



# PUBLIC NOTICE

Federal Communications Commission  
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## PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS COMMENT ON APPLICABILITY OF SECURE AND TRUSTED COMMUNICATIONS NETWORKS ACT OF 2019 TO INITIAL DESIGNATION PROCEEDINGS OF HUAWEI AND ZTE

PS Docket No. 19-351 (Huawei Designation)  
PS Docket No. 19-352 (ZTE Designation)

**Comment Date: March 27, 2020**

With this Public Notice, the Public Safety and Homeland Security Bureau (Bureau) seeks comment on the applicability of the Secure and Trusted Communications Networks Act of 2019 (Secure Networks Act)<sup>1</sup> to the designation proceedings involving Huawei Technologies Company (Huawei) and ZTE Corporation (ZTE) announced in the Commission's *Protecting Against National Security Threats Order*.<sup>2</sup>

On November 22, 2019, the Commission adopted a rule barring universal service support to purchase, obtain, maintain, improve, modify, or otherwise support any equipment or services produced or provided by a covered company posing a national security threat to the integrity of communications networks or the communications supply chain.<sup>3</sup> The *Order* also initially designated Huawei and ZTE<sup>4</sup> as covered companies and directed the Bureau to make a final determination with respect to these entities following a comment period during which each could proffer an opposition to the initial designation.<sup>5</sup> Both Huawei and ZTE have submitted filings to the Bureau opposing their initial designations.<sup>6</sup>

<sup>1</sup> See Pub. L. 116-124, 133 Stat. 158 (2020).

<sup>2</sup> *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs et al.*, WC Docket No. 18-89, et al., Report and Order, Further Notice of Proposed Rulemaking, Order, 34 FCC Rcd 11423, 11433, para. 27 (2019) (*Protecting Against National Security Threats Order* or *Order*).

<sup>3</sup> 47 CFR § 54.9(a); *Order*, 34 FCC Rcd at 11433, para. 26. In the same action, the Commission adopted a Further Notice of Proposed Rulemaking to seek comment on additional actions to address national security threats to USF-funded networks and initiated an information collection to help determine the extent to which equipment and services produced or provided by Huawei and ZTE exist in U.S. communications networks. 34 FCC Rcd at 11470-82, paras. 122-66.

<sup>4</sup> *Order*, 34 FCC Rcd at 11439-40, para. 43.

<sup>5</sup> *Order*, 34 FCC Rcd at 11449, para. 64.

<sup>6</sup> See Huawei Comments, PS Docket No. 19-351 (filed Feb. 3, 2020); ZTE Comments, PS Docket No. 19-352 (filed Feb. 3, 2020).

On March 12, 2020, the Secure Networks Act became law.<sup>7</sup> The Secure Networks Act directs the Commission to publish a list of covered communications equipment or services that meet two criteria. *First*, the Act states that equipment or services shall be placed on the list if they are “produced or provided by any entity” that “poses an unacceptable risk to the national security of the United States or the security and safety of United States persons,” pursuant to certain determinations set forth in the Act. As relevant here, the Act states that this criterion is satisfied with respect to telecommunications equipment or services covered in the National Defense Authorization Act for Fiscal Year 2019 (2019 NDAA), which includes Huawei and ZTE equipment. *Second*, the Commission must determine that the equipment or services are “capable of . . . (A) routing or redirecting user data traffic or permitting visibility into any user data or packets that such equipment or service transmits or otherwise handles; (B) causing the network of a provider of advanced communications service to be disrupted remotely; or (C) otherwise posing an unacceptable risk to the national security of the United States or the security and safety of United States persons.”<sup>8</sup> The Secure Networks Act further prohibits the use of federal subsidy funds, such as the Universal Service Fund, to purchase, rent, lease, or otherwise obtain, or to maintain, listed communications equipment or services.<sup>9</sup>

We seek comment on the applicability of the Secure Networks Act to the ongoing designation process for Huawei and ZTE. Specifically, we seek comment on whether and how the Secure Networks Act should inform our consideration of the designations of Huawei and ZTE.

Interested parties may file comments on or before the date indicated on the first page of this document. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All

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<sup>7</sup> See Pub. L. 116-124, 133 Stat. 158 (2020).

<sup>8</sup> See Pub. L. 115-232, 132 Stat. 1918, Sec. 889(f)(3)(A) (2019 NDAA) (defining “covered telecommunications equipment or services” as meaning telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation, or any subsidiary or affiliate of such entities).

<sup>9</sup> See Pub. L. 116-124, 133 Stat. 158 (2020). See also *id.* § 3(b) (“Not later than 180 days after the date of the enactment of this Act, the Commission shall adopt a Report and Order to implement subsection (a). If the Commission has, before the date of the enactment of this Act, taken action that in whole or in part implements subsection (a), the Commission is not required to revisit such action, but only to the extent such action is consistent with this section.”).

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Pursuant to the Commission's *ex parte* rules,<sup>10</sup> this is a "restricted" proceeding, in which *ex parte* presentations (other than those exempt under such rules) are prohibited. An *ex parte* presentation is any presentation which (1) if written, is not served on the parties to the proceeding; or (2) if oral, is made without advance notice to the parties and without opportunity for them to be present.<sup>11</sup> Parties should familiarize themselves with the Commission's *ex parte* rules.

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For further information, please contact Janice Gorin, Competition Policy Division, Wireline Competition Bureau, at (202) 418-0637 or [janice.gorin@fcc.gov](mailto:janice.gorin@fcc.gov), or Saswat Misra, Attorney Advisor, Cybersecurity and Communications Reliability Division, Public Safety and Homeland Security Bureau at (202) 418-0944 or [saswat.misra@fcc.gov](mailto:saswat.misra@fcc.gov).

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<sup>10</sup> 47 C.F.R. §§ 1.1200 *et seq.*

<sup>11</sup> *Id.* §§ 1.1202(a)-(b), 1.1208.