



**GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE**
Washington, D.C. 20230

July 11, 2024

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

Dear Chair Cantwell:

This letter provides the Department of Commerce's (DOC) views on H.R. 4510, the NTIA Reauthorization Act of 2024 (the Act), as passed by the House of Representatives on May 15, 2024, and referred to the Senate Committee on Commerce, Science, and Transportation.

Congress has tasked the National Telecommunications and Information Administration (NTIA) with an ambitious agenda: to bring Internet service to everyone; support U.S. leadership and competitiveness in wireless innovation and networks; ensure federal agencies have adequate spectrum access consistent with the needs and missions of federal agencies; and develop policies to support privacy, security, openness, and trust. However, despite fundamental changes in the communications landscape and Congress entrusting NTIA with an increasing number of responsibilities, NTIA has not been reauthorized in more than 30 years. The Department of Commerce, therefore, welcomes the opportunity to work with Congress to update NTIA's existing authority as well as augment it to better reflect the agency's policy role on issues central to the modern digital economy.

H.R. 4510 is a significant step forward in providing NTIA with this modernized statutory authority. DOC has the following comments on the legislation.

Reauthorization

In recognition of NTIA's expanded role since its last reauthorization, Section 101 would elevate the NTIA Administrator from an Assistant Secretary of Commerce position to an Under Secretary. Raising the profile of the position would provide the NTIA Administrator parity with peers in other countries and strengthen NTIA's participation in U.S. engagement with the rest of the world. Additionally, Section 101 would modernize the agency's mission to, among other things, reflect its work on the digital economy and on ensuring that global communications networks remain open and innovative. Section 102 would improve the administrative efficiency of NTIA by eliminating outdated reporting requirements and streamlining or consolidating other Congressionally mandated reports. While DOC strongly supports reauthorization, the authorization of appropriations in Section 101(a) should be revised consistent with the President's Fiscal Year 2025 budget request, which requests \$67 million. The Department also notes that NTIA does not have sufficient funding to support a number of activities authorized by the bill.

Improving Spectrum Management

Consistent with recent Executive Branch actions on spectrum, DOC supports Section 202 of the Act codifying and reiterating NTIA's dual role as both the manager of federal spectrum resources and the President's primary advisor on these issues. The provision on "FCC Consideration" in Section 202 is consistent with Section 5 of the recent Presidential Memorandum (PM) on "Modernizing United States Spectrum Policy and Establishing a National Spectrum Strategy." This provision would condition FCC consideration of any technical, procedural, or policy concern of a federal entity on the head of NTIA filing that concern with the FCC on behalf of that federal entity. This is consistent with Section 5(a)(v) of the PM, which directs NTIA to "develop the position of the executive branch on spectrum-related issues, including any supporting technical and operational information to facilitate FCC decision-making, and provide that position to FCC."

Because federal use of spectrum may raise national security concerns and because agencies may need to directly coordinate with the FCC on routine frequency assignment requests that do not take place via the public record, NTIA recognizes that submitting a public filing to the FCC by NTIA articulating the concerns of the federal entity—as would be required under the Act—is not practical. Therefore, DOC supports deleting what would be Section 107(a)(4).

Institute for Telecommunication Sciences

By providing the Institute for Telecommunication Sciences (ITS)—NTIA's research and engineering arm—with statutory authority, Section 204 of the Act would further enhance the ability of ITS to conduct spectrum research activities. ITS research informs spectrum policy; proposes solutions to emerging telecommunications issues; and provides critical technical input regarding how spectrum-dependent systems, such as radars and cellphones, interact. ITS partners with other federal agencies, industry, and academia to collaborate on solving critical telecommunications problems and addressing spectrum research needs. Through its independent, unbiased technical analyses, ITS serves as a trusted agent, working to balance the goals of protecting mission critical federal telecommunication systems from harmful interference while promoting commercial industry's ability to innovate and deploy advanced communication technologies. ITS researches new and innovative approaches to spectrum sharing, interference protection, and the interactions of communication equipment, systems, and services. ITS also provides key technical leadership for the U.S. Government, alongside other relevant federal agencies, on technology and spectrum issues in domestic and international telecommunications standards bodies. While DOC supports the codification of ITS and its authorities, Section 204 should not include language suggesting that ITS is the primary or sole executive branch laboratory working in this space.

Office of Policy Development and Cybersecurity

Section 401 of the Act would codify NTIA's Office of Policy Analysis and Development. As the President's advisor on information and communications policy, NTIA is a critical interface between the private sector and government decision makers. In that role, this NTIA office helps ensure U.S. policies maximize national security objectives and resources and helps drive adoption of market-based, risk-based cybersecurity guidelines to improve the private sector's cybersecurity resilience while advancing the policy goals of the United States. NTIA, through this office, will continue to work with the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency, other Commerce bureaus, the Department of Justice, and other relevant federal agencies on cybersecurity issues. However, while NTIA plays a role in cybersecurity, it is unnecessary to rename the office to include reference to cybersecurity or specify among its duties coordinating processes to create cybersecurity guidance. The office will continue coordinating multistakeholder processes to support the development of policies with respect to the internet and other communications networks. It is also unnecessary to specify among its duties advocating or presenting cybersecurity interagency policies except before the Commission. The office will continue to advocate for the Administration's policy priorities and its own specific programs and initiatives to a broad range of policymakers and stakeholders.

Office of Public Safety Communications

Title V's codification of NTIA's Office of Public Safety Communications (OPSC) would further enhance NTIA's role in public safety. NTIA's public safety communications program serves the nation's emergency communications needs with policy support, training, and stakeholder engagement. NTIA is uniquely situated to support public safety agencies in their efforts to adopt and implement advanced communication technologies given NTIA's technical spectrum and public safety expertise. NTIA and other federal agencies provide continued support for Next Generation (NG9-1-1) activities. Therefore, DOC appreciates that under Title V, OPSC would administer any federal NG9-1-1 grant program on behalf of NTIA. Additionally, OPSC continues to support NTIA's responsibilities related to the First Responder Network Authority (FirstNet Authority). While DOC broadly supports codification of authorities in Title V, Section 501 should not include language providing OPSC with the responsibility for oversight of studies carried out by the Federal Government relating to enhancing public safety communications.

Office of International Affairs

Section 601 of the Act would codify the Office of International Affairs (OIA) within NTIA and outline the duties of the Office. NTIA must be positioned to meet the growing complexity of the Internet environment, as the world becomes more interconnected via rapid growth of the Internet, the globalization of information technology services and equipment, and as governance of the Internet becomes an increasingly complex geopolitical issue. Utilizing the multistakeholder process to reach general consensus on Internet policy issues, NTIA is central to

the Executive Branch's involvement in the Governmental Advisory Committee of the Internet Corporation for Assigned Names and Numbers (ICANN) and a key contributor to forums such as the Internet Governance Forum (IGF) and the International Telecommunication Union (ITU), and its support of mutual legal assistance treaty modernization efforts with key U.S. industries.

NTIA, through OIA, will continue to work with other agencies to develop implementation strategies for improved and continuous telecommunications and information development in key countries and regions (e.g., Africa, Central and Latin America, and the Middle East) through such efforts as the U.S. Telecommunications Training Institute. NTIA, through OIA, will continue to work with the Office of the United States Trade Representative, other Commerce bureaus, the State Department, and other federal agencies on policy approaches to telecommunications and information standards developments worldwide.

NTIA understands that, as set forth in 47 U.S.C. § 902, when acting through OIA on international telecommunications policies, it does so in support of the Secretary of State's responsibility for the conduct of foreign affairs. As such, the proposed additions of sections 110C(c)(2) and (7) to the NTIA Organization Act in Section 601 should be updated to clarify the leadership of the Secretary of State on the conduct of foreign affairs to avoid potential misunderstandings.

Provisions For Removal

There are several sections in Title IV that would vest authorities and responsibilities with NTIA that would be better suited assigned to other agencies or are duplicative of existing efforts within the Executive Branch. DOC believes that the following provisions should be struck from the bill.

Section 402 would require NTIA to submit a report to Congress on the information and communication technology (ICT) supply chain that, among other things, identifies ICT critical to U.S. economic competitiveness, discusses the industrial capacity and economic competitiveness of U.S. ICT vendors, assesses the extent of dependence on vendors that are not trusted, and defines lines of effort and assigns responsibilities for a whole-of-Government response to ensuring the competitiveness of the ICT supply chain in the United States. Judging and evaluating economic competitiveness, even within the ICT sector, is not the domain of NTIA. NTIA does not have the requisite expertise to fulfill this directive.

Section 403 would establish within NTIA a Digital Economy and Cybersecurity Board of Advisors. This additional body would seem to be duplicating the existing work of NTIA, DOC's National Institute of Standards and Technology, and the Department of Homeland Security (DHS), specifically the Cybersecurity and Infrastructure Security Agency (CISA).

Section 404 would direct NTIA to develop and conduct a cybersecurity literacy campaign on best practices to reduce cybersecurity risk. This could be duplicative of existing programs run out of DHS/CISA and the Federal Trade Commission. A whole-of-government cybersecurity literacy campaign could be useful, but NTIA is not the appropriate lead.

Section 405 would direct NTIA, in consultation with DHS, to submit to Congress a report examining the cybersecurity of mobile service networks and the vulnerability of such networks and mobile devices to cyberattacks and surveillance conducted by adversaries. NTIA is not the appropriate lead for such a report.

Additionally, NTIA appreciates the Committee's attention to codifying the Team Telecom process. However, Section 602 would go beyond codification to adopt significant changes to the Team Telecom process set forth in EO 13913. Those changes raise national security and other concerns that should be addressed through an interagency process within the Executive Branch. While NTIA recognizes the value in codifying Team Telecom, the NTIA Reauthorization Act is not the proper vehicle to do so. We look forward to working with Congress, the National Security Council, the Department of Justice, and other relevant interagency partners on any future efforts to codify the Team Telecom process.

We appreciate the opportunity to present our views on H.R. 4510. The Office of Management and Budget has advised that there is no objection to the transmittal of these views from the standpoint of the Administration's programs. If you have any further questions, please contact Susie Feliz, Assistant Secretary for Legislative and Intergovernmental Affairs, at SFeliz@doc.gov or (202) 482-3663.

Sincerely,



Leslie B. Kiernan
General Counsel

cc: The Honorable Ted Cruz, Ranking Member