Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs

WC Docket No. 18-89

REPLY COMMENTS OF THE RURAL WIRELESS ASSOCIATION, INC.

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SUMMARY

Maintaining U.S. national security is a key public interest objective, especially when it comes to protecting telecommunications and Internet infrastructure. Based on the record developed in this proceeding, there is strong industry support for the Commission’s authority to take action to enhance national security.

If the FCC proceeds with a replace-and-remove mandate, it must apply to all covered company equipment -- including schools, libraries, and health care centers -- regardless of whether the operating entity is an ETC or a recipient of USF support. Because wireless networks are complex systems consisting of hundreds of upstream, downstream, and peripheral parts that are not necessarily manufactured or serviced by a covered company (and which serve no operational purpose once covered company equipment is physically removed), any replace-and-remove mandate should apply to entire systems, not just specific pieces of covered company equipment. The requirement to install replacement equipment and remove legacy equipment should be carried-out in phases over a period of five to ten years. The replacement equipment should be approved by the FCC via a publicly-available “white list,” or alternatively, be purchased based on a manufacturer certification of compliance. All reasonable costs incurred by carriers replacing legacy equipment and purchasing replacement equipment should be 100% reimbursable, including all reasonable construction, engineering, legal, accounting, and administrative costs. Now that Congress has authorized spending up to $1 billion to fund a reimbursement mechanism, the goal of the Commission should be full elimination of covered company equipment, with priority for reimbursement funding given to small wireless carriers serving fewer than two million subscribers.
The Commission should refrain from issuing any formal “covered company”
designations until after: (1) it deliberates with other federal agencies and departments; (2) it plans
a comprehensive solution for the industry; and (3) Congress appropriates a source of funding for
reimbursement. During the intervening period, carriers receiving USF support should continue
receiving USF support for end-of-lifecycle equipment still in the field, provided such carriers
agree to replace-and-remove the legacy equipment during the Commission’s designated
transition phases.
In the Matter of
Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs

WC Docket No. 18-89

REPLY COMMENTS OF THE RURAL WIRELESS ASSOCIATION, INC.

The Rural Wireless Association, Inc. ("RWA"),\(^1\) files these reply comments in response to the Further Notice of Proposed Rulemaking ("FNPRM"), and submissions of other commenters, in the above captioned proceeding.\(^2\)

I. INTRODUCTION.

In its FNPRM, the Federal Communications Commission ("FCC" or "Commission") sought comments on a variety of proposals, including a proposal that any eligible telecommunications carrier ("ETC") receiving Universal Service Fund ("USF") support “not use or agree to not use within a designated period of time, communications equipment or services

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\(^1\) RWA is a 501(c)(6) trade association dedicated to promoting wireless opportunities for rural telecommunications companies who serve consumers in rural America. RWA’s members are small businesses serving or seeking to serve secondary, tertiary, and rural markets. Each of RWA’s member companies serves fewer than 100,000 subscribers.

from covered companies.\textsuperscript{3} The Commission also proposed to “require ETCs receiving USF support to remove and replace covered equipment and services from their network operations.”\textsuperscript{4}

The vast majority of comments submitted in response to the \textit{FNPRM} make it abundantly clear that the FCC needs to manage any potential covered company equipment replacement and removal program in a one-time, comprehensive manner. But beyond that, many questions remain as to how to go about accomplishing such a mammoth project. For example, the FCC asked how to implement the transition from using covered company equipment to non-covered company equipment. There is vast support among commenters for the Commission proposal that equipment replacement be phased in over a reasonable number of years, and be subject to a cost-reimbursement policy that covers the cost of not just replacing “covered company” equipment, but also the cost of replacing non-covered company ancillary equipment and all associated administrative costs incurred by companies engaging in network deployment projects.

RWA and other commenters recognize that the public interest is best served if the proposed replacement and removal provision applies not just to ETCs receiving USF support, but to any service provider or public entity using equipment manufactured or serviced by a covered company. The Commission has the requisite legal authority to expand the scope of this

\textsuperscript{3} \textit{Id.} at ¶ 122.

\textsuperscript{4} \textit{Id.} at ¶ 122. Recognizing that a massive “replacement and removal” project would be costly and time-consuming, the Commission also sought comment on a variety of other proposals centered around the size and scope of a potential replacement and removal effort, including how to pay for such an endeavor. At the time the \textit{FNPRM} was adopted, both the U.S. Senate and the U.S. House of Representatives were considering several pieces of legislation that would fund the FCC’s oversight of a replacement and removal initiative. However, because Congressional funding was not guaranteed, one of the proposals that the Commission sought comment on was whether to potentially divert precious USF monies in order to fund this replacement and removal program. Now that Congress has passed legislation establishing a reimbursement mechanism which President Trump is expected to sign off on shortly, the Commission should no longer need to consider a proposal that depends upon reimbursing carriers with USF funds. See “Secure and Trusted Communications Act of 2019” (“HR.4998”). Passed by House on voice vote on December 16, 2019. Passed by Senate on voice vote on February 27, 2019; \url{https://www.congress.gov/bill/116th-congress/house-bill/4998/actions}. RWA notes that while Congress has authorized $1 billion it still must appropriate the funds and that this could take some additional time.
rulemaking beyond ETCs. To avoid allowing the U.S. to fall into this national security trap in the future, RWA and a significant number of other commenters believe the Commission, or another federal agency, should create and manage a “white list”\(^5\) of approved equipment vendors. Alternatively, the Commission should institute a certification program which places the burden for compliance on the manufacturers and vendors, and not the carriers.

RWA and its rural carrier members stand ready to support a nationwide replacement and removal FCC mandate, but in order for it to be effective, the aforementioned elements need to be adopted. Until all of these elements are instituted, the Commission needs to refrain from formally designating Huawei and ZTE as “covered companies.” It also needs to continue providing USF support to ETCs throughout the duration of the rulemaking and transition periods so that rural wireless carriers keep all Americans connected.

II. THE COMMISSION’S PROPOSED REPLACE-AND-REMOVE MANDATE SHOULD BE COMPREHENSIVE IN SCOPE, BE CONDUCTED IN COORDINATION WITH OTHER FEDERAL AGENCIES, BE A “ONE-TIME” FIX, AND HAVE UNambiguous TERMS AND CONDITIONS.

Before the Commission embarks on any replace-and-remove initiative, it first needs to coordinate its efforts with Congress as well as other federal agencies and departments that are also taking steps to address foreign national security threats. Other industry associations, including CTIA, NCTA – The Internet and Television Association (“NCTA”), the Telecommunications Industry Association (“TIA”), and USTelecom – The Broadband Association (“USTelecom”), are in agreement that before acting, the FCC needs to consider what other branches of the U.S. government are doing and refrain from either over-stepping or

\(^5\) HR.4998, Section 4(d)(1)(a) states “The Commission shall develop a list of suggested replacements of both physical and virtual communications equipment, application and management software, and services or categories of replacements of both physical and virtual communications equipment, application and management software and services.”
undercutting those efforts. Accordingly, the Commission should pause further action in this docket, including issuing final designations of Huawei and ZTE, until it can strategically coordinate with the Department of Commerce (“Commerce Department”), the Department of Defense (“DoD”), the Department of Homeland Security (“DHS”), the Federal Acquisition Security Council (“FASC”), the General Services Administration (“GSA”), the National Aeronautics and Space Agency (“NASA”), the National Institute of Standards and Technology (“NIST”), and the National Telecommunications and Information Administration (“NTIA”). Were the Commission to unilaterally engage in rulemaking without first consulting with co-equal stakeholders, it risks disrupting a digital economy that accounts for at least $1.3 trillion dollars of the U.S.’s gross domestic product.

RWA believes that any federal government effort to eliminate national security risks posed by covered company equipment or services needs to be holistic and not leave behind any lingering threats. Such an endeavor must cover every potential network element in use in the U.S. and should not arbitrarily exclude some percentage of Huawei, ZTE, or any other manufacturer’s equipment. Deviating from this holistic approach - - for example by not allowing

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6 CTIA Comments at p. 2 (“[T]he Commission needs to harmonize its work with the unified federal approach being developed by DHS and Commerce.”); NCTA Comments at p. 2 (“Any further action taken by the Commission in this proceeding should be in concert and coordination with the multiple work streams already underway across several different federal agencies and in Congress that address supply chain risks in ICTS.”); TIA Comments at p. 5 (“The Commission’s actions should account for the fact that it is not acting alone or in a regulatory vacuum in this proceeding, and that there are numerous ongoing (and probably future) government proceedings that will inform – and be informed by – how the Commission proceeds in this rulemaking.”); USTelecom Comments at pp. 7-8 (“The U.S. government is presently engaged in multiple other significant efforts of various scope and maturity to promote the security of the ICTS supply chain, particularly in the communications sector…[w]ith these multiple and interrelated activities in mind, USTelecom applauds the Commission’s statement supporting a ‘whole of government approach to supply chain security.’”)


reimbursement to small-sized non-ETCs\(^9\) is simply not in the public interest. Likewise, tacitly permitting schools, libraries, and rural health centers to continue using covered company equipment while simultaneously forcing wireless carriers to remove other covered company equipment unfairly burdens one sector of the telecommunications/digital information industry while still allowing for foreign threats in another.\(^{10}\) More than anything, the telecommunications industry needs *clarity* as to the scope of any equipment replacement mandate.\(^{11}\) However, if and when the Commission does proceed with a comprehensive replace-and-remove initiative, it must recognize that every piece of equipment that is integral to actually providing service to customers or end users and thus warranting removal and destruction is “collateral damage” (even if not manufactured by a covered company) and should therefore also be eligible for reimbursement. To the extent commenters such as the Puerto Rico Telephone Company, LLC (“PRTC”) and the Rural Wireless Broadband Coalition (“RWBC”) ask that “lower risk” covered company equipment, components, or sub-parts *not* be included in any FCC removal mandate, it is because they believe that including such equipment in a removal mandate would have minimal impact on reducing threats to national security, and that removing such equipment would be unduly burdensome or downright impossible.\(^{12}\) Importantly, even a “minimal” impact on reducing

\(^9\) *FNPRM* at ¶ 122

\(^{10}\) *FNPRM* at ¶ 128.

\(^{11}\) Competitive Carriers Association (“CCA”) Comments at p. 9 (“Carriers also will need flexibility, or at least significant clarify, regarding what is required of them in terms of procedure and compliance.”); CTIA Comments at p. 3 (“If the Commission moves forward with its *FNPRM* proposals, it should offer clarity about compliance and certification expectations and minimize disruptions.”); Mark Twain Communications Company (“Mark Twain”) Comments at pp. 3-4 (“Before the FCC can enact a prohibition… it should provide guidance on exactly what is meant by an ETC’s or USF recipient’s ‘use of covered equipment.’”).

\(^{12}\) PRTC Comments at p. 4 (“PRTC proposes the Commission limit the scope of the mandate to exclude lower risk equipment that is outside of the core network, such as antennae, wires, cables, modems, routers, or other non-critical elements of a network.”); RWBC Comments at p. iv (“The Commission should not impose on small wireless carriers the unrealistic and burdensome task or [sic] removing specific components or sub-parts produced or provided by covered companies.”).
threats to national security cannot be discounted. Moreover, PRTC presents no evidence to support its conclusion that sub-parts and components “pose minimal or no risk.”\textsuperscript{13} If PRTC’s claim cannot be verified, then all covered company equipment poses an equal risk to national security. Importantly, both PRTC\textsuperscript{14} and RWBC\textsuperscript{15} agree with RWA that if the Commission broadens the scope of banned equipment, nearly every out-of-pocket expense should be reimbursable. The fact that Congress has authorized up to $1 billion in reimbursement funding for small wireless carriers serving fewer than two million subscribers means that the covered equipment should be able to be replaced. Congress also allowed for additional funding beyond the $1 billion, if deemed necessary.\textsuperscript{16}

USTelecom, which argues that “component parts” should not be eligible for reimbursement, acknowledges that removing and replacing such parts would be both “complex” and “costly” compared to focusing on the “piece of finished [] equipment” manufactured by Huawei and ZTE.\textsuperscript{17} But with $1 billion in reimbursement funding authorized, the Commission can focus on a more “big picture” replacement and removal proposal that includes entire wireless systems and even upstream and downstream equipment not manufactured by Huawei or ZTE, but nonetheless part of existing systems, that will need to be replaced due to incompatibility with new equipment. RWA agrees with RWBC that a communications system is highly complex and

\textsuperscript{13} Id. at p. 4.

\textsuperscript{14} PRTC Comments at p. 15. PRTC provides nearly a page-long list of equipment and services that should be eligible for reimbursement.

\textsuperscript{15} RWBC Comments at p. 4 (“[W]hile it is appropriate for the Commission to reimburse only for costs it determines to be reasonable, the Commission should provide full reimbursement for those costs.”).

\textsuperscript{16} HR.4998 at Sec. 4(d)(5)(B).

\textsuperscript{17} USTelecom Comments at p. 13. (“Replacing component parts in finished products could be tremendously challenging and complex, and therefore costly.”).
that certain pieces of equipment placed upstream or downstream in that system do not function in isolation and serve no purpose once “covered company” equipment is also removed. In the big picture, companies will not be focused on sub-parts and components. For example, if a simple Huawei or ZTE antenna, or more complex remote radio unit (“RRU”), needs to be removed from a cell site, so will numerous other parts (e.g., cables, brackets, back-up power systems, etc.) that often are not manufactured by Huawei or ZTE and which serve no functional purpose (and generally cannot be re-used) once the original Huawei or ZTE equipment is decommissioned. This daisy-chain of interacting ancillary upstream and downstream parts, components, and sub-components means that, as addressed below, all such parts, components, and subcomponents will need to be replaced in any Commission initiative. In short, replacement and removal of all of the usable ancillary equipment must be fully reimbursable. Failure to provide similar reimbursement funding for these additional pieces of equipment required to support mission-critical equipment, even if the components are upstream/downstream parts from a different manufacturer, unfairly burdens some companies or organizations by forcing them to jettison otherwise non-covered equipment without just compensation and creates a formula for failure.

III. THE PUBLIC INTEREST NECESSITATES THAT ANY REPLACE-AND-REMOVE PROGRAM BE EXTENDED TO INCLUDE NOT JUST ELIGIBLE TELECOMMUNICATIONS CARRIERS RECEIVING USF SUPPORT, BUT ANY ENTITY OPERATING COVERED COMPANY EQUIPMENT.

In its FNPRM, the Commission “propose[s] to limit the removal and replacement requirement to ETCs” but also asks whether it should apply this mandate to “other USF recipients, like rural health care providers or schools and libraries.”18 It also sought comment on whether carriers designated ETCs in the future, or, “otherwise qualifying carriers” may be

18 FNPRM at ¶ 128.
designated as ETCs “for the sole purpose of participating in any removal and replacement” mandate adopted by the Commission.\textsuperscript{19} RWA supports a comprehensive FCC strategy that addresses and permanently solves the issue of covered company equipment in a “one time” fix. National security threats posed by covered company equipment either exist or do not exist. There is no middle ground. To the extent the Commission adopts a rule banning covered company equipment, that requirement should apply to all companies or organizations operating network equipment manufactured or serviced by Huawei or ZTE, and likewise, each of those network operators should be eligible for reimbursement of reasonable costs should they qualify as small businesses under the law.

A diverse group of commenters, including CCA, the College of Healthcare Information Management Executives (“CHIME”), and Triangle Communication System, Inc. (“Triangle”) agree with RWA that any replacement and removal mandate should be extended to equipment users beyond ETCs and USF recipients, for the simple reason that a widespread problem warrants a widespread solution.\textsuperscript{20} Meanwhile, LATAM Telecommunications, Inc.

\textsuperscript{19} Id.

\textsuperscript{20} CCA Comments at pp. 3-4 (“But any national security threat posed by the covered equipment and services extends beyond ETCs, as the Commission recognizes.”); CHIME Comments at pp. 1-2 (“The FCC furthermore is considering expanding this directive to other US recipients including healthcare providers…CHIME supports the Commission’s proposal.”); RWA Comments at p. 3 (“[T]he ability to participate in such a replacement program needs to be open to all users of such equipment, whether they are USF recipients, ETCs, or neither.”); Triangle Comments at p. 1 (“First, if the covered vendors and their equipment are threats to US networks, Congress should act immediately to fund the replacement of all equipment from the covered vendors whether the carriers are USF recipients or not. It is inconceivable that a plan is not in place to replace the equipment causing the threat to the US networks if the threat is real.”).
want the Commission to either: (1) allow ETCs to remain eligible for reimbursement in additional markets where a carrier has no ETC designation, or (2) extend reimbursement eligibility to all types of covered equipment operators and carriers, including non-ETCs. RWA agrees with these commenters that to the extent the Commission insists on limiting eligibility to ETCs, it extend eligibility to such ETCs in markets where they have no ETC designation, but believes the better solution is to extend eligibility to all covered equipment operators and carriers, including non-ETCs that meet the congressional definition contained in HR.4998.

The Computing Technology Industry Association (“CompTIA”) argues that “the Commission should remain focused” on USF program recipients “and not expand its aim to encompass communications networks generally, since doing so would replicate other federal efforts and give rise to significant legal questions.” Ideally, the Commission will refrain from adopting new rules until all federal actors harmonize their activities. Doing so would make CompTIA’s concern moot. While WTA – Advocates for Rural Broadband (“WTA”) contends “that the [removal] requirement and [reimbursement] eligibility should be limited to ETCs,” this limitation is heavily premised on the concern that there may not be “adequate funding” in the reimbursement program. While there may not be adequate funding to reimburse all ETCs, the

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21 LATAM Comments at p. 10 (“Thus, if the Commission requires non-USF recipients to remove existing equipment, they should be permitted to participate in any reimbursement program without having to become ETCs.”).

22 JAB Comments at p. 7 (“Accordingly, the Commission’s implementing regulations should permit extending reimbursement to those portions of an ETC’s facilities where it does not operate as an ETC.”).

23 NTCH Comments at p. 6 (“Being an ETC really has nothing to do with the relatively limited obligations undertaken by a party who seeks reimbursement for replacement covered equipment. There is no indication at this time that Congress intends that the award of monies appropriated for reimbursement should be limited to ETCs, and there is no reason for the Commission to do so either.”).

24 CompTIA Comments at p. 1.
Congressionally authorized funding will ensure that small ETCs – those carriers most in need of replacement funding -- are adequately funded. Finally, NCTA suggests that the Commission lacks the legal authority to extend a removal mandate to non-ETCs. Nonetheless, it concedes that if the “Commission imposes a ban on use by any USF recipient of equipment and services from covered companies – irrespective of whether such use is self-funded – then the scope of the remove and replace funding program should cover all affected recipients, and not just ETCs.”

Only three commenters -- CTIA, the State E-Rate Coordinators Alliance (“SECA”), and USTelecom -- insist that non-ETCs and non-USF recipients be exempted from having to participate in any mandatory equipment-replacement mandate, and by extension, forgo reimbursement. CTIA believes that including non-ETCs, rural health care providers, and libraries “could create financial burdens to a reimbursement fund with little clear benefit to national security.” This analysis is simply wrong. A wireless telecommunications carrier utilizing covered company equipment that is not an ETC and does not receive USF support poses the same risk to national security as a wireless telecommunications carrier utilizing covered company equipment that is an ETC and that does receive USF support. CTIA concedes that “[i]f money remains, the Commission can then consider whether to reimburse [schools, libraries, and health care facilities that receive USF support] for removal of covered equipment.” Here, CTIA does not dispute the fact that non-ETC carriers and other USF recipients utilize equipment that poses a risk to national security. Indeed, CTIA agrees that reimbursement funding could be made available to them, and this policy position presumes the equipment those operators utilize

25 NCTA Comments at p. 3.
26 CTIA Comments at p. 12.
27 Id.
does pose a national security risk. CTIA also argues that the Commission lacks the legal
authority for expanding the mandate (discussed below) and that “practical considerations counsel
in favor of regulatory restraint.” RWA believes that rather than dictating “regulatory restraint,”
practical considerations warrant an all-encompassing nationwide solution for all covered
company equipment, not an ad hoc approach that leaves vulnerable back-doors.

SECA, meanwhile, focuses its attention on its argument that “there has been little use
made of E-rate funding in the procurement of covered equipment by schools and libraries.” However, SECA also acknowledges that “use of covered equipment by providers of Category 1
telecommunications and Internet access services…is not easily tracked in USAC’s E-rate
databases and is therefore difficult to quantify.” This uncertainly as to how much covered
company equipment is used in the U.S. is precisely why RWA supports a methodical, as opposed
to reactionary, FCC rulemaking process. This deliberative process begins with an expansive
information collection inquiry wherein all covered company equipment users in the U.S. (not
just ETCs) should submit information to the Commission. Finally, it is important to note that
SECA does not object to those network operators providing equipment to schools and libraries
also receiving ETC designation in the future or otherwise qualifying as ETCs for the sole
purpose of participating in an FCC reimbursement program. To the extent there is not

28 *Id.* 13-14.

29 SECA Comments at pp 2-3. According to SECA, the total amount of Category 2 covered company equipment
funded since FY 2016 is less than $4.5 million and involves only 24 applicants.

30 *Id.* at p. 4.

31 “Wireline Competition Bureau and Office of Economics and Analytics Open Reporting Portal for Supply Chain

32 SECA Comments at p. 4.
sufficient funding and the issue of reimbursement “prioritization” becomes important, RWA urges the FCC to prioritize small wireless carriers over other operators or users of covered company equipment due to the widespread use of rural wireless carrier networks by those living and travelling in rural markets.

USTelecom, for its part, cautions the Commission to “stay clearly within the bounds of its legal authority” and confine the scope of any new rules “to equipment and services funded through the USF.” More specifically, it wants to limit replacement and removal obligations to ETCs for two reasons. First, it argues that “ETCs are most likely to have covered equipment.” However, until a data collection process concludes, there is no way of knowing precisely the scale to which covered company equipment is used by non-ETC wireless carriers in the U.S. Second, it argues that “inclusion of other USF recipients, like rural health care providers and libraries, could put large administrative burdens on the reimbursement fund without proportional benefit to national security.” However, as discussed above, the cost to reimburse equipment used in schools, libraries, and rural health care centers is likely to be a nominal amount.

USTelecom, like CTIA, has issues about the prioritization of reimbursement funding, but it too concedes that “[i]f there is money left over, [the Commission] can consider whether to reimburse other USF participants for removal of covered equipment.” Provided the Commission has the legal authority to proceed with a comprehensive equipment replacement-and-removal regimen,

33 USTelecom Comments at p. 6.
34 Id. at p. 14.
35 Supra at n. 28.
which RWA and many other commenters believe it does, there exists considerable industry support for a “one-time” fix that would expand eligibility to non-ETCs and non-USF recipients.

IV. THE COMMISSION RETAINS THE NECESSARY LEGAL AUTHORITY TO EXPAND AN EQUIPMENT REPLACE-AND-REMOVE PROGRAM.

In its comments, RWA demonstrated that the Commission holds ample legal authority under Sections 316, 214, and 229 of the Communications Act of 1934, as amended (“Act”) to extend a replacement and removal mandate to non-ETCs and non USF recipients. More specifically: (1) Section 316(a)(1) permits the Commission to impose technical and other standards on wireless licensees; (2) Section 214(c) allows the Commission to grant a certificate to engage in wireline transmissions only if doing so is in the public interest, and nothing prevents an FCC rulemaking adding national security conditions to this certification process; and (3) Section 229(b) of the Act (“CALEA”) grants the Commission unambiguous authority to prescribe rules that will prevent any interception of communications or access to call-identifying information, unless otherwise permitted. These three sources of legal authority are broad-based, and unlike Section 889 of the National Defense Authorization Act for Fiscal Year 2019 (“2019 NDAA”), they allow the FCC to require all impacted carriers and network operators to remove entire systems - and not just specific pieces of Huawei and ZTE equipment, as long as they are classified as covered company equipment.

37 RWA Comments at pp 5-8.

V. THE REIMBURSEMENT MECHANISM APPLIED BY THE COMMISSION MUST BE EXPANSIVE IN SCOPE, INCLUDE ALL UPSTREAM AND DOWNSTREAM EQUIPMENT AND SUB-COMPONENTS, ALLOW FOR REASONABLE OPERATIONAL AND ADMINISTRATIVE COSTS, AND ESTABLISH CLEAR STANDARDS FOR DETERMINING APPROVED EQUIPMENT.

While Huawei and ZTE equipment is used by a mix of companies and institutions in the U.S., the vast majority of users of such equipment are rural wireless telecommunications carriers. If any group of companies knows what it would take to fully replace and move this equipment, and the cost of completely overhauling both network cores and RANs, including all administrative costs, it is rural wireless carriers and their representative associations and coalitions. In its comments, RWA urged the Commission to adopt a reimbursement policy that largely followed what the Commission instituted in the Television Broadcast Incentive Auction. Specifically, RWA proposed the creation of a Catalog of Eligible Reimbursement Expenses that includes all infrastructure, administrative, engineering costs related to the construction of a new wireless system and the decommissioning and disposal of the legacy wireless, and all services supporting both projects. Regardless of the final form, RWA recommends a reimbursement policy that is highly inclusive and considers all of the costs incurred by an impacted equipment operator or wireless carrier. There is broad-based support for such a policy among the rural carriers that will be the most impacted by a replacement-and-removal mandate, and the associations representing them.

39 RWA Comments at p. 3.

40 CCA Comments at p. 8 (“[i]t will be important for the funding vehicle to address the costs of full compliance with the requirements, including equipment or services of affiliates and partners to the extent that the equipment or services are relevant to compliance with the new rules.”); JAB Comments at p. 10 (“The Rules Should Reimburse for Removing and Replacing All of the ETC’s Covered Company Equipment and Associated Equipment.”); Mark Twain Communications Company at p. 5 (“The reimbursement program must be based on the costs of new equipment and not on the depreciated value of existing equipment.”); NTCH Comments at pp. 7-8 (Calling for reimbursement of the costs of both all necessary new equipment and all disposal costs for legacy equipment.); PRTC
In its *FNPRM*, the Commission also inquired as to whether it should authorize reimbursement for “technology upgrades,” for example, allowing a carrier currently operating a 2G or 3G network to be reimbursed for the costs of deploying a 4G LTE or 5G network.\(^{41}\) RWA endorses such a policy,\(^{42}\) as do CompTIA,\(^{43}\) JAB,\(^{44}\) PRTC,\(^{45}\) and Nokia.\(^{46}\) No parties explicitly oppose such a policy. The Commission needs to recognize the simple fact that technology is constantly evolving and newly-manufactured equipment will naturally be upgraded from what was originally manufactured and deployed in prior years.

If the U.S. wants to protect its communications networks in the 21\(^{st}\) Century, it needs to do its best to make sure that all newly deployed equipment (even equipment outside the scope of this rulemaking proceeding) lacks security holes or intentional backdoors subject to foreign actor manipulation. One way to accomplish this objective is for the FCC to prohibit carriers from deploying equipment that is not on a Commission-created “white list” of approved vendors and devices. Another way is to have equipment vendors certify compliance with relevant legislation.

\(^{41}\) *FNPRM* at ¶ 137.

\(^{42}\) RWA Comments at p. 13.

\(^{43}\) CompTIA Comments at p. 6.

\(^{44}\) JAB Comments at p. 11.

\(^{45}\) PRTC Comments at p. 17, FN 39.

\(^{46}\) Nokia Comments at p. 7.
or administrative rules. While most commenters remained silent on whether the Commission should create a “white list” or require manufacturer certification, several carriers and associations support these common sense proposals.\footnote{RWA Comments at p. 14; RWBC Comments at p. 14; Mark Twain Comments at p. 5; and Triangle Comments at p. 1.}

TIA, in its comments, supports an alternative solution to the two proposals discussed above. Specifically, TIA calls for “industry-led standards and best practices for supply chain security” that apparently do not rely on additional regulation.\footnote{TIA Comments at p. 11.} In hindsight, it was precisely this \textit{laissez faire} attitude, lack of regulatory oversight, and delayed government intervention that led to the predicament the industry is currently facing. The more prudent course of action for the FCC and other federal agencies and departments is to team together and create a government seal-of-approval either through a vendor “white list” or by shifting a regulatory burden for certification and compliance to the vendors and not the network operators. If for no other reason, these proposals would reduce the need for a future replace-and-remove mandate costing billions of dollars.\footnote{In the unlikely event that permitted “white list” vendors are eventually classified by the Federal government as a national security threat, or, a carrier deploys replacement network equipment purchased from a vendor that certifies compliance to national security regulations (but that carrier is eventually classified as a national security threat), this should hopefully shift all financial burdens that might be incurred in yet another future replace-and-remove mandate to the vendors and away from wireless consumers and network operators.} Regardless of whether the FCC develops a vendor “white list” or alternatively requires \textit{manufacturers} to certify compliance with some type of national security standard, the burden of guaranteeing the security of replacement equipment should definitely not fall on rural carriers. To reinforce this point, both RWA and NTCA urge the Commission to create a “safe harbor” that eliminates carrier liability for any potential future violations.\footnote{RWA Comments at p. 3. NTCA Comments at p. 3.
VI. NETWORK REPLACEMENT PROJECTS SHOULD BE IMPLEMENTED IN PHASES OVER A REASONABLE NUMBER OF YEARS.

Industry associations or coalitions like RWA, NTCA and RWBC – whose members are disproportionately impacted by these proposed rules – are in complete agreement that any transition period will require multiple years to complete. WTA believes its members might require a “long” period of time (up to seven years) to successfully deploy replacement equipment and remove existing equipment, while RWA and RWBC’s deployment estimates are also in the five-year to ten-year time range.\(^{51}\) Even CTIA urges the Commission to provide “adequate transition periods” for all impacted carriers.\(^{52}\) A few individual carriers such as JAB and Triangle believe they can complete such a network transition in two or three calendar years, but such a speedy transition is not particularly realistic.\(^{53}\) JAB and Triangle are assuming that they can negotiate with an equipment vendor, take receipt of the customized equipment, and hire scarce network engineers, tower crews, and other technicians to install the equipment once it is eventually delivered.\(^{54}\) JAB and Triangle will be competing with many other commenters in this proceeding to purchase the equipment and support services necessary to make network changes. The reality is that ample time is required for all impacted users of Huawei and ZTE equipment to make the migration. Creating an unrealistically short transition window serves no practical purpose; it will only invite the inevitable flurry of waiver requests due to carriers facing

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\(^{51}\) RWA Comments at p. 15; RWBC Comments at p. 13; and WTA Comments at p. 5.

\(^{52}\) CTIA Comments at p. 3.

\(^{53}\) JAB Comments at pp. 14-15 and Triangle Comments at p. 5. Triangle notes that if there is a delay in funding, the build-out process could take between four and seven years.

\(^{54}\) These various equipment acquisition and deployment milestones are in addition to all of the follow-up back-office systems testing and systems integration involving engineering, customer care, billing, and sales necessary before a new network can be rolled-out to paying customers.
unforeseen equipment deployment or equipment removal delays - and there are always unforeseen delays.

How should the Commission organize the inevitable network transitions and avoid industry chaos? Thankfully, the Commission has already managed a very similar, multi-party, nationwide, facilities-deployment project: the Broadcast Television Incentive Auction post-auction transition. This “re-packing” project involved the Commission designating all re-locating television stations into one of ten “phases” spaced over the course of several years. RWA wholeheartedly supports such a construct to be used in the present case.\(^{55}\) RWBC also supports the notion of a phased transition “tailored time slots.”\(^{56}\) Other commenters such as CCA and PRTC note that there is no one-size-fits-all transition timeline for all impacted network operators, and that carriers need some degree of flexibility.\(^ {57}\) As the Commission conducts its information collection campaign and eventually develops its phased transition schedule, it can work with individual carriers and place them in the appropriate transition phase, where nimble carriers could make the transition on the front-end and those requiring more time could be slotted into a later phase. So while Nokia believes that individual companies can accomplish a successful network transition in one to three years,\(^ {58}\) due to a foreseeable shortage of tower crews, network engineers, qualified field installation and integration personnel, and a desire to avoid service disruptions, it will serve the public interest to extend the entire transition window

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\(^{55}\) RWA Comments at p. 15.

\(^{56}\) RWBC Comments at p. 12 (promoting the use of “tailored time slots”).

\(^{57}\) CCA Comments at p. 8; PRTC Comments at pp. 12-13.

\(^{58}\) Nokia Comments at p. 6.
and then divide up those transitioning carriers into several phases stretching over at least a five to seven year period.

VII. THE COMMISSION SHOULD KEEP USF SUPPORT IN PLACE UNTIL NETWORK OPERATORS CAN SUCCESSFULLY TRANSITION TO NEW NETWORKS

In its comments, RWA urged the Commission to delay any final designation of Huawei or ZTE until after: (1) legislation is adopted that includes a sufficient amount of congressionally-appropriated reimbursement funding; (2) the Commission completes its information collection efforts; and (3) the Commission adopts a fully comprehensive replacement and removal program that allows for the reimbursement of all reasonable costs incurred by all operators using covered company equipment, including all necessary administrative costs, and all equipment and services that are crucial to an operating network but that are not necessarily manufactured by a covered company. RWA believes that the public interest warrants that USF support remain available to current recipients so that carriers do not run the risk of having to shut down networks and remove wireless coverage before replacement wireless systems are constructed and wireless users migrate to these systems. RWA is not alone in this sentiment. WTA recognizes that “for a significant period of time, it will be necessary for affected carriers to continue to use covered equipment” and “that the Commission should revise its adopted rule to allow limited USF support to go towards ensuring that covered equipment continues to operate while the transition is underway.”

59 RWA Comments at pp 10, FN 23.
60 WTA Comments at p. 6.
61 WTA Comments at p. 6.
If the Commission proceeds with adopting a new rule banning the use of covered company equipment, it must seriously consider the real-life impact of forcing carriers to prematurely remove fully-functioning 2G and 3G systems (especially CDMA-based systems) prior to the natural end of their operational life cycles. Today, companies other than Huawei and ZTE can manufacture, customize, and sell 4G LTE and 5G systems designed “from the ground-up” and which do not need to be backwards-compatible with and reliant upon those legacy 2G and 3G systems utilizing covered company equipment. In a situation where covered company equipment is in the last few years of its usable lifecycle, rural carriers should be permitted to keep these legacy systems running with existing USF support until the network transition is complete in that particular market. There is a recognizable public interest harm in having dozens of 2G and 3G wireless networks go completely dark due to a lack of financial support. The quicker the FCC completes a phased transition, the quicker the covered company equipment gets removed and destroyed. If the federal government believes certain networks or certain parts of the country pose an increased security risk, those networks and markets can be slotted in an earlier transition phase. This approach will prevent nationwide coverage blackouts and widespread service interruptions. Failing that, the Commission must grant waivers to impacted rural network operators so that covered company equipment can remain operational for however many years it will take for the replacement and removal program to run to completion.62

VIII. CONCLUSION

RWA is grateful that Congress passed HR.4998. This was a pivotal first step. The next steps are for President Trump to quickly sign the bill into law and for lawmakers to then appropriate the $1 billion in funding so that the Commission can adopt rules that will provide for

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62 CHIME Comments at p. 3 and Nokia Comments at p. 5.
a covered equipment replacement and removal program. As the FCC goes down this road, it must do so carefully and deliberately. First, the solution implemented must be a one-time fix. As national security is the objective, then success should be defined as the 100% elimination of covered company equipment. This means that all users of this equipment (e.g., wireless carriers, wireline carriers, schools, libraries, health care centers) should be required to remove the equipment, regardless of whether they are ETCs or USF recipients. Second, all parts and components, and even non-covered company equipment used in tandem with these systems, that must be removed and decommissioned should be eligible for reimbursement. In short, all reasonable costs incurred by small network operators to successfully complete their network transition should be fully reimbursable, without exception. Third, before legacy systems are turned off and removed, the replacement systems should be fully deployed and tested using equipment acquired from “white list” vendors or vendors certifying compliance to standards. Carriers should not have to carry the national security “certification” burden; this burden should be transferred to vendors. Fourth, the Commission needs to allow the transition to occur in a methodical manner and employ deployment phases similar to what it did in the post-auction transition of TV broadcasters, ideally for a period of five to ten years.
Finally, throughout this entire replacement and removal process, the Commission needs to maintain USF support to those carriers who are operating 2G, 3G, and 4G LTE systems.

Respectfully submitted,

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