

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

In the Matter of)
)
Protecting Against National Security Threats in) WC Docket No. 26-82
Domestic Telecommunications Service)

COMMENTS OF INCOMPAS

INCOMPAS, by its undersigned counsel, hereby submits these comments in response to the Federal Communication Commission’s (“Commission”) *Notice of Proposed Rulemaking* (“*NPRM*” or “*Notice*”) offering measures to protect domestic telecommunications networks against foreign adversary threats pursuant to the Commission’s authority under section 214 of the Communications Act of 1934.¹

I. INTRODUCTION AND SUMMARY

INCOMPAS, the competitive communications and AI infrastructure association, represents competitive carriers, broadband service providers, and data infrastructure companies that together form a critical layer of the nation’s communications ecosystem. INCOMPAS and its members strongly support the Commission’s objective of protecting U.S. telecommunications networks from entities that present genuine national security risks. To that end, the association supports the *NPRM*’s core proposal to exclude entities on the Commission’s Covered List from blanket Section 214 authority, subject to appropriate transition periods and clearly defined standards for affiliate and control relationships. The Commission’s prior orders revoking

¹ See *Protecting Against National Security Threats in Domestic Telecommunications Service*, WC Docket No. 26-82, Notice of Proposed Rulemaking, FCC 26-29 (rel. May 1, 2026) (“*NPRM*” or “*Notice*”).

domestic and international Section 214 authorizations held by Covered List entities reflect a considered and well-supported exercise of the Commission’s authority.²

At the same time, the *Notice* concedes that a rule prohibiting interconnection with entities on the Covered List could lead to systemic network effects and changes.³ These comments are offered to fully address the Commission’s proposed framework and how restricting interconnection with Covered List entities is unlikely to reduce the underlying demand for communications traffic between the United States and those entities. Instead, such restrictions would be expected to shift routing and interconnection activity offshore, most likely to hubs in Europe and Asia-Pacific, increasing costs for domestic providers and their customers, degrading network performance, and reducing U.S. visibility into global traffic flows, without delivering the national security benefits the Commission seeks.

With respect to the Commission’s proposals on interconnection with excluded entities, INCOMPAS specifically urges the Commission to:

- Support adoption of the core proposal to exclude Covered List entities from blanket Section 214 authority, with appropriate transition periods and clearly defined affiliate and control standards;
- Narrow the interconnection prohibition to direct, contractual Title II interconnection arrangements, with a clear knowledge standard and a safe harbor for indirect routing and multi-hop traffic flows;
- Reject adoption of a prohibition on any holder of a Covered Authorization from engaging in any transaction or other dealings with U.S. telecommunications network providers in the United States;⁴ and

² See China Telecom (Americas) Corp., Order on Revocation and Termination, 36 FCC Rcd 15966 (2021); China Unicom (Americas) Operations Limited, Order on Revocation, 37 FCC Rcd 1795 (2022); Pacific Networks Corp. and ComNet (USA) LLC, Order on Revocation and Termination, 37 FCC Rcd 1736 (2022); China Mobile International (USA) Inc., Order, 34 FCC Rcd 3361 (2019).

³ *NPRM* ¶¶ 13-16.

⁴ *NPRM* ¶ 16.

- Coordinate the Commission’s proposed framework with existing national security regimes—including those administered by Office of Foreign Assets Control (“OFAC”), Bureau of Industry and Security (“BIS”), and the Committee on Foreign Investment in the United States (“CFIUS”)—rather than establishing a parallel FCC-administered regime that may overlap with or diverge from established authorities.

This more targeted approach, focused on direct, contractual Title II interconnection agreements and aligned with existing national security regimes, would better balance the Commission’s security objectives with the efficiency and global competitiveness of U.S. communications infrastructure.

II. INTERCONNECTION RESTRICTIONS WILL NOT ELIMINATE UNDERLYING TRAFFIC DEMAND

The Commission’s proposed interconnection restrictions rest on an implicit premise that limiting the ability of U.S. carriers to interconnect with Covered List entities will reduce the exposure of U.S. communications networks to the risks those entities are said to pose.⁵ INCOMPAS respectfully submits that this premise deserves closer scrutiny before the Commission adopts rules that could have significant systemic consequences for U.S. network operators and their customers.

Cross-border communications between the United States and entities on the Covered List are structurally driven by trade, enterprise connectivity, cloud services, and personal communications demand. This demand does not disappear because U.S. carriers are prohibited from directly interconnecting with Covered List entities. This communications traffic will persist and will require domestic carriers to find alternative routing paths. If U.S. interconnection with Covered List entities is restricted under the framework proposed in the

⁵ *NPRM* ¶ 13. The Commission has previously found that certain Covered List entities “have the ability to access and/or manipulate data through services provided pursuant to section 214 authority, including by misrouting information and communications traffic.” *Id.*

NPRM, the underlying traffic is expected to be rerouted through alternative interconnection hubs in Europe and the Asia-Pacific region, where these carriers maintain robust operational presence. Indeed, the primary effect of the proposed rules would be to alter routing topology rather than reduce total traffic exchange with Covered List entities.

This distinction matters enormously for the Commission’s analysis. If the goal of the interconnection restrictions is to reduce the volume of traffic that passes through or near Covered List entity infrastructure, then rules that merely shift interconnection offshore do not accomplish that goal. The Commission should evaluate its proposals against this more precise framing of the national security objective.

A. Altering the Routing Topology of Communications Traffic Will Have Extensive Network and Economic Effects

If interconnection activity shifts away from the United States as a result of the proposed rules, several systemic effects are likely that the *Notice* does not fully address.

1. Competitive Effects on U.S. Digital Infrastructure

The United States currently benefits from its position as a major global hub for international telecommunications traffic and interconnection. Displacing interconnection activity from U.S. exchange points to foreign hubs—including London, Frankfurt, Singapore, and Tokyo—would over time reduce the strategic and economic importance of U.S.-based interconnection infrastructure and shift associated economic value creation to foreign jurisdictions. This competitive effect is a systemic consequence of the proposed rules that the Commission should weigh in its cost-benefit analysis alongside the direct compliance costs to affected carriers.

2. Impacts on U.S. Network Operators, Users and Businesses

U.S. carriers that currently interconnect directly with Covered List entities at domestic exchange points would, under the proposed rules, need to restructure those arrangements.⁶ Because the underlying traffic demand would persist, carriers would effectively be required to route the same traffic through interconnection points in Europe or Asia-Pacific. This would increase transport costs, add operational complexity, and impose implementation and restructuring expenses whose magnitude would depend on the ultimate scope and interpretation of the rule. The *NPRM* invites comment on compliance costs, but the Commission must also account for these system-level substitution costs in its analysis.

U.S. users and businesses maintain substantial cross-border communications with entities in countries where Covered List carriers operate, across business, academic, and personal contexts. Rerouting this traffic through non-U.S. interconnection hubs would introduce measurable increases in latency, with predictable performance consequences for real-time and cloud-based applications, including video conferencing, cloud services, and interactive enterprise applications. U.S. businesses with significant operational or commercial ties to affected countries would bear a disproportionate share of these performance and cost impacts.

B. National Security Framing and Routing Substitution Effects

The Commission expresses concern that Covered List entities may present risks related to access to or manipulation of communications traffic, including through misrouting or

⁶ *NPRM* ¶ 14 (seeking comment on whether the prohibition should extend to “entities that installed equipment on the Covered List in their networks after such equipment was added to the Covered List” and to “facilities – including Points of Presence (“PoPs”) and data centers – that are owned or operated by entities that are identified on the Covered List”).

exploitation of interconnection arrangements.⁷ INCOMPAS takes these concerns seriously, but urges the Commission to examine whether the proposed interconnection restrictions would, in practice, mitigate those risks or whether they would primarily reduce U.S. regulatory visibility into the traffic flows in question.

If interconnection is displaced outside the United States, traffic would continue to flow between U.S. networks and Covered List entity networks, but through interconnection points in jurisdictions outside FCC regulatory authority. The Commission's ability to monitor, investigate, or enforce against manipulation of that traffic would be reduced, not enhanced. This is not an argument against action—it is an argument for calibrating the action to the actual risk.

The Commission should also assess whether the proposed rules would be consistent with, and appropriately coordinated with, existing national security frameworks administered by OFAC, BIS, and CFIUS. Those frameworks already address certain transactions and relationships with Covered List entities and the countries in which they operate. A parallel Commission-administered regime that overlaps with or diverges from existing authorities risks creating compliance conflicts, regulatory arbitrage, and legal uncertainty for carriers that are simultaneously subject to multiple national security regimes.

III. FOREIGN POLICY AND RETALIATION CONSIDERATIONS

The Commission should be attentive to the foreign policy implications of a broad interconnection prohibition and the risk of reciprocal treatment of U.S. telecommunications carriers operating abroad. A prohibition that extends beyond licensing restrictions into a general restriction on commercial network engagement with carriers in particular countries may be

⁷ 47 C.F.R. § 1.80001(a) (defining "Covered Authorization" to include international section 214 authorizations, earth station licenses, and certain other Commission authorizations held by foreign-owned entities).

perceived as a unilateral step with consequences beyond the Commission's immediate regulatory objectives.

U.S. carriers with international operations, and U.S. businesses that rely on those carriers to maintain connectivity with operations in affected countries, could face retaliatory measures or discriminatory treatment in foreign markets. The Commission's rulemaking record does not appear to address this risk. INCOMPAS urges the Commission to ensure that the proposed rules are aligned with broader U.S. foreign policy and trade objectives before they are adopted in final form.

IV. THE COMMISSION'S COST-BENEFIT ANALYSIS MUST REFLECT NETWORK-LEVEL ECONOMICS

The NPRM's cost-benefit analysis evaluates compliance costs to directly affected entities and their customers.⁸ This framing is necessary but insufficient. It does not capture the system-level effects of global network substitution and interconnection displacement that INCOMPAS has identified in these comments.

A complete cost-benefit analysis should account for: (1) the additional costs that U.S. carriers would incur to route traffic through non-U.S. interconnection hubs; (2) the performance degradation and latency increases that would affect U.S. users and businesses relying on cross-border communications with affected countries; (3) the long-term competitive effects on U.S.-based interconnection infrastructure as traffic aggregation migrates to foreign hubs; and (4) the foreign policy and retaliatory risk costs described in Section V above. Without accounting for these systemic effects, the Commission's cost-benefit analysis will understate the costs of the proposed rules relative to their security benefits.

⁸ NPRM ¶ 15.

V. CONCLUSION

A targeted, clearly scoped approach to interconnection restrictions—focused on direct contractual relationships and aligned with existing national security frameworks—would better serve both the Commission’s security objectives and the long-term efficiency and competitiveness of U.S. communications infrastructure. Broader prohibitions that do not account for routing substitution effects risk shifting interconnection offshore, increasing costs and latency for U.S. carriers and their customers, reducing U.S. visibility into global traffic flows, and undermining the strategic value of U.S.-based interconnection infrastructure—all without delivering proportional security gains. Therefore, INCOMPAS respectfully urges the Commission to adopt the following approach:

- First, adopt the core proposal to exclude Covered List entities from blanket Section 214 authority, subject to appropriate transition periods and clearly defined standards for affiliate and control relationships. This step directly addresses the Commission’s national security concerns with respect to the provision of domestic telecommunications services by Covered List entities and is consistent with the Commission’s prior enforcement actions in this area.
- Second, narrow the interconnection prohibition to direct, contractual Title II interconnection relationships,⁹ with a clear knowledge standard and an express safe harbor for indirect routing and multi-hop traffic flows. This approach addresses the most direct and controllable exposure to Covered List entities without imposing on U.S. carriers the impossible burden of policing indirect interconnection across global networks.
- Third, decline to adopt the broad transaction prohibition proposed in paragraph 16, which would sweep in any holder of a Covered Authorization¹⁰ and prohibit it from engaging in any “transaction or other dealings” with restricted entities. This proposal is vague,

⁹ 47 U.S.C. § 251(a) (imposing a general duty on all telecommunications carriers "to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers").

¹⁰ 47 C.F.R. § 1.80001(a) (defining "Covered Authorization" to include international section 214 authorizations, earth station licenses, and certain other Commission authorizations held by foreign-owned entities).

effectively unenforceable, and untethered to a coherent national security rationale. Its compliance costs would be staggering and its benefits speculative.

- Fourth, review existing actions from OFAC, BIS, CFIUS, and the relevant foreign policy agencies before finalizing any rules in this proceeding, to ensure alignment with existing national security frameworks and U.S. foreign policy objectives.

INCOMPAS stands ready to work constructively with the Commission and its staff to develop rules that achieve the Commission's national security goals in a manner that is workable for competitive carriers and consistent with the long-term interests of U.S. communications infrastructure.

Respectfully submitted,

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