

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Protecting Against National Security)	WC Docket No. 18-89
Threats to the Communications Supply)	
Chain Through FCC Programs)	
)	

**REPLY COMMENTS OF
USTELECOM – THE BROADBAND ASSOCIATION**

USTelecom – The Broadband Association (USTelecom)¹ submits these brief reply comments in response to the Federal Communications Commission’s (Commission) Wireline Competition Bureau’s Public Notice² seeking comment on the application of the Secure Networks Act³ to the Commission’s existing rulemaking regarding threats to the communications supply chain.⁴ USTelecom continues to advocate for the Commission to seek comment upon the mismatch between the definitions between “covered equipment and services” in the Secure Networks Act and the Commission’s own rulemaking as a precursor to talking

¹ USTelecom is the premier trade association representing service providers and suppliers for the telecom industry. Its diverse member base ranges from large publicly traded communications corporations to small companies and cooperatives – all providing advanced communications service to both urban and rural markets.

² *Wireline Competition Bureau Seeks Comment on Applicability of Section 4 of the Secure and Trusted Communications Networks Act of 2019 to the Commission’s Rulemaking on Protecting Against National Security Threats to the Communications Supply Chain*, Public Notice, DA 20-406, WC Docket No. 18-89 (WCB rel. Apr. 13, 2020).

³ Pub. L. 116-124, 133 Stat. 158 (2020) (Secure Networks Act).

⁴ *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs et al.*, WC Docket No. 18-89 *et al.*, Report and Order, Further Notice of Proposed Rulemaking, and Order, 34 FCC Rcd 11423 (2019) (Supply Chain Order and Designation).

about reimbursement for those equipment and services.⁵ USTelecom also maintains its position that the Commission should only require carrier certification regarding the presence of “covered equipment” in their networks once the Commission has defined the “covered equipment” that will be subject to the Secure Networks Act’s “Rip and Replace” program.⁶ However, these limited replies will focus on how the record in this proceeding demonstrates the need to broadly define what constitutes “acceptable” replacement equipment, and also encouraging principles that will lead to greater supply chain diversity like Open Radio Access Networks (Open RAN).

The majority of commenters recognized the wisdom of the avoiding a prescriptive approach for acceptable replacement equipment because, among other issues, it would be “administratively challenging,”⁷ to say the least. Those who support a more prescriptive approach prove the point entirely of how difficult it would be for the Commission to administer. Some call for a biennial process for updating the list⁸ and some even call for *quarterly* updates of the “approved” equipment list *at a minimum*.⁹ Due to the rapid pace of technological development, quarterly updates would likely be the required tempo if the Commission were to adopt a detailed list of “approved” equipment or else it risks damaging the competitive marketplace for 5G equipment that it seeks to foster. The problem is that the Commission does not have the technical capabilities, intelligence insights, nor staff resources necessary to do this—no government entity does even if the Commission adopted the recommended “whole of government approach” and made use of existing supply chain processes and knowledge.¹⁰ A

⁵ USTelecom Comments, WC Docket No. 18-89, 2-4 (filed May 13, 2020).

⁶ *Id.* at 5.

⁷ CTIA—The Wireless Association Comments, WC Docket No. 18-89, 7 (filed May 13, 2020).

⁸ Juniper Networks Comments, WC Docket No. 18-89, 3 (filed May 13, 2020).

⁹ COMSovereign Corporation Comments, WC Docket No. 18-89, 4, 6 (filed May 13, 2020).

¹⁰ Ericsson Comments, WC Docket No. 18-89, 10 (filed May 13, 2020); CTIA Comments at 3-4, 6.

detailed list of acceptable equipment that was not updated nearly-continually “could unintentionally harm competition by picking winners and losers. The government has generally avoided a permission-based approach to market entry, instead preferring competition.”¹¹ This is simply not a viable option.

Instead, the Commission should take the most administratively simple approach and decide that any equipment that is not derived from a manufacturer designated as a national security threat should be “allowed.”¹² To the extent the Commission develops the list further, USTelecom agrees it should do no more than create “categories of suggested replacements” rather than detailing specific vendors or replacements,¹³ but these categories must be informed by what actually constitutes “covered equipment” when balanced against the 2019 National Defense Authorization Act (2019 NDAA) and the Secure Networks Act.¹⁴ Further, in no case should the Commission mandate that providers must use certain equipment.

One of the most important things that the Commission can do to improve network equipment security and reliability is to stimulate vendor diversity, which ultimately provides more competition and innovation; encouraging Open RAN is one promising means of doing so. To the extent the Commission provides more detail around categories or types of equipment, it should include and emphasize Open RAN equipment as options that allow “networks [to] be deployed with a more modular design without being dependent upon a single supplier.”¹⁵ The

¹¹ CTIA Comments at 7.

¹² USTelecom Comments at 6.

¹³ Open RAN Policy Coalition Comments, WC Docket No. 18-89, 9 (filed May 13, 2020); CTIA Comments at 8; Ericsson Comments at 10.

¹⁴ USTelecom Comments at 4 (“Adopting a definition that comports with both Acts—one that does not apply to layer one equipment—follows the direction in the Secure Networks Act and with the 2019 NDAA.”).

¹⁵ Open RAN Policy Coalition Comments at 3.

more interoperable the networks, the more vendors are encouraged to innovate and the more options a provider can have in developing diverse network equipment solutions, all of which makes providers less dependent upon a sole-source product like Huawei equipment that ultimately can harm national interests. The Commission should encourage the use of Open RAN design in this proceeding and in future relevant dockets as well “to allow secure and reliable interoperability across different market players and lower the barrier to entry for new innovators.”¹⁶

Respectfully submitted,

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¹⁶ *Id.*