

**Remarks in Support
of
RETAIN Act
by
The Hon. Robert M. McDowell
June 23, 2021
(As prepared for delivery)**

Thank you, Senator Inhofe, for that kind introduction. I am Robert McDowell, and I served as a commissioner of the Federal Communications Commission from 2006 to 2013, first appointed by President Bush and reappointed by President Obama.

Many thanks to you and the bipartisan group of Senators for introducing the RETAIN GPS and Satellite Communications Act of 2021 today. This legislation comes at a crucial time to help keep all Americans safer and more prosperous. Whether they know it or not, reliable satellite communications and GPS services affect every single American every day. Whether it is:

- To ensure airline passengers and pilots have safe takeoffs and landings,
- To provide firefighters accurate communications and location technologies to combat wildfires that threaten lives and property,
- To enable the operation of cutting-edge 5G phones,
- To safeguard critical energy grids and stock exchanges from attacks,
- To empower our warfighters to keep us free, or
- To support crucial supply chain logistics and telematics for precision agriculture to feed a hungry world, and much, much more ...

... *all* of our lives, safety and prosperity are touched by satellite and GPS services.

I know from having had the honor of serving on the Federal Communications Commission that protecting critical infrastructure, public safety and consumer services is almost always a bipartisan policy goal. Unfortunately, however, last year my old agency made a big mistake by

approving an application by a speculative spectrum flipper named Ligado to let it “rezone” its satellite spectrum licenses for terrestrial use and cause harmful interference to the satellite communications and GPS services that have been operating for decades in the satellite spectrum neighborhood called the “L-Band.”

Today’s bold and courageous bill takes an important step in trying to correct some of the damage the FCC’s order caused. Spectrum engineers from across the private sector and 14 federal agencies opposed the FCC’s action, but it went ahead anyway. It is estimated that the harmful interference caused by land-based radio emissions from Ligado could cost the American economy billions of dollars by impairing satellite communications and GPS services. The FCC’s order virtually ignored this stark reality. To try to compensate for the harms and costs that will be caused by the FCC’s Ligado order, the RETAIN Act requires Ligado to replace all affected government and private sector devices and systems. A key element of the bill requires Ligado to replace *entire* systems that incorporate satcom or GPS functionalities on an integrated basis. Satcom and GPS services have become so integral to high-tech devices and systems, including defense systems, that mere software patches and chip replacements would not only be insufficient to fix the damage but could degrade entire systems and add new points of failure as well. Accordingly, the entirety of all damaged systems would have to be replaced.

If Ligado is so confident that its terrestrial services will not cause harmful interference to satcom and GPS, then it should *support* this bill because it would never owe a penny. But its opposition to this bill would reveal that Ligado knows that its planned land-based services will indeed cause harmful interference and that it will owe tens of billions of dollars in replacement costs.

Before I conclude, I'd like to debunk a couple of myths that have been persistently sown by Ligado. First, the concerns raised by this large and diverse coalition of scores of industry groups, academic researchers, government agencies and private sector companies such as my client, Iridium Communications, that oppose the FCC's Ligado order have nothing to do with fending off a competitor, as Ligado has alleged. No member of the coalition has a business that is similar to Ligado's alleged business plan of the day. This conflict is all about the harmful interference Ligado's terrestrial operations, as approved by the FCC, will cause to vital services that use L-Band satellite spectrum.

Second, this conflict has nothing to do with the race to 5G. The L-Band is poorly suited for 5G. It is not harmonized internationally for 5G, and it is not mentioned in the FCC's own 5G plan. Furthermore, its spectrum blocks are unattractively small and too far apart from one another for 5G. In fact, a Verizon executive recently publicly debunked the "Ligado is 5G" myth saying that his company is not considering the L-Band for 5G. Thousands of megahertz of other spectrum are being examined and auctioned for America's 5G pipeline, and the U.S. is on its way to lead the world in 5G. But our country simply cannot afford the dangerous risks created by the FCC's Ligado order simply to help Ligado's junk bond holders profit from regulatory arbitrage.

Finally, this issue has never been and never should be a partisan one. In fact, I want to thank my friend and former colleague, Acting FCC Chairwoman Jessica Rosenworcel, and Commissioner Starks, both Democrats, for their dissents against the January 19th order denying the Department of Commerce's petition to stay the Ligado order. I also thank Commissioner Simington, a Republican, for his thoughtful statement at that time expressing strong concerns. Additionally, I thank the dozens of bipartisan Senators and Representatives who wrote to the

FCC expressing their opposition to its Ligado order. Lastly, many, many thanks to the overwhelming bipartisan majority of both houses of Congress that supported the provisions to help protect satellite communications and GPS in the National Defense Authorization Act.

Thank you again, Senator Inhofe, and to the bipartisan co-sponsors for this bold and sensible move. I look forward to seeing this bill passed and signed into law for the good of the American people.

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