user privacy by disclosing real-time location data to third parties, including bounty hunters.

With regards to the second point, as I noted in my previous responses to the questions for the record in December, I am unaware of the context in which this statement arose, but I was most likely talking about the FTC’s ability to enforce net neutrality’s bright line principles, *i.e.*, no blocking, no throttling and no paid prioritization. While the FTC under its Section 5 authority does oversee “unfair or deceptive practices,” of ISPs, it has interpreted that authority to apply only to those occasions where the ISP either promises to engage (or not engage) in a certain behavior but does it anyway, or whether it has failed to tell a consumer that it will engage in certain behavior. In other words, if an ISP reserves the right to engage in blocking, throttling and paid prioritization and tells the consumer, the FTC has no authority to regulate that behavior.

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<sup>3</sup> See Federal Trade Commission, Staff Report, A Look At What ISPs Know About You: Examining the Privacy Practices of Six Major Internet Service Providers (October 21, 2021) ([https://www.ftc.gov/system/files/documents/reports/look-what-isps-know-about-you-examining-privacy-practices-six-major-internet-service-providers/p195402\\_isp\\_6b\\_staff\\_report.pdf](https://www.ftc.gov/system/files/documents/reports/look-what-isps-know-about-you-examining-privacy-practices-six-major-internet-service-providers/p195402_isp_6b_staff_report.pdf)).

**Question 10:** Ms. Sohn, in 2017, you stated that “[a]ny weakening of the [FCC’s privacy] rules by either the Trump FCC or Congress will leave consumers unprotected from ISP data collection, use and security practices that might violate their privacy.” What privacy violations by ISPs have occurred since you made that statement?

**Response:** As I noted in my previous responses to questions for the record in December, the Federal Trade Commission in October 2021 published a study of six major ISPs—AT&T, Verizon, Charter, Comcast, T-Mobile, and Google—that examined the industry’s privacy practices since 2017.<sup>4</sup> Among other things, the study found that ISPs have regularly violated user privacy by:

- Disclosing real-time location data to third parties, including bounty hunters;
- Collecting data unnecessary for the provision of internet service to target ads;
- Collecting data on sensitive characteristics such as political affiliation, sexual orientation, and religious beliefs; and
- Using confusing interfaces, sometimes called “dark patterns,” to mislead consumers into inadvertently sharing more data.

Importantly, ISPs often retain this data for years, even after customers have terminated their relationship with the ISP.

**Question 11:** Ms. Sohn, in response to Congressional passage of a Resolution of Disapproval of the FCC’s ISP Privacy Rules, you stated that “[i]f Chairman Pai intends to pursue that same rash, anti-consumer agenda and expects a different result, he is fooling himself.” What did you mean by that statement? And do you think that every Member of Congress who voted for the Resolution of Disapproval, including myself, has a “rash, anti-consumer agenda?”

**Response:** That statement was made not in response to the passage of the Resolution of Disapproval, but in response to the August 30 closing of the reply period to the proceeding that would result in the reclassification of broadband and the repeal of the net neutrality rules. Here is the entire paragraph containing that statement:

“It’s no secret that American consumers regardless of party affiliation overwhelmingly support basic rules that protect them and the Open Internet they increasingly depend upon. They expect and deserve the freedom to choose what they see, buy, hear and share. They made that abundantly clear earlier this year when Congress rushed to repeal another set of Internet consumer protections, the broadband privacy rules, and they will do so again. If Chairman Pai intends to pursue that same rash, anti-consumer agenda and expects a different result, he is fooling himself.”<sup>5</sup>

So rather than questioning the motivations of members of Congress in repealing the broadband privacy rules, I was pointing out the negative reaction among many members of the public to that

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<sup>4</sup> *Id.*

<sup>5</sup> Statement of Gigi Sohn on the August 30<sup>th</sup> Closing of FCC’s Net Neutrality Public Comment Period, found at <http://gigisohn.com/news/statement-gigi-sohn-august-30th-closing-fccs-net-neutrality-public-comment-period/> (August 30, 2017)

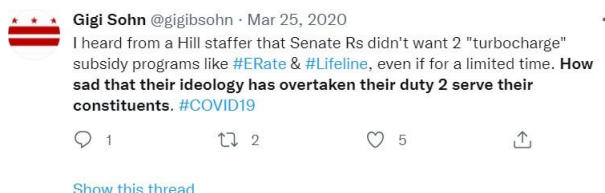
repeal and positing that the reaction to a net neutrality repeal would be no different, and indeed, it was more negative for the latter than for the former.

**Question 12:** *Ms. Sohn, have you said that “the only thing protecting our Republic is the Ds [that is, the Democrats] taking over the Senate” and if so can you please detail your position here?*



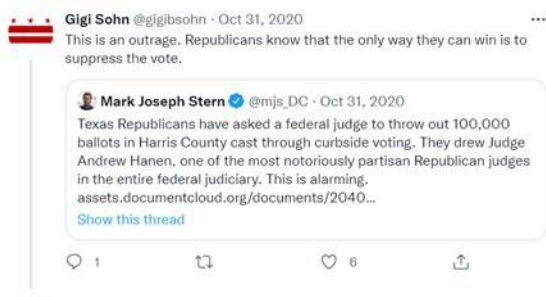
**Response:** I was concerned that an unnecessary primary challenge to Senator Markey would divert resources away from the general election.

**Question 13:** *Have you said that it is “sad” that Senate Republicans’ “ideology has overtaken their duty 2 serve their constituents” and if so can you please detail your position here?*



**Response:** I was responding to the inability of Congress at the time to pass a law that would allow E-Rate funds to be used to fund connectivity to the home during the early days of the pandemic, when every K-12 student, regardless of their means, was forced to learn remotely. After speaking to a Hill staffer, I was told that some Republican Senators did not want to pass such a law because it would “turbocharge” the program. Thankfully, Congress did create the Emergency Connectivity Fund (ECF) as part of the American Rescue Plan, and that fund does permit its resources to be used to provide connectivity to the home. Unfortunately, the ECF is only temporary, and the FCC is still not able to use E-Rate funding to provide home connectivity.

**Question 14:** *Have you said that “Republicans know that the only way they can win is to suppress the vote” and if so can you please detail your position here?*



**Response:** I was upset that anyone would seek to throw out 100,000 ballots cast through curbside voting, which was legal in Harris County at the time.

**Question 15:** *Do you think partisan and petty name calling is appropriate for a public official? Have you called Senator McConnell “the grim reaper”?*<sup>6</sup>

**Response:** I do not think that partisan and petty name calling is appropriate for a public official. It was an off-hand comment made as a public advocate and in the context of a policy discussion of the Senate’s consideration of the Save the Internet Act, which would have reinstated the 2015 Open Internet Order. Senator McConnell said that the bill was “dead on arrival” in the Senate,<sup>7</sup> hence the “grim reaper” reference. Regardless, I regret the comment.

**Question 16:** *Have you said that Ranking Member Wicker’s views on net neutrality are “nothing more than #debunked broadband industry talking points”?*



**Response:** I did, and as I discussed at the December 1 hearing, this tweet was made in the context of the vote on the Save the Internet Act.

**Question 17:** *Have you said that that the “GOP works so hard to pack the courts – it knows that it is the only bulwark against a country that is changing demographically, ideologically, & politically” and if so can you please detail your position here?*



**Response:** This tweet describes an article in the Atlantic that I found interesting and timely given that it was written at the time the Senate was considering the nomination of now-Justice Amy Coney Barrett.

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<sup>6</sup> June 11, 2019 Fight For the Future event at minute 20:37 <https://www.twitch.tv/videos/440317951> Sohn: “I think that’s why we need to pass this bill. And Senator McConnell, the grim reaper, needs to do what 85% of Americans on a bipartisan basis want him to do. And that’s to reinstate the 2015 Open Internet Order through the Save The Internet Act.”

<sup>7</sup> E.g., McConnell: Net Neutrality Bill “Dead on Arrival” in the Senate, The Hill, found at <https://thehill.com/homenews/senate/438133-mcconnell-net-neutrality-bill-dead-on-arrival-in-senate> (April 9, 2019).



**Question 18:** *Have you labeled President Trump and other conservatives “right-wing extremists” and if so can you please identify here all of the conservatives that you had in mind?*



**Response:** I did not have any specific people in mind. I was describing an article by Steve Levy of Wired that I found interesting and timely given the claims of some conservatives that Twitter and Facebook engage in anti-conservative bias.

**Question 19:** *You have closely aligned yourself with an activist organization called Fight for the Future. You’ve done events with them. You’ve donated money to them. You’ve encouraged others to donate money to them. You have referred to them as your “great friends & colleagues fighting 4 an open Internet.” And they have endorsed you for the FCC. In one of the net neutrality events you did with them, you said “thank you ... for all the work Fight for the Future [and others] . . . have done brining the American people to these issues.... I’ve never seen anything like it.” Correct?*

**Response:** I have worked with Fight for the Future and other grassroots groups for a number of years now on net neutrality issues and collectively they have gotten millions of Americans to engage in supporting net neutrality and FCC authority over broadband. For the past several years I have given them, and several other organizations with whom I work, \$100 end-of-the-year donations.

**Question 20:** *In terms of what they’ve done, Fight for the Future routinely engages in pressure campaigns that direct vitriol and personal attacks towards Members of Congress, including calling Senator Sinema “corrupt,” Senator Blackburn a “notoriously corrupt lawmaker,” saying that Senator Sullivan “betrayed” Alaska due to his position on Title II, and protesting what Fight for the Future said was a fundraiser for Senator Wicker where Fight for the Future brought an oversized check and said they were there to “BUY A SENATOR.” Is that correct?*



FOR IMMEDIATE RELEASE: May 1, 2019





ALASKA: @SenDanSullivan betrayed you.

He voted against 86% of Americans, the majority of small businesses, and the future of free speech when he voted AGAINST saving #NetNeutrality.

[BattlefortheNet.com](http://BattlefortheNet.com)



Internet users gathered outside The Capital Grille where the fundraiser was set to take place with an oversized “check” for \$1500—the price of a ticket to the fundraiser—and a giant banner reading “WE ARE HERE TO BUY A SENATOR.”



fightforthefttr.medium.com  
The telecom industry chickened out and canceled their fundraiser for Senator ...  
Politico is reporting that a controversial telecom industry-led fundraiser for

**Response:** I do not support these kind of tactics by any organization. My work with Fight for the Future has been focused around getting more Americans interested and supportive of net neutrality and FCC authority over broadband.

**Question 21:** *I am troubled by the fact that you have repeatedly embraced, funded, and encouraged the use of those personal attacks and vitriolic tactics. Indeed, you quote tweeted Fight For the Future’s “BUY A SENATOR” attack on Ranking Member Wicker and said “Well done, @fightforthefttr!” Is that correct?*



**Response:** I have not “repeatedly embraced, funded, and encouraged the use of those personal attacks and vitriolic tactics.” Indeed, when I worked for Chairman Wheeler at the FCC, the Chairman, my colleagues, and I myself were targets of these tactics, and it was my job to stop them. My nominal financial contributions and occasional tweets of support were for the work Fight for the Future and other grassroots organizations engaged in to educate Americans about the importance of net neutrality and FCC authority over broadband.

**Question 22:** *Have you said that Fox News is “state-sponsored propaganda”? If so, please explain, in detail, how Fox News is state-sponsored and what you believe to be propaganda.*



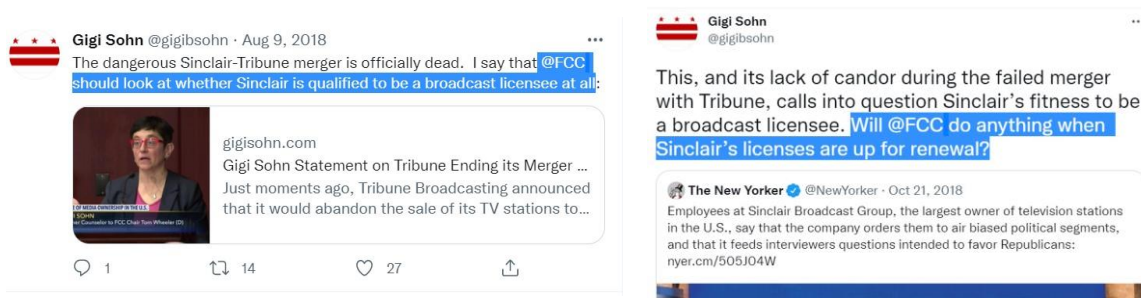
**Response:** As is apparent from the tweet that I commented on shown above, I was suggesting that in order for Congress to get the full picture about online bias and misinformation, it needed to examine the mainstream media as well. By “state-sponsored propaganda,” I was referring to the close relationship between the previous Administration and Fox News.

**Question 23:** *Have you said that Fox News is “dangerous to our democracy” ? If so, please explain, in detail, the exact dangers you believe Fox News poses to the United States, and in particular the specific dangers Fox News poses to democracy.*



**Response:** I was commenting on the laser focus of Congress and the mainstream media on bias and misinformation on big tech platforms while ignoring incidents like the one discussed above—where a major media outlet refuses to call the duly elected President the “President-elect.”

**Question 24:** *Have you said that the FCC should look at revoking the broadcast license of Sinclair and have you said that about any other broadcasters?*



**Response:** The question of whether Sinclair is fit to be a broadcast licensee came up in the context of its proposed merger with Tribune. I opposed the Sinclair-Tribune merger not because of Sinclair’s conservative views, but because it would have, in my words, “put far too much power over local news and information in the hands of one company.”

It was the FCC under Chairman Ajit Pai that effectively blocked the merger because it found that “there was a substantial and material fact as to whether Sinclair affirmatively misrepresented or omitted material facts with the intent to consummate this transaction without fully complying with the media ownership rules.” I supported that decision, and said that, “[i]f true, this allegation raises a legitimate question as to whether Sinclair is fit to be a licensee at all, and not just a licensee of Tribune’s stations.” This is consistent with the Administrative Law Judge, appointed by then-Chairman Pai, who said that Sinclair’s misrepresentations “may be so fundamental to a licensee’s operation that it is relevant to its qualification to hold any station license.”

**Question 25:** *Have you said that “big telecom, cable, and media” have “played their own role in destroying democracy & electing autocrats” and if so can you please detail your position here? What autocrats, specifically, have big telecom, cable, and media elected? Please also provide your definition of “autocrat” as you used it in your tweet.*



**Response:** This tweet was commenting on an Axios article about how big tech companies were under enormous scrutiny by Congress and the previous Administration, but that telecommunications and media companies had virtually escaped any similar scrutiny and in fact had been spending a lot of money to keep the spotlight on tech companies.

**Question 26:** *Have you said that for all your concerns about Facebook, “Fox News has had the most negative impact on our democracy”?*



**Response:** As is apparent from the tweet that I commented on shown above, I was suggesting that in order for Congress to get the full picture about online bias and misinformation, it needed to examine the mainstream media as well.

**Senator Deb Fischer**

**Question 1:** *During the hearing, you said you “can’t think of one instance where the full FCC has decided a carriage dispute” such as one that your “narrow, temporary recusal” would cover. Yet, as recently as September 2020, the full FCC [upheld](#) the Media Bureau’s finding that Sinclair-affiliated broadcast station groups had violated the good faith retransmission consent rules in negotiations with AT&T. And in July 2021, the full FCC [adopted](#) a Forfeiture Order fining the eight Sinclair-affiliated station groups for such violations. Indeed, over the course of the past decade the full FCC has issued more than a dozen carriage dispute-related rulings - including no less than three during your time serving under former Chairman Wheeler.*

*Blackouts matter to my constituents. Orphan counties matter to my constituents. The ability to receive local news, weather, emergency alerts are matters of consumer protection. Now you’re asking us to confirm you to an agency that’s responsible for overseeing these issues, but you yourself will have your hands tied. Given this, please clarify the following:*

- 1. Under the scope of your recusal, is it true that you would be barred from addressing the issue of blackouts, orphan counties, and more generally carriage disputes involving the ability of American citizens to receive local news, weather, and emergency alerts?*
- 2. Please list retransmission consent or broadcast copyright matters that have come before the full FCC in the past five years that would qualify as “material” under your recusal commitment.*

**Response:** In my letter to the FCC General Counsel, I pledged to recuse myself for the first four years of my term “from participation in FCC Docket No. 10-71 or any related FCC docket concerning the same issues.” In addition, for the first three years of my term, I pledged to recuse myself “from any proceeding before the Commission where retransmission consent or television broadcast copyright is a material issue in the Commission’s disposition of that proceeding.” I also pledged to consult with the General Counsel with regard to my participation in any of these proceedings. If I am confirmed, that three-year term would start to run in July 2021.

It is important to note that the specific Commission-level decisions you note above regarding the Sinclair-affiliated station groups were unanimous decisions, and thus were not dependent on a fifth vote to render a decision. And it appears that this is the only Commission-level good faith dispute decision since the good faith rules were adopted 20 years ago.

As I noted at the hearing, it is my understanding that while retransmission consent disputes between broadcasters and MVPDs are not rare, it is not the case that many of those disputes result in a good faith rule violation complaint. Even further, for those instances where there are complaints filed, they are most likely resolved at the Bureau level. In fact, the Commission concluded in implementing the good faith rules in 2000 that “the statute does not intend to subject retransmission consent negotiation to detailed substantive oversight by the Commission.”<sup>8</sup>

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<sup>8</sup> See First Report and Order, Implementation of the Satellite Home Viewer Improvement Act of 1999, CS

Additionally, in reviewing the Commission’s actions in the past five years, there are two proceedings that conceivably might have qualified as “material” under my voluntary recusal: (1) Cable Service Change Notifications proceeding;<sup>9</sup> and (2) Implementation of Section 1003 of the Television Viewer Protection Act of 2019.<sup>10</sup> However, like the Sinclair-affiliated station group decisions, these Commission-level decisions also were unanimous.

Finally, without additional information regarding the “dozen carriage dispute-related rulings” referenced above, I cannot comment further. Regardless, a dozen carriage dispute related rulings by the full FCC over a decade is still a pretty rare occurrence and the unanimous decisions in the cases described above indicates that my temporary and narrow recusal will have a very limited, if any, impact on the Commission’s business. And, as mentioned in my voluntary recusal letter, any recusal would be subject to consultation with the FCC’s Office of General Counsel.

***Question 2:*** *Why does your recusal not extend through the duration of your prospective FCC appointment?*

**Response:** I believe that the time frames that I have set out in the recusal letter are adequate to avoid any appearance of impropriety and to ensure that the public has full confidence that policymakers will make decisions free of bias.

***Question 3:*** *Public reports indicate you were recused from directly engaging on retransmission consent issues while working at the FCC in the office of Chairman Wheeler. Please share all details about any recusal (or any other restriction in lieu of recusal) that prevented you from directly engaging on retransmission consent issues, including;*

1. *How the recusal originated;*
2. *The parties involved or consulted in deciding to recuse;*
3. *The person or persons that initiated the recusal;*
4. *The method of compliance with such recusal during your tenure as FCC staff;*
5. *The duration of the recusal and whether it extended for the duration of your time at the FCC as a staff member; and,*
6. *Whether the recusal was specifically tied to the March 9, 2010 Petition for Rulemaking that you signed and submitted as President of Public Knowledge.*

**Response:** The reports that I was recused from Docket 10-71 when I was a staffer at the FCC were incorrect and I confirmed this with the FCC Office of General Counsel.

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Docket No. 99-363, 15 FCC Rcd 5445 at ¶ 6 (Mar. 14, 2000).

<sup>9</sup> The Commission adopted a Notice of Proposed Rulemaking in this proceeding on December 19, 2019 ([34 FCC Rcd 12709](#)) and a Report and Order on September 30, 2020 ([35 FCC Rcd 11052](#)).

<sup>10</sup> The Commission adopted a Notice of Proposed Rulemaking in this proceeding on January 31, 2020 ([35 FCC Rcd 644](#)) and a Report and Order on May 12, 2020 ([35 FCC Rcd 4961](#)).

**Senator Jerry Moran**

**Question 1:** *Ms. Sohn, in your January 27th recusal letter, you cite a 2010 Petition for Rulemaking that you signed as the president of Public Knowledge as the reason for your recusal on any FCC proceeding where retransmission consent is a material issue, if you are confirmed. This indicates you believe your prior advocacy before the FCC on an issue would preclude you from conducting your duties at the FCC without the appearance of impropriety.*

*During your career as an advocate, you participated in many petitions and other measures before the Commission, on many topics, impacting many sectors that you would oversee as Commissioner.*

*Please explain to me why you believe your advocacy on broadcast retransmission necessitates your recusal on those issues, but your advocacy on a host of other issues you have also advocated on does not similarly require your recusal.*

**Response:** I do not believe that a recusal is necessary and ethics officials have determined the same. As I testified at the February 9 hearing, I was trying to address the concerns of some members of this Committee with respect to my involvement in Locast, so I crafted a temporary and narrow voluntary recusal at the nexus of my involvement with Locast and my personal participation in a 12-year-old Petition for Rulemaking seeking changes to the retransmission consent regime.

I relied upon precedent involving former Chair Kennard, who voluntarily recused himself from a fairness doctrine related docket because he had signed a Petition for Rulemaking as an NAB intern many years before. I had signed a Petition for Rulemaking seeking changes to the retransmission consent regime, and the docket remains open, so I have voluntarily offered to recuse myself for a limited period from issues emanating from that petition.

There is no similar rationale for wide ranging recusals not tethered to anything and without precedent. Those who are seeking such recusals are effectively saying that I should be recused from everything and anything I have ever advocated for or against. Imagine the implications of that—anyone, whether they be in private practice, working for a corporation, an academic or a public interest advocate, would have to recuse themselves from any matter on which they've taken a public position on, whether or not they were representing specific clients. The result would be an FCC populated by members with no background in communications law and policy. I do not believe that is a result that anybody wants.

**Question 2:** *In your testimony, you claimed that opposition to your nomination stems from the desire to deadlock the FCC on issues like IIJA implementation, media diversity, and network resiliency.*

- 1. Hasn't the FCC met all deadlines implementing the IIJA and other statutory directives? Do you deny that the FCC voted to implement the ACP (and, before it, its predecessor EBB) under tight deadlines and across party lines, and voted unanimously to initiate proceedings to adopt a broadband nutrition label and consider reforms to the Universal Service Fund, among other critical, bipartisan statutory objectives?*

2. *Hasn't the FCC also recently acted to address media ownership and diversity issues in a bipartisan manner? Do you deny that the FCC voted unanimously in July 2021 on a diversity proposal that would require broadcasters to start providing certain EEO data to the FCC for the first time since 2001? Or that Chair Rosenworcel issued a public notice in June 2021 to refresh the record of the 2018 Quadrennial Review?*
3. *Hasn't the FCC also recently acted to address network resiliency on a bipartisan basis? Do you deny that the FCC voted unanimously in September 2021 on a proposal to make mandatory the existing voluntary network resiliency framework?*

**Response:** As you note, the Commission to date has met all of the Congressionally-mandated statutory deadlines to implement the IIJA and the ACP. However, as I noted at the hearing, there could be issues that arise with regards to the program that the Commission will need to resolve and that may need to have a fifth vote. Further, the Commission only voted to refresh the record on media ownership and diversity issues. Asking the public to refresh the record in a proceeding is a simple and non-controversial act. However, when the time comes for the Commission to actually decide what media ownership rules and policies may or may not be necessary, there is likely to be a difference of opinion. The Commission also voted to start a proceeding to review proposals to improve the reliability and resiliency of communications networks during emergencies. Policymakers often vote unanimously to start a proceeding asking the public to comment. Where a fifth vote will likely be necessary is for a final vote to adopt rules or policies.

**Question 3:** *In your testimony, you have repeatedly said that you have been working on communications issues for decades, but then told the Committee to ignore your "sharp" tweets and academic writings and claim the views you expressed will have no bearing on your work at the FCC:*

*[In response to Sen. Blunt]: "My opinions as a public interest advocate will have no bearing on how I behave as a policymaker."*

*[In response to Sen. Sullivan]: "That was as a public interest advocate as part of my job. Those were my words. Those are my opinions, but they will have no bearing on how I would act if I'm confirmed as an FCC commissioner."*

*[In response to Sen. Sinema]: "My views are always evolving," and "What I said in an academic paper, frankly, is just academic."*

1. *How can the Committee be sure that, if confirmed, you won't similarly disavow what you have told Members during this confirmation process?*
2. *In President Biden's announcement of your nomination, the White House cited your 30 years of advocacy as a qualification for this job, so why should Senators simply disregard the inflammatory statements you made as an "advocate" if that advocacy is one of the primary justifications for your nomination?*
3. *What is the Committee and Senate supposed to base its confirmation decision on if not your statements and positions as a public advocate?*



**Response:** I have not asked the Committee to ignore my tweets or my previous advocacy. I explained in both of my confirmation hearings and previous QFRs that my tweets and other statements were made in a different role, that of a public advocate. As someone who previously served at the FCC, I understand that if I am confirmed, my role and responsibilities as a policymaker will be much different—I would be bound by the law to decide matters based upon and supported by the record of a specific proceeding. If the FCC makes a decision that is not supported by the record of a particular proceeding, it is likely to be reversed by the federal courts of appeal.

In this way, my role is no different than the many nominees that have come before this Committee who have worked for regulatees, represented them as clients, or served on their boards. Others have been academics and Hill staffers. Many of them took very public positions on a variety of communications policy issues either in their own name or on behalf of their employers, their trade association members, or corporate clients, yet none of them received the kind of scrutiny that I have received because I am a consumer advocate. I simply ask to be held to the same standard that they were. The Committee and the Senate should base its confirmation decision on whether I am qualified to be an FCC Commissioner.

**Question 4:** *Ms. Sohn, your recusal letter states that you want to avoid any appearance of impropriety and ensure that the public has full confidence that policymakers will make decisions free of bias. If you are confirmed, and are required to vote on an issue that you have previously advocated to the FCC on, are you concerned that your previous advocacy will give the appearance of bias? Or make the Commission seem biased?*

**Response:** No, I am not concerned, because my recusal was narrowly tailored to address the nexus of my involvement with Locast and my personal participation in a 12-year-old Petition for Rulemaking seeking changes to the retransmission consent regime.

If I am confirmed, I would be bound by the law to decide matters based upon and supported by the record of a specific proceeding. If the FCC makes a decision that is not supported by the record of a particular proceeding, it is likely to be reversed by the federal courts of appeal.

**Question 5:** *Given your recusal, why should this Committee confirm you, instead of a candidate that is able to oversee all portions of the FCC's portfolio?*

**Response:** Any nominee that has worked for regulatees, represented them as clients, or served on their boards is not “able to oversee all portions of the FCC’s portfolio.” Any nominee that has a family member with a financial interest in a regulatee is not “able to oversee all portions of the FCC’s portfolio.” There have been many nominees for FCC positions who have been recused from various proceedings because of their relationships with industry. Again, I ask not to be held to a different standard than nominees with industry ties.

**Senator Dan Sullivan**

**Question 1:** *During the hearing you claimed that you were legally barred in writing from discussing the terms of the Locast settlement with this Committee. Why did you not make clear at the first hearing or through your initial QFR responses that you believed you were legally prohibited from discussing the settlement terms?*

**Response:** I was not asked about the settlement agreement at the first hearing. The confidentiality provision is a term in the settlement agreement, so I was also prohibited from discussing it in writing in the QFRs. However, I did offer to Senators Wicker and Blunt to obtain the full settlement agreement from the parties so that they could review all of its terms. I was and remain happy to answer any questions about the settlement agreement you may have after reviewing the terms, and did so at the last hearing.

**Question 2:** *You clarified during the hearing that your motivation for the recusal was to address the concerns expressed about the Locast settlement by members of this Committee.*

- 1. If the nexus was so obvious, why not mention Locast and the concerns of the Committee in the recusal letter?*
- 2. Why did you not consult with the Senators who raised those concerns regarding the scope and nature of your recusal?*

**Response:** As I testified on February 9, it would have been the better course for me to have referenced explicitly the Locast litigation in my January 27 letter and I regret not doing so. I decided instead to reference only prior FCC precedent where Chairman Kennard voluntarily recused himself from a matter that he had personally participated in years earlier. However, given the steady and vocal concern from members of this Committee about my involvement in Locast and the focus of the recusal on retransmission consent and TV broadcast copyright, it is readily apparent to anyone who has followed my confirmation process that the recusal was tied to the Locast matter.

I would have been happy to meet with any member of the Committee to discuss the settlement agreement on a confidential basis and have offered several meetings to many members of this Committee.

**Question 3:** *Who provided input on your recusal letter? Please provide a complete list.*

**Response:** I drafted the recusal letter myself and did not seek any input.

**Question 4:** *What was the reasoning for the length of your recusals?*

**Response:** I chose time frames that I believed would be adequate to avoid any appearance of impropriety and to ensure that the public has full confidence that policymakers will make decisions free of bias.

**Question 5:** *In your recusal letter, why did you specifically carve out proceedings “involving the Commission’s media ownership rules... or transfers of control of broadcast, cable, and satellite companies”? Shouldn’t you want to “avoid any appearance of impropriety” with those issues as well?*

**Response:** No, because the concerns over my involvement with Locast have nothing to do with media ownership issues or license transfers.

**Question 6:** *You have described the activist group Fight For The Future as “good friends and colleagues”, donated to them periodically, and endorsed their tactics. You tweeted “well done” to the group after they showed up at a fundraiser for Senator Wicker with an oversized check saying that they were there to “buy a Senator”. They have also called Senator Sinema “one of the most corrupt members of her party” and launched a billboard campaign against her, calling her corrupt. You claimed during the hearing that you don’t always agree with their tactics.*

1. *When do you consider Fight For The Future’s tactics “well done”?*
2. *What are the differences between the two instances mentioned above?*
3. *Haven’t you repeatedly urged your Twitter followers to contribute to this organization?*
4. *You have connections with a number of activist groups. How can we be certain that, as an FCC commissioner, you won’t use your connections to these groups to coordinate or condone attacks on your fellow commissioners or Members of Congress?*

**Response:** While I did not realize that the fundraiser was for Senator Wicker when I sent that tweet, I think it is legitimate for the public or an organization to raise questions or object when an industry holds a fundraiser for a member of Congress who oversees that industry. I do not view that as a personal attack on Senator Wicker so much as a criticism of the industry. That is in sharp contrast to the clear and unfair personal attack on Senator Sinema.

Over the past several years, I have made small end-of-year contributions to almost every organization with which I work on communications policy matters and at that time, just once a year, I urge my twitter followers to join me in supporting them. It does not mean that I condone every tactic they use, and in fact, a number of them have disagreed with my decisions and tactics over the past two decades.

I have never used my relationships with any group to coordinate or condone attacks on FCC Commissioners, Members of Congress, or any other policymaker and I certainly would not do so as an FCC Commissioner.

**Question 7:** *Per your offer at the hearing, please list the instances in which you have publicly criticized Democrats.*

**Response:** See Attachment A

***Question 8:*** *You have been critical of the FCC’s rural broadband policies stating that the FCC has “made it really easy for broadband companies, rural broadband companies tend to be monopolies, to basically suck at the government teat to the tune of tens of billions of dollars.” Do you stand by your statement that rural broadband companies “suck at the government teat”?*

**Response:** I do not recall making such a statement and I cannot find a reference to where I made such a statement. Regardless, I have been critical of how the FCC (and other government agencies) have spent ratepayer dollars on deploying broadband in rural areas. In my last public speech, made to the Association of Public and Land Grant Universities on January 28, 2021, I argued that the federal government needed 1) more accurate broadband maps; 2) to engage in more due diligence in determining whether applicants for government funding had the technical, operational and financial ability to keep their promises; 3) to conduct continuing and in-person oversight to ensure that those who have obtained funding to build broadband networks are indeed building those promised networks; and 4) to hold accountable those who have not met their promise to build networks.

Even as I have been critical of how the federal government has spent money intended to close the digital divide in rural America, I have always been supportive of ensuring that rural America has robust and affordable broadband. That support is evident not only in the aforementioned speech, but in many interviews I have given to the press, the assistance that I have given to rural states and communities and my work on and ongoing support for both the broadband provisions of the last COVID-19 relief bill, the American Rescue Plan and the IIJA, which provides tens of billions of dollars for states and tribal communities to deploy broadband.

I will note finally that NTCA – the Rural Broadband Association and the Rural Wireless Association both support my confirmation.

## **Senator Marsha Blackburn**

**Question 1:** *In your recusal letter, you said you would recuse yourself from any proceeding before the FCC on “television broadcast copyright.” Yet you said in your prior QFRs that “[t]he courts, the Copyright Office, and Congress have consistently affirmed that the Commission lacks jurisdiction over matters of copyright policy. If confirmed as Commissioner, I would commit to ensure that the FCC does not seek to extend the bounds of its jurisdiction to matters of copyright.”*

- 1. How can you make the above commitment when you are recused on broadcast copyright issues at the FCC?*
- 2. You actively pushed for former Chairman Wheeler’s set top box proposal that would have benefitted companies like Google at the expense of content creators. Do you agree the FCC has no ability to reprise any such actions due to a lack of jurisdiction over copyright?*

**Response:** My voluntary recusal extends only to matters where television broadcast copyright is “material” to a proceeding, and extends not to copyright generally, but just to “television” broadcast copyright. That leaves a good bit of opportunity for me to ensure that the FCC does not extend the bounds of its jurisdiction.

As one of Chairman Wheeler’s staffers, it was my job to help him with his set-top box proposal, which was intended to give consumers greater choice in consumer electronics equipment and give content creators greater opportunity to reach new audiences. I do not expect the FCC to reprise this proceeding for many reasons, including copyright concerns.

**Question 2:** *You have made many public statements, tweets, and participated in interviews during the course of your career that criticized political officials and companies that the FCC regulates. Yet you’ve told the Committee that these statements will have “no bearing” on your work at the FCC.*

- 1. In 2020, you tweeted that the Trump Administration was “pressing to get [Commissioner] Simington confirmed ASAP” in order to take action on Section 230. Do you think the President should choose to nominate people who will put his preferred policies into place? Do you think that is why you were nominated?*
- 2. During your second confirmation hearing, you said, “There are a number of media ownership and media diversity initiatives that will not move until there’s a full FCC. So if we want to strengthen local broadcasting and strengthen media diversity, we need to have a full FCC. So I hope that is part of the reason that this body will vote me out favorably because I think it’s necessary.” Does this mean that you have already formed your position on these matters, even before reviewing any public comments or proceeding record?*

**Response:** My tweet was a comment on a reporter’s tweet that noted that the FCC did not have three votes to start a proceeding to interpret Section 230. I tweeted that this was why “the right was pressing to get [Commissioner] Simington confirmed ASAP.” I said nothing about the

Trump Administration. Regardless, I expect Presidents to nominate people who will put their preferred policies into place and I suspect that is why President Biden nominated me.

I have not formed a position on pending media ownership and media diversity matters. I would need to familiarize myself with the records of those proceedings and the issues raised before I could even form a position, which by law would have to be based on the record. Nothing that I said at the hearing suggested that I have prejudged the outcome of these proceedings.

**Senator Todd Young**

**Question 1:** *On September 12, 2012, you were the lone signatory on a letter accompanying comments filed by Public Knowledge in Comments on Procurement Documents for the Local Number Portability (LNP Administration Contract; WCB Docket 09-109, WC Docket No. 07-149, CC Docket No. 95-116). In this letter you outline a number of requirements you would like a new LNP Administrator to meet. Will you commit to recusing from any future proceedings regarding LNP Administrators to avoid an appearance of impropriety? If not, please characterize your advocacy in this docket and distinguish it from your filing in 2010 that you have determined requires your recusal.*

**Response:** No, I will not recuse myself from future proceedings regarding LNP Administrators. I sought to address the concerns of some members of this Committee with respect to my involvement with Locast. So I crafted a temporary and narrow voluntary recusal at the nexus of my involvement with Locast and my personal participation in a 12-year-old Petition for Rulemaking seeking changes to the retransmission consent regime. The concerns over my involvement with Locast have nothing to do with LNP Administrators.

Regardless, if I am confirmed, and if this docket is moved forward, I would seek advice from FCC ethics officials on my ability to participate.

**Question 2:** *On May 10, 2010, you submitted comments In the Matter of Amendments of the Commission's Ex Parte Rules and Other Procedural Rules; GC Docket No. 10-43. In these comments you warn that if the procedural reforms you are advocating for are not adopted the public's confidence in the Commission's decision making process will be undermined. Will you commit to recusing from any future proceedings involving the Commission's procedural rules to avoid an appearance of impropriety or predetermination? If not, please characterize your advocacy in this docket and distinguish it from your filing in 2010 that you have determined requires your recusal.*

**Response:** No, I will not recuse myself from future proceedings involving the Commission's procedural rules. I sought to address the concerns of some members of this Committee with respect to my involvement with Locast, so I crafted a temporary and narrow voluntary recusal at the nexus of my involvement with Locast and my personal participation in a 12-year-old Petition for Rulemaking seeking changes to the retransmission consent regime. The concerns over my involvement with Locast have nothing to do with the FCC's procedural rules.

Regardless, if I am confirmed, and if this docket is moved forward, I would seek advice from FCC ethics officials on my ability to participate.

**Question 3:** *On June 15, 2009, you filed comments In the Matters of Implementation of the Omnibus Budget Reconciliation Act of 1993 and Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services (CMRS); WT Docket No. 09-66. In these comments you advocate for the use of certain market definitions and measures of completion in the CMRS report. Will you commit to recusing yourself from any proceedings involving the annual Communications Market Report or the biennial report on the state of the communications marketplace to avoid an appearance of impropriety? If not, please characterize*

*your advocacy in this docket and distinguish it from your filing in another docket a year later that you have determined requires your recusal.*

**Response:** No, I will not recuse myself from future proceedings involving the annual Communications Market Report or the biennial report on the state of the communications marketplace. I sought to address the concerns of some members of this Committee with respect to my involvement with Locast, so I crafted a temporary and narrow voluntary recusal at the nexus of my involvement with Locast and my personal participation in a 12-year-old Petition for Rulemaking seeking changes to the retransmission consent regime. The concerns over my involvement with Locast have nothing to do with the FCC's Communications Market report or the report on the state of the communications marketplace.

Regardless, if I am confirmed, and if this docket is moved forward, I would seek advice from FCC ethics officials on my ability to participate.

**Question 4:** *On August 11, 2009, you entered a letter on broadband data collections in WC Docket No. 07-38, WC Docket No. 08-190, GN Docket No. 09-47, and GN Docket No. 09-51. In this letter you call on the Commission to expand the broadband data it collects in its Form 477. Will you commit to recusing yourself from any proceedings involving broadband data collection to avoid an appearance of impropriety? If not, please characterize your advocacy in these dockets and distinguish it from your filing in another docket a year later that you have determined requires your recusal.*

**Response:** No, I will not recuse myself from any proceedings involving broadband data collection. I sought to address the concerns of some members of this Committee with respect to my involvement with Locast, so I crafted a temporary and narrow voluntary recusal at the nexus of my involvement with Locast and my personal participation in a 12-year-old Petition for Rulemaking seeking changes to the retransmission consent regime. The concerns over my involvement with Locast have nothing to do with the broadband data collection.

Regardless, if I am confirmed, and if this docket is moved forward, I would seek advice from FCC ethics officials on my ability to participate.

**Question 5:** *On February 28, 2008, you filed reply comments in the Matter of the Petitions of Free Press Et al. for Declaratory Ruling, Vuze, Inc. to Establish Rules Governing Network Management Practices by Broadband Network Operators, Broadband Industry Practices, and Commercial Availability of Navigation Devices; WC Docket No. 07-52, CS Docket No. 97-80. In the reply comments you take a firm position on nondiscrimination and disclosure by Internet providers. Will you commit to recusing from future proceedings regarding network management practices by broadband network operators to avoid an appearance of impropriety? If not, please characterize your advocacy in these dockets and distinguish it from your filings in another docket in 2010 that you have determined requires your recusal.*

**Response:** No, I will not recuse myself from any proceedings involving network management practices by broadband network operators. I sought to address the concerns of some members of this Committee with respect to my involvement with Locast, so I crafted a temporary and narrow voluntary recusal at the nexus of my involvement with Locast and my personal participation in a



12-year-old Petition for Rulemaking seeking changes to the retransmission consent regime. The concerns over my involvement with Locast have nothing to do with the network management practices by broadband network operators.

Regardless, if I am confirmed, and if this docket is moved forward, I would seek advice from FCC ethics officials on my ability to participate.

***Question 6:*** *Your voluntary recusal was predicated on the basis that it was done “to avoid any appearance of impropriety and in interest of ensuring that the public has full confidence that policymakers will make decisions free of bias.” If you believe that none of the above listed filings warrants a recusal, how can you assert that none of these other filings call into question your ability to be an impartial decision maker? Please explain.*

**Response:** My voluntary recusal was crafted narrowly to address a specific concern to some members of this Committee with respect to my involvement with Locast. None of these other issues has any relationship to my involvement with Locast.

Moreover, I have never asserted that my involvement with Locast or my prior personal participation in a Petition for Rulemaking requesting changes to the retransmission consent regime “call[ed] into question [my] ability to be an impartial decision maker.” Nor have the ethics officials who have twice reviewed my finances, my business relationships, and my participation in FCC proceedings made such a determination.

***Question 7:*** *If the motivation for your recusal was, as you say, to address the concerns expressed about Locast by members of the Committee, then why did you not consult with me or with the other Senators who raised those concerns regarding the scope and nature of your recusal?*

**Response:** I would have been happy to meet with any member of the Committee to discuss the settlement agreement on a confidential basis and have offered several meetings to many members of this Committee.

***Question 8:*** *Please provide a complete list of all individuals who provided input on your recusal letter.*

**Response:** I drafted the recusal letter myself and did not seek any input.

***Question 9:*** *If confirmed, do you commit to reporting back to this committee regarding your consultation with FCC ethics counsel when deciding whether to recuse yourself on matters before the FCC?*

**Response:** Yes.

**Senator Mike Lee**

**Question 1:** *In several of the responses that you provided in the first round of QFRs, you noted that your main concern with the 2017 repeal was the abdication of FCC “oversight” rather than the loss of the “bright line rules”.*

1. *How do you define FCC “oversight” in this area?*
2. *Does “oversight” include the 2015 “general conduct” standard or maybe the 2011 “unreasonable discrimination” standard? Both terms are fairly vague. Are there any limitations to what the FCC could (at their discretion) enforce in the broadband market under these standards?*

**Response:** By “oversight,” I mean the legal authority to protect consumers and competition in the broadband market. As I wrote in my responses to the first round of QFRs, I have been critical of the general conduct standard in the past. In an October 2020 paper, I stated that the general conduct standard was “too vague and complicated” and urged that it be replaced with a simple “unreasonable discrimination” standard similar to that adopted by the FCC in 2011. The unreasonable discrimination standard is guided and limited by FCC and court precedent interpreting similar language in Section 201 of the Communications Act. FCC action enforcing this standard is also limited by the requirement of the Administrative Procedure Act that any decision be supported by the record of a proceeding.

**Question 2:** *In your first round of QFRs, I asked why you supported state/local government operation of a broadband network, but not the federal government’s operation of a broadband network. In your answer, you noted you have not seen compelling evidence that a “nationalized 5G network” would produce the same benefits as state/local operation. I didn’t ask about a specific “nationalized 5G network” in my questions. I asked about federal ownership/operation of a broadband network. If you believe that state/local governments should compete as competitors in the broadband market, then why do you draw the line with the federal government as another competitor in the broadband market?*

**Response:** At the first hearing, you specifically asked whether I supported a “federally owned 5G network” and I indicated I did not support such a proposal. As noted in my previous questions for the record, I do support community broadband networks because they foster competition and choice, two core values that have guided my career. I do not believe there is any difference between a “federally owned 5G network,” a “federally owned/operated broadband network,” or a “nationalized 5G network”—any of those federal options would not catalyze competition or choice.

As previously noted, the real-world evidence in favor of community broadband is compelling. Municipal networks have connected unserved rural communities, driven down incumbent prices, and created jobs. For example, a recent study found that Chattanooga's municipal network generated \$2.69 billion in economic activity and created 9,516 jobs over the past decade.<sup>11</sup> I have

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<sup>11</sup> See Bento J. Lobo, Ph.D., CFA, Ten Years of Fiber Optic and Smart Grid Infrastructure in Hamilton County, Tennessee (August 31, 2020) ([https://assets.epb.com/media/Lobo%20-%20Ten%20Years%20of%20Fiber%20Infrastructure%20in%20Hamilton%20County%20TN\\_Published.pdf](https://assets.epb.com/media/Lobo%20-%20Ten%20Years%20of%20Fiber%20Infrastructure%20in%20Hamilton%20County%20TN_Published.pdf)).

not seen compelling evidence demonstrating similar benefits from a nationalized or federally owned 5G network.

Moreover, my advocacy for community broadband is rooted in the belief that local governments should have the *option* to invest in their own broadband infrastructure if they so choose. A nationalized or federally owned 5G network would not empower local governments in this manner.

***Question 3:*** *Federal officials are held (or supposed to be held) to high ethical standards for the positions that they hold. The U.S. Office of Government Ethics notes that even concerns that appear to show partiality are sufficient to justify recusal so as to avoid the appearance of favoritism in government decision-making.*<sup>12</sup>

- 1. Given your lengthy career and the positions that you've publicly taken, is there any scope of "appearance concerns" that the Office of Government Ethics speaks of that you also believe would justify your recusal?*
- 2. It's well documented the positions that you've taken, the tweets that you've publicly made that even denigrate certain viewpoints. How can we trust that you will govern impartially and fairly for all parties?*

**Response:** Other than my personal participation in a 12-year-old Petition for Rulemaking, I do not have any other appearance concerns. I also have voluntarily recused from certain issues at the nexus of my involvement in Locast to address the concerns of certain members of the Committee. It is important to note that my participation in proceedings involving certain specific parties with which I have a covered relationship as a Board member or employee is already limited as part of my February 1, 2022 ethics agreement (including the Biden ethics pledge) pursuant to the impartiality regulation at 5 CFR § 2635.502 (d).

Like many prior nominees for FCC Commissioner positions, including many who have worked for the industries they then regulated, I have taken public positions on many communications policy issues in my role as a public advocate. In my role as a policymaker, however, I am bound by the law to decide matters based upon and supported by the record of a particular proceeding. My prior positions are irrelevant. If the FCC makes a decision that is not supported by the record of a particular proceeding, it is likely to be reversed by the federal courts of appeal.

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<sup>12</sup> U.S. Office of Government Ethics, *A Refresher on the Impartiality Rule*, January 25, 2017; <https://www.oge.gov/web/oge.nsf/Resources/A+Refresher+on+the+Impartiality+Rule>

**Senator Ron Johnson**

**Question 1:** *During your tenure at Public Knowledge, the organization filed over 1,100 public comments at the FCC and filed and opposed multiple petitions, many signed by you. Yet, your recusal letter only focuses on one particular docket regarding retransmission consent rules then more broadly, retransmission consent and television broadcast copyright issues.*

1. *Why did you limit your recusal to those two issues and that particular docket?*
2. *Why did you choose to not recuse yourself from all of the matters on which Public Knowledge filed comments and petitions, including the ones signed by you?*

**Response:** As I testified at the February 9 hearing, I was trying to address the concerns of some members of this Committee with respect to my involvement in Locast, so I crafted a temporary and narrow voluntary recusal at the nexus of my involvement with Locast and my personal participation in a 12-year-old Petition for Rulemaking seeking changes to the retransmission consent regime.

I relied upon precedent involving former Chairman Kennard, who voluntarily recused himself from a fairness doctrine related docket because he had signed a Petition for Rulemaking as an NAB intern many years before. I had signed a Petition for Rulemaking seeking changes to the retransmission consent regime, and the docket remains open, so I have voluntarily offered to recuse myself for a limited period from issues emanating from that petition.

By contrast, ISPs are asking for wide ranging recusals not tethered to anything and without precedent. They are basically saying that I should be recused from everything and anything I have ever advocated for or against. Imagine the implications of that – anyone, whether they be in private practice, working for a corporation, an academic or a public interest advocate, would have to recuse themselves from any matter on which they’ve taken a position on, whether or not they were representing specific clients. The result would be an FCC populated by members with no background in communications law and policy. That is a result that I do not believe that anyone wants.

**Question 2:** *In your recusal letter, you said you would make these recusals to avoid “any appearance of impropriety” and “in interest of ensuring that the public has full confidence that policymakers will make decisions free of bias.” Your many tweets attacking Fox News, Sinclair, and Republicans show a strong bias against conservative media and viewpoints. For example:*

*Tweet from Oct. 28, 2020: “For all my concerns about #Facebook, I believe that Fox News has had the most negative impact on our democracy. It’s state-sponsored propaganda, with few if any opposing viewpoints. Where’s the hearing about that?”*

*Tweet from Nov. 6, 2020: “So do you still want me to believe that social media is more dangerous to our democracy than Fox News?”*

*Tweet from Apr. 2, 2018: “Sinclair is forcing its news anchors 2 repeat the same anti-media script. This alone is reason-enough 4 @FCC & @TheJusticeDept 2 block its merger w Tribune.”*

*Tweet from Apr. 4, 2018: “Don’t forget that Sinclair has a major merger pending in front of @FCC & @DoJ that would allow it to own an unprecedented 233 broadcast stations & reach 72% of American households. For this & other reasons, it must be stopped.”*

*Tweet from Oct. 18, 2018: “This, and its lack of candor during the failed merger with Tribune, calls into question Sinclair’s fitness to be a broadcast licensee. Will @FCC do anything when Sinclair’s licenses are up for renewal?”*

*Tweet from Apr. 9, 2019: “For a party that is so freaked out about “government control of the Internet, House Rs are really eager to regulate websites & other online services. #NetNeutrality #SaveTheNet”*

*Tweet from Oct. 30, 2020: “This is an outrage. Republicans know that the only way they can win is to suppress the vote.”*

*In light of your public statements, why did you choose not to recuse yourself from media ownership rules or media mergers?*

**Response:** My voluntary recusal was crafted narrowly to address a specific concern to some members of this Committee with respect to my involvement with Locast. The concerns over my involvement with Locast have nothing to do with media ownership or media mergers.

I have explained in both of my confirmation hearings and previous QFRs that my tweets and other statements were made in a different role, that of a public advocate. As someone who previously served at the FCC, I understand that if I am confirmed, my role and responsibilities as a policymaker will be much different—I would be bound by the law to decide matters based upon and supported by the record of a specific proceeding. If the FCC makes a decision that is not supported by the record of a particular proceeding, it is likely to be reversed by the federal courts of appeal.

In this way, my role is no different than the many nominees that have come before this Committee who have worked for regulatees, represented them as clients or served on their boards. Others have been academics and Hill staffers. Many of them took very public positions on a variety of communications policy issues either in their own name or on behalf of their employers, their trade association members or corporate clients, yet none of them received the kind of scrutiny that I have received because I am a consumer advocate. I simply ask to be held to the same standard that they were.

**Senator Shelley Moore Capito**

**Question 1:** *Ms. Sohn, you signed a required new Ethics Agreement letter on February 1<sup>st</sup> to accompany the updated financial disclosure documents which were submitted to the committee in tandem with your re-nomination. This new Ethics Agreement letter does not include the language or terms set out in your January 27<sup>th</sup> letter to FCC officials which you describe as a “voluntary recusal.”*

- 1. Why didn't you include the terms of your self-described “voluntary recusal” regarding retransmission consent and television broadcast copyright issues in your required February 1<sup>st</sup> Ethics Agreement letter?*
- 2. The February 1<sup>st</sup> letter begins by stating that one purpose of the letter “is to describe the steps that [you] will take to avoid any actual or apparent conflict of interest.” Isn't your January 27<sup>th</sup> “voluntary recusal” letter specifically designed “to avoid any appearance of impropriety and in interest of ensuring that the public has full confidence that policymakers will make decisions free of bias?”*

**Response:** The voluntary recusal is separate and distinct from the federal statutes and rules that the ethics agreement covers. Specifically, the ethics agreement relates to 18 U.S.C. § 208 and Section 4(b) of the Communications Act, both of which govern actions related to financial interests. It also covers 5 C.F.R. § 2635.502(d) which relates to matters involving prior employers. The February 2, 2022 letter to the Committee from the FCC's General Counsel that conveys my ethics agreement notes that, after conferring with the Office of Government Ethics (OGE), the voluntary recusal letter was not included in the updated ethics agreement.

**Question 2:** *Does your January 27<sup>th</sup> “voluntary recusal” letter remain valid and binding, or has it been superseded by the February 1<sup>st</sup> letter?*

**Response:** As noted at the February 9 hearing, I committed to abide by the voluntary recusal as outlined in my January 27 letter to the FCC's General Counsel.

**Question 3:** *Are you free to withdraw your January 27<sup>th</sup> “voluntary recusal” letter, since it was not included in the required February 1<sup>st</sup> Ethics Agreement letter?*

**Response:** As noted above, the January 27 voluntary recusal letter is separate and distinct from the February 1 ethics agreement and it could be withdrawn.

**Question 4:** *How can the committee be assured that you will adhere to your voluntary recusal letter if it is non-binding?*

**Response:** As noted at the February 9 hearing, I have no intention of withdrawing my voluntary recusal and would only do so after consulting the appropriate ethics officials.

**Senator Rick Scott**

**Question 1:** *In your response to my written Questions for the Record in your last confirmation hearing, you stated that you do not believe the government should regulate internet rates.*

*However, you indicated in a tweet in 2020<sup>13</sup> that the FCC had the authority to mandate low cost broadband plans – that sounds like rate regulation to me. Why has your position on internet rateregulation changed?*

**Response:** My position has not changed. As I have now testified at both hearings and stated in my previous QFRs, I do not think that the FCC should set rates for broadband—it is something that the agency has tried in the past with respect to cable and it was not successful. However, and as this tweet indicates, I do believe that the FCC should have the authority to require an ISP to provide a low-cost broadband service to low-income individuals and families, particularly if those ISPs obtain funding from the federal government. It is well established that the federal government can require public benefits in exchange for public funding. *Rust v. Sullivan*, 500 US 173 (1991). What I have not called for is for the FCC to set the rates for those low-cost tiers.

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<sup>13</sup> <https://twitter.com/gigibsohn/status/1241484999326662660?s=20&t=jTZyvrZ97OpTgLmvkXGJPA>

**Senator Cynthia Lummis**

**Question 1:** *On November 16, 2017, you argued in a tweet that a bipartisan group of Senators who asked the FCC to investigate waste, fraud, and abuse in the Lifeline program were really asking the FCC to “destroy [Lifeline] & vilify poor people.” Do you believe it would “vilify poor people” for the FCC to ensure there is no waste, fraud, or abuse in the Lifeline program?*

**Response:** No, I do not believe that it would “vilify poor people” for the FCC to ensure there is no waste, fraud, or abuse in the Lifeline program. To be clear, the tweet to which you refer was not criticizing the bipartisan group of Senators who asked the FCC to investigate waste, fraud and abuse in the Lifeline program. It was criticizing the then-FCC’s proposal that, among other things, proposed to: 1) weaken the Lifeline program by making it much harder for individuals to apply and receive Lifeline funds; and 2) eliminate a class of Lifeline provider (non-facilities based) that made up 75% of the carriers that provided Lifeline service. At the time, I believed that there was far more focus by the FCC on the behavior of low-income recipients of Lifeline funds than on the behavior of the companies providing that service.

**Question 2:** *Do you believe it would “vilify poor people” for the FCC to ensure there is no waste, fraud, or abuse in the Affordable Connectivity program?*

**Response:** No. As I answered previously in response to Senator Thune’s question, I support the recent Commission action to implement the Affordable Connectivity Program (ACP), including the provisions designed to help prevent waste, fraud, and abuse in the program. I supported the Congressional decision to require use of the National Verifier in the ACP’s predecessor program, and agree with using the National Verifier for the ACP. Ensuring that the states provide the necessary data to complete the National Verifier and that consumers can easily use the Verifier in order to take advantage of the ACP and other USF programs is essential. I also agree that the Commission should take all necessary steps to prevent waste, fraud, and abuse in the program.

**Question 3:** *In both of your appearances before the committee you expressed regret for the sharp language used in some of your tweets, but explained that the tweets were sent as part of your role as a public interest advocate. What part of your job as a public interest advocate required such partisan rhetoric?*

**Response:** It is difficult for me to respond to this question without seeing the tweets in question. To the extent that you are referring to the tweets about Fox News (for which I expressed regret for my sharp language), those were not “partisan.” As I said in both hearings and in these and previous QFRs, my tweets about Fox News were made as part of a series of discussions around hearings concerning big tech platforms and their role and responsibility to moderate content on those platforms, including political misinformation and disinformation. I was arguing that if Congress wanted to get the full picture of the impact of misinformation on our democracy, it should also look at misinformation on mainstream media.

To the extent that I was critical or praiseworthy of members of Congress of both parties, it was in the context of policy debates.



***Question 4:*** *At multiple points in your testimony, you said that Fox News is not subject to FCC regulation as a reason why your “sharp” statements about Fox News should not be of concern to the Committee, but isn’t it true that Fox News could be a complainant in a program carriage proceeding at the FCC? Contrary to your testimony, haven’t program carriage proceedings regularly been ultimately decided by the full Commission- including those involving Herring Broadcasting, Tennis Channel, and Game Show Network? How do you square these facts with your testimony that Fox News isn’t regulated by the FCC?*

**Response:** Numerous parties, including individual members of the public, can be complainants in any number of FCC matters. That they are able to do that does not make them regulated entities. You are correct that Fox News can file a program carriage complaint. But that does not make it an FCC-regulated entity.

## Attachment A

### Response to Senator Wicker Question 40 and Senator Sullivan Question 7

**Response:** In my role as a public advocate, I have given hundreds of press interviews, appeared on electronic and online media scores of times, written dozens of published articles, given dozens of speeches and tweeted thousands of times. Below is a list of the requested information which I have compiled to the best of my ability given my long career and prolific public statements.

*1. Taking you up on your offer, please list each instance in which you have publicly (e.g., over Twitter, in writing, interviews, speeches, etc.) criticized Democrats.*

- Maryland State Delegate Kumar P. Barve (Dist. 17)
  - [Music City Blues](#) (August 21, 2006)
- Representative Howard L. Berman (D-CA)
  - [Public Knowledge's President Reacts to Peer-to-Peer Self-Help Bill](#) (July 25, 2002)
  - [Nov 28, 2012](#): Praise 4 Rep. Berman at [#IRFA](#) hearing. As much as I won't miss his positions on [#copyright](#), I will miss tussling w. him at hearings.
  - [Nov 09, 2012](#): Forget about [#Netfreedom](#) if Berman becomes Secretary of State: <http://bit.ly/PJsI5k>
  - [Jun 25, 2012](#): I tell people about the Berman P2P bill when they insist that [#SOPA](#) and [#PIPA](#) will never return. Hollywood never forgets or gives up.
  - [Jun 25, 2012](#): [@sivavaid @xor @CopyrightLibn @khtasker @itsme2020](#) it was my 1st time testifying 4 PK. Rep. Berman tried 2 rip me a new one. He didn't.
  - [Biting the Hand that Fed Him](#) (May 1, 2006)
- Joseph R. Biden, current President of the United States, Former Vice President of the United States, Former U.S. Senator (D-DE)
  - [Public Knowledge Disappointed with White House 'Piracy' Meeting](#) (December 15, 2009)
- Representative John Conyers (D-MI)
  - [Anti-open access bill a real head-scratcher](#) (February 9, 2009)
- Senator Chris Coons (D-DE), Barbara Boxer (D-CA) & Jeff Bingaman (D-NM)
  - [Jan 18, 2012](#): Shame on Sens. Coons, Boxer & Bingaman 4 continuing to support [#PIPA](#): <http://t.co/wNeD9Ypr> [#SOPA](#) [#stopsopa](#)
- Former New York Governor Andrew Cuomo
  - [June 26, 2019](#): RT [@ZerlinaMaxwell](#): White Democrats need to stop this performative smack down of [@aoc](#) based on things SHE DID NOT SAY. It's not a good look.
- Congressional Democrats
  - [Aug 27, 2018](#): RT@IndivisibleTeam: It is STUNNING that there are **two dozen** Democratic Senators who are still undecided about Brett Kavanaugh's confirmation. Tell your Senator to [#StopKavanaugh](#)
  - [June 11, 2012](#): [.@DarrellIssa](#) beats up on the Sony Bono [#copyright](#) act for extending "black & white" copyrights too long. Et tu Democrats? [#PDF12](#)

- [Jan 18, 2012](#): Democrats! Republicans are kicking your butts on [#SOPA](#) & [#PIPA](#): the future (and the present) is the Internet. Time 2 give up Hollywood \$\$.
- [Sep 15, 2011](#): Blue Dogs, very poor showing 4 [#attmobile](#). RT [@dandhicks](#): Not so fast: House Democrats want DOJ to settle with AT&T. <http://t.co/C7SQpTfh>
- [Public Knowledge Comment on Latest Misleading Congressional Letter](#) (May 28, 2010)
- Rep. Anna Eshoo (D-CA)
  - [Feb 13, 2019](#): I love you [@RepAnnaEshoo](#) & I agree with you on most things, but you are just flat out wrong about the [#TMobileSprint](#) merger. Have you read what your colleagues in the Senate are saying? <https://blumenthal.senate.gov/imo/media/doc/Tmobile%20Sprint%20Letter%20to%20FCC.pdf>
- Senator Dianne Feinstein (D-CA)
  - [Public Knowledge Disappointed with PERFORM Act](#) (January 12, 2007)
  - [Preparing for the 110<sup>th</sup>](#) (January 5, 2007)
  - [Recording Rights Under Attack \(Again\)](#) (April 21, 2006)
  - [Billzapoppin'](#) (April 5, 2006)
- Julius Genachowski, former Chairman of the Federal Communications Commission
  - [Nov 21, 2017](#): Replying to [@BerinSzoka](#) and [@FCC](#): You can't possibly be blaming me for Genachowski. That's very funny.
  - [FCC's Chief Hires a Critic of the Agency](#) (November 4, 2013)
  - [FCC Chairman Genachowski to Step Down](#) (March 22, 2013)
  - [The Next FCC Chair: Decisive Protector of the Public Interest](#) (March 19, 2013)
  - [FCC Out to Lunch](#) Presentation to Personal Democracy Forum (June 13, 2012)
  - [Head of Consumer Group Takes on Net Neutrality Plan](#) (December 15, 2010)
  - [Barking up the wrong tree on net neutrality](#) (Sept. 21, 2010)
  - [Dec 21, 2010](#): Genachowski leads with transparency. That cannot possibly be the most imp. part of the [#netneutrality](#) rules. [#FCC](#) [#oir](#).
  - [Dec 21, 2010](#): Genachowski once again blesses tiered pricing in a sop to cable. [#netneutrality](#) [#FCC](#) [#oir](#)
- Representative Joseph Heath Shuler (D-NC)
  - [Public Knowledge Statement on Congressional Letter regarding AT&T Takeover of T-Mobile](#) (September 15, 2011)
- Representative Ruben Hinojosa (D-TX) & Representatives George Miller (D-CA)
  - [Act Now! House Sneaks Higher Ed Filtering Requirement in 750 Page Education Bill](#) (November 12, 2007)
- Representative Henry C. "Hank" Johnson, Jr. (D-GA)
  - [May 16, 2013](#): Johnson notes absence of "writers" fr. [#copyright](#) principles proj. Profs Samuelson & Gassaway must be surprised 2 hear they're not writers.
- William Earl Kennard, former Chairman of the Federal Communications Commission
  - [Oregon, Past and Present, A Model for the Nation on Broadband Policy](#) (October 26, 2012)
- Rep. Joe Kennedy (D-MA)
  - [August 26, 2020](#): .[@CharlesPPierce](#) really explains it here. What is Kennedy's rationale for running? If it's that he needs to leapfrog [@AyannaPressley](#), that's a poor reason to divert time and resources from the D's taking over the Senate.

- [August 26, 2020](#): The question 4 me is why, in a year when if g-d forbid Trump wins, the only thing protecting our Republic is the Ds taking over the Senate, is why Joe Kennedy feels the need 2 run this year, diverting resources from battleground Senate races 2 a primary race that isn't necessary.
- [Feb. 19, 2020](#): RT [@esquire](#): If you can figure out why we should turf out a progressive of Markey's caliber based on Kennedy's fog of words Tuesday night, you're a hell of a lot smarter than I am says [@CharlesPPierce](#)
- [August 17, 2019](#): Say it ain't so [@JoeKennedy!](#)
- Senator Patrick J. Leahy (D-VT)
  - [Nov 19, 2010](#): [@polisoniccom](#): Thank you, I agree and have been working with Leahy staff to find that balance. Not there yet in this bill.
  - [Nov 02, 2010](#): Another big loss for copyright moderates: Russ Feingold. Was friend on Leahy bill to block "rogue" websites.
- Barack Obama, Former President of the United States
  - [Mar 29, 2013](#): It's time 4 Prez [@BarackObama](#) 2 deliver on his promise of a more open & diverse communications system: <http://bit.ly/10n7xXS>
  - [Aug 7, 2011](#): MUST READ: Drew Westen on the stories & messages President Obama should have delivered on the financial crisis: <http://nyti.ms/pRnBFq>
  - [Jun 26, 2011](#): Cuomo: passing same -sex marriage "is at the heart of leadership & progressive government." Are you listening President Obama?
  - [Oct 20, 2010](#): Pls. explain to me why the Obama admin. continues to fight to uphold DADT. Gov't doesn't have to defend laws it believes are unjust.
  - [Oct 15, 2010](#): Prez says something (sort of) about LGBT bullying, but not enough: RT [@HilliconValley](#): Obama addresses online bullying <http://bit.ly/bdG0t3>
  - [Oct 15, 2010](#): When is Prez Obama going to speak out on anti-gay bullying and suicides? He's gone public on far more mundane matters.
  - [Mar 12, 2010](#): Disappointing: Obama shows support for ACTA: <http://bit.ly/c44Lji>. But the way he describes it doesn't make sense.
- Obama Administration
  - [For the Justice Department-RIAA Connection](#), the Fifth Time is not the Charm (May 17, 2009)
  - [Updated: The Fifth Time is Not the Charm](#) (April 14, 2009)
  - [IP Appointments, Time for Some Balance: Updated](#) (Feb. 9, 2009)
  - [Public Knowledge: ACTA Draft Favors Big Media Companies](#). (April 21, 2011)
  - [Public Knowledge Criticizes New Trade Report](#) (April 30, 2010)
  - [Jun 22, 2010](#): ACT NOW! Tell the Obama Administration what you think of [#ACTA](#): <http://bit.ly/b6xdXu> PK thinks it's bad for free speech, economy.
- Obama FCC (generally)
  - [Aug 20, 2010](#): PK's [@artbrodsky](#) on how little the Obama [#FCC](#) has accomplished: <http://bit.ly/dokuWD>
  - [Public Knowledge Disappointed with FCC Broadband Plan](#) (December 16, 2009)
  - [Who's Running the Show—the FCC or Hollywood Execs?](#) (September 21, 2009)
- Maria Pallante, former United States Register of Copyrights
  - [Public Knowledge Disappointed with House Intellectual Property Hearing](#) (November 16, 2011)

- Senator Harry Mason Reid Jr. (D-NV)
  - [School Yard Bully Entertainment Industry Now Picking on Higher Education](#) (July 30, 2007)
- Andrew Yang (Candidate for President of the United States)
  - [2/27/2020](#): RT: Matthew Feeney: Has Yang spoken to anyone who thinks about privacy for a living? This is almost a universally rejected approach for a reason. It's not a new idea.
  - [11/18/2019](#): RT TechDirt: Andrew Yang's Horrible, No Good Very Bad Tech Policy

*2. Please quantify how many times in the past five years that you have publicly praised Republican elected officials versus praised Democrats.*

Over the past five years I publicly praised Republican elected officials in approximately 326 tweets versus praising Democrats in approximately 1535 tweets.

*3. Please quantify how many times in the past five years you have publicly criticized Republican elected officials versus criticized Democrats.*

Over the past five years, I publicly criticized Republican elected officials in approximately 247 tweets and criticized Democrats in approximately 10 tweets. 180 of the 247 tweets criticizing Republican elected officials focused on former President Trump.

*4. Please identify with specificity any Democrats you criticized and any Republicans you praised during the past five years.*

Senator Shelley Wellons Moore Capito (R-WV)

Senator Susan Collins (R-ME)

Senator John Cornyn (R-TX)

Senator Lindsey Graham (R-SC)

Senator Josh Hawley (R-MO)

Senator John Kennedy (R-LA)

Senator Jerry Moran (R-KS)

Senator John McCain (R-AZ)

Senator Lisa Murkowski (R-AK)

Senator Rob Portman (R-OH)

Senator Mitt Romney (R-UT)

Senator Ben Sasse (R-NE)

Senator Dan Sullivan (R-AK)

Senator John Thune (R-SD)

Senator Roger F. Wicker (R-MS)

Senator Todd Young (R-IN)

Representative Anna Eshoo (D-CA)

Representative Ken Buck (R-CO)

Representative Darrell E. Issa (R-CA)

Representative Joe Kennedy (D-MA)

Representative Steve Scalise (R-LA)

Representative Greg Walden (R-OR)  
Julius Genachowski, Former Obama FCC Chairman  
Andrew Yang, Former Democratic Candidate for President of the United States  
Brendan Carr, Republican FCC Commissioner  
Nathan Simington, Republican FCC Commissioner  
Ajit Pai, Former FCC Chairman  
Michael O’Rielly, Former Republican FCC Commissioner  
Andrew Cuomo, Former Democratic Governor of New York  
Ken Paxton, Republican Attorney General of Texas