

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Review of Submarine Cable Landing License	)	OI Docket No. 24-523
Rules and Procedures to Assess Evolving	)	
National Security, Law Enforcement, Foreign	)	
Policy, and Trade Policy Risks	)	
	)	
Amendment of the Schedule of Application	)	MD Docket No. 24-524
Fees Set Forth in Sections 1.1102 through	)	
1.1109 of the Commission's Rules	)	
	)	
	)	

**REPLY COMMENTS OF  
THE NATIONAL TELECOMMUNICATIONS AND INFORMATION  
ADMINISTRATION**

The National Telecommunications and Information Administration (NTIA) is pleased to submit comments on behalf of various agencies within the Executive Branch.<sup>1</sup> As the President’s Principal advisor on telecommunications and information policies, NTIA is charged with developing, coordinating, and presenting the Executive Branch’s views to the Federal Communications Commission (Commission).<sup>2</sup> In its *Notice of Proposed Rulemaking (Notice)*, the Commission recognizes the need to explore ways to streamline and improve submarine cable rules to facilitate deployment, while also ensuring that the submarine cables are resilient to evolving national security and threat environments.<sup>3</sup> NTIA supports improving submarine cable security, but cautions the Commission to avoid duplicative licensing requirements that applicants or licensees already comply with via agreements with the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee).<sup>4</sup>

These reply comments are organized by agency. Sections I, II, and V contain the views of NTIA. Section III reflects the views of two of the advisors to the Committee – namely, NTIA and the Department of State. Section IV contains the views of the Committee Members.<sup>5</sup> NTIA and the Committee each address their primary areas of responsibility and interest: NTIA focuses

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<sup>1</sup> NTIA is the Executive Branch agency principally responsible for the development of communications policies pertaining to the Nation’s economic and technological advancement and to the regulation of the communications industry, for the coordination of the communications activities of the Executive Branch, and for the effective presentation of the views of the Executive Branch to the Commission. *See* 47 U.S.C. § 902 (b)(2).

<sup>2</sup> 47 U.S.C. §§ 901(b)(6), 902(b)(2)(D), 902(b)(2)(I), (J).

<sup>3</sup> Review of Submarine Cable Landing License Rules and Procedures to Assess Evolving National Security, Law Enforcement, Foreign Policy, and Trade Policy Risks, OI Docket No. 24-523, MD Docket No. 24-524, Notice of Proposed Rulemaking, FCC 24-119, at 2-3, ¶ 1 (rel. Nov. 22, 2024) (*Notice*).

<sup>4</sup> *See* Executive Order No. 13913 of April 4, 2020, Establishing the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector, § 6, 85 Fed. Reg. 19643, 19643–44 (Apr. 8, 2020) (E.O. 13913).

<sup>5</sup> The Committee is composed of representatives from the Departments of Defense, Homeland Security, and Justice. Committee Advisors include members of the Executive Branch, such as NTIA, the Department of State, and the Office of the U.S. Trade Representative.

on protecting the competitiveness and viability of U.S. industry, and the Committee focuses on securing U.S. communications critical infrastructure from foreign adversary threats.

NTIA agrees with the Commission's statement that national security and law enforcement threat environments for communications networks have evolved significantly since the Commission last updated its rules<sup>6</sup> and commends the Commission's renewed focus and engagement to combat threats posed by foreign adversaries. Still, NTIA encourages the Commission to contemplate, as this proceeding seeks to do, the national security imperative that is the United States technology and telecommunications sector's competitiveness with its foreign counterparts, particularly the People's Republic of China (China). These comments seek to strike a balance between national security considerations and the broader economic implications of streamlining or reducing regulatory barriers.

The ability to predictably and efficiently lay submarine cables is foundational to secure the United States' position as the unrivaled world leader in critical and emerging technologies, such as artificial intelligence and quantum information science.<sup>7</sup> In the spirit of President Trump's Executive Order "Reducing Anti-Competitive Regulatory Barriers," NTIA encourages the Commission to reduce barriers to regulatory approvals, focus on enhanced coordination and improve existing processes with Executive Branch agencies and the Committee, and remain mindful that discouraging investment in the United States may lead to increased investment in

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<sup>6</sup> Notice at 2-3, ¶ 1.

<sup>7</sup> The White House, *ICYMI: President Trump Outlines OSTP's Goals and Priorities*, ARTICLES, (Mar. 27, 2025), <https://www.whitehouse.gov/articles/2025/03/icymi-president-trump-outlines-ostps-goals-and-priorities/>.

our adversaries’ networks and technologies.<sup>8</sup> To that end, NTIA recommends that the Commission should:

- 1) Adopt requirements that minimize duplicative work, rely on information provided by existing mechanisms like those carried out by the Committee, and foster further interagency information sharing between the Commission, and the Committee, Committee advisors, and the Executive Branch.
- 2) Avoid requirements that trigger substantial changes to the economics of submarine cables, like shortening the license term or adding unnecessary reporting requirements, as these mechanisms may harm American cable investment and duplicate existing periodic and *ad hoc* reviews and;
- 3) Limit the scope of its requirements, considering this action may raise costs and harm the American submarine cable economy.

**I. The Commission’s requirements should minimize duplicative work, rely on information provided by existing mechanisms, and foster further interagency information sharing.**

As NTIA has stated in the past, “[t]he lightning-fast evolution of our communications technologies and our growing dependence on these offerings necessitate a whole-of-government approach to security that engages all available federal government resources.”<sup>9</sup> NTIA supports the Commission’s efforts to secure the nation’s telecommunications infrastructure and reaffirms that the best approach to do this is via close coordination with the Executive Branch agencies.

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<sup>8</sup> The White House, *Reducing Anti-Competitive Regulatory Barriers*, PRESIDENTIAL ACTIONS, (Apr. 9, 2025), <https://www.whitehouse.gov/presidential-actions/2025/04/reducing-anti-competitive-regulatory-barriers/>.

<sup>9</sup> *Ex Parte* Comments of NTIA, Safeguarding and Securing the Open Internet, WC Docket No.23-320, Mar. 20, 2024, <https://www.fcc.gov/ecfs/document/1032004817517/1>.

NTIA recommends that this rulemaking be used as an opportunity to streamline government processes related to submarine cable licensing in line with Executive Branch policy and with the Commission's own *Delete, Delete, Delete* Public Notice.<sup>10</sup> Commenters likewise call for greater Executive Branch coordination and minimization of duplicative requirements. Amazon Web Services recommends that the Commission adopt information sharing solutions with the Executive Branch to meet its national security goals rather than inflicting potentially redundant reporting requirements on licensees.<sup>11</sup> Microsoft argues that the Commission's proposed duplicative processes would not identify additional information of value.<sup>12</sup> Accordingly, to minimize duplicative requirements, NTIA encourages the Commission to adopt rules to streamline the sharing of confidential information between the Commission and Committee. NTIA fully supports the Committee's comments below calling for the adoption of rules that would facilitate the sharing of confidential information submitted to the Commission with the Committee without going through the pre-notification process currently required by the Commission's rules.<sup>13</sup> Allowing for the streamlined sharing of confidential information directly with the Committee without undergoing the burdensome pre-notification process will further the Administration's goals of reducing regulatory burden while also helping to ensure that the Committee can quickly review and address national security and law enforcement concerns evident in the shared information.

To gain insight into the myriad responsibilities and concerns faced by submarine cable licensees NTIA suggests an ongoing multistakeholder engagement process by which the private

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<sup>10</sup> *Delete, Delete, Delete*, Public Notice, GN Docket No. 25-133, DA 25-219 (rel. Mar. 12, 2025).

<sup>11</sup> Comments of Amazon Web Services at 15.

<sup>12</sup> Comments of Microsoft at 7.

<sup>13</sup> See *infra* Section IV.B.

sector can exchange more readily with Executive Branch agencies charged with our national security.<sup>14</sup> Additionally, the submission of the license application to Executive Branch agencies can be made more efficient by instructing applicants to submit a complete copy of the application, or any major amendments or other material filings regarding the application to the U.S. Department of State, U.S. Department of Commerce, and Defense Information Systems Agency via email. The current proposed rule at section 1.70014 suggests that such materials can only be delivered by hand delivery, U.S. mail, or other non-electronic means.

**II. The Commission should avoid requirements that trigger substantial changes to the economics of submarine cables, like shortening the license term or adding unnecessary reporting requirements.**

The Administration's America First Trade<sup>15</sup> and Investment<sup>16</sup> policies focused on securing critical infrastructure and reshoring strategic industries, form the foundation of a unified federal approach to securing the nation's submarine cable assets. As President Trump outlined in his letter to Michael Kratsios, Director of the Office of Science and Technology Policy, "the United States must lead the world not only in developing cutting-edge technologies, but also in building and securing the digital infrastructure upon which those technologies depend. American workers, American companies, and American values must be at the core of that leadership."<sup>17</sup> Submarine cable systems represent an essential component of U.S. economic competitiveness, national security, and digital resilience.

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<sup>14</sup> 47 U.S.C. §§ 902(b)(2)(I), (J).

<sup>15</sup> The White House, *America First Trade Policy*, PRESIDENTIAL ACTIONS, (Jan. 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/america-first-trade-policy/>.

<sup>16</sup> The White House, *America First Investment Policy*, PRESIDENTIAL ACTIONS, (Feb. 21, 2025), <https://www.whitehouse.gov/presidential-actions/2025/02/america-first-investment-policy/>.

<sup>17</sup> The White House, *ICYMI: President Trump Outlines OSTP's Goals and Priorities*, ARTICLES, (Mar. 27, 2025), <https://www.whitehouse.gov/articles/2025/03/icymi-president-trump-outlines-ostps-goals-and-priorities/>.

An America First digital infrastructure policy depends on strong, predictable investment environments. As further discussed by NTIA below, if the Commission shortens the 25-year license term, the sector will almost certainly face significant hardship obtaining the necessary financial investments, insurance policies, and regulatory approvals from partner nations. NTIA strongly encourages the Commission to adopt regulatory conditions that encourage resilient systems, built by trusted entities, landing in trusted nations. Finally, in considering any action that would reduce the ability to build and land cables connecting the United States to foreign adversary countries or revoke existing cable licenses, the Commission should seriously consider the economic and foreign policy impacts of such actions.

The Commission seeks comment on its proposed codification of the Commission's current practice to ask submarine cable landing license applicants to make certain certifications with respect to character.<sup>18</sup> NTIA asks the Commission to re-phrase the certifications regarding antitrust and competition law violations to clarify that the applicant need only make such certification with respect to U.S. antitrust or other competition laws rather than antitrust or competition laws of foreign jurisdictions. To that end, NTIA recommends the Commission rephrase "whether there is an adjudicated determination that the applicant has violated *U.S.* antitrust or other competition laws" to "whether there is an adjudicated determination that the applicant has violated antitrust or other competition laws *in the United States.*"

#### **A. Three-Year Periodic Reviews**

The Commission proposes adding a three-year periodic review requirement, arguing that "it is critical that the Commission has a continuous and systematic understanding of who owns

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<sup>18</sup> Notice at 22-23, ¶ 28.

and controls submarine cables and how they are used...”<sup>19</sup> While NTIA agrees that gaps in cable ownership make securing certain national security objectives difficult, we note the Commission’s proposed reporting risks imposing a significant and duplicative burden on licensees.<sup>20</sup>

Commenters have highlighted how the triennial review would amount to a “continuous administrative burden on operators ... resulting in significant overhead.”<sup>21</sup> Lastly, to the extent the Commission’s proposed requirements create duplicative responsibilities (i.e., to the extent they are not paired with proposals to replace existing information collection mechanisms), they place further economic and deployment burdens on U.S. firms laying submarine cables.<sup>22</sup>

Duplicative requirements help adversaries, not U.S. firms, in an already costly, competitive, and critical telecommunications sector. Accordingly, NTIA agrees with the Committee and multiple commenters that the Commission should appropriately scope any periodic information collections to coordinate with Committee-mandated submissions.<sup>23</sup> NTIA also recommends the Commission focus on capturing material changes to infrastructure and allow for more simple and streamlined certifications in situations where no change has occurred since the previous review.<sup>24</sup> In narrowly tailoring its reviews to avoid duplication with Committee reporting requirements and allowing “no-change” certifications, the Commission

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<sup>19</sup> See *Notice* at ¶ 45.

<sup>20</sup> See Comments of Amazon Web Services at 15, (“Most submarine cable licensees are also subject to additional reporting requirements to comply with letters of assurance or national security agreements [...]. These mitigation agreements require the licensees to file *annual* reports with the relevant Executive Branch agencies to enable assessment of licensees’ compliance with the terms of the relevant mitigation agreement.”); Comments of NASCA at 34 (noting that the Commission’s proposed rule may add burden without providing the benefit of new received information.).

<sup>21</sup> Comments of CTIA at 12.

<sup>22</sup> See Comments of Information Technology Industry Council (ITI) at 4, (“The triennial reporting framework .... Will create substantial administrative burdens without clearly defined benefits.”).

<sup>23</sup> See e.g. Comments of NASCA at 33, INCOMPAS at 18, and SCCN.

<sup>24</sup> Comments of ITI at 4.



would avoid creating continuous disclosure regimes that disproportionately burden licensees without advancing national security.

### **B. Shortening the 25-year License Term**

The Commission seeks comment on the merits of shortening the overall license term from its current 25-year period.<sup>25</sup> NTIA strongly cautions against this proposal, as it risks profoundly harming the economics of submarine cable investment and deployment going forward and, as it notes below, the Committee does not believe it necessary to address national security or law enforcement risks.

As most commenters have noted, shortening the overall license term would place significant administrative and economic burdens on already expensive projects by delaying cable system construction, increase compliance costs, potentially shorten the period in which cables generate revenue, and effectively shrink the valuation of a submarine cable investment.<sup>26</sup> Commenters have also highlighted that this proposal would inject serious uncertainty into the subsea cable deployment cycle and impede the future development of subsea systems.<sup>27</sup> As Alaska Power and Telephone Company explains, “[a lender] cannot provide 25-year financing for a project with a 15-year operational or economic lifespan.”<sup>28</sup> Shortening the license term threatens to erode U.S. leadership in telecommunications infrastructure and open the door for other nations, like China, to lead in submarine cable deployment that otherwise would have routed through the United States.

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<sup>25</sup> *See Notice* at 40, ¶ 59.

<sup>26</sup> Comments of CTIA at 12.

<sup>27</sup> Comments of AWS at 3.

<sup>28</sup> Comments of AP&T at 2.

As commenters have noted, the Commission’s suggestion for 15-year license terms would be appropriate if the lifespan of the cable was the same as for a geostationary satellite;<sup>29</sup> but submarine cables have a lifespan of 25 years or, in some cases, more. Accordingly, the current 25-year term is sufficient as it aligns with not only the return on investment (and accounting) per cable, but also the lifespan of the cable itself.<sup>30</sup>

Commenters have also noted that the current *Notice*’s proposal for license terms does not account for the Committee’s existing compliance assessment mechanisms. The Committee can already address many issues “through continual review of periodic reports or applications submitted by a licensee throughout the life of the system.”<sup>31</sup> Commenters have accurately noted that, “[t]he Commission should use those authorities and coordinated and non-duplicative oversight with [the Committee]—rather than a truncated license term—to ensure ongoing compliance.”<sup>32</sup> Moreover, E.O. 13913 already prescribes significant authority to the Committee, stating that it may at any time, “review existing licenses to identify any additional or new risks to national security or law enforcement interests of the United States.”<sup>33</sup>

### **C. Limiting the Scope of New Requirements**

NTIA believes that the Commission should limit the scope of any new requirements to avoid placing any unnecessary burden on applicants or licensees that might deter investment. NTIA recommends that the Commission work with the Committee closely to streamline

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<sup>29</sup> Comments of AWS at 3-4.

<sup>30</sup> Comments of ITIF at 3; Comments of NCTA at 4.

<sup>31</sup> Comments of Microsoft at 7 (We would note that while Microsoft says that the Commission has access to periodic reports, it is the Committee that receives them.).

<sup>32</sup> Comments of Microsoft at 7.

<sup>33</sup> Comments of AWS at 6 (citing E.O. 13913).

reporting requirements and prevent any duplication of efforts by the government or industry.<sup>34</sup> However, as the President says in the America First Investment Policy: “Economic security is national security. China does not allow United States companies to take over their critical infrastructure, and the United States should not allow China to take over United States critical infrastructure.”<sup>35</sup> The Commission should work with the Committee to address the risks of Chinese ownership, operation, and access to U.S. submarine cables. In doing so, however, NTIA hopes the Commission carefully considers the risks raised by Commentors that additional requirements may hamper future investment<sup>36</sup> and unduly burden industry. For example, NTIA, like the Committee, does not believe it necessary or prudent to require all submarine cable customers to become licensees. The Commission should make sure it identifies and prevents Chinese control of U.S. submarine cables in the least burdensome and most efficient way possible.

Given the risks involved in expanding the scope of the Commission’s submarine cable license requirements, NTIA recommends that, where possible, the Commission seek to complement a whole-of-government approach to address any issues it has with the current process. This would foster industry and regulatory certainty and ensure that investments in subsea systems continues apace.

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<sup>34</sup> See Comments of INCOMPAS at 19, Comments of CTIA at 14.

<sup>35</sup> The White House, *America First Trade Policy*, Presidential Actions, (Jan. 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/america-first-trade-policy/>.

<sup>36</sup> Comments of CTIA at 14.

### III. Other Considerations

#### A. Installation, Maintenance and Repair of Submarine Cable Infrastructure

The Commission seeks comment on requiring submarine cable licensees and applicants to certify that they will not use vendors for equipment or services from foreign adversary countries and further asks how the Commission can “best promote the security and integrity of the communications supply chain.”<sup>37</sup> In response, NTIA recommends the Commission consider the national security risks incurred by undersea installation, maintenance and repair (M&R) services provided by companies subject to control or direction by foreign adversaries. The 22 cable repair ships in service globally – most of them aging, and only two of them U.S.-flagged – are distributed among only a handful of companies.<sup>38</sup> It is perhaps unsurprising that China utilizes submarine cables to advance strategic state policies and interests. A major M&R business, Sino-British Submarine Systems (SBSS), is majority owned by China Telecom, a state-owned enterprise. Additionally, HMN Technologies (formerly Huawei Marine Networks Co., Ltd.), which in 2020 was the fastest growing submarine cable installers, had performed work on nearly a quarter of the world’s cables.<sup>39</sup> NTIA recommends the Commission consider requiring licensees to submit installation and M&R plans as part of their license application and M&R plans in periodic reports to screen for security risks associated with foreign control or direction of these operations.

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<sup>37</sup> Notice at 66-67, ¶ 122.

<sup>38</sup> Josh Dzieza, The Cloud Under the Sea, THE VERGE (Apr. 16, 2024) <https://www.theverge.com/c/24070570/internet-cables-undersea-deep-repair-ships>, Captain Douglas R. Burnett and Kristin Berdan, *To Secure Undersea Cables, Take Lessons from the British Empire’s All Red Line*, U.S. NAVAL INSTITUTE (July 2024) <https://www.usni.org/magazines/proceedings/2024/july/secure-undersea-cables-take-lessons-british-empires-all-red-line>.

<sup>39</sup> *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket No. 16-155, Report and Order, 35 FCC Rcd 10927, 11008-09 (2020), Statement of Commissioner Geoffrey Starks, available at <https://docs.fcc.gov/public/attachments/FCC-20-133A1.pdf>.

## **B. Jurisdiction Terminology**

NTIA recommends the Commission refer to “areas beyond the limits of national jurisdiction” in lieu of “international waters” in the text for proposed Commission rule § 1.70002 (a)(3) and elsewhere for greater precision, as the latter term is not used in the Law of the Sea Convention.

## **IV. Responses of The Committee**

Throughout the *Notice*, the Commission directs questions to the Committee. While NTIA and the Committee members are both part of the Executive Branch, NTIA is a Committee advisor, and not a member. Thus, the following are Committee responses to the *Notice*, provided by its members: the Departments of Justice, Defense and Homeland Security. The Committee’s responses and suggestions focus on its areas of responsibility and expertise, addressing national security and law enforcement risk in telecommunications, and they do not necessarily represent the views of NTIA or the Executive Branch as a whole.

### **A. Background on the Committee and National Security Risks from Foreign Adversaries**

The Committee assists the Commission in its public interest review of national security and law enforcement concerns raised by foreign participation in the United States telecommunications sector.<sup>40</sup> Established in 2020 through Executive Order 13913, the Attorney General serves as the Committee Chair, while the Secretaries of Defense and Homeland Security

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<sup>40</sup> See E.O. 13913, 85 Fed. Reg. 19643 (Apr. 8, 2020).

are also Committee Members. The Committee and its predecessor<sup>41</sup> have provided key national security and law enforcement expertise on several high-profile and significant matters before the Commission.

In the Committee's experience assessing the risks to national security and law enforcement interests in the U.S. telecommunications sector, including with respect to submarine cables, foreign adversaries are motivated and have the tools to disrupt and attack our critical telecommunications infrastructure.<sup>42</sup> The Committee relies on threat analyses provided by the Office of the Director of National Intelligence in assessing risks posed by the transactions under the Committee's review.<sup>43</sup> While such threat analyses are unable to be summarized and shared in this reply comment, the Committee elevates below for the Commission's awareness certain efforts by foreign adversaries to undermine critical U.S. infrastructure that have been publicly reported by the intelligence community that the Commission should be mindful of as it undertakes this important effort to strengthen the Commission's submarine cable licensing rules to guard against such efforts.

As Chairman Carr recognized when announcing the Commission's new Council for National Security, the United States and its networks are under constant threat from various

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<sup>41</sup> Before the Committee was established by E.O. 13913 in 2020, the Departments of Justice, Defense, and Homeland Security provided recommendations to the FCC through an ad hoc committee known as Team Telecom. The official Committee is still often referred to by this name.

<sup>42</sup> For example, the following have been determined by the Secretary of Commerce to constitute foreign adversaries under the rules implementing E.O. 13873 of May 15, 2019 (Securing the Information and Communications Technology and Services Supply Chain): The People's Republic of China, including Hong Kong Special Administrative Region and the Macau Special Administrative Region (China); Republic of Cuba (Cuba); Islamic Republic of Iran (Iran); Democratic People's Republic of North Korea (North Korea); Russian Federation (Russia); and Venezuelan politician Nicolás Maduro (Maduro Regime). 15 CFR § 791.4.

<sup>43</sup> E.O. 13913 § 7.

foreign adversaries, particularly China.<sup>44</sup> Chinese hackers are the “most active and persistent cyber espionage threat to U.S. government, private-sector, and critical infrastructure networks,”<sup>45</sup> and Beijing’s cyber espionage efforts, in coordination with their export of surveillance, information, and communications technologies, remain a threat against the U.S. government and the U.S. technology sectors.<sup>46</sup> Chinese state-sponsored hackers known as Volt Typhoon were hiding within the U.S. networks waiting to attack our critical U.S. telecommunications infrastructure,<sup>47</sup> which in turn serves other critical sectors such as energy, water, and government services.<sup>48</sup> The recent compromise of U.S. telecommunications infrastructure, referred to as Salt Typhoon,<sup>49</sup> also reflects the increasing capability of China to target critical American infrastructure and systems.<sup>50</sup>

Threats to critical U.S. infrastructure are not just limited to actions perpetrated by China. Russia also continues to show that it remains a threat with its advanced cyber capabilities and past attempts to pre-position access on U.S. critical infrastructure.<sup>51</sup> Moreover, Russia has gained

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<sup>44</sup> News Release, FCC Office of Chairman Carr; *Chairman Carr Establishes New Council on National Security within Agency* (Mar. 13, 2025), <https://www.fcc.gov/document/chairman-carr-establishes-new-council-national-security> (stating “Today, the country faces a persistent and constant threat from foreign adversaries, particularly the CCP”).

<sup>45</sup> Joint Appendix of U.S. Government, Vol II, Declaration of Casey Blackburn, Assistant Dir. of Nat’l Intel., Office of the Dir. of Nat’l Intel. (ODNI), *TikTok Inc. et al v. Merrick B. Garland, Att’y Gen.*, Supreme Court Docket No. 24-656, at JA 632, available at [https://www.supremecourt.gov/DocketPDF/24/24-656/336140/20241227160940497\\_24-656%20and%2024-657%20JA%20volume%20II.pdf](https://www.supremecourt.gov/DocketPDF/24/24-656/336140/20241227160940497_24-656%20and%2024-657%20JA%20volume%20II.pdf) (“Declaration of Casey Blackburn, ODNI.”); U.S. Off. of the Dir. of Nat’l Intel., *Annual Threat Assessment of the U.S. Intelligence Community*, at 11 (2025), <https://www.odni.gov/index.php/newsroom/reports-publications/reports-publications-2025/4058-2025-annual-threat-assessment> (2025 ODNI Threat Assessment).

<sup>46</sup> Declaration of Casey Blackburn, ODNI at JA 632.

<sup>47</sup> *PRC State-Sponsored Actors Compromise and Maintain Persistent Access to U.S. Critical Infrastructure* | CISA, (Feb. 7, 2024), <https://www.cisa.gov/news-events/cybersecurity-advisories/aa24-038a>.

<sup>48</sup> Declaration of Casey Blackburn, ODNI at JA 633.

<sup>49</sup> 2025 ODNI Threat Assessment at 11.

<sup>50</sup> 2025 ODNI Threat Assessment at 11.

<sup>51</sup> 2025 ODNI Threat Assessment at 19.

experience through its recent and relentless malware attacks on Ukraine's networks.<sup>52</sup> Iran has shown a growing willingness to conduct aggressive cyber operations that makes it a major threat to U.S. networks and data,<sup>53</sup> and North Korea may also expand its cyber espionage efforts in the future to attack defense industrial base companies.<sup>54</sup>

The Committee works closely with industry every day to protect U.S. cable systems from foreign adversary threats, while ensuring they remain economically viable and supports the Commission in regularly permitting companies to build their cables while Committee and Commission reviews are underway to prevent delays. The Committee also always welcomes opportunities to hear from and work with industry outside the context of our reviews of a specific license and looks forward to continuing to do so in the future. The Committee believes NTIA has, appropriately, covered the importance of protecting investment in and the economic viability of the U.S. cable industry in its portion of the comment, so the Committee will accordingly focus its suggestions on its area of expertise, how to better safeguard U.S. communications and critical infrastructure from foreign adversary attack.

In light of the current and future threats against critical U.S. infrastructure and the telecommunications sector, the Committee supports the Commission's efforts to strengthen the rules governing submarine cable licenses and to address the evolving national security and law enforcement risks associated with submarine cables. The Committee agrees with the Commission that the national security landscape has changed dramatically since the last review

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<sup>52</sup> 2025 ODNI Threat Assessment at 19.

<sup>53</sup> 2025 ODNI Threat Assessment at 26.

<sup>54</sup> 2025 ODNI Threat Assessment at 28.



of these rules in 2001, and that the time is ripe for modernizing its licensing rules.<sup>55</sup> The Committee notes that several provisions within the proposed rules mirror requirements or information gathered during its national security and law enforcement reviews pursuant to E.O. 13913. With the understanding that there may be instances where the Commission needs that information independent of the Committee's actions, we welcome opportunities to work with the Commission to avoid unnecessary duplication of effort where appropriate. For now, the Committee has chosen to prioritize comments on just a few sections of the *Notice*. Although the Committee is broadly supportive of the Commission's efforts, the failure to address any given proposal in this comment should not be interpreted as the Committee's support of, or opposition to, that proposal.

## **B. Information Sharing with Federal Agencies**

The Committee agrees with NTIA that the Commission should adopt rules that would, as a general matter, allow for information sharing between the Commission, the Committee, Committee advisors, and the Executive Branch. Specifically, the Commission should adopt rules to allow for the sharing of information without the pre-notification requirements of section 0.442(d) of the Commission's rules.<sup>56</sup> The Commission's proposal to streamline the sharing of this information would help the Committee efficiently fill some information gaps on older cable systems and reduce delays, administrative burden, and duplicative filings on behalf of industry.

Should the Commission adopt its proposal to allow for the sharing of relevant information with federal agencies without the pre-notification process, the Committee

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<sup>55</sup> See *Notice* at 2–3, ¶ 1.

<sup>56</sup> 47 CFR § 0.442(d).

recommends that the Commission include at least all the Committee members. Such information should include circuit capacity data filed with the Commission<sup>57</sup> and any other information collected by the Commission pursuant to this rulemaking.<sup>58</sup> Especially in the case of cables with limited or no existing mitigation, this information could help the Committee and the Commission to identify new risks to existing cables efficiently and appropriately prioritize higher risk matters for *ad hoc* license reviews. The Committee agrees with the Commission’s tentative conclusion that the Committee has a legitimate need for reviewing this data to fulfill its mandate under E.O. 13913 to review applications and licenses for risks to national security and law enforcement concerns.<sup>59</sup> For example, information contained in the Office of International Affairs’ Capacity Reports is relevant to the Committee’s national security and law enforcement reviews as it provides detailed capacity information by submarine cable. Having this information provides a clearer picture of how such cables are being used and by whom and better enables the Committee to evaluate international data flows on various cables. As the Commission acknowledges in the *Notice*, the Departments of Justice and Homeland Security have historically requested circuit capacity reports from the Commission under the framework established under section 0.442(d).<sup>60</sup> These processes can be unnecessarily cumbersome and prevent the Committee’s timely assessment of information relevant to the Committee’s national security reviews.<sup>61</sup>

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<sup>57</sup> 47 CFR § 43.82.

<sup>58</sup> See *Notice* at 58–59, 64, 109–11, ¶¶ 103, 116, 223–27 (seeking comment on whether the Commission should adopt a rule that would allow it to share submarine cable landing geographic coordinates, route position lists, cybersecurity plans and other information with relevant federal agencies without the pre-notification procedures of section 0.442(d) of the Commission’s rules).

<sup>59</sup> *Notice* at 110–11, ¶¶ 225–26.

<sup>60</sup> *Notice* at 110, ¶ 225 citing Letter from Lee Licata, Deputy Chief, Foreign Investment Review Section, National Security Division, Department of Justice, to Denise Coca, Chief Telecommunications and Analysis Division of the Office of International Affairs, FCC (Aug. 9, 2023). *Notice* at 109, ¶ 223.

<sup>61</sup> *Notice* at 109–11, ¶¶ 223–27.

*Confidentiality of Information Shared with the Committee.* The Committee emphasizes that it respects the Commission’s rules regarding confidentiality protections and, like it has in the past, intends to treat any information, received from the Commission in accordance with Commission confidentially rules (including sections 0.442, 0.457, 0.459, and 0.461),<sup>62</sup> and the confidentiality provisions contained in Section 8 of E.O. 13913. Consistent with its current practice, the Committee also intends to treat such information as eligible for exemption under the Freedom of Information Act, to the extent applicable.<sup>63</sup>

**C. The Importance of Receiving Information on Third Parties with Access to, or Ownership or Control of, Submarine Line Terminal Equipment (SLTE) or Equivalent Principal Equipment**

The Committee appreciates the Commission highlighting in its *Notice* the risk of foreign adversary-controlled non-licensee entities owning, controlling, and operating SLTE, or equivalent equipment, on submarine cables landing in the United States.<sup>64</sup> The Committee hopes to see the Commission take action on these issues in the final rules. As the Commission is aware, an entity with a dark fiber interest in a submarine cable such as a leasehold, ownership, share, swap, or indefeasible right of use (IRU) typically is responsible for “lighting” its own dark fiber or spectrum.<sup>65</sup> Accordingly, this unlicensed entity may have access to the submarine cable and

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<sup>62</sup> 47 CFR §§ 0.442, 0.457, 0.459, and 0.461.

<sup>63</sup> The Committee agrees with the assertion from USTelecom – The Broadband Association (“USTelecom”) that cybersecurity plans must be kept confidential to guard against exploitation of those plans by bad actors. USTelecom Comments at 13-15. As is the current practice, the Committee will continue to treat cybersecurity plans and other information shared with the Committee as confidential pursuant to the disclosure restrictions of E.O. 13913.

<sup>64</sup> *Notice* at 45–47, ¶¶ 74–78.

<sup>65</sup> Dark fiber is optical fiber not currently in use, called “dark” because there is no light passing through it transmitting data. A licensee owner who does not need to use its entire interest in the submarine cable for their own purposes may lease, swap, or grant a dark fiber IRU to another company allowing them to light, operate, and control SLTE or equivalent equipment on the unused “dark” fiber. Similarly, spectrum sharing is the logical partitioning of optical spectrum on a submarine cable fiber for different interest holders, such that each end-user may operate its own ‘virtual fiber pair’ and SLTE or equivalent equipment. See Harry Newton, Newton’s Telecom Dictionary 32<sup>nd</sup> Updated and Expanded Edition (2021), 384. See entry for “dark fiber.” See also *What is spectrum sharing?*,

attach its own SLTE, or equivalent equipment, to the fiber, in its own facility to route its own U.S. communications traffic, all operated, monitored, and secured by its own Network Operations Center (NOC) and its own employees and service providers.<sup>66</sup> Entities with dark fiber IRUs and their own SLTE could be anyone—not just common carriers—including foreign adversary -controlled landing parties, telecommunications companies, and governments. Their interest, access, and control over the communications fiber could last for the entire life of the cable. A foreign adversary-controlled non-licensee entity that owns, controls, or operates its own SLTE, or equivalent equipment, on a submarine cable landing in the United States may have connectivity comparable to operating their own communications cable to the United States without a license, or any regulatory review, mitigation, or monitoring for national security or law enforcement risk.<sup>67</sup>

Because of this evolution in the market and cable structure, the Committee strongly recommends that the Commission adopt rules that require licensees to report certain information to the Commission and Committee about non-licensee entities that own, control, or operate their own SLTE on the submarine cable and require the entities to abide by the security requirements and/or other obligations determined by the Commission. This is the least burdensome and most

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Ciena, <https://www.ciena.com/insights/what-is/What-Is-Spectrum-Sharing.html> (“To securely and reliably implement Spectrum Sharing services, the underlying SLTE technology must incorporate effective optical power management to ensure changes that happen on one end-user’s spectrum do not affect other end-users sharing the same fiber pair via leased channels or spectrum. Secure isolation of multiple end-users sharing the same fiber pair must also be incorporated into the SLTE so one end-user never sees another’s data.”). See also *The Future of Undersea Connectivity*, Trans Americas Fiber, <https://transamericasfiber.com/2024/12/19/the-future-of-undersea-connectivity/>.

<sup>66</sup> Coresite: *Dark Fiber vs. Lit Fiber Networks Pros and Cons*, <https://www.coresite.com/blog/dark-fiber-vs-lit-fiber-networks-pros-and-cons>. (“Dark fiber may be the way to go for an organization that needs virtually unlimited bandwidth and wants total control over the network.”).

<sup>67</sup> Justin Sherman, *Cyber Defense Across the Ocean Floor: The Geopolitics of Submarine Cable Security*, ATLANTIC COUNCIL (Sept. 13, 2021), <https://www.atlanticcouncil.org/in-depth-research-reports/report/cyber-defense-across-the-ocean-floor-the-geopolitics-of-submarine-cable-security/>.

efficient way for the Commission and Committee to fulfill the objectives of the America First Investment Policy to identify and prevent a CCP takeover of U.S. critical infrastructure.<sup>68</sup> At a minimum, the Committee suggests the following additions and changes to the proposed rules included in Appendix A of the *Notice*:

1. New rules should be added to require licensees to report all existing and new entities that the licensee permits to own, access, or operate SLTE on the submarine cable, including:
  - a. Existing entities, within a certain number of days after the final Report and Order;
  - b. New entities, within a certain number of days of new contract execution;
  - c. All entities in future applications (amending the draft rules at sections 1.70005(l), 1.70011, 1.70012(b)(7), and 1.70012(b)(9));
  - d. All entities in any 3-Year Periodic Reports adopted (amending the draft rules at section 1.70016(b)).
2. These reports should include at least the following details:
  - a. Identifying and ownership information of the entity, including name, registration address, principal place of business, website, ultimate beneficial ownership information, and nationality of ultimate beneficial owners;
  - b. The countries where the SLTE is located and/or operated from (e.g., NOC or service provider location);
  - c. Certification that the entity is required to meet or exceed applicable submarine cable security policy requirements or other requirements as set by the Commission;
  - d. Certification that the entity is required to file Annual Capacity Holder reports with the Commission; and
  - e. Notice if the entity:
    - i. Is owned or controlled by, or subject to the jurisdiction or direction of a “U.S. Foreign Adversary” as designated pursuant to Executive Order 13873 and its implementing regulations, a “Country of Concern” as designated pursuant to Executive Order 14117 and its implementing regulations, or a “Foreign Country of Concern” as designated under 42 U.S. Code § 19221 and its implementing regulations; and/or
    - ii. Will use equipment or services on the cable from providers listed on the Commission’s Covered List.

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<sup>68</sup> The White House, *America First Trade Policy*, Presidential Actions, (Jan. 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/america-first-trade-policy/>.

3. These reports should be shared with the Committee on a confidential basis without the pre-notification requirements of section 0.442(d) of the Commission's rules.<sup>69</sup>

The Committee has recently begun to include some similar requirements in mitigation agreements, but this does not cover most cables licensed in the past 25 years. The Committee cannot efficiently collect this information on its own. This new reporting will enable the Committee and Commission to quickly identify those existing licensees who have increased exposure to foreign adversary entities and enhance the Committee's ability to triage risks when deciding whether to initiate *ad hoc* reviews of existing licenses.<sup>70</sup>

Finally, the Committee notes that in its experience, entities that own, control, or operate their own SLTE (*e.g.*, through ownership, IRU, swap, or Leasehold of dark fiber or spectrum) are more likely to be larger and more established because of the up front and long-term investment, specialized equipment, and high bandwidth requirements. Smaller businesses are more likely to acquire lit capacity, fiber, or spectrum leaseholds from dark fiber owners or IRU holders; these leaseholds are typically shorter and do not give customers access to or control of licensee fiber or rights to attach and operate their own SLTE. A cable licensee may have hundreds of lit capacity arrangements but only a few dark fiber/spectrum IRUs with their own SLTE or equivalent equipment. Accordingly, new SLTE reporting requirements suggested here are narrowly tailored to capture information on entities effectively operating submarine cables to the United States without imposing undue burdens on small businesses.

U.S. Government entities should be excluded from this reporting requirement. Requiring U.S. Government entities to identify cables in which they hold interests could damage U.S.

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<sup>69</sup> 47 CFR § 0.442(d).

<sup>70</sup> *See*, Sec. 6, E.O. 13913, 85 Fed. Reg. 19643 (Apr. 8, 2020).

national security and law enforcement interests by potentially allowing foreign adversaries to target specific cables on which large amounts of U.S. Government-affiliated traffic transits for exploitation.

#### **D. Presumptions**

In addition, the Commission seeks comment on various proposals that would limit the ability of entities affiliated with foreign adversary countries to obtain cable landing licenses or otherwise invest in cables landing in the United States.<sup>71</sup> For example, it proposes to adopt a presumption that entities whose Commission authorizations and licenses are denied or revoked on national security or law enforcement grounds are ineligible to obtain future cable landing licenses.<sup>72</sup> Currently this would include China Mobile USA, China Telecom Americas, China Unicom Americas, Pacific Networks, and ComNet.<sup>73</sup> The Committee agrees that “allowing [these] entities . . . to access critical communications infrastructure would present significant and unacceptable risks” and supports the adoption of a presumption against allowing these entities to obtain cable landing licenses.<sup>74</sup>

The Commission also proposes to: (1) prohibit licensees from entering IRU or capacity agreements with entities affiliated with foreign adversary countries or governments, and (2) prohibit new cable landings in countries defined as foreign adversaries.<sup>75</sup> The Committee does not believe it is necessary to wholly prohibit licensees from entering into IRU or other capacity arrangements with foreign adversary-affiliated companies, provided that the Committee’s ability

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<sup>71</sup> See generally Notice at 50–53, ¶¶ 85–91.

<sup>72</sup> See Notice at 50, ¶ 86.

<sup>73</sup> See Notice at 50–51, ¶ 86.

<sup>74</sup> Notice at 51, ¶ 86.

<sup>75</sup> See Notice at 53, ¶ 91.

to conduct *ad hoc* license reviews and the Commission's ability to revoke licenses are preserved and the Commission adopts strong rules ensuring the Commission and Committee receive detailed information on such foreign adversary-related participation in submarine cables connecting to the United States in the enhanced reporting on entities with SLTE, circuit capacity reports, and any periodic reports. The Committee supports the Commission's proposal to prohibit landings in foreign adversary countries; however, we would also support a presumption of denial. The Committee has recently twice recommended that the Commission deny applications to land cables in foreign adversary countries.<sup>76</sup> Given the intent and capabilities of countries classified as foreign adversaries to harm U.S. interests, and the vulnerabilities inherent in submarine cable infrastructure, the Committee believes it prudent to codify either a restriction or presumption of denial on building new landings connecting foreign adversary countries to the United States.

#### **E. Security Certifications**

The Committee supports the Commission's proposals regarding certifications regarding regulatory compliance, cybersecurity, Covered List equipment, and traffic interruption.<sup>77</sup> The Committee additionally proposes that the Commission expand the proposed requirement regarding cybersecurity, to instead require applicants to certify that they have created, updated, and implemented comprehensive security risk management plans, consistent with industry best

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<sup>76</sup> The Pacific Light Cable Network as originally proposed would have connected Hong Kong, Taiwan, and the Philippines to the U.S., and the ARCOS-1 application sought to add a new landing station in Cuba to the existing ARCOS-1 system. *See generally* Application of GU Holdings, Inc., Edge Cable Holdings USA, LLC, and Pacific Light Data Communication Co. Ltd. for a Cable Landing License, File No. SCL-LIC-20170421-00012 (filed Apr. 4, 2017); Application of ARCOS-1 USA, Inc. and A.SurNet, Inc. for a Modification to Cable Landing License, SCL-MOD-20210928-00039 (filed Sept. 28, 2021) (ARCOS-1 Application); Revised Application of ARCOS-1 USA, Inc. and A.SurNet, Inc. for a Modification to Cable Landing License, SCL-MOD-20210928-00039 (filed Oct. 21, 2021).

<sup>77</sup> *See Notice* at 60-67, ¶¶ 108-123.



practices, for the cable systems that would also include supply chain risk management and physical security. These changes would bring all licensees up to the minimum standards that are already recognized and adopted by many in industry, and which are needed to protect our critical infrastructure from foreign adversary threats. The Committee supports the Commission seeking the submission of these plans to the Commission and Committee. When Committee mitigation agreement and Commission requirements overlap, the Committee would welcome the opportunity to work with the Commission to harmonize requirements and share information to avoid any duplication of effort. The Committee knows that industry leaders already use many of the best practices cited by the Commission as a floor, not a ceiling when it comes to cybersecurity.<sup>78</sup> The Cybersecurity and Infrastructure Security Agency's (CISA's) Cross-Sector Cybersecurity Performance Goals and the Center for Internet Security Critical Security Controls are baseline, yet voluntary, security measures that all licensees can and should surpass.

Supply chain and physical security are also critical to submarine cable protection. Under-developed supply chain risk management means some companies do not timely replace end-of-life equipment, do not know if a foreign adversary owns or controls their critical equipment vendors and service providers, and do not always know if service provider employees are accessing and controlling U.S. submarine cable systems from foreign adversary countries. Additionally, companies do not always ask their U.S. service providers if they are using Covered List or foreign adversary equipment or subcontractors to provide services. Accordingly, companies should certify they do not directly or through a service provider use equipment or services from companies on the Covered List in the cable system.

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<sup>78</sup> See Notice at 62–63, ¶ 113.

There also are many physical threats to subsea cables: intentional and unintentional, natural and human-caused.<sup>79</sup> It is the Committee’s observation that many cable licensees are already concerned about many of these threats and are working to address them and make their systems more resilient. However, just as cybersecurity would benefit from establishing baseline requirements to bring everyone up to industry best practices,<sup>80</sup> so would physical security.<sup>81</sup>

## **F. Third-Party Access**

*Managed Network Service Providers (MNSPs), Service Providers, and Foreign Access and Control.* The Committee agrees with the Commission that third-party physical and logical access to and control of submarine cable systems can present national security and law enforcement risks.<sup>82</sup> The Committee also agrees with the Commission that service providers are highly relevant to the risks associated with submarine cable systems. The Committee is generally supportive of the Commission’s proposed definition of “foreign-owned MNSP,”<sup>83</sup> but suggests broadening the scope to clearly include service providers with foreign control or access. While the Commission’s proposed definition was derived from a definition in several mitigation agreements executed in 2021, the Committee today mostly uses, and recommends using, the

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<sup>79</sup> Since 2022, cables have been damaged by vandals in France, a fishing vessel near the Shetland Islands and Norway, an underwater volcano in Tonga, and shifting ice in Alaska. See Cong. RSCH. SERV., R47648, PROTECTION OF UNDERSEA TELECOMMUNICATION CABLES: ISSUES FOR CONGRESS 6–10 (2023). Most of the intentional vandalism of cables happens at cable landing stations and other terrestrial portions of the cable (*id.* at 6–7), but as state actors become involved, the opportunity for attacking the underwater portions of cables grows. See David Gritten, *Crucial Red Sea data cables cut, telecoms firm says*, BBC (Mar. 5, 2024), (a cable cut in the Red Sea either by sabotage or by an anchor dragging from a ship abandoned after it was attacked); Johan Ahlander et al., *Two undersea cables in Baltic Sea cut, Germany and Finland fear sabotage*, REUTERS (Nov. 18, 2024), <https://www.reuters.com/business/media-telecom/telecoms-cable-linking-finland-germany-likely-severed-owner-says-2024-11-18/> (two cables that joined Finland and Germany, and Lithuania and Sweden were cut, with the cause unknown but sabotage expected); Johanna Lemola and Lynsey Chutel, *Finland Says Vessel Suspected of Cutting Cable May Be Part of Russia’s ‘Shadow Fleet,’* NEW YORK TIMES (Dec. 26, 2024) (Finland seized tanker suspected of damaging undersea electricity and data cables).

<sup>80</sup> See Notice at 61, ¶ 109.

<sup>81</sup> See Notice at 67, ¶¶ 124–25; App. A (the proposed regulatory text at § 1.70006(c)).

<sup>82</sup> See Notice at 67–71, ¶¶ 124–35.

<sup>83</sup> Notice at 68–69, ¶ 128.

more general term “Service Provider,” which avoids confusion about which service providers are involved in “managing networks” as compared to other tasks that involve access to and control of to the cable system. In addition to the types of service providers the Commission cites,<sup>84</sup> the Committee recommends including service providers involved in providing, hosting, analyzing, repairing, and maintaining the cable system’s equipment in the scope of the definition.<sup>85</sup> As related to maintenance and repair, the Committee agrees with NTIA and the Department of State that there are national security risks associated with maintenance and repair services provided by foreign adversary-affiliated companies and ships.

Additionally, as is consistent with the Committee’s holistic view of national security and law enforcement risks associated with “foreign participation” in the telecommunications services sector, the Committee finds that foreign ownership of service providers, like foreign ownership of applicants themselves, is not the only potential risk to U.S. interests. The Committee submits that the locations for both licensee and service provider employee remote access and control of submarine cable systems are highly relevant to U.S. national security and law enforcement interests. For example, a U.S.-owned company could use staff in a foreign adversary jurisdictions to remotely monitor and operate a cable system. The Committee accordingly suggests broadening the definition to service providers with foreign ownership, control, or access.

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<sup>84</sup> *Notice* at 68–69, ¶ 128.

<sup>85</sup> In the *Notice* at 71, ¶ 135, the Commission sought comment on whether NOCs operated by third parties may be encompassed by the proposed definition of an MNSP and whether there are benefits or consequences to including or excluding third-party owners of NOCs from the proposed definition. Because operators and personnel perform many of these services related to a cable system—particularly network operations and service monitoring—the Committee would find it beneficial to include third-party owners/operators of NOCs in the proposed definition of an MNSP or service provider.

*Requirements to Answer Standard Questions and the Importance of Updating the Standard Questions.* Additionally, the Commission seeks comment on whether all applicants, regardless of reportable foreign ownership, should be required to answer all of the existing Standard Questions, or only those existing Standard Questions relating to MNSPs, or a new set of questions devised by the Office of International Affairs.<sup>86</sup> While the Standard Questions can be a useful tool for receiving key national security and law enforcement information from applicants, as some commenters note, the current Standard Questions reflect the Committee's questions from several years ago, instead of the updated questions the Committee finds important for reviews today (and, in certain cases, the Committee would now prefer to request *less* information on certain topics than is prompted by the Standard Questions).<sup>87</sup> The Committee would welcome opportunities to work with the Commission to efficiently update the Standard Questions as soon as practicable, and in the future when necessary.

Provided the Standard Questions are updated as needed, the Committee would be supportive of requiring that all applicants answer the Standard Questions. As the Commission is aware, in certain cases, a Committee Member or the Committee requests that the Commission defer action on submarine cable applications that do not involve reportable foreign ownership so that the Committee may review any national security and law enforcement concerns that may still be associated with the licenses, such as the third-party access considerations discussed here.

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<sup>86</sup> See Notice at 69, ¶131.

<sup>87</sup> See, e.g., Comments of NASCA at 39 (recommending that the Commission “work with Team Telecom to update the Standard Questions to reflect the full set of questions that the agencies issue to applicants,” explaining that some applicants have started submitting supplements with their responses to the Standard Questions to avoid anticipated follow-up questions). Where applicants do not submit such supplements anticipating the Committee's questions, the Committee sometimes asks certain Tailored Questioned to supplement information gaps left by the current Standard Questions.

Requiring applicants to answer updated Standard Questions would facilitate and expedite the Committee's review by allowing the Committee to begin reviewing these applications at the same time the Commission reviews them, and the responses may provide enough information for the Committee to determine that it would be unnecessary for the Commission to refer the application for a full review. The Committee would also be open to opportunities to expedite the Standard Questions process for applicants without reportable foreign ownership, including by assisting the Commission in creating, for example, a more streamlined Standard Questions set for U.S.-owned applicants.

Additionally, while the Commission proposed the creation of a separate set of MNSP Standard Questions, which applicants/licensees would be required to answer if they use a foreign-owned MNSP,<sup>88</sup> the Committee would recommend that any MSNP or service provider questions be refined and included in updated, consolidated Standard Questions, rather than a separate questionnaire.

### **G. Circuit Capacity Reports**

*Who Should File a Capacity Holder Report.* The Committee appreciates the Commission's desire to improve the quality of circuit capacity data, which the Committee finds useful for national security and law enforcement purposes. Specifically, though the Committee does not comment on the Commission's legal authority to require capacity holders not already subject to section 43.82 of the Commission's rules<sup>89</sup> to submit data regarding their capacity on submarine cables landing in the United States,<sup>90</sup> the Committee does agree that the current

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<sup>88</sup> See Notice at 69, ¶ 131.

<sup>89</sup> 47 CFR § 43.82.

<sup>90</sup> Notice at 102-103, ¶ 209.

requirements limiting capacity reporting to cable landing licensees and common carriers only, present a significant gap in reporting that could raise national security concerns.<sup>91</sup> The vast majority of submarine cable applications that the Committee reviews involve licensees that offer or plan to offer service on a non-common-carrier basis, meaning parties such as IRU holders, non-licensee owners, and others, may have significant, long-term capacity interests but not be captured by the current capacity holder reports. The Committee encourages the Commission to explore requiring all entities that hold capacity on cables landing in the United States to file capacity holder reports, subject to the suggested limitations and exemptions below.<sup>92</sup> Anyone supplying capacity on a submarine cable should already be collecting this data for their own network management or billing purposes. While the Committee might be able to request similar information from certain cable operators on a case-by-case basis, it would increase efficiency for the Commission to collect this information in a consolidated manner and share it with the Committee as described above.

*Suggested Limitations on Capacity Holder Reports.* While the Committee is in favor of expanding the requirements for capacity holder reports, the Committee does recommend that the Commission identify and apply a reasonable threshold for reporting to avoid capturing extremely minor capacity interests that are unlikely to be relevant to national security and law enforcement risks. Though the Committee defers to the Commission on this threshold, the Committee finds

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<sup>91</sup> See *Notice* at 101–02, ¶¶ 207–08.

<sup>92</sup> The Committee does not find that the Commission’s alternative proposal of requiring licensees and common carriers to report immediate customers to whom they have sold or leased capacity would adequately capture all relevant capacity holders, as suggested at *Notice* at 101–02, ¶ 208. Capacity interests such as IRUs can be further resold or leased to additional customers, and the licensee or common carrier may not have visibility into these downstream customers. Excluding downstream customers from capacity reporting could encourage entities to obfuscate their capacity interests by using an intermediate entity to directly contract with the licensee or common carrier granting the interest, which would limit the utility of expanding capacity reporting.

the Commission’s example 1 Gbps threshold<sup>93</sup> to be far too low to provide useful data for the Committee’s purposes. Additionally, it would be useful for capacity holder reports to identify how the capacity is held (for example, through an ownership interest, an IRU, an inter-carrier leasehold, or on a fiber or spectrum basis); whether the capacity holder owns, controls, or operates its own SLTE; and whether the capacity interest is in activated (*i.e.*, lit) or non-activated (*i.e.*, unlit) fiber.<sup>94</sup> As discussed, entities with their own SLTE should be required to report their downstream capacity holders.

Additionally, if the Commission were to expand the requirements for capacity reporting to all entities that hold capacity on cables landing in the United States, or alternatively require licensees and common carriers to provide lists of customers to whom they sold capacity in the reporting period, the Committee would again recommend that the Commission exempt the U.S. Government from submitting such reports or being listed on capacity holder customer lists.<sup>95</sup>

## **H. Three-Year Reporting Requirement**

The Commission seeks comment on whether to require that existing cable landing licensees submit periodic reports every three years with information mirroring that which the Commission proposes to require in new license applications.<sup>96</sup> When Committee mitigation agreement and Commission reporting requirements are co-extensive, the Committee supports harmonizing reporting requirements and sharing information with Commission to avoid any

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<sup>93</sup> See Notice at 101–02, ¶ 208.

<sup>94</sup> See Notice at 101–02, 104, ¶¶ 208, 213.

<sup>95</sup> Notice at 101–02, ¶ 208.

<sup>96</sup> See generally Notice at 34–37, 91–96, ¶¶ 44–53, 180–95. Multiple commenters support this proposal. See, e.g., Comments of SentinelOne at 4 (“Maintaining an accurate and current understanding of systems, assets, and third-party relationships is foundational to effective risk-management and incident response.”); Comments of the Submarine Cable Coalition (“SCC”) at 21 (noting that periodic reporting could help “ensure that the information about each system is kept reasonably up to date”); Comments of Southern Cross Cables Limited and Pacific Carriage Limited Inc. at 2 (noting that such reporting would help “ensure cable security and protection.”).

duplication of effort and limit the burden placed on industry. If the Commission adopts a periodic reporting requirement, the Committee notes the Commission proposes that only licensees with reportable foreign ownership or existing mitigation agreements should be required to share their report with the Committee,<sup>97</sup> which would cover most cables currently licensed by the Commission.

As the Commission evaluates the responses to its proposals, the Committee wishes to point out that more recent mitigation agreements contain many of the same information-sharing requirements as the Commission proposes to mandate,<sup>98</sup> but some cable landing licenses are not conditioned on any mitigation agreement at all, or require very limited reporting.

## **I. License Terms**

With regard to the Commission's request for comment on whether to shorten the existing 25-year license term for cable landing licenses, the Committee agrees with NTIA that this is not necessary. From the Committee's perspective, if the Commission improves the scope of its information collection (as highlighted throughout) and decreases the barriers to timely sharing that information with the Committee, then shortening license terms is not necessary to achieve these benefits and may cause application processing delays.

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<sup>97</sup> *Notice* at 37, ¶ 50 (“We propose that licensees with reportable foreign ownership as of thirty (30) days prior to the date of the submission or that have a mitigation agreement with the Committee or particular agencies must also file a copy of the report directly with the Committee.”).

<sup>98</sup> For example, the Committee's standard mitigation measures include requirements for licensees to provide information on cable infrastructure, ownership, points of contact, service offerings, and service providers, all of which the FCC proposes to include in periodic reporting requirements. *See Notice* at 91–94, ¶¶ 182–91.



## **J. Streamlined Application Processing**

Multiple commenters respond to the Commission's request for comment on ways to streamline the application process,<sup>99</sup> with several advocating a "frequent filer" program in which some applicants have more limited obligations. Proposals include a notice requirement for "approved" filers building new landings,<sup>100</sup> exemption from supplying ownership and other information if another application was filed recently,<sup>101</sup> among others. In general, the Committee supports efforts to achieve efficiencies and reduce the need to supply redundant information. We note, however, that many cables meeting the current criteria for streamlined processing<sup>102</sup> nonetheless still have significant foreign participation and may present risk such that Committee review is appropriate. This is reflected in the Commission's consistent referrals of such applications despite their eligibility for streamlined processing. Any streamlining proposals the Commission considers in this proceeding should account for this dynamic.

## **V. Conclusion**

NTIA appreciates the Commission's careful consideration of these important issues. The importance of securing our nation's networks has never been greater; likewise, never has the importance of ensuring U.S. leadership in network deployment and use been greater. Through careful consideration of existing tools available to the Commission and the Executive Branch, the Commission and federal agencies can improve its view into the vulnerabilities of our subsea infrastructure while also streamlining requirements to enhance submarine cable economics for the private sector owners, operators, investors, and customers. The whole of government must

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<sup>99</sup> See generally Notice at 75–77, ¶¶ 142–46.

<sup>100</sup> Comments of NASCA at 40.

<sup>101</sup> Comments of SCC at 19.

<sup>102</sup> See Notice at 76, ¶ 144 (listing criteria).

collaborate to ensure we balance security with innovation to ensure American networks are the networks of choice for global companies and investors.

As the President's advisor on telecommunications and information policies, NTIA can serve as crucial fulcrum in this respect. NTIA's ability to convene both government and private sector stakeholders allows us to drive consensus and achieve balanced, thoughtful outcomes that maximize both security and economic potential, and minimize waste and red tape.

Respectfully Submitted,

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