

The FCC Initiates an Information Collection Requiring ETCs to Report on Huawei and ZTE Equipment and Services

February 26, 2020

On February 26, 2020, the Federal Communications Commission (FCC or Commission) issued a Public Notice announcing the process by which Eligible Telecommunications Carriers (ETCs) must report the extent to which their networks contain or use potentially prohibited equipment or services provided by Huawei Technologies Company (Huawei) and ZTE Corporation (ZTE)—or those companies' subsidiaries, parents, or affiliates—and the estimated costs of a so-called “rip and replace” of such equipment and services, as required by the Commission’s 2019 Supply Chain Order (Order). The News Release that accompanies this Notice explains that “[t]oday’s action initiates the process to collect information to aid in the design of a reimbursement program and inform any other potential FCC actions to protect the communications supply chain.”

The filing deadline for responses to this Information Collection is **April 22, 2020**.

The Order directed the Commission’s Wireline Competition Bureau (WCB) and the Office of Economics and Analytics (OEA) to conduct this Information Collection “to determine whether ETCs own equipment or services from Huawei and ZTE; what that equipment is and services are; the costs associated with purchasing and/or installing such equipment and services; and the costs associated with removing and replacing such equipment and services.”

To perform the Information Collection, the Commission has launched a portal for ETCs to submit required information. The portal also contains information about related filing instructions.

Authors

Megan L. Brown
Partner
202.719.7579
mbrown@wiley.law

Edgar Class
Partner
202.719.7504
eclass@wiley.law

Nova J. Daly
Senior Public Policy Advisor
202.719.3282
ndaly@wiley.law

Kathleen E. Scott
Partner
202.719.7577
kscott@wiley.law

Practice Areas

International Trade
National Security
Telecom, Media & Technology

The Information Collection Applies Broadly to ETCs

The Information Collection has broad application to ETCs that are Universal Service Fund (USF) recipients, regardless of whether Huawei or ZTE equipment are being used on their networks. As noted in the Public Notice:

This information collection is mandatory for *all* ETCs and their subsidiaries and affiliates; ETCs that do not use equipment or services from Huawei or ZTE are required to report that they do not use such equipment or services. Other service providers that are not ETCs may participate in this information collection on a voluntary basis should they have ETC designation petitions pending (or intend to file such in the future). Similarly, other Universal Service Fund recipients who are not ETCs may participate in the information collection on a voluntary basis.

The FCC states that “USF recipients that were [ETCs] as of December 31, 2019 must file. Other USF recipients and service providers that are not ETCs may, but are not required to, file.”

The Information Collection Seeks Information About Huawei and ZTE Equipment and Services

The aim of the Information Collection is “to determine the extent to which equipment and services, including software, produced or provided by Huawei or ZTE, along with their subsidiaries, parents, and/or affiliates, exist in our communications networks.”

The new portal for this Information Collection states that:

Entities without potentially prohibited equipment must indicate the lack of any such equipment, software, or services, then certify and submit the response.

Entities with potentially prohibited equipment must:

- affirm that their network contains and/or relies on potentially prohibited equipment;
- provide the costs of purchasing and installing potentially prohibited equipment or services, separately for both equipment and services currently in use and equipment and equipment and services no longer in use;
- provide the estimated costs of removing and replacing potentially prohibited equipment or services following the instructions; and
- certify and submit the response.

This Information Collection Is Part of the Commission’s Larger Supply Chain Proceeding

This Information Collection arises out of the Commission’s Order in the Protecting National Security Through FCC Programs proceeding. As part of the proceeding, on January 3, 2020, the Commission published in the Federal Register the Final Rule prospectively prohibiting the use of Universal Service Fund (USF) funds “to purchase or obtain any equipment or services produced or provided by a covered company posing a

national security threat to the integrity of communications networks or the communications supply chain"; and the initial designations of Huawei and ZTE as covered companies.

The Order also included a *Further Notice of Proposed Rulemaking (FNPRM)*, where the Commission seeks comment on broader actions to address national security threats to networks funded by the USF. Comments on the *FNPRM* were due February 3, 2020, and Reply Comments are due March 3, 2020.