



Federal Communications Commission
Washington, DC 20554

October 15, 2020

DA 20-1215

Sanchitha Jayaram
Chief
Foreign Investment Review Section
National Security Division
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530
sanchitha.jayaram@usdoj.gov

VIA CERTIFIED FIRST-CLASS MAIL – RETURN RECEIPT REQUESTED AND E-MAIL

Re: In the Matter of China Unicom (Americas) Operations Limited
GN Docket No. 20-110; File Nos. ITC-214-20020728-00361; ITC-214-20020724-00427

Dear Ms. Jayaram:

By this letter, the International Bureau of the Federal Communications Commission (Commission) requests that the Department of Justice, on behalf of the Attorney General as Chair of the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) under Executive Order 13913,¹ address the arguments made by China Unicom (Americas) Operations Limited (China Unicom Americas) in its response to an *Order to Show Cause* issued against China Unicom Americas.² We ask the Committee to provide a response and any supporting documentation by November 16, 2020.

On April 24, 2020, the International Bureau, Wireline Competition Bureau, and Enforcement Bureau (the Bureaus) issued the *Order to Show Cause* directing China Unicom Americas, a subsidiary of a Chinese state-owned enterprise,³ to demonstrate why the Commission should not initiate a proceeding to revoke China Unicom Americas' domestic and international section 214 authorizations issued pursuant to section 214 of the Communications Act of 1934, as amended, and to explain why the Commission should not reclaim China Unicom Americas' International Signaling Point Codes (ISPCs).⁴ The *Order to Show Cause* also directed China Unicom Americas to respond to certain questions concerning its ownership, operations, and other related matters, and to provide "a description of the extent to which China Unicom Americas is or is not otherwise subject to the exploitation, influence and control of the Chinese

¹ Exec. Order No. 13913, Establishing the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector, 85 Fed. Reg. 19643, 19644-45 §§ 3(c), 4(b) (Apr. 8, 2020); see *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket No. 16-155, Report and Order, FCC 20-133, at 6, para. 11 (Oct. 1, 2020) (*Executive Branch Order*).

² *China Unicom (Americas) Operations Limited*, GN Docket No. 20-110; File Nos. ITC-214-20020728-00361; ITC-214-20020724-00427, Order to Show Cause, 35 FCC Rcd 3721 (IB, WCB, EB 2020) (*Order to Show Cause*).

³ *Id.* at 3722-23, 3724, paras. 4, 6.

⁴ *Id.* at 3721, 3724-25, paras. 1, 8-9.

government.”⁵ China Unicom Americas was granted an extension to respond to the *Order to Show Cause* to June 1, 2020⁶ and submitted its response on June 1, 2020.⁷

In its response, China Unicom Americas contends that the *Order To Show Cause* “provides no valid grounds for initiating a proceeding to revoke its long-standing section 214 authorizations to provide domestic and international services in the United States.”⁸ China Unicom Americas states that it “is not subject to the exploitation, influence, or control of the Chinese government for a number of reasons.”⁹ China Unicom Americas states that “none of the company’s senior management or board members [were] appointed by the Chinese government.”¹⁰ China Unicom Americas adds that its “immediate parent entity, [China Unicom Global Limited (CUG)], requires that the company operate in accordance with U.S. laws and regulations”¹¹ and that China Unicom (Hong Kong) Limited (CU HK), CUG’s parent company,¹² “is subject to the extensive transparency, governance, and affiliated interest restrictions of each of the exchanges on which it is listed.”¹³ China Unicom Americas also states that “the shareholding level of Unicom Group [China United Network Communications Group Company Ltd.¹⁴] over CU HK, the public company, was diluted to about 52.1%.”¹⁵ China Unicom Americas describes “certain actions that it has taken recently to strengthen its corporate governance and compliance.”¹⁶ China Unicom Americas also states that it “would be willing to engage in discussions with the Commission and the other U.S.

⁵ *Id.* at 3725-26, para. 9. The *Order to Show Cause* also requested, among other things, descriptions of China Unicom Americas’ ownership structure and corporate governance and an identification of officers, directors, and senior management officials and their employment history and affiliation with the Chinese Communist Party and the Chinese government. *Id.*

⁶ Letter from Denise Coca, Chief, Telecommunications and Analysis Division, FCC International Bureau, to Robert E. Stup, Jr., Counsel to China Unicom (Americas) Operations Limited, Squire Patton Boggs (US) LLP, DA 20-531 (May 19, 2020) (on file in GN Docket No. 20-110; File Nos. ITC-214-20020728-00361; ITC-214-20020724-00427).

⁷ China Unicom (Americas) Operations Limited, Response to Order to Show Cause, GN Docket No. 20-110; File Nos. ITC-214-20020728-00361; ITC-214-20020724-00427 (filed June 1, 2020) (Response to Order to Show Cause).

⁸ *Id.* at i.

⁹ *Id.* at 30.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 17, 31.

¹³ *Id.* at 30.

¹⁴ *Id.* at 17. China Unicom Americas states that “Unicom Group was incorporated in Beijing on June 18, 1994. 98.45% of its shares are held by the State-owned Asset Supervision and Administration Commission of the State Council.” *Id.* at 18.

¹⁵ *Id.* at 32.

¹⁶ *Id.* at 32-33 (stating that it “recently established a Compliance Management Committee (‘CMC’) under the Board, and approved the latest Compliance Manual policy”); *id.* at 33 (stating that it “has mandated that any employees of [China Unicom Americas] who perform or directly supervise the performance of duties that relate to [China Unicom Americas’] respective responsibilities under the Communications Laws and other governing laws or regulations applicable to [China Unicom Americas] . . . are required to sign a statement committing to the accuracy and completeness of any information provided to the FCC or any other U.S. government agency for compliance purposes”).

government agencies regarding the terms or arrangements that would be acceptable to resolve any national security concerns.”¹⁷

The Commission has sought the expertise of the relevant Executive Branch agencies for over 20 years, and has accorded deference to their expertise as to whether an application or an existing authorization raises national security, law enforcement, foreign policy, or trade policy concerns.¹⁸ Accordingly, we request the Committee’s views on China Unicom Americas’ arguments concerning whether and how it is subject to the exploitation, influence, and control of the Chinese government, and the national security and law enforcement risks associated with such exploitation, influence, and control.¹⁹ We also ask the Committee to respond as to whether mitigation measures could address any identified concerns.

We ask the Committee to provide a response and any supporting documentation by November 16, 2020.²⁰ Should you have any questions or need additional information, please contact me at Denise.Coca@fcc.gov or (202) 418-0574, or Jocelyn Jezierny at Jocelyn.Jezierny@fcc.gov or (202) 774-0272.

Sincerely,



Denise Coca, Chief
Telecommunications and Analysis Division
International Bureau

¹⁷ *Id.* at 9.

¹⁸ *Executive Branch Order* at 2-3, para. 3 (citing *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market; Market Entry and Regulation of Foreign-Affiliated Entities*, IB Docket Nos. 97-142 and 95-22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23919, paras. 62-63 (1997), *recon. denied*, 15 FCC Rcd 18158 (2000)); *China Mobile International (USA) Inc.; Application for Global Facilities-Based and Global Resale International Telecommunications Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended*, Memorandum Opinion and Order, 34 FCC Rcd 3361, 3362-63, para. 2 (2019).

¹⁹ Response to Order to Show Cause at 29-33.

²⁰ China Unicom Americas submitted certain materials subject to a request for confidential treatment under sections 0.457 and 0.459 of the Commission’s rules. Letter from Robert E. Stup, Jr., Counsel to China Unicom (Americas) Operations Limited, Squire Patton Boggs (US) LLP, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 20-110; File Nos. ITC-214-20020728-00361; ITC-214-20020724-00427, Request for Confidential Treatment (filed June 1, 2020). The Department of Justice, on behalf of the Committee, may seek access to information submitted to the Commission in confidence by submitting a request to the Commission pursuant to section 0.442(b). 47 CFR § 0.442(b).

cc:

Kathy D. Smith
Chief Counsel
National Telecommunications and Information Administration
U.S. Department of Commerce, Room 4713
14th Street and Constitution Avenue NW
Washington, D.C. 20230
ksmith@ntia.gov

Loyaan Egal
Deputy Chief for Telecommunications
Foreign Investment Review Section
National Security Division
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530
loyaan.egal@usdoj.gov

Alice Suh Jou
Attorney
Foreign Investment Review Section
National Security Division
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530
alice.s.jou2@usdoj.gov

Milton Brown
Deputy Chief Counsel
National Telecommunications and Information Administration
U.S. Department of Commerce, Room 4713
14th Street and Constitution Avenue NW
Washington, D.C. 20230
mbrown@ntia.gov

Robert E. Stup, Jr.
Counsel to China Unicom (Americas) Operations Limited
Squire Patton Boggs (US) LLP
2550 M Street NW
Washington, DC 20037
robert.stup@squirepb.com

Rebecca A. Worthington
Counsel to China Unicom (Americas) Operations Limited
Squire Patton Boggs (US) LLP
2550 M Street NW
Washington, DC 20037
rebecca.worthington@squirepb.com

Paul C. Besozzi
Counsel to China Unicom (Americas) Operations Limited
Squire Patton Boggs (US) LLP
2550 M Street NW
Washington, DC 20037
paul.besozzi@squirepb.com

Wesley Haiqiang Liu
Secretary, Associate President
China Unicom (Americas) Operations Limited
2355 Dulles Corner Blvd, Suite 688
Herndon, VA 20171
liuhq1@chinaunicom.cn