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**Michael K. Powell**  
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February 1, 2022

The Honorable Maria Cantwell  
Chair  
Committee on Commerce, Science, & Transportation  
United States Senate  
Washington, DC. 20510

The Honorable Roger Wicker  
Ranking Member  
Committee on Commerce, Science, & Transportation  
Washington, DC. 20510

Dear Chairwoman Cantwell and Ranking Member Wicker:

I am writing regarding the January 27, 2022, letter from Federal Communications Commission nominee Gigi Sohn, recusing herself from certain broadcast-related matters. Ms. Sohn states that she is recusing herself from “any ... matter where retransmission consent or television broadcast copyright is a material issue” in order to avoid any appearance of impropriety. Her recusal is explicitly based on her advocacy before the FCC while at Public Knowledge over a decade ago.

While NCTA strongly supports adherence to government ethics rules to guard against a conflict of interest or the appearance of a conflict, Ms. Sohn’s letter raises several serious concerns.

First, there is no explanation for why these particular broadcast matters are singled out. Given the breadth of issues in which Public Knowledge was involved under Ms. Sohn’s leadership, her recusal should logically extend to all matters in which Public Knowledge was active, or conversely none of those activities should give rise to recusal.

Next, in the more recent years since her service at the Commission during the Obama Administration, Ms. Sohn has been publicly involved on matters of direct interest to our membership. There is no logical basis for treating these matters differently from the retransmission and copyright issues for purposes of recusal.

Finally, the scope of Ms. Sohn’s recusal is unclear. “[A]ny matter where retransmission consent or television broadcast copyright is a material issue in the Commission’s disposition of a proceeding” covers a wide range of current and future proceedings. The Commission will repeatedly be required

to determine whether retransmission consent or copyright issues are “material” to a particular docket – including media ownership proceedings where the impact on retransmission consent rates can be at issue.

To be clear, this letter is not written to oppose Ms. Sohn’s nomination. She is a respected and accomplished public interest advocate. However, rather than ensuring impartiality, Ms. Sohn’s targeted recusal has instead raised serious questions regarding transparency together with significant concerns that one industry has been singled out for special treatment to win their support for her confirmation.

Our members believe this matter deserves careful committee attention to ensure a fully functioning and objective Federal Communications Commission, and we would be happy to discuss it further.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Powell", with a large, stylized initial "M" and a cursive "Powell" following it.

Michael K. Powell