

ONE HUNDRED SIXTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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January 24, 2020

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Mr. Dodaro:

We write to request that the Government Accountability Office (GAO) conduct an updated review of the National Telecommunications and Information Administration's (NTIA) federal spectrum management processes, how federal spectrum users interact with the NTIA and the Federal Communications Commission (FCC), how the NTIA and FCC interact with each other, and the recent federal spectrum management process breakdowns.

The last time that GAO reviewed NTIA's spectrum management processes was in April 2011 when GAO produced a report entitled *Spectrum Management: NTIA Planning and Processes Need Strengthening to Promote the Efficient Use of Spectrum by Federal Agencies*.¹ GAO concluded that "NTIA's current processes provide limited assurance that federal spectrum use is evaluated from a governmentwide perspective to ensure that decisions will meet the current and future needs of the agencies, as well as the federal government as a whole."² As the House committee responsible for overseeing NTIA activities, we seek an updated analysis of how these processes have evolved.

As you know, the NTIA's mandate is to manage federal spectrum use by allocating, in collaboration with the FCC, spectrum for exclusive and shared federal use.³ The NTIA has the

¹ Government Accountability Office, *Spectrum Management: NTIA Planning and Processes need Strengthening to promote the Efficient use of Spectrum by Federal Agencies*, Report to Congressional Committees (Apr. 2011).

² *Id.* at 15.

³ National Telecommunications and Information Administration Organization Act, PL 102-538, Oct. 27, 1992, as amended by PL 115-141, Mar. 23, 2018 (codified at 47 USC § 901

authority to “assign frequencies to radio stations or classes of radio stations belonging to and operated by the United States, including the authority to amend, modify, or revoke such assignments”⁴ Just as the FCC is a non-biased arbiter tasked with managing commercial spectrum allocations, the NTIA is meant to be a non-biased arbiter of managing federal spectrum allocations.

As a neutral third party, NTIA is able to take into account the differing missions and needs of federal spectrum users in a manner that will maximize the benefits of spectrum use for the public. Congress created this system, in part, to ensure that certain agencies did not improperly elevate their own spectrum needs over others. Allowing a single agency that uses spectrum to manage both its and other agencies’ spectrum would risk inefficient use of this precious resource. Each agency is expected to be an advocate for its own spectrum needs, while the NTIA, in advising the President, must be the arbitrator of those potentially conflicting needs.

Last year, it was clear that the federal spectrum management process broke down. By statute,⁵ the NTIA has “[t]he responsibility to ensure that the views of the executive branch on telecommunications matters are effectively presented to the [FCC].” Rather than working through the NTIA as the central repository and manager of federal spectrum, we are concerned that many of the federal agencies with spectrum allocations may have circumvented this statutory process.⁶

This played out in multiple arenas, including the debate leading up to the National Defense Authorization Act, the 2.5 gigahertz (GHz) FCC docket, the 24 GHz FCC auction, and elsewhere. Inefficient management and chaotic processes ensued, which among other things, undermined the U.S. government’s efforts in international spectrum coordination proceedings. As the bipartisan leaders of the Energy and Commerce Committee, we have continually expressed our support for NTIA to represent relevant agencies at the FCC on

et seq.); *see also* National Telecommunications and Information Administration, *Spectrum Management*, www.ntia.doc.gov/category/spectrum-management (last visited Jan. 1, 2020).

⁴ 47 U.S.C. § 902(b)(2)(A).

⁵ 47 U.S.C. § 902(b)(2)(J).

⁶ Letter from Assistant Secretary Jim Blew, U.S. Department of Education, to Secretary Marlene H. Dortch, Federal Communications Commission, re: *Transforming the 2.5 GHz Band, WT Docket No. 18-120* (June 7, 2019); Letter from Assistant Secretary Bruce Walker, U.S. Department of Energy, to Chairman Ajit Pai, Federal Communications Commission (Sept. 3, 2019) (regarding the 6 GHz spectrum band); Letter from Acting Secretary, Department of Defense, to Chairman Ajit Pai, Federal Communications Commission (June 7, 2019), and Letter from Secretary Mark Esper, U.S. Department of Defense, to Chairman Ajit Pai, Federal Communications Commission (Nov. 18, 2019) (letters regarding GPS signal concerns).

telecommunications matters and for NTIA to properly coordinate and oversee the nation's federal spectrum users.⁷

We request that GAO evaluate how the NTIA, the FCC, and federal spectrum users are coordinating to ensure the nation's airwaves are used to their utmost potential. Specifically, we request that GAO study the following matters and provide recommendations as appropriate:

1. How can the NTIA and the FCC improve their process for resolving frequency allocation disputes in shared or adjacent bands and ensure that spectrum is used or shared efficiently?
2. How can federal spectrum users more productively interact with the NTIA in furtherance of the NTIA's overall federal spectrum coordination role?
3. Where more than one federal agency uses a particular band of spectrum, how can the coordination and management process, led by NTIA, be updated and improved?
4. What additional resources does the NTIA need to best coordinate and manage federal spectrum allocated to the various federal agencies?
5. How can federal agencies be encouraged to coordinate with NTIA prior to filing comments with the FCC or another independent agency in matters related to telecommunications and information policy?
6. What lessons can be drawn from breakdowns in the most recent coordination process for the World Radiocommunication Process? What could the key federal agencies, the NTIA, the FCC, and Department of State, do differently to prevent future breakdowns in this process?

⁷ Opening Statement of Greg Walden, Ranking Member of the Energy and Commerce Committee, *Our Wireless Future, Building a Comprehensive Approach to Spectrum Policy* (Jul. 16, 2019).

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Thank you for your attention to this important matter. If you have additional questions, please contact A.J. Brown of the Majority Committee Staff at (202) 225-2927 or Kate O'Connor of the Minority Committee Staff at (202) 225-3641.

Sincerely,



Frank Pallone, Jr.
Chairman



Greg Warden
Ranking Member