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December 31, 2025

Hon. Commissioners of the Federal  
Communications Commission  
45 L Street, NE  
Washington, DC 20554

**Re: WTB 25-276**  
**Build America:**  
**Eliminating Barriers to Wireless Deployment**

Dear Honorable Commissioners:

**The Notice of Proposed Rulemaking Represents an *Ultra Vires* Effort  
by the FCC to Strip State and Local Governments of their Congressionally-Preserved  
Zoning Authority under Section 332 of the Telecommunications Act of 1996**

I write this letter to express my deep concerns with the unhinged Crusade by the Federal Communications Commission ("FCC") and its Chairman, Brendan Carr, to illegally strip State and local governments and their instrumentalities of their local zoning authority that Congress has expressly preserved under Section 332(c)(7)(b) of the Telecommunications Act of 1996 ("TCA").

The current FCC is headed by a corrupt telecommunications industry-owned narcissist, Chairman Brendan Carr, who, through his authoritarian control over the FCC's agenda, has initiated a baseless campaign to undermine the express text of the TCA and engage in *ultra vires* administrative legislating well beyond the FCC's Congressionally-granted authority. The instant Notice of Proposed Rulemaking marks the nadir of this Agency's already abysmal record of disserving the American public. Sadly, the FCC is not engaging in a good faith proceeding seeking a truthful determination of the facts. Rather, the FCC has embarked on this Notice of Rulemaking at the behest of its true masters, the U.S. telecommunications powerhouses, with whom its leaders have long engaged in a parasitic revolving-door relationship that sucks the lifeblood from the American public and into the telecom leeches' crops.

Simply put, the FCC Notice of Proposed Rulemaking seeks a solution to a problem that doesn't exist. But the "solution," -- removing non-existent barriers to wireless deployment -- will allow the wireless carriers and wireless infrastructure developers to place their ugly, intrusive, unsafe, and unnecessary wireless facilities wherever these greedy bloodsuckers choose, leaving State and local governments and their residents powerless to do anything about it, all at the whim

of a non-elected authoritarian federal administrative agency. This is how MAGA democracy works. Sadly, how low the United States has fallen!

While the FCC has always been a "captured" agency, at least until President Trump's current term, it maintained the pretense of being an "independent" federal agency as Congress had originally legislated. Nowadays, Chairman Carr proudly trumpets that the FCC is not an independent federal agency that reports directly to Congress. Rather, he asserts that the FCC is part of the Executive Branch, and that his boss is the President. Chairman Carr so stated in his recent testimony before the Senate Commerce Committee on December 17, 2025 during the Committee's oversight hearings on the FCC. A release by the Office of U.S. Senator Ben Ray Lujan of New Mexico, explains:

- **DECEMBER 17, 2025**

### **Luján Questioning Exposes that FCC is no Longer an Independent Agency**

*FCC Chairman Carr in Response to Senator Luján's Questioning: "The FCC is not an Independent Agency"*

*FCC Edits Website Minutes After Questioning to Strip Word "Independent"*

**Washington, D.C.** – Today, U.S. Senator Ben Ray Luján (D-N.M.), Ranking Member of the Commerce Subcommittee on Telecommunications and Media, pressed Federal Communications Commission (FCC) Chairman Brendan Carr during a Senate Commerce Committee hearing regarding the independence of the FCC.

In Senator Luján's questioning, he pressed FCC Chairman Carr on the independence of the FCC and displayed images of the FCC's own website, which minutes prior to the hearing, stated in its mission statement that the FCC is "[a]n independent U.S. government agency." In response to Senator Luján, Chairman Carr contradicted previous testimony he has given and the FCC's own mission statement by stating that the FCC is not an independent agency. Minutes after Senator Luján's questioning, the FCC edited its own website to remove the word "independent."

"Today's hearing made clear to the American people that Chairman Brendan Carr has weaponized the FCC on behalf of President Trump. Just this morning, the FCC's own website correctly stated that it was an independent agency. In 2022, before Congress, Chairman Carr himself testified that the FCC was 'an independent, expert agency.' However, in today's hearing, Chairman Carr contradicted himself and his own agency's stated mission. Minutes later, the FCC edited its own website to cover Chairman Carr's tracks and to please President Trump. Chairman Carr continues to fail the American people by treating the FCC as an extension of the President's corrupt agenda," **said Senator Luján.**

**Watch Senator Luján's exchange with FCC Chairman Carr [here](#).**

### **KEY MOMENTS:**

**Sen. Luján:** *Chairman Carr, yes or no, and please yes or no. Is the FCC an independent agency?*

**Chairman Carr:** *Thanks for that question.*

**Sen. Luján:** *Yes or no is all we need.*

**Chairman Carr:** *There is a test for this in the law.*

**Sen. Luján:** *On your website, it says the FCC is independent. This is not a trick question.*

**Chairman Carr:** *It is not independent.*

**Sen. Luján:** *Is your website wrong? Is your website lying?*

**Chairman Carr:** *The FCC is not an independent agency.*

**Sen. Luján:** *The FCC's mission on the homepage of the FCC: "An Independent U.S. Government agency overseen by Congress." Is that factual? Is that a lie?*

**Chairman Carr:** *The FCC is not formally an independent agency.*

**Sen. Luján:** *Is this true, or is this a lie?*

**Chairman Carr:** *The FCC is not an independent agency, formally speaking.*

No other FCC Chair, in the history of the agency, has ever taken the position that the Chair and the Agency are beholden to the President and the Executive Branch. And indeed, the Congressional act, the Communications Act of 1934, at Section 151, creating the agency establishes the agency's independence and directs that the FCC reports to Congress. Under the doctrinal framework that flows from the Supreme Court's decision in *Humphrey's Executor* and its progeny, the FCC has always been understood to be, and has been treated as, an independent federal agency or independent commission. Nonetheless, Chairman Carr proclaims that this Notice of Proposed Rulemaking is intended to carry the President's agenda and that he, Chairman Carr, is proud to lead the effort. Chairman Carr's words thus constitute an admission that this entire effort is *ultra vires*. It is not being undertaken pursuant to the Commission's mission as an independent federal agency responsible to the Congress to protect and enhance the public interest, but rather, as an appendage of the White House to advance the President's political agenda.

As he prostrates himself before the President to ingratiate himself in search of future riches, Chairman Carr, politicizes the powers of this heretofore independent federal agency, and panders to the interests of the fabulously wealthy and powerful telecommunications industry. And yet, Chairman Carr lacks the Congressional authority to do what he proposes in the Notice of Rulemaking.

The purpose of the Notice of Proposed Rulemaking is to impose new FCC regulations that will strip the State and local governments and instrumentalities thereof of the powers expressly preserved to them by Congress in the Telecommunications Act of 1996 (the "TCA"). Section 332(c)(7) of the TCA is the key controlling statutory provision. Section 332(c)(7) is the "preservation of local zoning authority" provision of the TCA. This section both preserves traditional state and local zoning control over wireless facilities and imposes specific federal-law limits and procedural requirements on that control. It is now codified at 47 U.S.C. § 332(c)(7).

Section 332(c)(7)(A) preserves broad local zoning authority:

(7) PRESERVATION OF LOCAL ZONING AUTHORITY- (A) GENERAL AUTHORITY- Except as provided in this paragraph, nothing in this Act shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

The exceptions to Local Zoning Authority over decisions regarding the placement, construction, and modification of personal wireless facilities are narrow, and are set forth in Section 332(c)(7)(B):

(B) Limitations

(i) The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof—

(I) shall not unreasonably discriminate among providers of functionally equivalent services; and

(II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

(ii) A State or local government or instrumentality thereof shall act on any request for authorization to place, construct, or modify personal wireless service facilities within a reasonable period of time after the request is duly filed with such government or instrumentality, taking into account the nature and scope of such request.

(iii) Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

(iv) No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.

(v) Any person adversely affected by any final action or failure to act by a State or local government or any instrumentality thereof that is inconsistent with this subparagraph may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction. The court shall hear and decide such action on an expedited basis. Any person adversely affected by an act or failure to act by a State or local government or any instrumentality thereof that is inconsistent with clause (iv) may petition the Commission for relief.

Nowhere in the language of Section 332(c)(7) is there authority for the FCC to issue any of the Rules this Notice of Inquiry is proposing. Chairman Carr simply has no Congressional authority to implement rules satisfying his personal peccadillos or the telecommunications industry's hit list of issues to strip away the Congressionally preserved power that State and local governments and instrumentalities thereof maintain over siting decisions of personal wireless communications facilities within their jurisdictions.

This entire exercise is a massive waste of time and useless indulgence of the Chairman's megalomaniacal personality in contravention of his Constitutional oath. The Members of the FCC, to the extent they have any remaining integrity, must vote to end this unnecessary and baseless Notice of Proposed Rulemaking.

Respectfully,

/s/ Robert J. Berg  
Robert J. Berg