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February 3, 2021

Chair
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Frank Pallone, Jr.
Chairman
The Honorable Cathy McMorris Rodgers
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Federal Communications Commission: Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Communications Commission (FCC) entitled "Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs" (FCC 20-176). We received the rule on December 23, 2020. It was published in the *Federal Register* as a final rule on January 13, 2021. 86 Fed. Reg. 2904. The effective date is March 15, 2021.

According to FCC, it has established rules to publish a list of covered communications equipment and services determined to be a risk to national security. FCC stated that eligible telecommunications carriers that receive universal service funding to provide service in remote areas of the country must remove such equipment or services from their networks and properly dispose of it. FCC also stated, this document also establishes the Secure and Trusted Communications Networks Reimbursement Program, which will provide funds to smaller providers of advanced communications services for the removal and replacement of covered communications equipment and services, conditioned on the appropriation of funds by Congress. FCC stated further that all providers of advanced communications services must report whether their networks include any covered communications equipment or services acquired after August 14, 2018.

Enclosed is our assessment of FCC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the

evaluation work relating to the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink, reading "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Ramesh Nagarajan
Deputy Division Chief
Competition Policy Division, WCB
Federal Communication Division

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
FEDERAL COMMUNICATIONS COMMISSION
ENTITLED
“PROTECTING AGAINST NATIONAL SECURITY THREATS
TO THE COMMUNICATIONS SUPPLY CHAIN
THROUGH FCC PROGRAMS”
(FCC 20-176)

(i) Cost-benefit analysis

According to the Federal Communications Commission (FCC), it estimates the cost of requiring the removal and replacement of covered equipment and services within the next 2 years to be \$1.8 billion for all eligible telecommunications carriers (ETCs). FCC stated that even if total replacement cost is as high as \$1.8 billion reported by all ETCs, that cost will be far exceeded by the benefits obtained by addressing the important national security concerns raised by the enumerated sources who make national security determinations. FCC also stated, the benefits of removing covered equipment and services extend to hard to quantify matters, such as preventing untrustworthy elements in the communications network from impacting our nation's defense, public safety, and homeland security operations, our military readiness, and our critical infrastructure, let alone the collateral damage such as loss of life that may occur with any mass disruption to our nation's communications networks. Lastly, FCC estimates the reporting costs of 3,500 providers of advanced communications services for complying with the new reporting requirement to be approximately \$600,000.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

FCC prepared a Final Regulatory Flexibility Analysis. The analysis of the effect of this rule on small entities included discussion about: the reasons why FCC issued this rule; what the rule requires; the small entities affected; the requirement to remove and replace covered equipment and services; the covered list of communications equipment or services determined to pose an unacceptable risk; restriction on the use of federal subsidies; the reimbursement program; status updates; steps to mitigate waste, fraud, and abuse; replacement list; reporting requirement; steps taking to minimize the significant economic impact on small entities; and FCCs right to waive any provisions of this rule for good cause.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, FCC is not subject to the Order.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

FCC sought comments, which it addressed in this final rule, via three proposed rules titled: 2019 Supply Chain Further Notice; National Security Threats to the Communications Supply

Chain Through FCC Programs; and 2020 Supply Chain Second Further Notice. 85 Fed. Reg. 27785 (Jan. 3, 2020); 85 Fed. Reg. 26653 (May 5, 2020); and 85 Fed. Reg. 48134 (Aug. 10, 2020). FCC addressed the comments sought through these proposals throughout the preamble of the rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

FCC determined that this final rule contains modified information collection requirements under the Act. FCC stated that it will submit the modified information collection requirements to the Office of Management and Budget (OMB) for review. FCC also stated that OMB, federal agencies, and the general public will be invited to comment on the modified information collection requirements. Lastly, FCC noted that it previously requested comment on how the FCC might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Statutory authorization for the rule

FCC promulgated this final rule pursuant to section 2461 note of title 28; chapters 2, 5, 9, 13 and 15 of title 47; and section 1302 of title 47, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

As an independent regulatory agency, FCC is not subject to the Order.

Executive Order No. 13132 (Federalism)

As an independent regulatory agency, FCC is not subject to the Order.