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VIA ELECTRONIC TRANSMISSION

November 30, 2021

The Honorable Joseph R. Biden
President of the United States of America
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. President:

I write today regarding the nomination of Gigi Sohn for the Federal Communications Commission (FCC). While I have many concerns with Ms. Sohn's nomination, as the Ranking Member of the Senate Judiciary Committee Subcommittee on Intellectual Property, I am especially disturbed by her history as an anti-copyright activist.

As you know firsthand from your time as Chairman of the Senate Judiciary Committee, creative individuals and the American economy depend on strong intellectual property rights and protections. Our Constitution authorizes Congress to secure these rights and they are integral to our nation. That's why Members of Congress have spent years working on a bipartisan and bicameral basis to strengthen and modernize copyright protections. Nothing better demonstrates this commitment than Congress working together last year to close loopholes that allowed large-scale commercial piracy websites to escape felony prosecution.

While Congress has made some progress in modernizing and enhancing copyright law for the digital era, many creative individuals and companies are still struggling to earn their livelihoods. At a time when individuals and the economy are more dependent than ever on strong intellectual property protections, I am deeply troubled by the impact of Ms. Sohn's nomination to the FCC. Simply put, she is a radical open-content activist with no respect for intellectual property rights.

For decades, Ms. Sohn has advocated to undercut copyright policies and laws that our nation's creative communities depend upon. As an activist, Ms. Sohn has consistently worked against commonsense measures that would crack down on illegal piracy. She has even testified before Congress that "piracy has absolutely no effect on [music] prices whatsoever." In Ms. Sohn's current position at Georgetown's Institute for Technology Law & Policy, she condemned media companies for trying to protect their content from unauthorized streaming by Locast.

Locast tried to exploit a copyright loophole by calling itself a non-profit and accepting monthly "donations" for its services, making millions of dollars pirating content. This business model was later deemed illegal by the courts and Locast was ordered to shut down and pay broadcasters \$32

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million in fines. You may not be aware but Ms. Sohn served on Locast's Board of Directors and likely profited from this copyright piracy and intellectual property theft.

As Counselor to former FCC Chair Tom Wheeler, Ms. Sohn pressed to "open up" cable television set-top boxes in ways that would guarantee a surge in piracy. Ms. Sohn downplayed that threat of piracy and dismissed legitimate concerns out of hand. Ms. Sohn even opined that "advances in encryption technology may allow us to craft a framework to fully protect content." For those who depend on strong intellectual property protections for their livelihoods, "may" simply is not sufficient.

As someone who, like you, believes strongly in intellectual property rights, Sohn's record is concerning and disqualifying. While Ms. Sohn may seem to think that only big legacy corporations are hurt by her anti-copyright activism, she clearly does not know that eighty-seven percent of companies in film and television are small businesses that employ less than ten people. These are hardworking Americans who are struggling to make a living, save for retirement, and plan for their kids' college. These hardworking men and women are the very people who would be hurt by Ms. Sohn's activism if she were confirmed.

For all these reasons and so many more, I ask that you withdraw her nomination to the FCC. This is not a political issue. This is not a Republican or Democratic issue. This is about protecting the property rights of hardworking Americans. Thank you, Mr. President, for your attention to this important matter.



Thom Tillis
United States Senator