

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

In the Matter of	)	
	)	
Protecting Against National Security	)	ET Docket No. 21-232
Threats to the Communications Supply	)	
Chain through the Equipment	)	
Authorization Program Communications	)	
Sector	)	
	)	
Protecting Against National Security	)	EA Docket No. 21-233
Threats to the Communications Supply	)	
Chain through the Competitive Bidding	)	
Program	)	

**COMMENTS  
OF  
NTCA–THE RURAL BROADBAND ASSOCIATION**

NTCA–The Rural Broadband Association (“NTCA”)<sup>1</sup> hereby submits these comments in response to the Further Notice of Proposed Rulemaking (“*Further Notice*”)<sup>2</sup> seeking comment on proposed revisions to the Federal Communications Commission’s (“Commission”) equipment authorization rules. NTCA supports efforts to enhance our nation’s cybersecurity but notes herein that the Commission must ensure any equipment certifications fall within the appropriate Commission authority, are narrowly tailored to prevent harm that would result from adding further delays to equipment availability and are not applied retroactively.

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<sup>1</sup> NTCA represents approximately 850 independent, community-based companies and cooperatives that provide advanced communications services in rural America and more than 400 other firms that support or are themselves engaged in the provision of such services.

<sup>2</sup> *Protecting Against National Security Threats to the Communications Supply Chain through the Equipment Authorization Program*, Report and Order (“Report & Order”), Order, and Further Notice of Proposed Rulemaking and Notice of Inquiry, ET Docket No. 21-232 *et al* (Nov. 25, 2022) (“*Further Notice*”).

**I. PROVIDERS SHOULD BE ALLOWED TO RELY UPON EQUIPMENT MANUFACTURERS' REPRESENTATIONS THAT THEIR EQUIPMENT COMPLIES WITH THE COMMISSION'S RULES.**

Among other things, the *Further Notice* seeks comment on the extent to which an applicant for equipment certification should be responsible for knowing whether any component part of its equipment was produced by any entity identified on the Covered List. NTCA urges the Commission to recognize that communications providers (NTCA members included) typically have no role in the equipment design, manufacturing, or assembly processes, and thus must rely entirely upon information from manufacturers and vendors identifying the equipment components. It is further worth noting that small service providers in particular often lack the bargaining power to drive equipment production decisions or to demand either detailed information or changes in processes by suppliers.

While the Commission correctly recognizes that the Information and Communications Technology Supply Chain Risk Management (“ICT-SCRM”) Task Force has undertaken important efforts to create a “hardware bill of materials” (“HBOM”) taxonomy, equipment purchasers, vendors and manufacturers will require adequate time to become familiar with the HBOM taxonomy, to identify equipment components in their operations, and to put into practice methods of incorporating the taxonomy into future equipment purchasing decisions.<sup>3</sup> Accordingly, while the Commission considers whether, and to what extent, the HBOM taxonomy should play a role in equipment authorization applications, NTCA encourages the Commission to refrain from adopting rules governing expectations for identifying equipment

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<sup>3</sup> See Notice at ¶ 286.

components until efforts to identify equipment components, through the ICT-SCRM Task Force HBOM taxonomy and other methods, have become operational.

Relevant to this discussion, the rules adopted by the *Report and Order* require manufacturers to certify to the Commission when applying for equipment authorization “that the equipment is not prohibited from receiving an equipment authorization...”<sup>4</sup> To further the Commission’s goal in requiring this certification and assist providers in identifying secure equipment, NTCA recommends the Commission require manufacturers to include this same certification when making equipment available to providers. NTCA further recommends that the Commission allow providers who purchase the equipment to be able to rely upon that certification, as opposed to risking liability if the equipment and is later found to be prohibited pursuant to the Commission’s Covered List. This is important because while the ICT-SCRM Task Force can help identify equipment components, carriers, especially small ones, are likely to be unable to identify the manufacturer of each equipment component in their network or to know if a manufacturer is a subsidiary or affiliate of a covered entity.

Furthermore, the Commission cannot realistically expect a small, rural operator with perhaps a few dozen total employees to have the ability to identify these components, particularly as these operators are not the primary “drivers” of the vendor community in the way larger operators are. Therefore, providers must be able to rely upon the manufacturer’s certification that the equipment complies with Commission rules.

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<sup>4</sup> Report & Order at ¶ 54.

**II. IF THE COMMISSION ADOPTS RULES THAT RETROACTIVELY REVOKE EQUIPMENT AUTHORIZATIONS, REIMBURSEMENT FUNDS MUST BE IN PLACE PRIOR TO PROVIDERS' REMOVAL AND REPLACEMENT OF SUCH EQUIPMENT.**

The Commission seeks comment on the scope of possible revocation of existing authorizations that the agency should consider, and whether there might be scenarios warranting revocation in certain circumstances.<sup>5</sup> In the event the Commission chooses to adopt such rules, NTCA urges the Commission to carefully identify whether the revocation is device-specific or company-specific. The Commission could make this information public and announced through its Covered List pursuant to Public Notice (the same procedure currently in place pursuant to the Secure Networks Act). Providers, however, must be permitted to rely upon information provided by the equipment manufacturer or vendor that identifies the make-up, including the ownership, of equipment purchased when determining whether any of their equipment is subject to revocation. Additionally, NTCA urges the Commission to recognize that providers are not responsible for equipment that has been sold to customers.

NTCA further urges the Commission to only require providers to remove existing equipment if funding sufficient to fully reimburse the provider for purchasing and installing new equipment and for the removal and disposal of existing equipment is first made available. As a general matter, the Commission can follow the procedures adopted for reimbursing providers with the cost of removing and replacing covered equipment pursuant to the Secure Networks Act<sup>6</sup> – although it is once again important that *full* funding be in place for such activities *prior to* any such work needing to commence. NTCA further recommends the Commission account for

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<sup>5</sup> See Notice at ¶ 291.

<sup>6</sup> See Notice at ¶ 15.

the availability of replacement equipment when considering what timeline to impose on providers, if any, for removing and replacing revoked equipment. The Commission must also allow sufficient time for carriers to obtain replacement equipment, considering the amount of time needed for manufacturers offering approved equipment to make and distribute to all affected carriers. To accomplish this, NTCA suggests the Commission could apply the process used pursuant to the Secure Networks Act, wherein the Commission identifies the providers and equipment affected followed by feedback from approved manufacturers/sellers identifying the amount of time needed to make replacement equipment available to the number of identified carriers.

### **III. CONCLUSION**

NTCA shares the Commission's goal of helping to secure the nation's communications infrastructure from cyber and national security threats. As the Commission implements procedures to advance this goal, it needs to account for the challenges of smaller providers in discerning what equipment meets specific standards and place any obligations on those in the best position to discern the degree to which any given equipment or manufacturer meets those standards. Moreover, the Commission should consider the impact any equipment certifications would have on existing equipment delays and avoid any ex post facto application without adequate funding already in place to compensate providers for the cost of removing and replacing identified equipment, along with sufficient transition time periods. The Equipment Authorization Program must address all hardware components, liability implications, revocation processes and transition periods, the reimbursement programs itself, and market considerations as it relates to the national security threats to communications supply chain for small broadband

providers and the telecommunications industry holistically. Addressing these concerns will strengthen the outcome.

Respectfully submitted,



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