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

COMMENTS OF INCOMPAS

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INCOMPAS respectfully submits these comments in response to the Federal Communications Commission's ("Commission" or "FCC") Second Report and Order and Second Further Notice of Proposed Rulemaking, which continues the Commission's work to "facilitate faster and more efficient deployment of submarine cables, while strengthening our national security."[1]

I. INTRODUCTION

INCOMPAS, the competitive communications and AI infrastructure association, and its members support pragmatic national security guardrails and faster, more predictable licensing processes. INCOMPAS members are both major providers and users of subsea cable capacity, including 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 crucial 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.

INCOMPAS respectfully urges the Commission to refrain from adopting additional SLTE-related requirements until it completes the one-time information collection intended to inform its regulatory approach, and, in the interim, to clarify the scope of the newly adopted SLTE blanket license and avoid duplicative regulation. Also, the Commission should not impose on submarine cable landing licensees an indirect regulatory function requiring licensees to police the

[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*; Second Report and Order and Further Notice of Proposed Rulemaking, FCC 26-42, OI Docket No. 24-523, MD Docket No. 24-524, (rel. June 30, 2026) ("Second R&O").

compliance of SLTE owners and operators, particularly where the Commission already has direct regulatory and enforcement authority over those entities. Such requirements would unnecessarily interfere with commercial relationships, raise significant competition and proprietary information concerns, provide an ineffective substitute for direct Commission enforcement, and raise serious concerns about the delegation of regulatory authority to private parties. Additionally, the Commission should not impose the full slate of routine conditions applicable to cable landing licensees on SLTE blanket licensees absent an identified risk warranting such requirements, nor should it convert the enhanced national security standards designed for expedited review into universal license conditions. Finally, the Commission should harmonize its mitigation processes and, given the substantial and largely unidentified compliance costs associated with its proposals, assess the costs and effectiveness of the recently adopted framework before imposing additional regulatory burdens on the industry.

INCOMPAS appreciates the Commission's work already done to streamline the submarine cable licensing process and respectfully submits the arguments below to continue the Commission's work.

II. THE COMMISSION SHOULD REFRAIN FROM FURTHER SLTE REGULATION PENDING THE ONE-TIME INFORMATION COLLECTION

The Commission should refrain from adopting any further rules applicable to owners and operators of submarine line terminal equipment ("SLTE") until after completing the one-time information collection because clarification of the existing blanket licensing rules is needed.[2] The intent of the one-time collection is to inform the Commission's regulatory approach to SLTE

[2] *2025 Submarine Cable First Report and Order and FNPRM*, 40 FCC Rcd at 6582-84, paras. 214-22 (adopting a one-time information collection applicable to cable landing licensees, including providing information concerning the SLTE owners and operators on licensed submarine cables).

owners and operators.[3] The collection has not yet occurred, but the Commission nonetheless proceeded to adopt rules creating a new blanket license requirement for SLTE owners and operators.[4] Adopting further rules without a full record of how the industry contracts for and deploys SLTE would be premature and would defeat the intent of the information collection. The Commission should first obtain the information it determined was necessary to inform its regulatory approach before adopting additional rules applicable to SLTE owners and operators.

III. THE COMMISSION SHOULD CLARIFY THE SCOPE OF THE SLTE BLANKET LICENSE AND AVOID DUPLICATIVE REGULATION

While the one-time information collection is pending, the Commission should clarify the scope of the cable landing license to which owners and operators of SLTE are subject and maintain a clear regulatory distinction between those entities and submarine cable owner licensees. The Commission should clarify the meaning of SLTE "owners" and "operators" for purposes of the blanket license. For example, the Commission should clarify whether a third-party SLTE vendor with no rights to deploy traffic on the cable is within the scope of the blanket license.

The Commission should also clarify several other issues that are currently unclear. For example, when does the regulatory obligation for SLTE licensees commence? It is unclear whether the obligation begins when a party obtains the contractual right to deploy SLTE on a cable, such as when it signs an indefeasible right of use (IRU), or when the equipment is actually deployed for commercial service, as opposed to testing. The Commission should also clarify

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[3] Second R&O at para. 46 ("our approach appropriately tailors the regulatory obligations of SLTE owners and operators until the results of the one-time information collection further inform our regulatory approach").

[4] *Id.*

whether a party that takes an IRU on a cable and hires a different company to operate the SLTE, where that company also maintains ownership of the SLTE, is subject to the blanket license at all.

Additionally, the Commission should re-emphasize that entities owning or operating SLTE on a cable for which they have already been granted, or will apply for, a full cable landing license are not subject to any SLTE-specific requirements, as doing so would be purely duplicative. The Commission should maintain a clear regulatory distinction between entities that are already subject to the Commission's cable landing licensing requirements and third-party SLTE owners and operators that are now subject to the separate blanket license.

INCOMPAS appreciates the Commission's goal to streamline submarine cable deployment. Remaining consistent with that approach, the Commission need not promulgate rules to provide the clarifications requested above. Instead, while the one-time information collection remains pending, the Commission could publish guidance documents through public notice. This approach would provide urgently needed regulatory clarity regarding the rules the Commission has already adopted while avoiding the imposition of additional regulatory requirements before the Commission has completed the information collection.

IV. THE COMMISSION SHOULD NOT IMPOSE ADDITIONAL OR DUPLICATIVE OBLIGATIONS ON SUBMARINE CABLE OR SLTE LICENSEES

A. The Commission Should Not Use Submarine Cable Licensees as a Proxy Regulator for SLTE Owners and Operators

The Commission should not require submarine cable landing licensees to ensure that Commission licensees who operate SLTE pursuant to the Commission's new blanket license comply with the Commission's routine conditions imposed in the First and Second Report and Orders.[5] As Commission licensees, SLTE owners and operators are directly subject to the

[5] Second R&O at para. 233.

Commission's requirements. Imposing such an indirect regulatory enforcement function on submarine cable licensees is unnecessary and duplicative because of the Commission's direct enforcement authority over SLTE owners and operators. Requiring submarine cable landing licensees to perform an additional regulatory function with respect to those entities would create a duplicative layer of oversight without providing a corresponding regulatory benefit.

Also, imposing a regulatory function on submarine cable licensees vis-à-vis their customers and other SLTE owners and operators further downstream would interfere with commercial relationships. Licensees own and operate submarine cable infrastructure; they are not regulators and should not be put in the position of serving as a proxy for regulators in relation to their customers. Requiring submarine cable licensees to oversee, by contract, their customers' compliance would also require them to have access to such customers' own customer and proprietary operational information. This raises significant competition concerns, particularly where submarine cable licensees compete with their customers or other entities using the cable.

The Commission has previously recognized the competitive concerns associated with requiring submarine cable licensees to provide competitively sensitive information. In the First Report and Order, the Commission eliminated the Cable Operator Report largely because it required licensees to share competitively sensitive information.[6] If adopted, a proposal to indirectly regulate SLTE owners and operators by contract would raise even greater concerns, as it would require licensees to obtain and potentially review even more competitively sensitive information about their customers and operations.

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[6] First R&O at para. 190.

In addition to being unnecessary and duplicative, requiring licensees to "develop, adopt, and implement contract terms or other 'contractual mechanisms'" to ensure SLTE owners and operators on their licensed cables comply with the Commission's routine conditions would be an ineffective regulatory model.[7] The "contractual mechanisms" that licensees have at their disposal are quite limited. Licensees' contracts could provide for their right to suspend or terminate a service or a contract upon a customer for breach of an FCC rule, as well as audit rights to identify a suspected breach. While licensees do include such provisions in their contracts in some circumstances, for example, with respect to compliance with sanctions and export control laws, such mechanisms are designed to protect a contract party from the other party's non-compliance, not to ensure compliance in the first place.

The Commission's proposal also raises serious concerns because it would effectively delegate regulatory authority to private parties without affirmative congressional authorization. As the U.S. Court of Appeals for the District of Columbia Circuit has held, "[w]hile federal agency officials may subdelegate their decision-making authority to subordinates absent evidence of contrary congressional intent, they may not subdelegate to outside entities—private or sovereign—absent affirmative evidence of authority to do so."[8] No such affirmative authority exists here. Moreover, the policy concerns underlying the Court's holding are particularly compelling in this context, where the proposed regulatory function would involve competitively sensitive information and would place private parties in a position where their incentives may not fully align with the Commission's.[9]

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[7] Second R&O at para. 233.

[8] *United States Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004), c*ert denied,* 543 U.S. 925 (2004).

[9] *Id.* at 565-66.

The proposal does not fall within the limited circumstances in which the Court has distinguished permissible interactions with outside entities. This is not merely an information-gathering exercise or a request for expert advice, nor is it a qualified grant of a license conditioned upon a corresponding grant from another agency.[10] Instead, the FNPRM's proposal would place submarine cable licensees in the position of making recurring decisions that have regulatory implications. Licensees would need to determine what information to require from their customers and other SLTE owners and operators, how much information is sufficient to assess compliance, when to exercise contractual audit rights, and when to invoke contractual remedies. These are not merely ministerial or administrative functions; they involve judgments about what constitutes sufficient compliance and what response is warranted when compliance is uncertain or deficient. And the proposal would require submarine cable licensees to make these decisions not merely once, but repeatedly over the course of long-term commercial relationships.

Such a regulatory model would blur accountability between the Commission and the private parties it would effectively enlist to carry out its regulatory objectives. The Commission, rather than submarine cable licensees, is the entity with the regulatory authority, expertise, and enforcement responsibility to determine whether an SLTE owner or operator is complying with Commission requirements. The Commission should not shift those functions to private parties, particularly parties that may compete with the entities they would be required to oversee, without clear statutory authority to do so.

[10] *Id.* at 566-67 (distinguishing *United States v. Matherson*, 367 F. Supp. 779, 782-83 (E.D.N.Y. 1973); *Southern Pacific Transp. Co. v. Watt*, 700 F.2d 550, 556 (9th Cir. 1983); and *National Ass'n of Psychiatric Treatment v. Mendez*, 857 F. Supp. 85, 91 (D.D.C. 1994)).

The Commission's reliance on "available contractual mechanisms" in recent Team Telecom mitigation to require or restrict third-party activities is similarly inapt.[11] But recent mitigation instruments include such requirements because Team Telecom does not have regulatory authority over downstream SLTE owners and operators and accordingly sought to make licensees responsible for downstream compliance. The Commission now has that regulatory authority and should exercise it directly rather than imposing an indirect regulatory function on submarine cable licensees.

B. The Commission Should Not Impose the Full Set of Routine Conditions on SLTE Blanket Licensees

The Commission should not impose additional routine conditions absent a clear, identified risk. The Commission has not identified any risk associated with the ownership and operation of SLTE that would support imposing the full slate of additional conditions contemplated in the NPRM. Unnecessary, duplicative regulation was a key industry concern in this proceeding, one the Commission dismissed in the Second Report and Order. The Commission concluded that adopting routine conditions for SLTE owners and operators would not create duplicative requirements because the Commission understood the term "SLTE owners and operators" to refer to entities that were not otherwise subject to its existing licensing requirements.[12] The Commission explained the routine conditions would apply to SLTE owners and operators that were not otherwise subject to the licensing requirements in Section 1.70003(a)(1) and (a)(2), and therefore were not already required to comply with the routine conditions in Section 1.70007. Absent a demonstrable need to impose additional regulation to

[11] Second R&O at para. 233 (points to such mechanisms as a model for addressing third-party activities).

[12] Id. at para. 48.

address a specific risk, the Commission should not now reverse course. As industry has pointed out repeatedly, the Commission should tailor any routine conditions it imposes on third-party SLTE owners and operators to the risks it identifies through its one-time information collection.

To the extent the Commission expands the rules applicable to SLTE licensees, it should ensure these entities remain subject to a blanket license and that only additional routine conditions relevant within this framework are applied. The Commission created the blanket license to strike a balance between the risks it identified and industry concerns. It should maintain that balance going forward.

SLTE licensees should truly remain blanket-licensed and should not be required to file certifications, applications to obtain a cable landing license, or seek approvals for transfers of control, among other requirements that are applicable to full cable landing licensees. For example, Sections 1.70006 and 1.70025-29 should not apply to SLTE blanket licensees. Similarly, most of the routine conditions applicable to full cable landing licensees do not make sense in the SLTE blanket license context.

Limiting the routine conditions applicable to SLTE blanket licensees in this manner would not leave a regulatory gap. SLTE licensees would remain subject to the affirmative prohibitions against contracting with and procuring equipment from foreign adversaries and Covered List entities. If SLTE licensees were instead subject to the full slate of routine conditions, the Commission would receive reams of duplicative information for every cable, resulting in burdensome administrative overhead for both industry and Commission staff. Such an approach would not be in the public interest.

V. THE COMMISSION SHOULD NOT CONVERT THE ENHANCED NATIONAL SECURITY STANDARD FOR EXPEDITED REVIEW INTO UNIVERSAL ROUTINE CONDITIONS

In the First and Second Report and Orders, the Commission adopted a comprehensive regime that addresses the security risks posed to submarine cables, both through the supply chain (including equipment vendors and service providers) and through customer ownership or operation of SLTE. This new regime is not yet fully implemented, and the Commission should assess the impact and effectiveness of its new rules before it seeks to impose even more regulations on licensees.

In particular, the Commission should decline to impose the specific "enhanced" national security standards currently applicable to applicants seeking exemption from Executive Branch referral to all licensees, including SLTE owners and operators.[13] The Commission's enhanced security standards seek to replicate the most stringent requirements in existing Team Telecom mitigation agreements, but without providing details on what compliance entails and with no corresponding national security benefit. The Commission has not provided any rationale as to why such enhanced security requirements are necessary for all licenses, including licenses held by SLTE owners and operators who, as industry has pointed out repeatedly, likely present very different and far fewer risks.

The rationale for applying these measures as criteria for expedited review is fundamentally different from applying them as routine conditions applicable to all licensees. As standards for expedited treatment, requirements relating to foreign-adversary financing, strategic partnerships, senior officials, and the operation or management of submarine cable systems from foreign-adversary countries serve as screening criteria to identify a narrow class of applications that

[13] Second R&O at para. 235.

present exceptionally low national security risk. If imposed universally, however, those same requirements would effectively foreclose license eligibility for entire categories of otherwise qualified applicants, transforming what were designed as heightened indicia of low risk into de facto substantive eligibility requirements. Such a result would require substantially more robust legal analysis and rationale from the Commission than was necessary in the context of an expedited review framework.

Moreover, if all applicants must satisfy the ten national security standards required for expedited review as a condition of holding a license, then all applicants would, by definition, satisfy the criteria for exemption from Executive Branch referral, effectively rendering Team Telecom review unnecessary in all cases. The Commission justified the expedited-review framework on the premise that applicants meeting all ten conditions constitute a limited class of exceptionally low-risk applicants for which referral may be unnecessary, while emphasizing that the standards would "ensure continued oversight by the Committee" and that the fast-track process would not undermine Executive Branch national security objectives. Converting those same standards into universally applicable license conditions would collapse that distinction entirely, effectively depriving Team Telecom of any meaningful screening function and reaching the opposite policy result from the one the Commission adopted in the Second Report and Order.

Adopting these standards as routine conditions would also establish a regulatory model that, if replicated by other countries, could harm the security and resilience of cable systems not only in the United States but globally. Requirements limiting financing sources, strategic partnerships, personnel arrangements, and operational structures, if replicated globally, would discourage, or foreclose entirely, the deployment of diverse capacity arrangements, IRUs, consortium structures, and other commercial models that support investment across multiple cable systems and routes. Such impacts on the subsea cable market would reduce the number of commercially viable cable projects, diminish route diversity, and discourage the deployment of redundant capacity across multiple systems. The resulting reduction in network resilience would directly conflict with the Commission's longstanding goal of promoting submarine cable infrastructure that is secure, diverse, and resilient.

The Commission has already adopted a robust set of new national security-oriented rules, as well as a series of heightened "national security standards," allowing qualified applicants to be exempted from referral to Team Telecom and expediting the application process. This framework addresses key risks to U.S. national security that drove this proceeding while streamlining the application process. The Commission should not now alter this carefully struck balance.

The routine conditions for cable landing licensees under the amended rules are already robust. They include prohibitions on equipment, service providers, and customer relationships involving entities considered Foreign Adversaries or listed on the Covered List. The Commission is empowered to gather information from licensees regarding their compliance and to enforce against violations. Applying the new exemption criteria as routine conditions for all licensees would defeat the purpose of adopting the mechanism in the first place. Universalizing them would add compliance costs with no corresponding processing benefit and potentially disadvantage U.S. operators relative to international competitors building cables that bypass U.S. landing points.

VI. THE COMMISSION SHOULD ALLOW LICENSEES TO OPT-IN TO THE COMMISSION'S NATIONAL SECURITY STANDARDS IN LIEU OF EXISTING MITIGATION AGREEMENTS

The newly adopted "national security standards" envision an ongoing, post-grant mitigation relationship between the licensee and the U.S. government, including the Commission and the

Committee, as a condition of exemption. At the same time, trusted repeat players and applicants toward whom these rules are directed may have multiple existing mitigation agreements covering other cables with differing requirements.

INCOMPAS supports the Commission's proposal to create an opt-in mechanism under which the new national security standards, including the new mitigation process, would apply in lieu of an existing mitigation agreement.[14] Licensees should be permitted to file a petition in the ICFS docket of their existing cable landing license, which the Commission would then grant. Critically, this approach should supplement and provide an alternative to individually negotiated mitigation agreements only where requested by licensees, not replace all mitigation agreements universally. Licensees and applicants should retain the ability to engage in full review by the Committee and compliance with mitigation agreements tailored to the specific characteristics of their cable systems wherever they deem appropriate.

VII. THE COMMISSION VASTLY UNDERESTIMATES THE COSTS OF ITS PROPOSALS

The FNPRM claims that imposing additional regulatory burdens on cable landing licensees to ensure compliance by SLTE blanket licensees would "generate substantial benefits to national security and the resiliency of critical communications infrastructure, and that these benefits would far outweigh the moderate compliance costs."[15] Yet the Commission does not identify these compliance costs, nor does it demonstrate that such burdens are necessary or likely to produce the specific national security and resiliency benefits it seeks to promote. In fact, the Commission does not have a realistic understanding of the costs of imposing obligations on licensees that essentially substitute for the Commission's own role or otherwise impose

[14] Second R&O at para. 236.

[15] Id. at para. 238.

additional regulatory burdens on industry without assessing the effectiveness of rules that have been in effect for a matter of weeks.

If adopted, the NPRM's proposals would amount to a requirement that submarine cable licensees actively monitor their contract parties' compliance with FCC rules. Such an obligation would be both time-consuming and costly. It would require licensees to devote resources to monitoring downstream entities that are themselves directly subject to Commission regulation and could require licensees to obtain and review proprietary customer and operational information.

The Commission should not conclude that the benefits of such requirements outweigh their costs without first identifying and assessing those costs. In particular, where the Commission already has direct regulatory authority over SLTE owners and operators, the Commission should not impose substantial additional burdens on submarine cable licensees to perform a regulatory function that the Commission is already equipped to perform itself.

VIII. CONCLUSION

For the reasons stated herein, INCOMPAS urges the Commission to consider and adopt the recommendations in these comments as it considers how best to improve and streamline its rules to facilitate the deployment of submarine cables. INCOMPAS appreciates the Commission's efforts to strengthen the security and resiliency of submarine cable infrastructure and encourages the Commission to maintain that focus while avoiding unnecessary, duplicative, and burdensome requirements that could impede efficient deployment and investment. A regulatory framework that maintains appropriate distinctions between SLTE blanket licensees and submarine cable landing licensees and allows for flexible commercial arrangements will best advance these objectives.

Respectfully submitted,

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