

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

June 22, 2023  
FCC Nominations

**DEMOCRATIC QUESTIONS FOR THE RECORD**  
**Commissioner Brendan Carr**

**COVER PAGE**

## **CHAIR MARIA CANTWELL (D-WA)**

**Question 1.** Middle mile networks are critical to lowering the cost of broadband buildout and providing affordable, accessible high-speed internet in places that remain difficult to serve.

Two weeks ago, NTIA announced the first recipients of the Bipartisan Infrastructure Law's middle mile funding. This round of funding will expand high-capacity middle mile networks across 35 states.

The announcement also provided new data on the need for new middle mile networks. NTIA received over 260 applications—and nearly \$7.5 billion in requests for support—for this \$1 billion program. In total, demand was seven times more than the amount Congress appropriated for the program.

**Question 1a:** How can the FCC promote the buildout of middle mile networks to lower the cost of broadband for consumers and achieve more redundant and resilient networks?

*Answer: Ubiquitous, affordable, and accessible high-speed Internet services simply will not exist without middle mile networks. One way that the FCC can promote the buildout of middle mile networks is to further streamline the permitting process that applies to these networks. If the FCC can reduce the regulatory costs associated with building these networks, then that action would free up additional capital for the buildout and maintenance of these networks. Additional congressional action regarding the approval process for middle mile builds that traverse federal lands could also help promote the buildout of middle mile networks. I would also welcome the opportunity to work with you or your staff on additional ideas for achieving the important public policy goal of robust middle mile networks.*

**Question 1b:** If reconfirmed, will you commit to working with my office on developing solutions to deploy middle mile broadband via the electric grid?

*Answer: Yes. I would welcome the opportunity to work with your office on solutions to deploy middle mile broadband, including via the electric grid.*

**Question 2.** There are several important proceedings in front of the FCC, some of which have been deadlocked because of the agency's 2-2 commission. This includes an item on modifying the emission limits for the 24 GHz Band, which impacts weather data.

I have asked the Commission to fix this issue since the last administration ran roughshod over the concerns of the Department of Commerce, NASA, NOAA, and the American Meteorological Society.

**Question 2a:** If reconfirmed, will you commit to considering the emission limits for the 24 GHz Band, which impacts weather data?

*Answer: Yes. I am also happy to work with you or your office on this issue.*

**Question 2b:** If reconfirmed, will you also commit to working with NASA and NOAA to find ways to deploy 5G that will minimize the damage to critical weather safety incumbent users in the 24 GHz band?

*Answer: Yes, I am happy to work with NASA and NOAA on ensuring that 5G and critical weather safety incumbents can coexist.*

**Question 3.** According to a GAO report from last year, only 30% of people in tribal rural lands have access to broadband, more than double the number of people without access in non-tribal rural lands.

To address this issue, Congress directed \$3 billion to NTIA's Tribal Broadband Connectivity Program, which provides grants to tribes seeking to build much-needed broadband infrastructure and increase broadband adoption.

Tribes in the state of Washington have received more than \$93.4 million in support through the Tribal Broadband Connectivity Program. While this is significant progress, it is far from a comprehensive solution to ensure our tribal communities can access telehealth appointments, remote learning, and other online services that require high-speed internet.

**Question 3.a:** How should the FCC better engage with tribal communities through government-to-government consultation?

*Answer: The state of connectivity on Tribal rural lands is not acceptable. In my time on the Commission, I have taken the opportunity to visit with Tribal leaders in their communities—from meetings with leaders of the Mescalero Apache Tribe in New Mexico to meetings on the Pine Ridge reservation in South Dakota and more. These visits allowed me to get a firsthand sense of the challenges that remain in connecting Tribal rural areas. Due at least in part to these visits, I have led or supported several FCC initiatives designed to improve connectivity on Tribal rural lands, including the FCC's decision to open up a rural Tribal priority window for 2.5 GHz licenses. I also requested that the FCC set aside \$10 million from our ACP grant outreach program to specifically boost participation in ACP within Tribal communities. I successfully sought this set aside after a visit to the Coeur D'Alene reservation where I met with Tribal leaders to discuss expanding participation in the ACP Program. Going forward, I think the FCC can better engage with Tribal communities by conducting more regular and formal government-to-government consultations. I would welcome the chance to participate in these.*

**Question 3.b:** If reconfirmed, will you commit to making broadband access on tribal lands a priority?

*Answer: Yes.*

**Question 4:** Accurate broadband maps are critical to ensuring that broadband funding is targeted to the places that need it the most in the United States.

Last month, the FCC released an updated version of its new maps. This revised map incorporated millions of states' and local communities' challenges into the map, resulting in more than 1

million new locations being added to the map, including tens of thousands of new locations in the State of Washington.

While this is a step forward from prior versions of the map, some communities remain concerned about the map's accuracy.

**Question 4.a:** How should the FCC work with communities to improve on the newest version of its broadband maps?

*Answer: I agree that accurate broadband maps are critical to our nation's broadband initiatives. That is why I have been meeting directly either in person or virtually with numerous state broadband offices that are engaged with the mapping process. I am encouraged that the FCC's mapping team is continuing to work with stakeholders to resolve challenges to the latest version of the FCC map. Going forward, the FCC should continue to engage with state broadband offices as well as other stakeholders, including community leaders, and move as quickly as it can in resolving challenges to the map.*

**Question 4.b:** How should the FCC hold internet service providers accountable for inaccurately reporting their service availability?

*Answer: The Broadband DATA Act makes it unlawful for an entity or individual to willfully and knowingly, or recklessly, submit information or data that is materially inaccurate or incomplete with respect to the availability of broadband Internet access service or the quality of service with respect to broadband Internet access service.*

*The Commission voted to impose a base forfeiture of \$15,000 per violation on providers that file materially inaccurate or incomplete information. The FCC should hold Internet service providers accountable by applying and enforcing these rules.*

**Question 5.** Commissioner Carr, you've stated that you oppose the FCC using its Title II authority to adopt new net neutrality regulations. At the same time, however, you have also asserted support for the concepts of net neutrality, and suggested that adopting rules under Section 706 of the Communications Act is a potential path to reach bipartisan consensus on net neutrality at the FCC.

In 2016's *U.S. Telecom Association v. FCC*, however, the D.C. Circuit stated that while its earlier net neutrality opinion, *Verizon v. FCC*, "held that section 706 gives the Commission authority to enact open internet rules," the prior court "nonetheless vacated the anti-blocking and anti-discrimination provisions" because the Commission was prohibited from applying common carrier regulations to Title I information services (which broadband was classified as at that time).

**Question 5.a:** What authority do you believe the FCC currently has, besides Title II, to adopt net neutrality rules?

*Answer: In our 2017 decision, we adopted a net neutrality transparency rule without reclassifying broadband as a Title II service. In that instance, the FCC relied on Section*

257 of the Communications Act as authority. The D.C. Circuit later upheld that rule as authorized by Section 257.

**Question 5.b:** What is the impact of *Verizon v. FCC* on the FCC's ability to enact net neutrality rules under Section 706? Does it limit the FCC's ability to enact those rules, such as anti-blocking and anti-discrimination measures, without reclassifying broadband as a Title II service?

*Answer: When it comes to the federal government's authority to take action against an ISP that engages in blocking or discrimination, Title II classification is not a prerequisite. For example, pursuant to the FCC's 2017 transparency rule, which remains in effect, Comcast has disclosed that it does not engage in blocking, throttling, and similar discriminatory conduct as outlined in its disclosure. Therefore, if Comcast were to block or throttle contrary to those disclosures, the FTC could take action under its Section 5 authority.*

**Question 5.c:** What impact does the U.S. Supreme Court's 2022 decision in *West Virginia v. EPA* have on the FCC's ability to use Section 706 to enact net neutrality regulations?

*Answer: Any FCC decision to adopt net neutrality regulations, regardless of the source of authority invoked by the agency, will likely need to satisfy the standard discussed in *West Virginia v. EPA*.*

**Question 6.** In several media appearances, including your October 19, 2020, appearance on iHeartRadio's Sara Carter Show, you stated that "Democrats have hopped from one hoax to the next to explain their loss at the ballot box."

Additionally, in your May 27, 2020, appearance on Tucker Carlson Tonight, when responding to questions on whether a fair and free election is possible in 2020, you stated, "Doing nothing is not an option" when an online platform like Facebook "has tossed the keys of content moderation" to its oversight board "ahead of the 2020 election."

**Question 6.a:** What do you mean by your statement above that "Democrats have hopped from one hoax to the next?"

*Answer: If I recall correctly, the cited media appearances in 2020 related to the ongoing debate on Section 230 of the Communications Act and free speech. With respect to that policy debate, I was concerned then, and remain concerned today, that Section 230 has been interpreted in a way that, for one, departs from the plain terms of the statute as passed by Congress and, for another, promotes censorship of viewpoints. I believe the FCC has an appropriate role, as the FCC's General Counsel at the time noted, to interpret the provisions in Section 230 in a way that conforms with the terms of the statute as passed by Congress.*

*Moreover, I believe that my nearly six year long record on the Commission demonstrates that I work very well with all of my FCC colleagues. I am proud of the collegial, working relationships that we share. We have consistently found common ground on difficult, often thorny issues. I think that my track record of bipartisanship and promoting the public interest on the FCC is why a broad and diverse cross section of stakeholders have spoken in favor of my renomination.*

**Question 6.b:** What did you mean by your statement on Tucker Carlson Tonight that “Doing nothing is not an option”?

*Answer: If I recall correctly, I was referring there to my view that the FCC should issue a decision that interprets the terms in Section 230 of the Communications Act in a way that is consistent with the statute as passed by Congress.*

**Question 6.c:** As an FCC Commissioner, what do you think the FCC should do when “Doing nothing is not an option”?

*Answer: In the context of decisions that interpret statutory provisions of the Communications Act in ways that diverge from the plain terms of those provisions as enacted by Congress, I believe that the FCC, as the agency charged by Congress with administering the Communications Act, should issue a decision that interprets the statute in a way that is consistent with the provisions as passed by Congress.*

**Question 7.** In March of 2020, you sent a letter to the House Permanent Select Committee on Intelligence criticizing its investigation into Donald Trump and calling the work of the committee a “secret and partisan surveillance machine” on Twitter.

← Tweet



**Brendan Carr** ✓  
@BrendanCarrFCC



Before Congress takes up FISA reform, it should get its own house in order.

Starting with the secret and partisan surveillance machine that Chairman Schiff has been running.

 **Brendan Carr** ✓ @BrendanCarrFCC · Mar 12, 2020

Chairman Schiff has been collecting Americans' private call records through a secret & partisan process.

He even published some of them in the Impeachment Report.

These sensitive records are protected by federal law.

His conduct raises serious concerns & I've asked for answers [twitter.com/KimStrassel/st...](https://twitter.com/KimStrassel/status/1248888888888888888)

[Show this thread](#)

6:31 PM · May 27, 2020

41 Retweets 2 Quotes 66 Likes 1 Bookmark

**Question 7.a:** Why did you send this letter to the House Permanent Select Committee on Intelligence?

*Answer: Federal law has long protected the privacy and confidentiality of Americans' call records. Section 222 of the Communications Act is one of those protections, and the FCC administers that statutory provision. Call records include the telephone numbers that Americans dial as well as the date, time, and duration of their calls. Given their nature, the FCC has determined that call records contain "highly-sensitive personal information." I sent that letter in the interests of ensuring that any collection of protected call records takes place consistent with both the safeguards that Congress put in place through Section 222 and the FCC's implementing requirements.*

**Question 7.b:** Why did you call the committee "a secret and partisan surveillance machine" on Twitter?

*Answer: There are a number of cases where, absent exigent circumstances, a committee has publicly disclosed that it has issued a subpoena for information. That public disclosure has allowed individuals, if they choose, to go to court and vindicate or attempt to vindicate any rights they may have or think they may have in maintaining the confidentiality of the information sought. Indeed, courts long ago established a process for Americans to seek judicial review before Congress obtains documents in response to a congressional subpoena.*

**Question 7.c:** Did you ever voice similar concerns about investigations led by Republican lawmakers or Administrations?

*Answer: Yes. For example, when I learned through reporting published in June 2021 that the Department of Justice in 2017 and 2018 had reportedly obtained records on Democratic Members of the House Intelligence Committee, including Rep. Adam Schiff, I re-upped my concerns and stated that “There remains a pressing need to fundamentally reform how those in political power -- whether R or D -- surreptitiously obtain sensitive call records, especially when it comes to politically-motivated probes.”*

**Question 7.d:** If you did voice similar concerns in response to Questions 7.c, and those concerns were made public, please provide any records of those concerns you made in any letters, statements, and/or social media postings.

*Answer: <https://twitter.com/BrendanCarrFCC/status/1404812569307668488?s=20>*

**Question 8.** You have said in interviews and tweeted that “Republicans want less censorship and more speech,” while “Democrats want less speech and more censorship.”

About Elon Musk’s acquisition of Twitter, you said in an interview with Dana Loesch that left-leaning organizations don’t support the acquisition because “they really like the type of censorship that’s taking place right now, and Elon Musk said he wants to head in a different direction.”

**Question 8.a:** Can you explain why you believe that Democrats are in favor of censorship?

*Answer: If I recall correctly, I was referring in that interview to a request that an organization filed with the FCC that called on the agency to block Elon Musk’s purchase of Twitter on the grounds that the acquisition, in their view, threatened free speech. I believe I was attempting to make clear, one, that the FCC did not have the authority to block that acquisition and, two, that the government more generally should not block an acquisition of a social media site on the grounds that the acquirer would not block speech protected by the First Amendment.*

*Indeed, in terms of my own views, there is an ongoing debate in this country about the best way to address speech that people find objectionable. There are different takes on the path forward. I have long and consistently expressed the view that more speech is better than less. I think that debates on matters of public interest should be robust, uninhibited, and wide open; and I think this in part because this type of debate is how we can solve our most pressing problems. I believe that the remedy to speech that someone does not like or finds objectionable is counter speech.*



**Question 8.b:** Will your belief that left-leaning organizations, some of which may have matters before the FCC, “like the type of censorship that’s taking place right now,” impact your ability to act as an impartial Commissioner at the FCC?

*Answer: I commit to treating every entity that has a matter before the FCC in a manner that is fair, just, and impartial.*

### **Question 9.**

The image shows a screenshot of two tweets. The top tweet is from Brendan Carr (@BrendanCarrFCC), posted on February 28, 2021, at 10:24 AM. It mentions joining @HowardKurtz to discuss free speech and the effort by Democrats to silence newsrooms. The bottom tweet is also from Brendan Carr, posted on February 24, 2021, at 9:59 AM. It discusses a hearing by Democrat lawmakers targeting newsrooms and media outlets. A retweeted tweet by Steve Scalise (@SteveScalise) from February 23, 2021, is also visible, warning about Democrats' efforts to ban Fox News, OAN, and Newsmax.

← **Tweet**

 **Brendan Carr** ✓  
@BrendanCarrFCC


Joining @HowardKurtz this morning to talk free speech and the chilling effort by Democrats in Congress to silence newsrooms based on their political viewpoints

On @MediaBuzzFNC ~11:30AM 📺

10:24 AM · Feb 28, 2021

3 Retweets 12 Likes

← **Tweet**

 **Brendan Carr** ✓  
@BrendanCarrFCC

Democrat lawmakers in Congress will hold a hearing this morning where they will target selected newsrooms and media outlets because of the political viewpoints they share with the American people.

This hearing is a chilling transgression of free speech and journalistic freedom.

 **Steve Scalise** ✓ @SteveScalise · Feb 23, 2021

🚫🚫 Democrats in Congress are working to ban Fox News, OAN, and Newsmax from all cable and streaming platforms.

They want to control:

- Your news
- Your TV
- Your entire life

This is what you'd see in the Soviet Union.

9:59 AM · Feb 24, 2021

**Question 9.a:** Please explain why you posted the two tweets above.

*Answer: I posted those tweets in the context of expressing my view on the First Amendment that debate on matters of public interest should be robust, uninhibited, and wide open. I believe that the best remedy to speech that someone does not like or finds objectionable is more speech. I posted them because I believe that a newsroom's decision about what stories to cover and how to frame them should, consistent with the First Amendment, be beyond the reach of any government official.*

**Question 9.b:** Will your belief that Democrats are trying to silence newsrooms impact your ability to act impartially on broadcasting matters as an FCC Commissioner?

*Answer: I commit to treating every entity that has a broadcasting matter before the FCC in a manner that is fair, just, and impartial.*

**Question 10.**



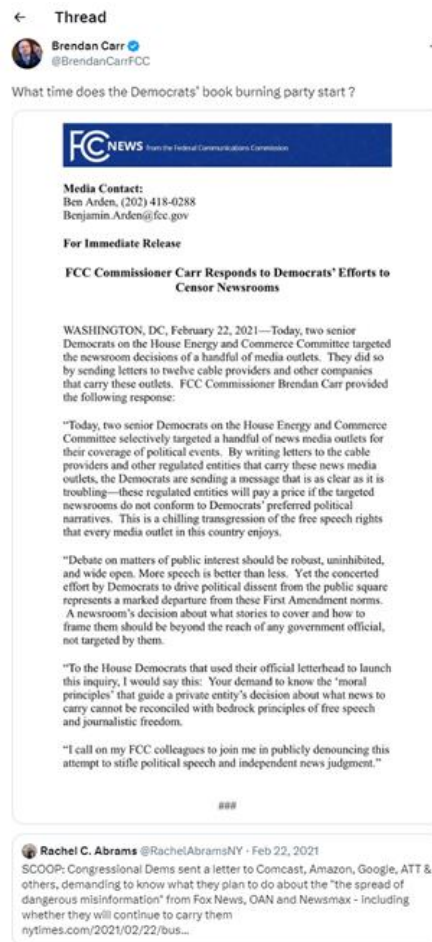
**Question 10.a:** Please explain why you posted the tweet above.

*Answer: I believe that I posted this tweet to provide my view on some of the discussions that had been taking place in a Senate hearing on Section 230.*

**Question 10.b:** Will your belief that Democrats “want more censorship and less speech” impact your abilities to review Section 230, if it comes before you as an FCC Commissioner?

*Answer: I commit to resolving any issue that comes before the FCC in a manner that is fair, just, and impartial to all parties.*

## Question 11.



**Question 11.a:** Please explain why you posted your tweet above.

*Answer: I posted this tweet to distribute my February 21, 2021 press release. In that press release, I make clear that, consistent with the First Amendment, I believe that a newsroom's decision about what stories to cover and how to frame them should be beyond the reach of any government official. With respect to the particular word choice in the tweet, with the benefit of hindsight, I would have made the point about my substantive concerns with the underlying issue in a different way.*

**Question 11.b:** As an FCC Commissioner, do you think it is appropriate to publicly suggest that Democrats—or anyone—engage in book burning, especially with no cited evidence?

*Answer: I did not intend my tweet to be read as suggesting that anyone is engaged in that conduct. I sent the tweet to distribute my February 21, 2021 press release that addressed an important public policy debate about free speech. As stated above, with*

*respect to the particular word choice in the tweet, with the benefit of hindsight, I would have made the point about my substantive concerns with the underlying issue in a different way. Moreover, I believe that my years' long record on the Commission demonstrates that I work very well with all of my FCC colleagues. I am proud of the collegial, working relationships that we share. We have consistently found common ground on difficult, often thorny issues. I think that my track record of bipartisanship on the FCC is why a broad and diverse cross section of stakeholders have spoken in favor of my renomination.*

**Question 12.** You made multiple appearances on far-right conservative media in your role as FCC Commissioner, including at least seven appearances on The Joe Pags Show, eleven appearances on Fox Business with Neil Cavuto, two appearances on the Glenn Beck Show, two appearances on Tucker Carlson Tonight, two appearances on the Ross Kaminsky Show, four appearances on the Sara Carter Show, and a May 10, 2022 interview on the Ruthless Podcast.



**Question 12.a:** Do you think it is appropriate for a sitting FCC Commissioner to appear frequently on such shows? How have these media appearances influenced your policies as an FCC Commissioner?

*Answer: As a public official, I think it is important to make myself available to a diverse set of journalists and media outlets. In addition to the outlets listed above, I have appeared on Morning Joe on MSNBC, on Brian Stelter's Reliable Sources show on CNN, on Meet the Press Daily with Chuck Todd, on CBS Morning News, on Roland Martin's show Unfiltered, on NPR's Morning Edition, on various CNBC shows, and more. Likewise, I have welcomed the chance to discuss the FCC's work and policies I care about with a diverse set of additional outlets like Verge, The Economist, Billboard, The New York Times, The Wall Street Journal, local news stations, and more. With respect to the policies that I pursue as a Commissioner, I think that my years' long record at the FCC demonstrates that I work hard to find consensus and common ground, including on difficult, often thorny issues. I think that my track record of bipartisanship on the FCC is why a broad and diverse cross section of stakeholders have spoken in favor of my renomination.*

**Question 12.b:** Ruthless Podcast's tagline is "Keep the faith. Hold the line. Own the Libs." Commissioner Carr, what does "Own the Libs" mean to you and how has that influenced your decision-making on the FCC?


*Answer: I have not thought about the meaning of Ruthless Podcast's tagline. With respect to the policies that I pursue as a Commissioner, as noted above, I think that my years' long record at the FCC demonstrates that I work hard to find consensus and common ground, including on difficult, often thorny issues. I think that my track record of bipartisanship on the FCC is why a broad and diverse cross section of stakeholders have spoken in favor of my renomination.*

**Question 13.** On March 29, 2023, you “liked” a tweet that quote-tweeted you sharing survey results regarding public support on banning TikTok that mentioned “The silent majority is alive and well”:

 **Jacob Helberg**  @jacobhelberg

The silent majority is alive and well.

Americans get it—TikTok is the most potent espionage operation China has ever carried out against our country.

 **Brendan Carr**  @BrendanCarrFCC · Mar 29

NEW: Americans support banning TikTok by a 57% to 36% margin, Marist survey finds.

Support is bipartisan, too, with majorities of Republicans, Democrats, and Independents all in favor of a ban.

Gen Z / Millennial support now at almost 50%.

**Support for Ban**

More than seven in ten Americans (73%) think TikTok poses either a major (35%) or minor (38%) threat to U.S. national security. Only 23% think the social media platform poses no threat at all.

Many Democrats (67%) and Republicans (79%) agree that TikTok is a national security risk. However, they differ in their perception of the threat level. While a plurality of Democrats (40%) think the platform poses a minor threat, a plurality of Republicans (45%) consider it a major threat to the security of the United States.

A majority of Americans (57%) support the federal government banning TikTok. With the exception of GenZ and Millennials, at least a majority of other

Demographic	Support Ban (%)	Threat Level (%)
<b>Overall</b>	57%	73%
<b>Party/Registration</b>		
Democrat	67%	73%
Republican	79%	73%
Independent	57%	73%
<b>Age</b>		
18-29	49%	73%
30-49	57%	73%
50-64	57%	73%
65+	57%	73%
<b>Education</b>		
High school or less	57%	73%
Some college	57%	73%
Bachelor's	57%	73%
Master's	57%	73%
PhD	57%	73%
<b>Gender</b>		
Male	57%	73%
Female	57%	73%
<b>Race</b>		
White	57%	73%
Black	57%	73%
Hispanic	57%	73%
Asian	57%	73%
Other	57%	73%



5:17 PM · Mar 29, 2023 · 21.4K Views

11 Retweets 4 Quotes 128 Likes 4 Bookmarks


What does the “silent majority” mean in this context?

*Answer: Jacob Helberg is a Commissioner on the bipartisan U.S.-China Economic and Security Review Commission. Commissioner Helberg’s reference to the “silent majority” in this context appears to me to be a reference to the 57% majority of Americans, including a majority of both Republicans and Democrats, that, while perhaps not as vocal as the minority of Americans that oppose banning TikTok, support banning TikTok, according to the Marist survey that I tweeted out.*

**Question 14.** On November 8, 2018, you Tweeted the following:


 **Brendan Carr**   
@BrendanCarrFCC

We must do better than Mayor Liccardo's failed broadband policies. Under his 3+ year leadership, San Jose approved zero small cells-ZERO-depriving residents of broadband options. It fell behind peer cities & the digital divide there only widened.



 **Sam Liccardo** @sliccardo · Nov 8, 2018  
As I write in tomorrow's @NewYorkTimes, we must do better than @FCC to provide digital equity for millions of children in low-income neighborhoods: Why San Jose Kids Do Homework in Parking Lots nyti.ms/2D9DrUJ

6:28 PM · Nov 8, 2018

Mayor Liccardo responded to your November 8, 2018 tweet, with the following:

 **Sam Liccardo**  
@sliccardo

Actually, Commissioner @BrendanCarrFCC, we've corrected your spokesperson's falsehoods on this point before, & would have hoped you'd actually seek facts before parroting Big Telecom's claims. We've approved 86 cells already, w/4,000 more to come from last month's agreements.

 **Brendan Carr**   
@BrendanCarrFCC · Nov 8, 2018  
We must do better than Mayor Liccardo's failed broadband policies. Under his 3+ year leadership, San Jose approved zero small cells-ZERO-depriving residents of broadband options. It fell behind peer cities & the digital divide there only widened. twitter.com/sliccardo/stat...

8:35 PM · Nov 8, 2018 from San Jose, CA

Can you explain why you did not validate this correction regarding San Jose's approval of small cells? Did you consider retracting your earlier tweet given that the information was incorrect? If not, why not?

*Answer: This exchange with Mayor Liccardo was part of a broader debate about the types of public policies that would help accelerate the buildout of small cells—the*

*building blocks of 5G—and thus help extend high-speed Internet service to more Americans. Going forward in my discussions on this issue, I used the 86 figure.*



## **SENATOR BRIAN SCHATZ (D-HI)**

1. Do you commit to ensuring universal fixed broadband deployment to all Tribal homes and businesses?

*Answer: Yes, my goal is to ensure that fixed broadband is available to all Tribal homes and businesses.*

2. Do you commit to ensuring universal mobile broadband deployment, including to all Tribal homes and businesses and along Tribal roads?

*Answer: Yes, my goal is to ensure that mobile broadband is available to all Tribal homes and businesses and along Tribal roads.*

3. Do you commit to adopting additional Tribal priority access windows, just like in the 2.5 GHz auction, where it is feasible and in the public interest to do so?

*Answer: Yes.*

4. When the United States auctions spectrum located over the lands of an Indian Tribe it does not share any portion of the proceeds with the Tribe, which is a sovereign government. Should the United States allocate a portion of these revenues to a Tribe or dedicate a portion to advancing universal and affordable communications services on the Tribal lands?

*Answer: I think this is an interesting idea for Congress to consider. I would welcome the opportunity to work with you or your staff on it.*

5. Do you commit to expanding access to unlicensed spectrum? What bands do you view as the most promising opportunities to expand unlicensed access?

*Answer: Yes, I would vote in favor of the FCC expanding access to additional unlicensed spectrum. There are promising opportunities for expanding access and use of existing unlicensed bands. For instance, I have called on the FCC to open up the 6 GHz band for client-to-client device communication as well as authorize the operation of very low power devices, which could prove key to enabling AR/VR. I have also called for the FCC to look at updating our rules in U-NII-2C (5470-5725 MHz), which is vastly underutilized today due to costly and cumbersome technical constraints on operations in the band.*

6. Please provide your analysis of how well the FCC's new broadband maps portray the availability of broadband on Tribal lands. Should the FCC display Tribal boundaries just as it displays state boundaries? If not, why not? Should the FCC provide the number of locations associated with individual Tribal areas, in addition to offering an aggregated rollup of the number of Tribal locations and Tribal broadband availability nationwide? Are there changes you believe the FCC needs to adopt with respect to how it displays broadband availability on Tribal lands?

*Answer: Without an overlay on the FCC map that shows Tribal boundaries, it is difficult to provide an assessment of how well the FCC's new maps portray the availability of broadband on Tribal lands. I have checked the new FCC map for a number of Tribal lands that I have visited while on the FCC, including the Coeur d'Alene reservation, Mescalero Apache reservation, and the Pine Ridge Indian reservation. I believe that an accurate assessment would require the FCC to display Tribal boundaries, and I would support the FCC doing so. I would also support the FCC providing the number of locations associated with individual Tribal areas in addition to offering an aggregated rollup. I think those would be good reforms that the FCC should adopt.*

7. In 2011 the FCC committed to working with Tribal communities and ensuring connectivity by establishing the FCC Native Nations Communications Task Force. This commitment was renewed in 2018 for three years. Since 2021, the term of the Commission has been extended annually. Do you commit to making this Task Force permanent?

*Answer: To the extent there is no legal constraint on the FCC making the Native Nations Communications Task Force permanent or some reason why making it permanent would somehow impair the body's work, I would support making it permanent.*

8. As the most populated remote place in the world, Hawaii has unique broadband needs, particularly with respect to inter-island and transpacific submarine cables. The State currently has significant plans in place to build inter-island submarine cables and to incentivize transpacific submarine cable landings. Can I have your commitment that you will not interfere with the State's plans and, to the extent it ever becomes necessary, that you will help ensure that Hawaii has the inter-island and transpacific submarine cable connectivity it needs?

*Answer: I am not familiar with the State's plans to build inter-island submarine cables. I would welcome the chance to learn more about it and find ways that I can support the work. I am interested as well in the opportunity to visit the State to hear firsthand about the challenges that remain and how I can further support the expansion of affordable broadband across Hawaii.*

9. In 2020, the FCC Native Nations Communications Task Force published "Recommendations for Improving Required Tribal Engagement Between Covered Providers and Tribal Governments." Since publication, what steps has the FCC taken to meet these recommendations?

*Answer: In December 2020, Tribal members of the Native Nations Communications Task Force (Task Force) developed a report to the Commission on recommendations for improving required engagement between those eligible telecommunications carriers that are recipients of universal service high-cost funds to provide communications services on Tribal lands and Tribal governments regarding deployment and provisioning of service on Tribal lands. Increased engagement is key to the FCC fulfilling its obligations. In consultation with staff from the Consumer and Governmental Affairs Bureau and the Office of Native*

*Affairs and Policy (ONAP), I have identified the following Tribal engagements by the FCC since the publication of the Native Nations Communications Task Force's recommendations:*

- *Rulemaking Outreach (E-Rate for Schools and Libraries): FCC staff, often including representatives from the Office of the Chairwoman, conducted 10 Tribal library tours/roundtables and 2 Tribal consultation and listening sessions.*
- *ACP Outreach: FCC staff conducted 7 ACP outreach events, including webinars, Tribal meeting presentations, Tribal summit booths. Multiple events included more than one outreach format (e.g., a workshop and an in-person leadership event).*
- *FCC Tribal Workshops: On February 27, 2023, the Santa Ynez Band of Chumash Indians hosted an FCC Tribal workshop at their facility in Solvang, CA. Another workshop will be hosted by the Lummi Nation, Ferndale, Washington, on July 12-13, 2023.*
- *Native Nations Communications Task Force Meetings: In 2023, alone, there have been three meetings of the task force.*
- *FCC Systems: The FCC has updated the ONAP webpage and has initiated a email distribution of Tribal leaders, Tribal IT directors, other federal agencies and other interested parties and individuals. As of today, ONAP has sent out almost 50 messages on upcoming funding and educational opportunities and related Commission activities.*

*I would welcome the opportunity to work with you and your staff to ensure that the FCC is living up to its obligations.*

10. Do you support 100% buildout requirements for new wireless licenses, covering all roads, homes, and businesses, especially including on Tribal lands?

*Answer: I am open to this idea. Wireless carriers now routinely provide service in excess of the minimum geographic coverage requirements in their FCC licenses. I would be open to considering expanding the buildout obligations beyond the FCC's current approaches because doing so could help ensure that we reach 100% coverage.*

## **SENATOR TAMMY DUCKWORTH (D-IL)**

I am concerned about the lack of coordination that took place between the FCC, NTIA, and the FAA during the initial rollout of 5G.

We averted an aviation crisis – barely – in January of last year when President Biden’s Administration helped broker a deal to delay full rollout of 5G to give airlines time to retrofit their altimeters to avoid interference.

If aircraft are not retrofitted by July 1<sup>st</sup>, they might not be able to conduct lower visibility approaches and may need to divert.

What I find so frustrating is that none of this confusion and delay should have been necessary. The FCC and FAA should have better coordinated much earlier in the process. The clear lack of coordination amongst industry and government stakeholders to consider all impacts of spectrum use and facilitate desired outcomes negatively impacted aviation and broader stakeholders, including those in the telecommunications sector seeking to deploy and utilize spectrum.

There needs to be more accountability at FCC and collaboration and risk mitigation planning between the FCC, NTIA, and agencies like the FAA whose industries will be impacted by new telecommunication technologies.

Unfortunately, when we’ve asked the FCC about its willingness to be more forthcoming with the FAA, we’ve heard a reluctance to do so.

*Question 1.* What additional authority, if any, does FCC need to share more information and better collaborate about new communication technology, including risk mitigation planning, earlier in the process with impacted agencies such as the FAA?

*Answer:* I am not aware that the FCC needs additional authority to share more information and better collaborate with the FAA. I agree with you that there needs to be better information sharing and collaboration. No one should want to see a repeat of the post-auction C-Band issues. I would welcome the chance to work with you or staff on ways that the agencies can accomplish this goal.

*Question 2.* Can I have your commitment that you will use all existing authority to ensure spectrum policy addresses safety issues, to collaborate and do risk mitigation planning on new communication technology with impacted agencies like FAA?

*Answer:* Yes, I would welcome the opportunity to further collaborate with the FAA on spectrum issues.

## SENATOR BEN RAY LUJÁN (D-NM)

*Subject.* Digital Discrimination

**Commissioner Carr:** Congressional intent for the digital discrimination statute in the Infrastructure Investment & Jobs Act (Section 60506) was clear. Preexisting law already prevents intentional discrimination— Congress did not pass a redundant statute. This section requires companies to consider the disparate impact of their business decisions, including the impact of making deployment decisions based upon an area’s income.

When we met in my office ahead of this hearing, you told me you were still considering whether disparate impact was the appropriate standard for analyzing digital discrimination claims. During your confirmation hearing last week, when asked about disparate impact, you told Senator Cruz, “I think you need something more than your effect”. Later in the hearing, you reiterated that “effect alone isn’t enough”. You also said that “there are things short of [a] smoking gun that could be sufficient evidence to qualify for discrimination”. Finally, you indicated that you were open-minded as to how to resolve the issue.

**Question 1.** Please provide a detailed explanation on how you would approach a digital discrimination claim with an analysis that would require more “effect”, but less than a “smoking gun”. What standard lies in between intentional discrimination and disparate impact?

*Answer: Thank you for the opportunity to address this. While I am still working through many of the issues in this proceeding, I am not of the view that the FCC would need to find a “smoking gun” memorandum or a particular type of direct evidence of intent to find that there has been digital discrimination of access within the meaning of Section 60506. For instance, there may be a range of different types of evidence that could amount to sufficient circumstantial evidence of discrimination that would be sufficient to meet the digital discrimination of access standard in Section 60506. At the same time, I do not believe that evidence of effect, standing alone, would be sufficient. If that were the case, that level of evidence would be unable to account for circumstances like one the FCC previously identified where two areas—Los Angeles County and Los Angeles City—had two very different outcomes with respect to new small cell builds due to two very different regulatory environments. As part of the FCC’s ongoing proceeding, the FCC has not adopted a definition of digital discrimination of access and has sought comment, among other things, on adopting a definition that incorporates elements from both disparate impact and disparate treatment, among other ideas.*

**Question 2.** There are often unique characteristics of homes and small businesses that internet service providers consider when making economic and technical decisions about future capital investment to connect a community—such as expected rate of return, difficult topography, or long driveways. What characteristics should remove a home or small business from the protections reinforced by Congress in Section 60506?

*Answer: At this stage in the FCC’s ongoing rulemaking, I am not prepared to rule out any home or small business from the protections in Section 60506 based on its characteristics.*

**Question 3.** Yes or no, do you believe that disparate impact is a “fringe liberal theory”?

*Answer: That is not how I have referred to disparate impact.*

**Subject.** Freedom Not to Speak

**Commissioner Carr:** You are a staunch advocate for “robust, uninhibited, and wide open” debate online on matters of public interest. But the right to speech is also the right not to speak.

As you well know, President Donald Trump withdrew Mike O’Reilly’s nomination to the FCC, in part, because then Commissioner O’Reilly stated that “The First Amendment protects us from limits on speech imposed by the government—not private actors—and we should all reject demands, in the name of the First Amendment, for private actors to curate or publish speech in a certain way.

**Question 3.** Do you believe it is constitutional for the government to limit social media companies’ ability to remove content from their platforms when the company finds such content objectionable, and maintains a consistent policy to remove such content?

*Answer: It would depend on the nature of the government action. For instance, I can think of a lot of cases where the government would violate the First Amendment by limiting a social media company’s ability to remove content that it finds objectionable. At the same time, the government can, in appropriate cases, impose conditions on the right to exclude or not carry speech. One example is the recent decision by the U.S. Court of Appeals for the Fifth Circuit, which upheld the constitutionality of a Texas state law that generally prohibited large social media platforms from censoring speech based on the viewpoint of the speaker. That appellate court decision is consistent with a number of Supreme Court cases (like *Pruneyard* and *Rumsfeld*) that have held, in appropriate cases, that the government may lawfully regulate the right to exclude.*

**Question 4.** Do you believe social media companies should be classified as common carriers, with carriage requirements to transmit information regardless of the content?

*Answer: My position is not that social media companies should be classified as common carriers; rather, I think that some of the antidiscrimination obligations that have applied in various contexts should be applied to social media companies in a way that both promotes more speech and empowers individuals to make their own decisions about the content they want to consume.*

## SENATOR JOHN HICKENLOOPER (D-CO)

**Broadband Workforce.** The Bipartisan Infrastructure Law includes generational investments to make high-speed broadband affordable and accessible for all Americans. With roughly \$42 billion available for States through the Broadband Equity, Access, and Deployment (BEAD) Program, it is important our nation has a workforce trained and equipped to build the broadband networks of tomorrow.

Section 60602 of the *Infrastructure Investment and Jobs Act* required the Telecommunications Interagency Working Group to provide Congress a report identifying challenges and offering recommendations to grow the broadband workforce. This report, entitled *Recommendations to Address Workforce Needs*, was submitted to Congress on January 13, 2023

*Question 1. Commissioner Carr*, what core principles or development traits do you believe should form the basis of effective and scalable training programs for individuals to enter the broadband workforce?

*Answer: I have had the chance to work with stakeholders on standing up a number of community college and trade school programs throughout the country that can train tower climbers and telecom crews. These types of jobs programs are vital to producing the workforce we need to complete America's broadband builds. Some of the lessons that I have learned in that context include, one, selecting schools that are located near military bases because this can increase the likelihood that service members will be attracted to these careers after their military service concludes, two, lining up a nearby tower company that can support the new program (either through teaching classes or assisting with the equipment and other start up needs) and, three, working to spread the word about the program within area high schools so that the pipeline of potential new workers stays strong. I would welcome the chance to work with you or your staff on ways to add additional tower climber programs, including in Colorado.*

**Wireless Emergency Alerts.** Wildfires continue to increase in their frequency and devastation across the U.S. In Colorado, the Marshall Fire wreaked havoc on the Boulder community as first responders fought to suppress the fire and evacuate residents. After the Marshall Fire, we learned the Wireless Emergency Alert (WEA) system was not used due to longstanding concerns about the geolocation accuracy of alerts being delivered to devices in a specified area.

I, along with Senator Bennet, sent a letter to the Commission encouraging action and adoption of items found in the Further Notice of Proposed Rulemaking (FNPRM) entitled "*Improving Public Reporting on Wireless Emergency Alert Reliability*", including steps to improve the geolocation accuracy of WEA alerts sent to cellular devices. We were pleased to see the Commission release the results of its nationwide test of the WEA system, which included participation from first responders in Colorado. This nationwide test demonstrated that while "91.9% of volunteers located within the target areas received a test alert", mobile devices over 3 miles outside a target area still received an alert, indicating that "geofencing works approximately one third of the time."

**Question 2. Commissioner Carr**, what technological, regulatory, or other barriers do you believe prevent the Commission from adopting stronger standards regarding the geolocation accuracy and delivery of alerts sent through the WEA system?

*Answer: A lack of trust can undermine the effectiveness of the nation's Wireless Emergency Alert (WEA) system. Receiving alerts that are not relevant to your geographic area only contributes to consumers tuning these potentially life-saving alerts out. I would welcome the chance to work with you or your staff as well as my FCC colleagues on steps we can take to improve the geolocation accuracy of WEA alerts.*



## **SENATOR RAPHAEL WARNOCK (D-GA)**

***Affordable Internet Access.*** The Bipartisan Infrastructure Law's broadband infrastructure investments have put the United States on the cusp of closing the digital divide. Closing this gap will allow millions of Americans to access the internet and connect with others in education, health care, and numerous other sectors. That said, broadband infrastructure is just half of the equation. Without investments in digital equity and affordability, many Americans will struggle to afford this new infrastructure and may continue to be left behind in the digital age. One of the hallmarks of federal digital equity and affordability resources is the Federal Communications Commission's (FCC) Affordable Connectivity Program (ACP), which provides a monthly internet service discount and one-time discount for households to purchase a laptop, desktop, or tablet.

*Question:* In addition to encouraging ACP enrollment, what more can the FCC do to help address barriers to accessing devices and continued issues of internet affordability for middle and low-income families and historically marginalized communities?

*Answer:* One of the goals the FCC set out when it adopted rules implementing the ACP program was to bridge the digital divide. I think the FCC should continue to target the program to those families that have lacked Internet access due to affordability issues.

*Question:* What mechanisms would you add to measure the impact of the ACP on closing the digital divide and improving broadband affordability, and how would you regularly share that data with states to better inform local digital inclusion work?

*Answer:* I think the FCC should be providing more data about the number of Americans on ACP that previously lacked an Internet connection due to affordability issues. I think this step would help the FCC in its efforts to measure the impact of the ACP program and provide Congress with more information as it focuses on the future of ACP. The FCC should also make this data available to states and the public.

*Question:* Can public-private partnerships help improve broadband affordability in high-need and high-cost communities? If so, what more can the FCC do to encourage these partnerships?

*Answer:* Yes. The FCC's ACP grant outreach program may be one example, and I am looking forward to gathering more information on how this initiative operates in practice. There may be lessons learned there that we could build on.

*Question:* What is your best estimate of when the ACP will come to an end if Congress does not provide additional authorization and appropriations? What would the impact be on families if the ACP program came to an end?

*Answer:* According to the ACP Enrollment and Claims Tracker, there is approximately \$8,645,310,050 remaining (as of July 4, 2023). As part of the ACP final rules, the FCC directed the Bureau, in coordination with OMD, OEA, and USAC to develop a forecast of the depletion of the funding appropriated by Congress. My understanding is that ACP funds are expected to run out of funding in the first half of next year. Understanding the significance of this program to consumers and anticipating the possibility that it may run out of funding, the FCC instructed

*staff to identify a process for notifying the public of the timing of the end of the program as the funds are nearing depletion. Importantly, we recognized the potential for bill shock for low-income consumers should funds be depleted. As such, the ACP rules require providers obtain an affirmative opt-in from consumers to continue providing service to the household and to charge a higher rate than the household would pay if it were receiving the full discount permitted under ACP rules.*

**Question:** Following the implementation of the National Telecommunications and Information Administration's (NTIA) Broadband, Equity, Access, and Deployment (BEAD) program, millions of Americans, particularly in high-cost areas, will have internet service and access for the first time. What should the FCC do to ensure this new service remains affordable after the conclusion of the BEAD program, especially in high-cost areas?

*Answer: NTIA recently announced the allocation of BEAD dollars across the states, including \$1.3 billion for Georgia. I have worked directly with numerous state broadband offices to help ensure the success of this initiative. The FCC has a number of ongoing support programs, including programs aimed at addressing the affordability portion of the digital divide. The FCC, NTIA, and states should work together to ensure that all of our efforts are complementary. I would welcome the chance to work with you or your staff on this issue.*

### **Supporting Local Media.**

**Question:** What tools can Congress give the FCC to strengthen localism and media diversity?

*Answer: I think the FCC could have improved media diversity if it had approved the Standard General transaction. And I think the FCC has a role to play in encouraging additional investment in local news. I am worried that the FCC's decision in Standard General will have a chilling effect on this necessary investment. So one step Congress could take to address this would be to reform the FCC's transaction review process. One idea would be for Congress to require that the full Commission vote on large scale mergers like the one that was at issue in Standard General. That could help provide parties with more transparency and predictability. Congress could also act to codify broadcast incubator programs. I supported the FCC's adoption of a radio incubator program, and have called for the agency to extend that into the broadcast television industry.*

### **Universal Service Fund.**

**Question:** Do you believe the FCC has authority to act on modifying the Universal Service Fund?

*Answer: I do not believe that the FCC has authority to expand the contribution base to include the full suite of technology companies that benefit from the program.*

**Question:** What do you believe needs to be done to reform the Universal Service Fund?

*Answer: I believe that Congress and the FCC need to consider contributions reform in addition to ensuring that the program has strong protections in place to address waste, fraud, and abuse.*

*Question:* What can Congress do to support reforming the Universal Service Fund in a positive way?

*Answer:* One step that I think Congress and the FCC should work on is reforming the Universal Service Administrative Company (USAC). Imposing shot clocks on USAC decisions is one step that could help ensure a more responsive, predictable USF program.

**Buy America Compliance for Broadband Programs.** On February 9, 2023, the Office of Management and Budget (OMB) released a draft rule entitled “Guidance for Grants and Agreements,” which detailed statutory authority for the Made in America Office in OMB to maximize and enforce compliance with Made in America laws.<sup>[1]</sup> This draft rule lays out guidance for defining construction versus manufactured materials and provides implementation guidance to Federal agencies on the application of Buy America preference to Federal financial assistance programs for infrastructure and a transparent process to waive such a preference when necessary.<sup>1</sup> The application of a final rule on this matter will be critical in the rollout of the Broadband Equity, Access, and Deployment (BEAD) Program, which will provide \$42.45 billion in funding to states for planning, deployment, and adoption of high-speed internet access.<sup>[2]</sup> The definitions of broadband infrastructure and its components such as fiber optic cable and optical glass under a final rule, and thus their applicability to Build America, Buy America requirements, will impact how many producers will be able to supply the infrastructure needed to implement the BEAD program. Overall, it is important that states, municipalities, and their contractors have access to the necessary infrastructure to implement BEAD and that this infrastructure is affordable and able to be delivered on an efficient timeline in order to maximize the efficacy of the BEAD program

*Question:* Do you believe it is important to have multiple Build America, Buy America compliant producers of optical glass to ensure the efficient distribution of fiber under the BEAD program?

*Answer:* I believe that BEAD builds would benefit from multiple, domestic options for optical glass producers.

**Spectrum Use.** In March 2023, the FCC’s authority to auction spectrum lapsed for the first time in three decades.<sup>[3]</sup> It is crucial that spectrum be allocated fairly, while protecting the American security interests that utilize spectrum bands.

*Question:* How can the FCC more effectively work with other federal agencies responsible for regulating spectrum use?

*Answer:* In 2022, the FCC and NTIA announced a new initiative to improve U.S. government coordination on spectrum management. I am open to additional process reforms and would welcome the chance to work with stakeholders on that issue.

*Question:* How can the FCC effectively allocate both licensed and unlicensed spectrum resources to drive innovation?

*Answer:* The FCC’s spectrum policy should provide a mix of both licensed and unlicensed spectrum. I put forward a spectrum calendar in 2021 that sets forth specific actions the FCC

*should take in the near term on both licensed and unlicensed spectrum. I believe the FCC itself should publicize a similar calendar that represents the views of the full Commission.*

*Question: What steps can the FCC take to work with the those who won licenses for the 2.5 GHz spectrum band, while still working with congressional and administration leaders to extend the Commission's auction authority?*

*Answer: I think the FCC has authority under Section 309(a) to issue licenses to any provider that won a 2.5 GHz license notwithstanding the lapse in the FCC's Section 309(j) authority to conduct new spectrum auctions. I think the FCC should issue those licenses because it would bring millions of Americans across the digital divide or provide them with access to better service.*

*Question: What steps can the FCC take to work with Congress and other federal agencies to resolve concerns about L-band spectrum terrestrial use?*

*Answer: I would welcome the chance to work with you or your staff on ways to resolve concerns about the L-Band.*

<sup>[11]</sup> <https://www.federalregister.gov/documents/2023/02/09/2023-02617/guidance-for-grants-and-agreements>

<sup>[12]</sup> <https://broadbandusa.ntia.doc.gov/funding-programs/broadband-equity-access-and-deployment-bead-program-0>

<sup>[13]</sup> <https://www.fcc.gov/document/chairwoman-rosenworcel-expiration-spectrum-auction-authority>