



VIA ECFS

November 13, 2019

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Protecting Against National Security Threats to the Communications Supply Chain
Through FCC Programs, **WC Docket No. 18-89**

Dear Ms. Dortch,

On November 12, 2019, Alexi Maltas, Senior Vice President and General Counsel, Competitive Carriers Association, Jonathan Foxman, President and CEO, MTPCS d/b/a Cellular One, and Monica Akin, General Counsel, Viaero Wireless, met with Nirali Patel, Wireline Advisor to Chairman Ajit Pai; Erin McGrath, Legal Advisor, Wireless, Public Safety and International to Commissioner Michael O’Rielly; Joseph Calascione, Legal Advisor to Commissioner Brendan Carr; and Kris Monteith, Trent Harkrader, Justin Faulb, John Visclosky, William Layton, Aaron Garza, and Ryan Palmer of the Wireline Competition Bureau.

We emphasized that we want to work with the Commission on a path forward to ensure the security of our networks and the nation’s telecommunications supply chain. We explained that, if changes need to be made to networks, we are prepared to work constructively with the Commission to accomplish such changes on a reasonable glide path to ensure no disruption in service, with adequate funding and reasonable timelines.

However, we noted that, while the draft Order is described as being purely prospective in nature, we are concerned about some language in the Order that might not have prospective effect, and indeed could have immediate and harmful effects on networks and consumers. In particular, language that would seem to prohibit carriers from being able to “maintain,” “operate,” or “support” their networks with USF funds could have an immediate adverse effect. Wireless carriers must maintain their networks on a daily basis, and must regularly engage in repairs or other activities that could be viewed as falling within the “maintain,” “operate,” or “support” language. Whether it is repairing a faulty card or antenna, a surge arrestor or internal circuit damaged by a lightning strike, or installing a backup generator, such



maintenance and management of networks is a daily part of life for wireless carriers and is critical to the networks that they operate. Indeed, the language “or otherwise support” could even be interpreted to apply to non-covered equipment; for example, a generator, fiber, concrete, steel, shelter, and many other cell site components, all of which may be manufactured outside of China, “support” a cell site operation.

Since many CCA members serve some of the most rural areas in the country, and are often the only wireless network in part or all of their service territory, an inability to maintain or support a network could immediately impair service, and could block consumers’ ability to make calls or receive broadband services. This outcome not only would adversely affect the lives of consumers, but could also have an adverse impact on public safety.

For these reasons, we encouraged the Commission to remove the language in the draft that suggests that carriers cannot use USF funds for the maintenance, support, and operation of their existing networks.¹ Such language would have an immediate detrimental effect, and appears to be inconsistent with the rest of the Draft Order.²

We also noted that some, but not all, carriers may be able to use non-USF funds to maintain their networks, and the Commission should not foreclose that possibility. While the Commission suggests that carriers theoretically could use non-USF funds, it expresses strong skepticism that carriers can adequately segregate USF funds from non-USF funds. The Commission should not make such a judgment in advance. Carriers may be able to segregate funds, whether it is through unique service codes for USF vs. non-USF funds, or even separate bank accounts. The Commission should permit carriers to make that demonstration in order to maintain their networks.

Sincerely,

/s/

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¹ See Draft Order ¶¶ 26, 61, 64, 66, 68, 69.

² Cf. Draft Order ¶ 84 (rejecting due process concerns because the rule “will only be applied prospectively and does not require carriers to remove or stop using any already-purchased equipment or services.”)



CC: Nirali Patel
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Joseph Calascione
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Trent Harkrader
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John Visclosky
William Layton
Aaron Garza
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