

December 1, 2021

Dear Senators:



We, the undersigned, represent a broad coalition of organizations who oppose the nomination of Gigi Sohn to serve as Commissioner at the Federal Communications Commission.<sup>1</sup> If confirmed, Sohn would work to instill policies that would crush innovation, silence conservative speech, and eviscerate intellectual property protections.

The FCC was created by Congress to be an independent regulator and it has broad power over the telecommunications, media, and technology sectors. The agency has been characterized by bipartisan cooperation and accountability to Congress.

Sohn has spent decades as a hyper-partisan activist, launching attacks against regulators and elected officials who do not share her views. She implied that the ranking member of the Senate Commerce Committee is an industry puppet.<sup>2</sup> She suggested that Republican senators are a threat to the country.<sup>3</sup> She credits center-right news outlets with “destroying democracy” and “electing autocrats.”<sup>4</sup> And she joined the board of an organization<sup>5</sup> after it was sued by major broadcasters for violating the Copyright Act—a case that recently resulted in a \$32 million judgment against her organization.<sup>6</sup> Given these views, it is hard to believe that Sohn would give regulated entities a fair shake or operate in a bipartisan manner at the FCC.

The FCC plays a critical role in protecting and upholding free speech and the First Amendment rights of regulated entities. Sohn’s willingness to use the FCC’s power to silence her opponents is disqualifying on its own.<sup>7</sup> Sohn has expressed interest in the FCC revoking hundreds of broadcast licenses from a particular broadcaster due in part to the editorial decisions that company has made.<sup>8</sup> She supported a campaign by elected officials to pressure cable and streaming

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<sup>1</sup> PN132 — Gigi B. Sohn — Federal Communications Commission; *Available at:* <https://www.congress.gov/nomination/117th-congress/1323>

<sup>2</sup> Gigi Sohn (@gigibsohn), Twitter Post, (Dec. 10, 2019), <https://twitter.com/gigibsohn/status/1204445675238428672>

<sup>3</sup> Gigi Sohn (@gigibsohn), Twitter Post, (Aug. 16, 2020), <https://twitter.com/gigibsohn/status/1298638459339509761>

<sup>4</sup> Gigi Sohn (@gigibsohn), Twitter Post, (Oct. 31, 2020), <https://twitter.com/gigibsohn/status/1322608612703916035>

<sup>5</sup> See: “Broadband policy veteran Gigi Sohn joins Locast board,” *GlobeNewswire*, (Mar. 2, 2020), <https://www.globenewswire.com/news-release/2020/03/02/1993626/0/en/Broadband-policy-veteran-Gigi-Sohn-joins-Locast-board.html>

<sup>6</sup> Blake Brittain, “Locast agrees to pay \$32 million to resolve dispute with major TV networks,” *Reuters*, (Oct. 28, 2021), <https://www.reuters.com/legal/transactional/locast-agrees-pay-32-million-resolve-dispute-with-major-tv-networks-2021-10-28/>

<sup>7</sup> The Editorial Board, “A Media Censor for the FCC?,” *The Wall Street Journal*, (Nov. 8, 2021), <https://www.wsj.com/articles/a-media-censor-for-the-fcc-gigi-sohn-joe-biden-nominee-11636408804>

<sup>8</sup> Gigi Sohn (@gigibsohn), Twitter Post, (Oct 21, 2018), <https://twitter.com/gigibsohn/status/1053982573813264384>



services to drop conservative news outlets.<sup>9</sup> And she closely aligns<sup>10</sup> with an organization who petitioned the FCC to investigate broadcasters whose COVID-19 coverage they disagreed with.<sup>11</sup>

**Her views on Title II are emblematic of her longstanding tendency to promote policies that over-regulate the industries in the FCC’s jurisdiction.** Sohn was one the chief architects of the short-lived Title II common-carriage rules that she claimed were necessary to enforce net neutrality. The rules drove down broadband investment,<sup>12</sup> increased prices,<sup>13</sup> and decreased the adoption of home Internet service.<sup>14</sup> Sohn has made it clear that she not only wants to reinstate these rules, but wants to take them further, including a ban on “zero-rating,” the free wireless data services that are particularly popular among low-income users.<sup>15</sup> She has also signaled a desire for the FCC to set the price of broadband service, a practice that would be more apt for the Soviet Union than the United States.

When the rules were being repealed by the prior administration’s FCC, Sohn encouraged the far-left activist campaigns that fueled hyperbolic and doomsday predictions about the destruction of the Internet.<sup>16</sup> FCC commissioners received death threats<sup>17</sup> and a bomb threat was called into the FCC moments before the vote

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<sup>9</sup> John Hendel, “Democrats attack fake news, and Republicans cry foul,” *Politico*, (Feb. 24, 2021), <https://www.politico.com/news/2021/02/24/democrats-republicans-fake-news-471486>

<sup>10</sup> See: “Free Press Celebrates Reported Nominations of Jessica Rosenworcel and Gigi Sohn to the FCC, and Alan Davidson to NTIA,” *Free Press*, (Oct. 26, 2021) <https://www.freepress.net/news/press-releases/free-press-celebrates-reported-nominations-jessica-rosenworcel-and-gigi-sohn>

<sup>11</sup> See: “Free Press Calls on the FCC to Investigate the Widespread Broadcast of Disinformation About the COVID-19 Emergency,” *Free Press* (Mar. 26m 2020), <https://www.freepress.net/news/press-releases/free-press-calls-fcc-investigate-widespread-broadcast-disinformation-about>

<sup>12</sup> Mike Saperstein, “Broadband Investment Remains High in 2019,” *USTelecom*, (n.d), <https://ustelecom.org/research/broadband-investment-remains-high-in-2019/>

<sup>13</sup> Scott Wallsten, “SURPRISE! THE FCC HAS BEEN COLLECTING BROADBAND PRICE DATA FOR YEARS,” *Technology Policy Institute*, (Apr. 12, 2021), <https://techpolicyinstitute.org/publications/broadband/surprise-the-fcc-has-been-collecting-broadband-price-data-for-years/>

<sup>14</sup> See: “Internet/Broadband Fact Sheet,” *Pew Research Center*, (Apr. 7, 2021), <https://www.pewresearch.org/internet/fact-sheet/internet-broadband/>

<sup>15</sup> Marguerite Reardon, “Net neutrality fight is about to come roaring back,” *CNET*, (Dec. 3, 2020), <https://www.cnet.com/tech/mobile/net-neutrality-fight-is-about-to-come-roaring-back/>

<sup>16</sup> Here are some notable examples including a tweet from Senate Democrats which proclaimed the internet would work one word at a time. See: Senate Democrats (@SenateDems), Twitter Post, (Feb. 27, 2018), <https://twitter.com/senatedems/status/968525820410122240?lang=en>; Evan Greer, “Ending net neutrality will destroy everything that makes the internet great,” *NBC News*, (Nov. 22, 2017) <https://www.nbcnews.com/think/opinion/ending-net-neutrality-will-destroy-everything-makes-internet-great-ncna823301>; “Joe Concha, “CNN headline declares “end of the Internet as we know it” after net neutrality vote,” *TheHill*, (Dec. 14, 2017), <https://thehill.com/homenews/media/364959-cnn-headline-declares-end-of-the-internet-as-we-know-it-after-net-neutrality>

<sup>17</sup> Cecilia Kang, “Man Charged With Threatening to Kill Ajit Pai’s Family,” *The New York Times*, (Jun. 29, 2018), <https://www.nytimes.com/2018/06/29/technology/ajit-pai-death-threat.html>



to repeal the rules.<sup>18</sup> Sohn works with and supports the organizations who engaged in the tactics and rhetoric that led to these ugly displays.



**Throughout her career, Sohn has favored policies that undermine intellectual property rights protections.** She spearheaded an FCC proceeding that would have enabled tech platforms to effectively steal and monetize television content without paying for usage rights.<sup>19</sup> Sohn also served on the board of Locast, a “non-profit” that was determined to be illegally retransmitting broadcasters’ content without their consent in violation of the Copyright Act. The case resulted in a permanent injunction that required Locast to pay \$32 million in statutory damages.<sup>20</sup> Sohn cannot be an impartial regulator of the broadcast industry after joining the Board of an organization that openly violated that industry’s copyrights.



**As the decisive vote on controversial matters at the agency, Sohn would have the power and incentive to push the FCC towards government control of communications.** Further, the Biden Administration has shown a willingness to mislead Senators when it comes to agency leadership, as demonstrated by the bait-and-switch the White House pulled with the Federal Trade Commission, when Chair Khan was elevated after being confirmed under false pretenses. The potential for Sohn to become chair of the FCC makes her nomination all the more concerning.



**Sohn’s confirmation would jeopardize investment and innovation, threaten free speech, and bring partisanship to the FCC. For these and other reasons, we urge Senators to reject Sohn’s confirmation.**



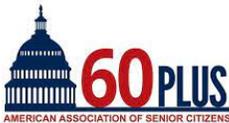
Sincerely,

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Americans for Tax Reform

Krisztina Pusok, Ph. D.  
Director  
American Consumer Institute  
Center for Citizen Research

Phil Kerpen  
President  
American Commitment

Jon Schweppe  
Director of Policy and  
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American Principles Project



<sup>18</sup> See: “California Man Indicted on Charges Stemming from Hoax Bomb Threats to FCC and FBI Headquarters,” *Office of the United States Attorneys*, (May 24, 2018), <https://www.justice.gov/usao-dc/pr/california-man-indicted-charges-stemming-hoax-bomb-threats-fcc-and-fbi-headquarters>

<sup>19</sup> Gigi Sohn (@gigbsohn), Twitter Post, (Jan. 27, 2016), <https://twitter.com/GigiBSohnFCC/status/692404736813879297>; Gigi Sohn, "The end of Big Cable's Control over your TV set-top box is nigh," *Daily Dot*, (Jun. 22, 2016), <https://www.dailydot.com/debug/unlock-the-box-fcc-gigi-sohn/>

<sup>20</sup> David McAfee, “Locast Streaming Hit With Permanent Injunction in Copyright Case,” *Bloomberg Law*, (Sept. 15, 2021), <https://news.bloomberglaw.com/tech-and-telecom-law/locast-streaming-hit-with-permanent-injunction-in-copyright-case>

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