

ALERT

FCC Seeks Comment on the Required Information Collection in its Standard Team Telecom Questions, Kicking Off OMB Approval Process

March 27, 2023

Comments are due May 15, 2023 on a Federal Communications Commission (FCC or Commission) Notice and Request for Comments (Notice) regarding its October 2021 Second Report and Order that adopts a set of standardized national security and law enforcement questions (Standard Questions) for parties whose applications will be referred to the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (the Committee)—the inter-agency working group commonly referred to as “Team Telecom.” As we discussed in greater detail here, the Second Report and Order’s Standard Questions request five general categories of information from applicants: (1) information about corporate structure and shareholders; (2) relationships with foreign entities; (3) the applicant’s financial condition and circumstances; (4) compliance with applicable laws and regulations; and (5) information about business and operations, including the services to be provided and network infrastructure of the applicant.

The FCC’s publication of the Notice officially kicks off the Paperwork Reduction Act (PRA) approval process for the Standard Questions. The PRA requires federal agencies to, among other things, seek public comment on proposed collections of information and certify to the Office of Management and Budget (OMB) that efforts have been made to reduce the burden of information collection on small entities such as small businesses. To the extent that affected parties believe the FCC has underestimated the burdens that will be imposed by the Standard Questions, this Notice provides an opportunity to comment.

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The FCC estimates, for example, that the industry-wide burden of responding to the Standard Questions for Section 310(b) petitions for declaratory ruling will involve 1,304 hours of work at a cost of \$435,825 (approximately \$334 per hour), and that the industry-wide burden of responding to the Standard Questions for international Section 214 authorizations will involve approximately 2,709 hours of work at a cost of \$992,830 (approximately \$366 per hour). After the May 15 comment deadline passes, the FCC will consider the public comments regarding the information collection burden necessitated by the Second Report and Order and make any changes consistent with the PRA. Once this internal review of the comments is completed, the FCC will again seek public comment via a 30-day Federal Register notice and will concurrently submit the Second Report and Order to OMB for review. OMB will then review the information collection requirements contained in the Second Report and Order and will issue a decision on whether to finalize the information collection.

The Second Report and Order's Standard Questions will have a wide-ranging impact on investors and regulated entities alike. Once the OMB approval process is complete, which the Notice estimates will occur by September 2023, applicants will be required to answer the Committee's Standard Questions either before or at the same time they file petitions and/or applications with the FCC. This represents a substantial shift in current procedure, under which applicants do not respond to the Committee's national security and law enforcement questions until after they submit their filings with the Commission.

Wiley's Telecom, Media & Technology and National Security practices have been deeply engaged in the efforts to reform the Team Telecom review process, as well as reforms to CFIUS, and have significant experience assisting parties in responding to Team Telecom triage questions. If you have questions about the Standard Questions or new processes, or are interested in submitting comments in response to the Notice, please contact one of the authors of this alert.