



September 17, 2021

Dr. Jon Eisenberg  
Director, Computer Science and Telecommunications Board  
The National Academies of Sciences, Engineering, and Medicine  
500 Fifth Street, NW  
Washington, DC 20001

**Re: Review of FCC Order 20-48 Authorizing Operation of a Terrestrial Radio Network Near the GPS Frequency Bands; PIN Number DEPS-CSTB-21-02**

Dear Dr. Eisenberg:

The Global Positioning System (“GPS”) is a critical national utility. Since it was made available for civilian and commercial use nearly four decades ago, the economic value of GPS has been estimated to be \$1.4 trillion, with \$300 billion in U.S. economic benefits annually.<sup>1/</sup> GPS has become a fundamental technology across nearly every sector of the U.S. economy, including agriculture, transportation, construction, electricity, and finance. In addition, the Federal government relies heavily on GPS for vital military and other public safety applications that depend on a high degree of accuracy and resiliency. That is why Congress directed the National Academies of Sciences, Engineering, and Medicine (“National Academies”) to carry out an independent technical review of the Order adopted by the Federal Communications Commission (“FCC”) permitting Ligado Networks LLC (“Ligado”) to operate a terrestrial wireless network in the radiofrequency spectrum adjacent to GPS.<sup>2/</sup> The GPS Innovation Alliance (“GPSIA”)<sup>3/</sup> welcomes and strongly supports the National Academies’ work conducting this important independent assessment, which will evaluate the potential degradation of service to GPS devices that may be caused by Ligado’s proposed operations.

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<sup>1/</sup> See RTI International, *Economic Benefits of the Global Positioning System (GPS)*, at ES-1 (June 2019), [https://www.rti.org/sites/default/files/gps\\_finalreport.pdf](https://www.rti.org/sites/default/files/gps_finalreport.pdf); Michael P. Gallaher, *Economic Benefits of the Global Positioning System (GPS), Presentation at the Positioning, Navigation and Timing Advisory Board Meeting* (Nov. 20, 2019), <https://www.gps.gov/governance/advisory/meetings/2019-11/gallaher.pdf>.

<sup>2/</sup> See National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283, Sec. 1663 (2021) (“2021 NDAA”); *LightSquared Technical Working Group Report, et al.*, Order and Authorization, 35 FCC Rcd 3772 (2020) (“*Ligado Order*”).

<sup>3/</sup> The GPSIA was formed in February 2013 to protect, promote, and enhance use of GPS and Global Navigation Satellite Systems (“GNSS”) technologies. Members and affiliates of the GPSIA are drawn from a wide variety of fields and businesses reliant on GPS, including manufacturing, aviation, agriculture, construction, defense, transportation, first responders, surveying, and mapping. The GPSIA also includes organizations representing consumers who depend on GPS for boating and other outdoor activities, and in their automobiles, smart phones, and tablets. The GPSIA recognizes the ever-increasing importance of GPS and other GNSS technologies to the global economy and infrastructure and is firmly committed to furthering GPS innovation, creativity, and entrepreneurship.

To ensure the integrity of the technical review, the National Academies appropriately screens all provisional members of its committees.<sup>4/</sup> In addition to its internal screening processes, the National Academies has invited comment from the public on potential sources of bias and conflicts of interest of provisional committee members.<sup>5/</sup> The National Academies has posted a well-qualified list of provisional committee members who do not appear to have any kind of affiliation or relationship with an interested party, with one exception. GPSIA is concerned about one provisional member – Richard L. Reaser, Jr. – and asks the National Academies to further consider whether Mr. Reaser should serve on the panel given his reported relationship with an interested party.<sup>6/</sup>

In particular, Mr. Reaser’s brief biography on the National Academies’ website reveals that in the Spring of 2021, Mr. Reaser “provided independent consulting services [to] Cerberus Operations and Advisory Company” which is an affiliate of Cerberus Capital Management, L.P. (together “Cerberus”). This relationship with Cerberus is problematic. At least one group has recently registered to lobby on behalf of Cerberus on “[i]ssues pertaining to Ligado Networks and National Defense Authorization Act,” which presumably could include the very NDAA provisions pertaining to the study that the National Academies is now conducting.<sup>7/</sup>

Cerberus also has a significant history of deep engagement with Ligado and likely has a current financial interest. *First*, Tim Donahue, who has a close association with Cerberus, serves on the Ligado board. Mr. Donahue is the Chief Executive Officer of Cerberus Telecom Acquisition, a blank-check company formed by Cerberus to raise up to \$400 million in an initial public offering.<sup>8/</sup> The Securities and Exchange Commission Form 10-K for this entity states that Mr. Donahue “has been a senior advisor to Cerberus’ operations group since 2009.”<sup>9/</sup>

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<sup>4/</sup> See The National Academies of Sciences, Engineering, and Medicine, Projects & Activities, Committee Appointment Process, [https://www8.nationalacademies.org/pa/information.aspx?key=Committee\\_Appointment](https://www8.nationalacademies.org/pa/information.aspx?key=Committee_Appointment) (last visited Sept. 15, 2021).

<sup>5/</sup> See The National Academies of Sciences, Engineering, and Medicine, Projects & Activities, Review of FCC Order 20-48 Authorizing Operation of a Terrestrial Radio Network Near the GPS Frequency Bands, <https://www.nationalacademies.org/our-work/review-of-fcc-order-20-48-authorizing-operation-of-a-terrestrial-radio-network-near-the-gps-frequency-bands> (last visited Sept. 15, 2021).

<sup>6/</sup> GPSIA member Raytheon Intelligence & Space (RIS) takes no position on the matter.

<sup>7/</sup> LD-2 Disclosure Form, Lobbying Report (July 20, 2021), <https://disclosurespreview.house.gov/ld/ldxmlrelease/2021/Q2/301288013.xml>; see also LD-1 Disclosure Form, Lobbying Registration (July 22, 2021), <https://disclosurespreview.house.gov/ld/ldxmlrelease/2021/RR/301294171.xml> (engaging Platt Strategic Consulting LLC on behalf of The Madison Group).

<sup>8/</sup> See *Cerberus Capital Management’s SPAC Cerberus Telecom Acquisition Files for a \$400 Million IPO*, NASDAQ (Oct. 2, 2020), <https://www.nasdaq.com/articles/cerberus-capital-managements-spac-cerberus-telecom-acquisition-files-for-a-%24400-million>.

<sup>9/</sup> Cerberus Telecom Acquisition Corp., Amendment No. 2 to Form S-1 Registration Statement, at 2 (Oct. 19, 2020), <https://www.sec.gov/Archives/edgar/data/1824577/000119312520271832/d60143ds1a.htm>.

*Second*, Cerberus had a significant involvement, and investment, in Ligado’s predecessor – LightSquared – and likely has a current ownership interest in Ligado’s debt or equity. The lobbying activity noted above is consistent with a current financial interest. According to a recent press report, Cerberus joined Fortress Investment Group (“Fortress”) and Centerbridge Partners (“Centerbridge”) in planning a bid for Inmarsat, which operates on the same frequencies in the L-band as Ligado.<sup>10/</sup> This same press report indicated that, as of the time of the article, Cerberus owned a significant portion of Ligado’s debt.<sup>11/</sup> Cerberus previously held substantial debt in LightSquared and, during LightSquared’s bankruptcy proceeding, actively participated in LightSquared’s restructuring process, offering its own plan.<sup>12/</sup> Cerberus eventually agreed to a plan approved by the court when LightSquared’s new investors – including Fortress and Centerbridge – agreed to buy back the preferred stock and debt it held at the time.<sup>13/</sup>

*Finally*, Cerberus also appears to have actively lobbied Federal agencies on related fifth generation (“5G”) wireless issues prior to the FCC’s issuance of the *Ligado Order* and may have directly lobbied on Ligado’s behalf. Press reports indicate that Cerberus advocated for the Federal government to invest in Nokia, Ericsson, or a consortium of the two – as an alternative to Huawei – in order to shore up a “friendly” 5G vendor with an improved ability to invest in 5G technology.<sup>14/</sup> This proposal was justified based on the race to develop and deploy 5G, concerns over competition with China, and securing 5G networks. In this same time period, a senior Federal government official expressed support for government investment in a consortium like

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<sup>10/</sup> See Mark Kleinman, *Investment Giants Ground £3bn Rival Inmarsat Bid*, SKY NEWS (Apr. 26, 2019), <https://news.sky.com/story/investment-giants-ground-3bn-rival-inmarsat-bid-11703936>.

<sup>11/</sup> See *id.* It is not possible to verify whether Cerberus currently holds Ligado debt or equity as this information is not publicly reported, and Ligado’s debt and equity are traded in non-public transactions.

<sup>12/</sup> See *US Round-Up: LightSquared Agrees USD3bn Restructuring Plan; Verizon Plots Pre-Paid LTE; VTel Expands 4G Footprint*, COMMSUPDATE (July 4, 2014), <https://www.commsupdate.com/articles/2014/07/04/us-round-up-lightsquared-agrees-usd3bn-restructuring-plan-verizon-plots-pre-paid-lte-vtel-expands-4g-footprint/>; *Ergen Makes Peace With LightSquared Ch. 11 Exit*, Kirkland & Ellis (Mar. 25, 2015), <https://www.kirkland.com/news/in-the-news/2015/03/ergen-makes-peace-with-lightsquareds-ch-11-exit> (“Jockeying for control of the reorganized LightSquared has continued throughout the trial, with Solus Alternative Asset Management LP and then Cerberus Capital Management LP bidding for the right to cash out progressively larger chunks of Ergen’s claim as late as last week.”).

<sup>13/</sup> See Phil Goldstein, *LightSquared to Exit Bankruptcy After Nearly 3 Years*, FIERCE WIRELESS (Mar. 27, 2015), <https://www.fiercewireless.com/wireless/lightsquared-to-exit-bankruptcy-after-nearly-3-years>.

<sup>14/</sup> See Drew Fitzgerald and Sarah Krouse, *White House Considers Broad Federal Intervention to Secure 5G Future*, WALL ST. J. (June 25, 2020), <https://www.wsj.com/articles/white-house-federal-intervention-5g-huawei-china-nokia-trump-cisco-11593099054> (“Earlier this year, a pro-buyout group pitched the idea of a government-supported consortium investing directly in Nokia or Ericsson to administration and congressional officials . . . . The proposal had support from a group of private-equity investors led by Cerberus Capital Management LP . . . .”); *US Government Plans 5G Market Intervention to Break Dominance of China’s Huawei*, RT (June 26, 2020), <https://www.rt.com/business/492991-us-intervention-5g-huawei/>.

that proposed by Cerberus, and also mentioned the then-pending Ligado applications and their importance to 5G.<sup>15/</sup>

It is critical that the National Academies' review of the *Ligado Order* be conducted in an independent manner and that even the appearance of a conflict of interest on the part of any panel member be avoided. Among other potential problems, an actual, potential, or even perceived conflict of interest of any panel member would undermine the credibility of the National Academies' assessment in the Ligado matter, wasting significant resources and time, and would be inconsistent with the National Academies' long-trusted reputation for independent, objective expert advice. For these reasons, GPSIA respectfully requests that the National Academies reconsider the provisional appointment of Mr. Reaser.

If you have any questions, please do not hesitate to contact me at [dgrossman@gpsalliance.org](mailto:dgrossman@gpsalliance.org).

Sincerely,

/s/ J. David Grossman

J. David Grossman  
Executive Director  
GPS Innovation Alliance

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<sup>15/</sup> See Justice News, *Attorney General William P. Barr Delivers the Keynote Address at the Department of Justice's China Initiative Conference*, U.S. Dept. of Justice (Feb. 6, 2020), <https://www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-keynote-address-department-justices-china> (noting that “there have been interesting proposals to jump-start U.S. 5G by also making available L-band spectrum for use in tandem with the C-band” and that making the L-band available “could cut the time for U.S. 5G deployment from a decade to 18 months, and save approximately \$80 million”); see also John Hendel, *Barr, Pompeo Cheer FCC as Agency Bucks Pentagon in Airwaves Fight*, POLITICO (Apr. 16, 2020), <https://www.politico.com/news/2020/04/16/william-barr-mike-pompeo-support-fcc-191967>.