



February 27, 2023

The Honorable Maria Cantwell
Chair
Senate Committee on Commerce, Science and Transportation
United States Senate 254 Russell Senate Building
Washington DC, 20510

The Honorable Ted Cruz
Ranking Member
Senate Committee on Commerce, Science and Transportation
United States Senate 254 Russell Senate Build
Washington DC, 20510

RE: CONFIRMATION OF GIGI SOHN TO SERVE AS COMMISSIONER OF THE FEDERAL COMMUNICATIONS COMMISSION (FCC)

Dear Chairwoman Cantwell, Ranking Member Cruz, and members of the Senate Committee on Commerce, Science, and Transportation:

On behalf of Color Of Change, one of the nation's leading racial justice organizations with millions of members nationwide, and The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 230 national organizations to promote and protect the rights of all persons in the United States, we write to express our complete support for Ms. Gigi Sohn's nomination to serve as Federal Communications Commission (FCC) Commissioner. We urge you to prioritize the swift confirmation of Ms. Sohn to serve as FCC Commissioner. The FCC's mandate is to regulate the behavior of telecom companies to prevent anti-competitive practices, encourage innovation and competition, and safeguard consumers from harm. Given the importance of this responsibility, the agency cannot afford to remain inactive for another year. To fulfill its mandate effectively, the FCC requires a fifth vote. Furthermore, the public has a right to an FCC commissioner who will ensure access to broadband in rural areas and underserved communities, as mandated by the bipartisan infrastructure act.

I. INTRODUCTION

Ms. Sohn is a strong advocate for the issues important to our communities. More than a year has passed since Ms. Sohn's original nomination, and it has been more than two years since the FCC had five sitting commissioners. The two years of deadlock at the FCC has left the agency

unable to correct the disastrous policies of the previous administration and unable to ensure equitable access to the internet for Black communities. Ms. Sohn has been an advocate for open, democratic, and affordable communication networks. For decades, she has worked tirelessly to promote competition, innovation, and accessibility in broadband internet. These efforts have made broadband internet more widely available, affordable, and protective of user privacy.

It is past time for the FCC to incorporate racial justice in all its policies. Broadband access and affordability, digital equity, and exploitative prison phone rates are all issues that disproportionately impact Black communities.¹ Color Of Change, The Leadership Conference, and other civil rights organizations have been vocal about the need for an Office of Civil Rights at the FCC, and without a full slate of commissioners, this vision will not be realized.

The FCC requires all five commissioners to implement bipartisan laws safeguarding digital non-discrimination and just and reasonable communications rates for incarcerated people and their loved ones. With Ms. Sohn's confirmation, the FCC can move past recent gridlock and pursue a pro-civil rights agenda. Her confirmation is important to advocates for racial justice.

II. MIS/DIS INFORMATION CAMPAIGN

Therefore, we are troubled by the Fraternal Order of Police's (FOP) misinformation campaign to oppose Ms. Sohn's confirmation as FCC Commissioner.² The FOP's concern about encryption policy³ is not based on Ms. Sohn's position since she has no position, and, as recognized by the FOP, is not based on any authority she would exercise at the Federal Communications Commission.⁴ The Fraternal Order of Police's (FOP) statement that Ms. Sohn harbors "deep animus"⁵ towards law enforcement is untrue. Ms. Sohn stated in her February 14 hearing, "I've always respected and worked with law enforcement ever since I was in law school." President Biden would not have nominated and renominated her if she had shown animosity towards law enforcement. Officials with expertise where the FCC does exercise public safety authority

¹ Color Of Change. 2021 Tech Accountability Priorities. (n.d.). https://colorofchange.org/wp-content/uploads/2021/03/21-03_Tech-Policy-Demands-REV.pdf.

² FOP announces opposition to FCC nominee over encryption concerns. Fraternal Order of Police. (2021, December 10). Retrieved February 16, 2023, from <https://fop.net/letter/fop-opposition-to-fcc-nominee/>.

³ Fraternal Order of Police. (2023, January 1). *FOP objections to the potential re-nomination of Gigi B. Sohn to be an FCC commissioner*. Retrieved February 21, 2023, from <https://fop.net/letter/fop-objections-to-the-potential-re-nomination-of-gigi-b-sohn-to-be-an-fcc-commissioner/>.

⁴ Kevin Collier and Jason Abbruzzese, "Smear campaign targets nominee who would be FCC's first openly gay commissioner. FOP Executive Director Jim Pasco said, "*If the FCC had a role, we would certainly be alarmed if she was a part of that role....*"; McKay, T. (2021, December 13). Police Group says Biden's FCC nominee is too dangerous because, uh, encryption. Gizmodo. Retrieved February 16, 2023, from <https://gizmodo.com/police-group-says-bidens-fcc-nominee-is-too-dangerous-b-1848208308>.

⁵ *Updated: Fop blasts FCC nominee... again*. Fraternal Order of Police. (2023, February 13). Retrieved February 21, 2023, from <https://fop.net/2023/02/updated-fop-blasts-fcc-nominee-again/>.

support Ms. Sohn.⁶ The FOP's baseless and outright false campaign is another in a string of examples where the FOP blocks reforms that would help Black communities.

Led by millions in funding for lobbying and astroturf campaigns,⁷ the baseless attacks on Ms. Sohn are a last-ditch effort to prevent the FCC from fulfilling its obligations to provide oversight and regulation of broadcast, cable and telecom companies and prevent adoption of net neutrality protections. Major internet service providers are currently dodging \$200 million in privacy penalties due to the deadlock at the FCC.⁸ Throughout her career, Ms. Sohn has been a leading advocate and expert in securing a more free and open internet. Further, she understands that accessible communications systems are a racial justice priority.

Opponents to Ms. Sohn and a functioning FCC admit they seek to disrupt the conclusion, implementation and enforcement of an FCC rulemaking meant to prevent digital discrimination that would ensure that the \$42 Billion spent on internet infrastructure pursuant to the bipartisan infrastructure law does not suffer from the same uneven rollout that we see today.⁹ The bipartisan infrastructure law mandates that the FCC issue rules to prevent "digital discrimination of access based on income level, race, ethnicity, color, religion, or national origin."¹⁰ Late last year, the FCC issued its rulemaking, and sought public comment on a "disparate impact" standard for assessing discrimination.¹¹ If advanced, the rule could hold broadband providers liable if their practices result in less internet access for people of color and low income communities, even if companies don't intentionally discriminate.¹² Without a fully-functioning FCC, that rule is likely to be much weaker.¹³

III. A FULLY FUNCTIONING FCC

⁶ Letter from Admiral Jamie Barnett, RDML, USN (Retired) and David S. Turetsky to Senator Maria Cantwell, Chair, U.S. Senate Committee on Commerce, Science and Transportation (Jan. 3, 2022); Statement of the National Emergency Number Association on FCC Nominations (Nov. 20, 2021), <https://www.nena.org/news/588595/NENA-Statement-on-FCC-Nominations.htm> ("During Gigi Sohn's tenure at the FCC, her work not only improved requirements for 9-1-1 caller location accuracy, but also requirement for text-to-9-1-1--an essential tool for million of American in need every day.").

⁷ Jane Mayer, The Slime Machine Targeting Dozens of Biden Nominees, *The New Yorker*, (April 16, 2022), <https://www.newyorker.com/news/a-reporter-at-large/the-slime-machine-targeting-dozens-of-biden-nominees>.

⁸ Roth, E. (2022, December 27). AT&T, Verizon, and T-Mobile could avoid \$200 million in fines thanks to FCC deadlock. *The Verge*. Retrieved February 21, 2023, from <https://www.theverge.com/2022/12/27/23527884/att-verizon-t-mobile-sprint-200-million-fines-fcc-deadlock>.

⁹ The Editorial Board. (2023, February 13). Opinion | watch out, Gigi Sohn is back. *The Wall Street Journal*. Retrieved February 21, 2023, from <https://www.wsj.com/articles/watch-out-gigi-sohn-is-back-senate-confirmation-hearing-nomination-partisan-left-wing-fcc-progressive-political-attack-2843ebe0>.

¹⁰ 47 U.S.C. § 1754.

¹¹ *Id.*

¹² *Id.*

¹³ Sam Gustin, Prison Phone Calls Will No Longer Cost a Fortune, *Time Magazine*, (Feb. 12, 2014) <https://time.com/6672/prison-phone-rates/>.

The FCC will begin, next month, a rulemaking to implement the bipartisan Martha Wright-Reed Just and Reasonable Communications Act, a key priority of our organizations. The FCC's history on this issue demonstrates that one commissioner committed to justice can make a critical difference in the proper regulation of a dysfunctional market that imposes an egregious burden on the Black community.¹⁴

Acquiescing to falsehoods and fears disregards the needs of our people. It is time to end the evasion of a fifth vote on a functional FCC. Rupert Murdoch and the Fraternal Order of Police are delaying Gigi Sohn's confirmation. Despite the recent tragedy of Tyre Nichols' murder, the FOP is not focusing on reforming their industry, as one might have hoped, but on the FCC. It is time to confirm Gigi Sohn.

We urge you to prioritize the swift confirmation of Ms. Sohn to serve as FCC Commissioner. Should you require further information or have any questions regarding the issues raised in this letter, please contact Sakira Cook, VP of Policy & Government Affairs, Color of Change, at sakira.cook@colorofchange.org, Brandon Tucker, Sr. Director of Policy & Government Affairs, Color of Change, at brandon.tucker@colorofchange.org, Jesselyn McCurdy, EVP, Policy & Government Affairs, The Leadership Conference on Civil and Human Rights at mccurdy@civilrights.org, or Jonathan Walter, Policy Counsel for Media and Tech, The Leadership Conference on Civil and Human Rights, at walter@civilrights.org.

Sincerely,



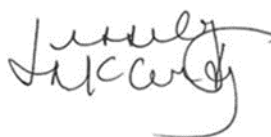
Rashad Robinson
President
Color Of Change



Maya Wiley
President & CEO
The Leadership Conference on Civil and Human Rights



Sakira Cook
VP of Policy & Government Affairs
Color Of Change
Rights



Jesselyn McCurdy
Executive Vice President, Policy & Government Affairs
The Leadership Conference on Civil and Human Rights

¹⁴ Ella Baker Center for Human Rights, Forward Together, Research Action Design, Who Pays? The True Cost of Incarceration on Families (September, 2015), <http://whopaysreport.org/wp-content/uploads/2015/09/Who-Pays-FINAL.pdf>.