

December 1, 2021

Senator Maria Cantwell, Chair
Senator Roger Wicker, Ranking Member
U.S. Senate Commerce on Commerce, Science, & Transportation
254 Russell Senate Building
Washington, DC 20510

Dear Senator Cantwell & Senator Wicker:

I am pleased to see the White House nominate candidates for Federal Communications Commission (FCC) vacancies. Filling these roles and restoring the Commission to its full voting strength is critically important to diverse and independent video programmers. As a former legal assistant to FCC Chairman Ferris and Deputy Chief of the Broadcast and Cable Bureau during the Carter administration I have a deep appreciation of the need for a full set of Commissioners. I am currently the CEO/Founder of Crossings TV, the largest ad supported network serving the Asian American community.

I applaud President Biden's nomination of Jessica Rosenworcel to become FCC Chair. Commissioner Rosenworcel is immensely qualified and has shown herself to be a staunch advocate for consumers, independent programmers, and communities of color. I hope her nomination will be approved by the Senate in short order.

I am not taking a position on Gigi Sohn's nomination – and urge the Committee not to report the nomination out of Committee – until she addresses some rather fundamental issues. In both her role as a Beltway activist and as a senior advisor at the FCC, Ms. Sohn has consistently sided with the interests of Big Tech (who have handsomely funded the organizations with which she has been affiliated) and against the interests of Black, Brown and Asian American Pacific Islander (AAPI) programmers and content rights holders at nearly every turn.

At times, Ms. Sohn's positions have been extreme – pushing, for example, a rule at the FCC that would allow Big Tech to literally steal the television and film content that companies like mine labor to create, and then market that content to the public without having to pay a license fee. This is a radical idea, showing utter contempt for the foundation of America's creative economy – copyright law – and an alarming willingness to side with Big Tech monopolies in their thirst to continue strip-mining the content marketplace.

Black, Brown and AAPI creators – joined by civil rights leaders – loudly protested the near unprecedented plan to annex their property rights. But these voices were ignored by Ms. Sohn and the then-FCC leadership.

This disdain for creative rights – and for the struggles of small, independent programmers clawing for a foothold in a media ecosystem dominated by Goliaths – is part of a larger pattern in Ms. Sohn's actions that should give lawmakers deep pause. Ms. Sohn's view that "copyright

law... is completely ridiculous in the digital age," and her close affiliation with the Locast service recently shut down by a federal judge for blatant content theft, are hugely concerning, if not disqualifying.

Her dismissive nonchalance about serious diversity issues also extended to her central policy role in proceedings on the FCC's media ownership rules. Civil rights leaders decried the FCC for its "lack of any meaningful progress on diversity initiatives" and for "summarily dismiss[ing] 23 specific diversity proposals without analysis." But once again, Ms. Sohn and FCC leadership mostly ignored these concerns.


These examples show a troubling kind of regulatory capture favoring Tech elites at the expense of diverse, independent programmers. But what also disturbs me is the disdain that she has shown to diverse leaders who dare publicly challenge her. For example, when civil rights leaders took positions on telecommunications issues that were not consistent with the ideological agenda of Public Knowledge (the Google-funded non-profit she founded and led), Ms. Sohn suggested that telecommunications policy debates are "not in the core expertise or core goals" of these leaders, and stated that any groups opposing her views were not "being thoughtful about it" and "run the risk of being flushed."

Later, Ms. Sohn doubled down on these patronizing comments with a highly offensive argument challenging the legitimacy of civil rights groups that disagree with her. Her Public Knowledge group issued a shocking broadside against these civil rights leaders, stating that "[G]roups representing minority populations... seem to land on policies that hurt their constituencies and fall into ludicrous traps one suspects are not of their making."

This sort of elitist, condescending "I know better than you about your constituents" attitude is not only offensive but poisonous to the public square: rather than debating something honestly on the merits, it seeks to shut down any debate on the grounds that the writer's knowledge (in this case that of Ms. Sohn) is so vastly superior to anything a civil rights leader with another opinion could possibly offer. Appropriately, Hilary Shelton, longtime Washington Director of the NAACP, responded that Public Knowledge's offensive statements "are irresponsible, prejudiced, and lack qualification."

I urge the committee to carefully examine Ms. Sohn's track record of favoring Big Tech elites, while disrespecting and attempting to silence diverse voices with whom she disagrees. I ask that Members withhold support for this nomination unless and until these important issues are properly and thoroughly addressed and answered.

Sincerely,



Frank Washington
CEO/Founder
Crossings TV