



April 26, 2022

The Honorable Chuck Schumer
Majority Leader
U.S. Senate
Washington, DC 20510

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Ron Wyden
Chair, Senate Committee on Finance
U.S. Senate
Washington, DC 20510

The Honorable Richard Neal
Chair, Ways & Means
U.S. House of Representatives
Washington, DC 20515

Re: Effect on 5G Service Deployment of the Tax on Book Value in H.R. 5376, Build Back Better Act

Dear Majority Leader Schumer, Speaker Pelosi, and Chairs Wyden and Neal:

The Computer & Communications Industry Association (“CCIA”), an international, not-for-profit trade association representing a broad cross-section of 29 communications and technology firms,¹ writes to express concerns about the provision in H.R. 5376, the Build Back Better Act, which would impose a 15% tax based on a company’s financial statements, known as book income, rather than income reported to the IRS based on the Congressionally directed Internal Revenue Code (IRC), known as taxable income.² If enacted as presently drafted, this change would endanger the deployment of facilities necessary to bring 5G services to American consumers.

CCIA is encouraged by Congress’ commitment to ensuring that all areas of the country, urban and rural, are served by robust and reliable broadband services. The Infrastructure Investment and Jobs Act (IIJA) appropriated significant financial resources to support America’s broadband infrastructure and close the digital divide.³ The IIJA will make America more connected, more productive, and more competitive in the global marketplace. However, the unprecedented

¹ For 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than \$100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. A list of CCIA members is available at <https://www.cciainet.org/members>.

² Rules Committee Print 117-18 Text of H.R. 5376, Build Back Better, Section 138101 (Nov. 3, 2021).

³ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 (2021).



change to the prevailing tax regime that H.R. 5376 currently proposes would lessen the impact of these laudable broadband programs by imposing unanticipated taxes on the companies tasked with closing the digital divide: wireless-based broadband providers.

Currently, wireless-based broadband providers are able to amortize the cost of spectrum licenses over 15 years based on how the IRC defines taxable income.⁴ The deductibility of spectrum licenses has been a key factor in fostering the innovative, robust wireless services industry that Americans have enjoyed for decades. H.R. 5376 would jeopardize this success. Because spectrum licenses receive no deduction from a company's financial statements, the book-income tax would effectively serve as a 15% tax on spectrum licenses. As a result, H.R. 5376 would levy a heavy tax burden on the wireless service industry's single most important resource at a pivotal moment. After purchasing billions of dollars in spectrum assets from the federal government and undertaking years of planning, wireless-based broadband providers are deploying wireless 5G services across the country. These deployments include upgrades to existing wireless networks, as well as new Open RAN deployment that will provide new competition and lower-cost services to consumers. An unexpected, retroactive tax of this nature on spectrum would have significant unintended consequences.

The potential effect on future FCC spectrum auctions also merits discussion. Since their inception in 1994, spectrum auctions have paid the federal government over \$200 billion.⁵ In fact, in just the past year, the wireless industry has paid over \$100 billion to the federal government for new spectrum licenses.⁶ At that time, the resulting licenses were expected to be deductible over a 15-year period. H.R. 5376 would not only serve as a retroactive tax on recent spectrum auction winners, but will also reduce revenue for future spectrum auctions as bidders take into account the new tax regime. The resounding success of FCC auctions – Congress' creation – would undoubtedly take a downturn in revenue. Future auctions may not succeed, which could grow the digital divide by keeping otherwise available spectrum from connecting more Americans.

The proposed move to tax spectrum licenses' book value also has competitive consequences. Several industries are investing in high-speed broadband facilities: wireline telecommunications

⁴ 26 U.S.C. § 197.

⁵ Gregory L. Rosston and Scott Wallsten, *How not to waste \$45 billion in broadband subsidies*, THE HILL, Aug. 7, 2021, <https://thehill.com/opinion/finance/566772-how-not-to-waste-45-billion-in-broadband-subsidies>.

⁶ Federal Communications Commission, Auctions Summary, <https://www.fcc.gov/auctions-summary>.



providers, cable companies, and satellite-based service providers, alongside the wireless industry. Yet, among all of these broadband providers, only wireless companies would be faced with a sharply increased tax bill based on their spectrum assets. This asymmetrical result would pick broadband winners and losers through a tax policy that is out of step with the rest of the federal government’s approach to connecting all Americans.

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We respectfully ask that Congress maintain the current tax treatment of spectrum licenses as it considers how to pay for the broadband-related appropriations in H.R. 5376. Doing so would be consistent with existing broadband policy goals and would further promote competition, innovation, and connectivity in America’s broadband networks. We look forward to working with you on this very important issue.

Sincerely,
Matthew Schruers
President
Computer & Communications Industry Association