Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
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
	)	
Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission's Rules	)	MD Docket No. 24-524

REPLY COMMENTS OF INCOMPAS

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INCOMPAS respectfully submits these reply comments in response to the Federal Communications Commission's ("Commission" or "FCC") Report and Order and Further Notice of Proposed Rulemaking, which continues the Commission's work to "modernize and streamline submarine cable rules to facilitate faster and more efficient deployment of submarine cables, while at the same time ensuring the security and resilience of this critical infrastructure."[1]

I. INTRODUCTION AND SUMMARY

INCOMPAS, the competitive communications and AI infrastructure association, and its members—major providers and users of subsea cable capacity—support pragmatic national security guardrails and faster, more predictable licensing processes. INCOMPAS members are both major providers and users of subsea cable capacity, including a number of domestically-based submarine cable owners and operators who have made significant, long-term investments in deploying, operating, and securing this vital infrastructure. Our membership also includes data center owners and operators of facilities that house submarine cable hardware, infrastructure that is vital for today's digital communications demands. INCOMPAS members remain committed to strengthening national security through extensive and thorough security practices that protect American citizens' data. The Commission's Order struck an appropriate balance of adopting measures that directly address the security concerns identified by the Executive Branch agencies without imposing unnecessary regulatory burdens.[2]

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[1] *Review of Submarine Cable Landing License Rules and Procedures to Assess Evolving National Security, Law Enforcement, Foreign Policy, and Trade Policy Risks; Amendment of the Schedule of Application Fees Set Forth in Section 1.1102 through 1.1109 of the Commission's Rules,* Report and Order and Further Notice of Proposed Rulemaking, FCC 25-49, OI Docket No. 24-523, MD Docket No. 24-524, ¶ 1 (rel. Aug. 13, 2025) ("FNPRM" or "Order").

[2] *Id*.

However, the Commission's proposals in the FNPRM reach too far. The FNPRM should be revised to enhance security and resilience by (a) adopting clear, bright-line rules tied to clearly identified risks, (b) implementing a Submarine Line Terminal Equipment ("SLTE") oversight regime that addresses risks without replicating the framework in place for licensed systems, (c) affording streamlined treatment to all applicants except those that raise character or security concerns, and (d) eliminating duplication with Team Telecom mitigation. Key revisions include:

- SLTE owners and operators should be subject to notification and information reporting requirements, not licensing requirements.
- Submarine cable landing licensees should not be subject to an additional SLTE licensing regime.
- Routine conditions should not be imported wholesale from the submarine cable licensing regime but should be adopted only to address specific risks associated with the owner and operators of SLTE, if any.
- New licensing certifications and prohibitions on use of certain service providers use should be tailored to ensure no harm to existing infrastructure, in particular, submarine cables that currently land in foreign jurisdictions.
- Character and certification requirements to qualify for exemption from referral to Team Telecom should be crafted to cover both any applicant meeting reasonable character and qualification standards and any applicant that has been cleared by the Committee within the preceding 18 months.
- Mitigation Agreements should be modified by rule. The rules adopted by the Commission with respect to equipment and service provider use, physical and cybersecurity, and detailed infrastructure reporting—and the proposed information sharing with the Committee—should obviate the need for individually negotiated mitigation agreements except for the most bespoke provisions.

As the Commission considers action in this proceeding, it should only consider proposals that enhance subsea cable resilience and create additional transparency and certainty for submarine cable operators and owners, and it should reject efforts to create new layers of administrative red tape without any added security benefit. INCOMPAS thanks the Commission

for the work they have already done to streamline the submarine cable licensing process, and respectfully submits the arguments below to continue the Commission's positive work.

II. THE COMMISSION LACKS STATUTORY AUTHORITY TO IMPOSE A BLANKET LICENSING REGIME ON SLTE OWNERS AND OPERATORS

A. The Cable Landing License Act Authorizes Licensing of Those Who Land and Operate Submarine Cables– Not Lessees or IRU Holders of Capacity

The Cable Landing License Act (CCLA) and Executive Order 10530 grants the Commission authority to issue written licenses to those who land or operate submarine cables in the United States.[3] The object of the Commission's authority is those who have ownership and control of submarine cable system on U.S. shores. As the Commission has long recognized in its implementing regulations, the licensable entity is the owner and operator of the submarine cable —not every piece of equipment, capacity arrangement, or commercial relationship that may touch the cable system.[4] A blanket license regime on SLTE owners and operators exceeds the Commission's statutory authority because owning an SLTE is not the equivalent of owning and operating a submarine cable system. SLTE owned by third parties—particularly passive capacity purchasers, co-location customers, or equipment owners who do not land or operate the submarine cable—fall outside the CLLA's plain language. Microsoft's comments correctly observe that third-party SLTE customers own and operate terminal equipment "without owning or operating the submarine cable" itself, and that the submarine cable "would continue to operate even without third party SLTE." Furthermore, the mere ability to operate SLTE and exercise

[3] Cable Landing License Act of 1921, Pub. L. No. 8, 67th Cong., ch. 12, § 1, 42 Stat. 8 (1921) (codified as amended at 47 U.S.C. §§ 34–39)); Exec. Order 10530 (1954) ("*Executive Order*" or "*EO*") (The EO's delegation of authority to the Commission limits the Commission's authority to "land[ing] or operat[ing] submarine cables in the United States. . . .").

[4] 47 C.F.R. § 1.767.

control over capacity on a subsea cable does not enable operation or control over any other portion of the system – "individual IRU holders with control over their own equipment thus cannot harm other capacity holders or the submarine cable system itself."[5] Thus, the broader operations of a cable cannot be impacted, much less rendered inoperable, by the presence or absence of a particular customer's terminal equipment; it is an independent transmission facility.

As NASCA and ICC members emphasize, SLTE arrangements vary widely in operational significance.[6] Some SLTE is owned by cable system operators themselves and is already subject to cable landing license conditions. Other SLTE is owned by third-party capacity holders who have no ownership interest in, or operational control over, the underlying submarine cable. Treating all SLTE as a single regulatory class subject to blanket licensing ignores these factual and legal distinctions and improperly extends the CLLA to cover commercial relationships that Congress did not address in the statute.

B. The Commission's Security Concerns Are Already Addressed by the Order and Existing Requirements

Throughout the R&O and the FNPRM, the Commission acknowledges that it lacks sufficient information regarding SLTE owners and operators, and that a key goal of the one-time information collection is to close that informational gap. The Commission has explained this collection is intended to inform a more "targeted" regulatory framework and to enable the adoption of narrowly tailored measures, if any are ultimately warranted.[7] Against that backdrop,

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[5] *See* Microsoft Comments at 9.

[6] *See* NASCA Comments at 9-13; ICC Comments at 19.

[7] *See* R&O at ¶¶ 5, 78, and 84; FNPRM at ¶ ¶ 239, 245, and 259.

the proposal to impose a blanket license requirement along with a broad set of "routine" conditions that mirrors those imposed on submarine cable landing licensees cannot reasonably be described as targeted. Even in its more streamlined form, such a regime would impose a significantly new regulatory burden without any corresponding efficiencies or national security benefit[8] because the Commission's existing framework already addresses the core national security concerns associated with foreign ownership, control, and operation of submarine cable infrastructure.

Rather than filling a regulatory gap, the FNPRM proposal would extend regulation to entities that are already subject to substantial federal oversight, as well as to entities that have not historically been regulated at all, set by the Commission's own precedent. Executive Order 13913 established a formal interagency review process—commonly referred to as Team Telecom—through which the Departments of Justice, Homeland Security, and War assess national security and law enforcement risks associated with submarine cable landing licenses and other telecommunications authorizations. That process includes detailed review of ownership structures, control relationships, operational security practices, and supply-chain risks, and provides Executive Branch agencies with ample authority to recommend license conditions, mitigation agreements, or denial where necessary to protect national security. The Commission's Order appropriately harmonizes FCC licensing requirements with the Team Telecom process by adopting routine conditions and certification requirements that directly reflect Executive Branch security priorities. Imposing an additional SLTE licensing layer would not enhance this framework—it would duplicate it. As members of the International Connectivity Coalition

[8] *See* NCTA Comments at 5-6; ICC Comments at 25-27; ITI Comments at 2; NASCA Comments at 10-13; TIA Comments at 8-10.

("ICC") have observed, extending licensing requirements to SLTE arrangements exceeds the Commission's authority and administrative directives, while creating regulatory burdens that undermine streamlining goals and overextend the Commission's cable licensing authorities.[9]

In practice, the proposal would be duplicative and overinclusive. Submarine cable landing licensees would effectively be required to obtain an additional license for SLTE that was already reviewed and approved, subject to system-specific security obligations, in connection with their licensed cable systems. At the same time, many of these same licensees hold IRUs on other cable systems to ensure redundancy and resiliency, meaning they would face additional licensing obligations simply to maintain network reliability. Moreover, IRU and capacity lease holders include common carriers that are already subject to Section 214 authorization requirements, as well as enterprise customers that function as end users, utilizing capacity solely to support their own internal business operations. Subjecting these entities to a new licensing regime would neither enhance the Commission's understanding of genuine security risks nor advance the Commission's stated goal of adopting a narrowly tailored framework. Instead, it would impose unnecessary regulatory costs while diverting attention and resources away from the relatively small subset of arrangements that could plausibly raise national security concerns.

III. IF ADITIONAL OVERSIGHT IS DEEMED NECESSARY, SLTE OWNERS AND OPERATORS SHOULD BE SUBJECT TO NOTIFICATION, NOT LICENSING REQUIREMENTS

A. The Commission Should Adopt a Notification, Instead of a Licensing, Regime for SLTE Owners and Operators

[9] *See* ICC Comments at 19.

While INCOMPAS maintains the Commission lacks jurisdiction under the Cable Landing License Act to regulate SLTE owners and operators directly,[10] even if the Commission were to conclude otherwise, it should reject the FNPRM's proposal to impose a licensing regime on such entities. Many SLTE owners and operators are already subject to Commission oversight as submarine cable landing licensees or international Section 214 authorization holders, and layering a new licensing framework on top of those existing obligations would be inconsistent with the Commission's stated objective of adopting a targeted regulatory approach.[11] Thus, if the Commission believes additional oversight of SLTE owners is necessary, the Commission should adopt a notification and reporting regime.[12] A notification-based framework would provide the Commission with enhanced visibility into SLTE ownership and operational arrangements, thereby advancing its security goals without imposing unnecessary, duplicative, or overly burdensome regulatory requirements. Under such an approach, SLTE owners and operators would file a notice identifying their relevant arrangements and providing basic ownership and operational information, enabling the Commission to monitor developments and respond if specific concerns arise.

As Microsoft explains, a notification regime "would acknowledge FCC oversight without requiring the Commission's affirmative and prior consent."[13] This distinction is critical. Unlike a licensing regime, notification does not imply Commission approval, nor does it introduce delays,

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[10] *See* Microsoft Comments at 7-8; ICC Comments at 22-24; NASCA Comments at 9; TIA Comments at 7-8; ITI Comments at 2.

[11] *Supra* note 5.

[12] *See* NASCA Comments at 14; ICC Comments at 28-29.

[13] *See* Microsoft Comments at 11.

uncertainty, or ongoing compliance obligations that are disproportionate to the risks identified. Instead, it preserves the Commission's ability to "inquire further as concerns arise" and to "address problems later through new regulation or enforcement inquiry," should circumstances warrant.

A notification framework would also avoid multiple tiers of duplicative regulation. It would allow the Commission to monitor SLTE ownership and operation without overburdening submarine cable landing licensees, international Section 214 authorization holders, or enterprise customers that function as end users of capacity rather than network operators. NASCA similarly supports notification and reporting requirements tailored to address national security concerns related to problematic ownership, equipment, and vendors, without expanding the Commission's regulatory footprint beyond what is necessary.[14]

Importantly, the Commission's principal national security concern—preventing foreign adversaries from owning, managing, or operating SLTE,[15] is already addressed by the rules adopted in the Order. Those rules prohibit submarine cable landing licensees from entering into new or extending existing IRUs or leases that grant such rights to entities owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary. In light of this prohibition, the Commission should reject the Foundation for Defense of Democracies' proposal to require all SLTE owners and operators to file annual reports about whether the SLTE owner or operator sells, shares, or swaps fiber or spectrum on a licensed submarine cable system, in order to identify "potential adversarial intrusions or interference."[16] Licensees are already subject to the

[14] *See* NASCA Comments at 7-14.

[15] *See* R&O at ¶ 243.

[16] *See* Foundation for Defense of Democracies Comments at 3.

prohibition on entering into new or extending existing leases/IRUs with foreign adversary entities, preventing the types of arrangements that could give rise to adversarial access, rendering additional reporting obligations redundant and inconsistent with the Commission's commitment to targeted regulation.

Finally, a notification-based approach is consistent with the Commission's broader regulatory framework. The Commission does not license every entity that interconnects with Title II carriers, operates customer premises equipment, or purchases capacity on common carrier networks. Instead, it relies on targeted reporting obligations, certifications of compliance where appropriate, and enforcement authority to address discrete risks. The same calibrated approach is appropriate here.

IV. ROUTINE CONDITIONS SHOULD BE TAILORED TO MEET A SPECIFIC MARKET OR SECURITY CONCERN AND SHOULD REPLACE CUSTOMER FLOWDOWN PROVISIONS IN EXISTING MITIGATION.

A. Routine Conditions Must Be Narrowly Tailored and Not Simply Replicate Submarine Cable Licensing Requirements.

Any routine conditions adopted in this proceeding should be designed to address a discrete market or national security concern arising from SLTE ownership or operation. They should not simply mirror the routine conditions imposed on submarine cable landing licensees, as proposed in the FNPRM.[17] As the Commission has recognized, the purpose of this proceeding is to develop a more informed and targeted regulatory framework for SLTE, not to extend the existing cable licensing regime to a distinct set of entities and arrangements. Replicating the routine conditions applicable to cable landing licensees would disregard the fundamental

[17] *See* FNPRM at ¶ 252; NASCA Comments at 11; ICC Comments at 27.

differences between SLTE owners and operators and cable system operators and would impose obligations untethered from the risks the Commission seeks to address.

The wholesale importation of a separate regulatory regime is also inconsistent with the Commission's stated goal of adopting a targeted approach informed by a better understanding of the SLTE market. For example, imposing foreign affiliate notification requirements on SLTE owners and operators would be unnecessary and duplicative in many cases. Numerous SLTE owners are already subject to comparable notification obligations under existing Commission rules, while others are enterprise customers that do not participate in the telecommunications market at all.[18] Extending such requirements to these entities would add regulatory complexity without improving the Commission's visibility into genuine security risks.

INCOMPAS agrees with the Commission that physical security, cybersecurity protections, and supply chain safeguards are essential to ensuring the security and resilience of submarine cable infrastructure. However, any certification requirements imposed on SLTE owners and operators must be appropriately tailored to their actual role and scope of control. An SLTE owner or operator that is not itself a submarine cable landing licensee cannot reasonably be held responsible for the security of the submarine cable system as a whole. Accordingly, proposals that would require SLTE owners and operators to certify whether "their submarine cable systems" use equipment or services identified on the Covered List risk imposing obligations beyond an entity's operational authority and practical ability to comply. Certification requirements should be limited to matters within the SLTE owner's or operator's control and should not assume responsibility for system-wide decisions made by other parties.

[18] *See* ICC Comments at 24-25; Microsoft Comments at 8-9; TIA Comments at 8-9; NASCA Comments at 12.

Finally, the Commission's regulatory framework for SLTE owners and operators should be designed to replace, rather than layer on top of, customer flowdown provisions contained in existing mitigation agreements. Establishing clear, rule-based requirements applicable to SLTE would promote consistency, predictability, and administrative efficiency, while reducing reliance on bespoke mitigation terms negotiated on a case-by-case basis. Future mitigation should be reserved only for circumstances involving unique or heightened risks that cannot be adequately addressed through generally applicable rules. This approach would advance national security objectives while ensuring that mitigation remains targeted, proportionate, and aligned with the Commission's broader streamlining goals.

V. NEW APPLICATION CERTIFICATIONS AND ROUTINE CONDITIONS SHOULD REFLECT GEOGRAPHIC AND COMMERCIAL REALITIES AND SHOULD BE CONSISTENT WITH EXISTING REGULATIONS.

A. Prohibitions on the Use of Services Provided by Foreign Adversary and Affiliated Entities Should Exclude Licensed Systems That Land in Foreign Adversary Countries.

INCOMPAS acknowledges the Commission's legitimate national security concerns regarding the use of services provided by entities that are owned by, controlled by, or subject to the jurisdiction or direction of a U.S. foreign adversary, or that otherwise appear on the Covered List.[19] However, INCOMPAS urges the Commission to exclude existing submarine cable systems that land in foreign adversary countries from any prohibition on such use. As a practical and legal matter, submarine cable systems cannot land or operate in a foreign adversary country without engaging entities that are licensed or authorized under that jurisdiction's laws.[20] A

[19] *See* FNPRM at ¶¶ 263–265.

[20] *See* Microsoft Comments at 13-14; Submarine Cable Coalition Comments at 7-8.

categorical prohibition would therefore make it impossible for systems currently landing in those jurisdictions to continue operating on those routes, notwithstanding the fact that such systems were lawfully authorized and constructed under longstanding regulatory frameworks.

Adopting the Commission's proposal without such an exclusion would have significant downstream consequences that extend well beyond the stated security objectives of this proceeding. System owners would face disruptions to existing commercial arrangements, financing structures, and long-term capacity commitments, potentially triggering contractual defaults and undermining network reliability for customers that depend on those routes. Nothing in the record suggests that Congress intended the Commission to effectively force the abandonment of existing, authorized cable routes through the adoption of routine conditions that fail to account for unavoidable jurisdictional realities.

More broadly, INCOMPAS urges the Commission to adopt clear, bright-line standards that licensees can rely upon as a safe harbor when determining whether a particular entity falls within the scope of any foreign adversary-related prohibition.[21] Such clarity is essential to ensure consistent compliance and to avoid over-deterrence that could chill legitimate operations. Related compliance obligations should likewise be minimized. An annual certification should be more than sufficient to ensure accountability and visibility, particularly where licensees already have strong incentives to avoid vendors or service providers that pose genuine security risks. The Commission should refrain from imposing disruptive and costly verification mechanisms, such as mandatory audits, as licensees themselves are invested in ensuring the security of their systems and have every incentive not to use services that pose security risks.

B. The Commission Should Exclude Marine Maintenance from the Scope of Any Foreign Adversary-Related Prohibitions

[21] *See* NASCA Comments at 16; Microsoft Comments at 14-15; ICC Comments at 9-10.

INCOMPAS strongly supports the Commission's proposal to exclude marine maintenance services from the broader prohibition on the use of services provided by entities owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary. Licensees must be able to obtain repair and maintenance services in the jurisdictions through which their cables transit, which necessarily requires the use of vessels and operators authorized to provide services in those waters. Without this exclusion, licensees would be unable to secure timely repairs, particularly in circumstances where alternative vessels are unavailable, thereby jeopardizing network reliability and submarine cable resilience.

This proposed exclusion enjoys broad support in the record,[22] with only one commenter, Hornbeck Offshore Services, opposing the Commission's approach. The Commission should be cautious of the practical consequences of departing from the prevailing industry consensus, particularly where doing so would risk destabilizing the maintenance and repair ecosystem on which global submarine cable infrastructure depends.

The Commission should reject proposals that would effectively impose cabotage-style restrictions on submarine cable maintenance and repair operations. As other commenters have explained, adopting requirements modeled on domestic cabotage laws, such as those embodied in the Jones Act, would be unworkable and harmful.[23] There is currently no cable repair vessel

[22] ICC Comments at 15-16; ITI Comments at 3; NASCA Comments at 5, 21; Submarine Cable Coalition Comments at 16.

[23] *See* NASCA FNPRM Comments at 5; Microsoft FNPRM Comments at 16 (Microsoft explains, "repair activities must be authorized to operate in the particular jurisdiction in which the cables are deployed"); ICC members correctly observe that "maintenance/repair vessels must often be foreign-registered due to geography" and that "over-regulating repair services risks operational delays, network outages, [and] digital infrastructure resilience."

that meets Jones Act requirements, and imposing such constraints would delay repairs, increase costs, and ultimately undermine, not enhance, the security and resiliency of submarine cable systems. The Commission should therefore avoid any action that would disrupt the existing market for marine maintenance and repair services or impede licensees' ability to respond rapidly to cable faults and outages.

VI. PRESUMPTIVE EXEMPTIONS FOR EXECUTIVE BRANCH REFERRAL SHOULD OFFER A PATH TO EXEMPTION FOR MOST SUBMARINE CABLE APPLICANTS.

A. INCOMPAS Supports the FNPRM's Proposal for Presumptive Exemptions Based on Objective Qualifications and Certifications.

INCOMPAS agrees with the FNPRM's proposal, supported universally by industry commenters in this proceeding,[24] to presumptively exempt certain submarine cable applications from referral to the Executive Branch where applicants meet specified character qualifications and certify compliance with defined security and operational conditions. This approach reflects a measured and pragmatic reform that preserves national security review where warranted, while avoiding unnecessary referrals in cases that present no heightened risk. As the Commission recognizes, the proposal would significantly reduce the extensive delays associated with submarine cable application review that "often impose economic costs without national security benefits.[25] The record reflects universal industry support for this reform, with only one commenter, the policy think tank Foundation for Defense of Democracies, opposing the creation of a presumptive exemption framework. This near unanimity underscores the industry's shared

[24] *See* Alaska Telecom Association Comments at 1, 3-5; CTIA Comments at 3; ICC Comments at 4-5; ITI Comments at 3; NASCA Comments at 23; Submarine Cable Coalition Comments at 10; TIA Comments at 2-4.

[25] *See* FNPRM at ¶ 285; NASCA Comments at 23-24; Microsoft Comments at 17.

view that the current referral process is overinclusive and that reform is both overdue and necessary.

While supporting the concept of presumptive exemptions, INCOMPAS urges the Commission to ensure that the associated certifications and character qualifications are realistic, administrable, and appropriately tailored. Certain proposals in the FNPRM risk undermining the benefits of the exemption framework by setting standards that few, if any, applicants could satisfy. For example, the proposal to require that a licensee has never been referred to the Enforcement Bureau, nor received a letter of inquiry or subpoena at any point in its history, appears extreme.[26] A referral, LOI, or subpoena is not a finding of wrongdoing, and imposing a lifetime disqualification based on such events may not result in any finding of noncompliance and bear little relationship to an applicant's current security posture.

Similarly, the Commission's proposal to require applicants to enforce contractual provisions prohibiting certain downstream arrangements raises serious practical and competitive concerns.[27] In practice, suspension is often the only meaningful enforcement mechanism available to a licensee, yet suspending service can have unintended consequences for innocent downstream customers and broader network operations. Moreover, such a requirement would compel licensees to maintain ongoing visibility into their customers' operations, contractual terms, and customer bases. This would be an intrusive obligation that is inconsistent with normal commercial practices and raises significant competition concerns.[28]

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[26] *See* FNPRM at ¶ 287.

[27] *See* FNPRM at ¶¶ 295–296.

[28] *See* NASCA Comments at 25; Microsoft Comments at 18-19.

INCOMPAS also urges the Commission to reject proposals that would categorically disqualify applicants from presumptive exemption based on personnel citizenship or corporate affiliation criteria that are poorly correlated with actual security risk. Specifically, the FNPRM proposes to require that applicants exclude any company personnel who are citizens of a foreign adversary country from physical or logical access to the submarine cable system, and that no senior official of the applicant or its parent companies may be owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary.[29] The citizenship or domicile of individual employees or executives is an imperfect proxy for security risk and provides a flawed basis for screening participation in a streamlined review process, particularly where robust technical and operational safeguards are already in place.[30]

Additionally, there is no need to require applicants seeking presumptive exemption to certify that they will adopt security policies more "stringent" than those otherwise required under the Commission's rules for licensed systems.[31] Presumptive exemptions can and should be implemented in a manner that ensures effective cybersecurity protections through existing regulatory obligations. The record does not support further narrowing access to presumptive exemption by layering on enhanced requirements proposed by the Center for Internet Security,[32] particularly where those requirements would exceed what is required of similarly situated licensees subject to full Executive Branch review.

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[29] *See* FNPRM at ¶ 287.

[30] *See* ICC Comments at 10; ITI Comments at 3.

[31] *See* ICC Comments at 8; Microsoft Comments at 18; CTIA Comments at 8-9.

[32] *See* Center for Internet Security Comments at 4-5.

INCOMPAS further agrees with the Commission that each licensee should be assessed based on its own history, rather than the history of its consortium partners.[33] Imputing the conduct or compliance record of one consortium member to all participants would be inconsistent with fundamental principles of fairness and would discourage participation in consortia arrangements that are essential to financing and deploying submarine cable systems.

Finally, INCOMPAS suggests that a shorter lookback period—such as five or ten years—would be more appropriate than the proposed twenty-year horizon for certifying compliance with character qualifications.[34] A more limited timeframe would better align the certification with the corporate structure, management, and compliance systems actually responsible for current operations, while still providing the Commission with meaningful insight into an applicant's recent compliance history.[35]

VII. THE COMMISSION SHOULD INCORPORATE "MITIGATION BY RULE" INTO ITS REGULATORY FRAMEWORK

A. The Commission's New Submarine Cable Regulatory Regime Will Obviate the Need for Most Individually Negotiated Mitigation Agreements, and Should Supersede Those Agreements, Except for any Key Bespoke Provisions

The Commission's new regulatory framework for submarine cable licensing and compliance is comprehensive in scope, addressing system ownership and operational information, physical and cybersecurity requirements, supply-chain safeguards, and prohibitions on the use of equipment and services that pose national security risks. Taken together, these requirements reflect the core provisions that have historically been imposed through individually

[33] *See* FNPRM at ¶ 289.

[34] *See* FNPRM at ¶ 290.

[35] *See* NASCA Comments at 24; Microsoft Comments at 18.

negotiated mitigation agreements. As such, this framework should operate in lieu of, rather than in addition to, standard mitigation, except where a particular arrangement presents truly bespoke risks that cannot be adequately addressed through generally applicable rules.[36]

Incorporating "mitigation by rule" into the Commission's regulatory regime would provide greater predictability, transparency, and efficiency for applicants, while ensuring consistent application of security requirements across similarly situated entities. It would also reduce the need for protracted negotiations that delay deployment without yielding incremental security benefits. To the extent that individualized mitigation remains necessary, it should be narrowly tailored and reserved for circumstances where Team Telecom identifies specific, fact-dependent risks not otherwise addressed by the Commission's rules. Absent such unique concerns, routine reliance on negotiated mitigation would undermine the very streamlining and targeting objectives the Commission seeks to advance.

VIII. INFORMATION SHARING SHOULD SUPPORT THE LICENSING PROCESS AND THE UNDERLYING GOAL OF ENHANCING SECURITY

A. Information Sharing with Executive Branch Agencies and Trusted Providers Can Enhance Security While Streamlining Review

INCOMPAS supports the Commission's proposal to share certain confidential information, subject to strict confidentiality protections, with Executive Branch agencies involved in the submarine cable licensing process. Such information sharing would promote more efficient and coordinated reviews, reduce duplicative requests to applicants, and help ensure consistency between the Commission's licensing decisions and the Executive Branch's national security assessments. When appropriately safeguarded, this approach would simplify

[36] *See* NASCA Comments at 25; Microsoft Comments at 20.

both licensing and ongoing compliance obligations while strengthening the overall security posture of submarine cable systems.

In addition, the Commission should facilitate the regular sharing of relevant risk information and threat alerts with trusted providers, consistent with National Security Memorandum 22. NSM-22 emphasizes the importance of timely, actionable information sharing between government and industry to protect critical infrastructure. Enabling providers to receive threat intelligence and risk indicators in real time would allow them to respond more quickly to emerging threats and enhance operational resilience, complementing the Commission's regulatory requirements. This collaborative, information-driven approach would further the Commission's security objectives while avoiding unnecessary regulatory burdens or delays.

IX. THE COMMISSION SHOULD RELY ON THE COVERED LIST FRAMEWORK AND REJECT RETROACTIVE EQUIPMENT REMOVAL MANDATES

A. The Order's Framework Adequately Addresses Equipment Risks

The Commission's Order appropriately incorporates the Covered List into the submarine cable regulatory framework by prohibiting licensees from using Covered List equipment in their systems and requiring certifications of compliance. This approach is precise, legally supported, and consistent with the statutory framework. It focuses on specific equipment that has been formally determined to pose unacceptable risk, rather than imposing broad prohibitions based on country-of-origin or ownership.

The FNPRM floats the possibility of expanding prohibitions beyond the Covered List to encompass any equipment or services provided by entities "owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary." As ICC and ITI members emphasize, this

broader "country of concern" framework would be far less precise than the Covered List and would sweep in equipment that has not been determined to pose unacceptable risk.[37]

INCOMPAS urges the Commission to retain the Covered List as the primary tool for equipment prohibitions and to resist calls for broader, less precise restrictions. The Covered List process ensures that prohibitions are based on evidence and formal findings, not on generalized concerns about country of origin.

X. CONCLUSION

For the reasons stated herein, INCOMPAS urges the Commission to consider and adopt the recommendations in the above comments as it considers how best to improve and streamline its rules to facilitate efficient deployment of submarine cables.

Respectfully submitted,

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[37] *See* ICC Comments at 20; ITI Comments at 4.