

**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

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WC Docket No. 18-89

**WRITTEN *EX PARTE* SUBMISSION OF HUAWEI TECHNOLOGIES CO., LTD.,  
AND HUAWEI TECHNOLOGIES USA, INC.**

Huawei Technologies Co., Ltd., and Huawei Technologies USA, Inc. (collectively, “Huawei”), by their undersigned counsel, submit this *ex parte* presentation to the Federal Communications Commission (“FCC” or “Commission”) to supplement the record in the above-captioned docket. Huawei responds to the assertion that “several of the United States’ closest allies have concluded that the risk posed by Huawei equipment and systems is too great to bear.”<sup>1</sup> Huawei disagrees that “similar assessments by other countries”<sup>2</sup> support the Chairman’s proposal to designate Huawei as a covered company. To the contrary, U.S. allies have used and plan to continue to use Huawei equipment in their networks, including in facilitation of 5G deployment.

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<sup>1</sup> See *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, Draft Report and Order, Order, and Further Notice of Proposed Rule-making, WC Docket No. 18-89, FCC-CIRC1911-01, para. 50 (circulated Oct. 29, 2019) (“Draft Report and Order”).

<sup>2</sup> *Id.*

Huawei has previously submitted evidence that many other countries have not found its equipment to pose a risk.<sup>3</sup> In fact, much of Europe, Africa, the Middle East, and the Americas plan to deploy 5G networks with at least some Huawei equipment.<sup>4</sup> For example, the U.K., a member of the Five-Eyes, has recently indicated that it plans to allow Huawei equipment in its 5G network.<sup>5</sup> And Germany recently finalized rules for 5G deployment that do not exclude Huawei from its networks, in an effort to create a “level playing field” for vendors.<sup>6</sup> Chancellor Angela Merkel reaffirmed Germany’s position last week, acknowledging Huawei’s active participation in 2G and 3G expansion, and noting that Germany will not issue any guidelines for individual providers.<sup>7</sup> German operators had previously cautioned that banning Huawei would “add years of delays and

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<sup>3</sup> *Ex Parte* Written Submission of Huawei Technologies Co., Ltd. and Huawei Technologies USA, Inc., WC Docket No. 18-89 (filed Mar. 12, 2019).

<sup>4</sup> Amy Cheng and Emily Feng, “China’s Tech Giant Huawei Spans Much of the Globe Despite U.S. Efforts to Ban It,” NATIONAL PUBLIC RADIO (Oct. 24, 2019), *available at* <https://www.npr.org/2019/10/24/759902041/chinas-tech-giant-huawei-spans-much-of-the-globe-despite-u-s-efforts-to-ban-it> (“Much of Europe, Africa, the Middle East and the Americas will continue to set up 5G using at least some Huawei equipment. Some countries have directly pushed back against American pressure, declaring it their sovereign choice.”).

<sup>5</sup> Richard Kerbaj and Tim Shipman, “Johnson Set to Grant Huawei Access to UK’s 5G Network and Open Rift with Trump,” THE TIMES (Oct. 26, 2019), *available at* [https://www.thetimes.co.uk/edition/news/johnson-set-to-grant-huawei-access-to-uks-5g-network-and-open-rift-with-trump-fccqvcrsj?wgu=270525\\_54264\\_15725151998543\\_ee1cb6095c](https://www.thetimes.co.uk/edition/news/johnson-set-to-grant-huawei-access-to-uks-5g-network-and-open-rift-with-trump-fccqvcrsj?wgu=270525_54264_15725151998543_ee1cb6095c).

<sup>6</sup> “Germany Will Not Bar Huawei from its 5G Networks,” BBC (Oct. 16, 2019), *available at* <https://www.bbc.com/news/technology-50068415>.

<sup>7</sup> “Merkel trotz Pompeo-Warnung gegen Ausschluss von Huawei bei 5G-Ausbau [Merkel, Despite Pompeo Warning, Against Exclusion of Huawei at 5G Expansion],” HANDELSBLATT (Nov. 8, 2019), *available in German at* <https://www.handelsblatt.com/dpa/wirtschaft-handel-und-finanzen-merkel-trotz-pompeo-warnung-gegen-ausschluss-von-huawei-bei-5g-ausbau/25206660.html>.

billions of dollars in costs to launching 5G networks.”<sup>8</sup> Indeed, some countries have already begun to reap the economic and other benefits of Huawei’s innovative and advanced technology: Greece has partnered with Huawei for two 5G pilot networks;<sup>9</sup> and Portugal is on track to establish its first 5G mobile city through a partnership with Huawei.<sup>10</sup>

The Draft Report and Order references the European Union’s risk assessment on 5G security (the “Risk Report”) as further evidence of purported international support for its proposed rule.<sup>11</sup> But the proposed rule is inconsistent with the purpose of the Risk Report, which was to “define one common position on the 5G mobile network without excluding any company, from any country.”<sup>12</sup> As Portugal’s Foreign Affairs minister recently remarked, the 5G risk assessment “is not a question related to company A, B, C or D,” but to the “need to take the necessary measures to guarantee an infrastructure that complies with all the security requirements from the state’s point of view and for the citizens’ personal data.”<sup>13</sup>

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<sup>8</sup> *Id.*; see also Douglas Busvine and Andreas Rinke, “New German Rules Leave 5G Telecoms Door Open to Huawei,” REUTERS (Oct. 14, 2019), available at <https://www.reuters.com/article/us-germany-telecoms-5g/new-german-rules-leave-5g-telecoms-door-open-to-huawei-idUSKBN1WT110>.

<sup>9</sup> Bojan Stojkovski, “As US, China Fight Trade War, Greece Opens Up to Huawei’s 5G Ambitions,” ZDNET (Aug. 19, 2019), available at <https://www.zdnet.com/article/as-us-china-fight-trade-war-greece-opens-up-to-huaweis-5g-ambitions/>.

<sup>10</sup> Leian Kae Naduma, “Huawei, China, Portugal Builds 5G City, What Comes in it?,” BUSINESS TIMES (Oct. 25, 2019), available at <https://en.businesstimes.cn/articles/120818/20191025/huawei-china-portugal-builds-5g-city-what-comes-with-it.htm>.

<sup>11</sup> *Supra* n.1.

<sup>12</sup> “Portugal Willing to Allow Huawei to Build 5G Network Infrastructure,” TECHQOON (Apr. 30, 2019), available at <https://techqoon.net/2019/04/30/portugal-willing-to-allow-huawei-to-build-5g-network-infrastructure/>.

<sup>13</sup> *Id.*

Huawei notes that the Risk Report was published by European Union member states and based upon national risk assessments that those member states undertook earlier this year. Importantly, none of these member states have plans to exclude Huawei—and many have stated publicly that they *will not* exclude Huawei. Instead, it appears that much of the international community recognizes the importance of a holistic cybersecurity approach that is based on a true risk assessment methodology rather than applying a blanket, country-of-origin ban. For example, in the wake of recent news that Huawei will work with Vodafone and Deutsche Telekom to build Hungary's 5G network, Hungarian Foreign Minister Peter Szijjarto remarked that Hungary rejects discriminating against companies based on nationality.<sup>14</sup> France has long indicated that it does not intend to exclude Huawei, instead relying on existing safeguards for cybersecurity.<sup>15</sup> Similarly, the Dutch government, which has also declined to exclude Huawei from its 5G infrastructure, announced earlier this year that it is addressing potential security vulnerabilities and cyberespionage by requiring companies to thoroughly vet their equipment suppliers against “extra high standards.”<sup>16</sup> And outside of the European Union, Norway has done the same in opting against

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<sup>14</sup> Zoltan Simon, “Viktor Orban Defies Trump to Back Huawei Role in Hungary’s 5G Networks,” BLOOMBERG (Jul. 1, 2019), *available at* <https://www.bloomberg.com/news/articles/2019-11-05/orban-defies-trump-to-back-huawei-role-in-hungary-s-5g-networks>.

<sup>15</sup> Jean-Baptiste Vey, “Macron Says it is not France’s Aim to Block Huawei,” REUTERS (May 16, 2019), *available at* <https://www.reuters.com/article/us-huawei-security-france/macron-says-it-is-not-frances-aim-to-block-huawei-idUSKCN1SM0UU>; Mathieu Rosemain, Gwenaelle Barzic and Elizabeth Pineau, “French Senate Rejects Tougher Telecoms Controls Despite U.S. Huawei Warning,” REUTERS (Feb. 6, 2019), *available at* <https://www.reuters.com/article/us-huawei-europe-france/french-senate-rejects-tougher-telecoms-controls-despite-u-s-huawei-warning-idUSKCN1PV2B8>.

<sup>16</sup> Toby Sterling, “No Huawei Ban in Dutch 5G Rollout: Government,” REUTERS (Jul. 1, 2019), *available at* <https://www.reuters.com/article/us-netherlands-telecoms/no-huawei-ban-in-dutch-5g-rollout-government-idUSKCN1TW2V8>.

a ban: its cabinet minister recently stated that the Norwegian government “has a good dialogue with the companies on security, and then it is up to the companies themselves to choose suppliers.”<sup>17</sup>

Huawei urges the Commission to acknowledge the complex global nature of the communications supply chain, and to recognize—as many of its European Union allies have—that banning a supplier based on its country of origin is not an appropriate or effective solution for addressing security threats to the integrity of communication networks or the communications supply chain. Moreover, as evidenced by the warnings of German and U.S. carriers alike, such a ban would come at a great cost. Huawei encourages the Commission to consider the contents of the Risk Report in their totality, rather than cite selected passages out of context—including the recognition that a lack of vendor diversity increases exposure to risk, that 5G is already inherently more secure than 4G, and that the goal should be the “identification of a toolbox of appropriate, effective, and proportionate possible risk management measures to mitigate cybersecurity risks.”<sup>18</sup>

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<sup>17</sup> Victoria Klesty, “Norway Will not Ban Huawei from 5G Mobile Network: Minister,” REUTERS (Jul. 1, 2019), *available at* <https://www.reuters.com/article/us-norway-huawei-tech/norway-will-not-ban-huawei-from-5g-mobile-network-minister-idUSKBN1WB15G>.

<sup>18</sup> European Union, EU Coordinated Risk Assessment of the Cybersecurity of 5G Networks at 7, 23-24, 30, 33 (2019)

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