



PUBLIC NOTICE

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OFFICE OF ENGINEERING AND TECHNOLOGY CHANGES *EX PARTE* STATUS FROM “PERMIT-BUT-DISCLOSE” TO “EXEMPT” FOR THE NATIONAL SECURITY THREATS TO COMMUNICATIONS SUPPLY CHAIN NOTICE OF INQUIRY

ET Docket No. 21-232

On June 17, 2021, the Federal Communications Commission adopted a Notice of Inquiry (NOI) seeking comment on leveraging its equipment authorization program to create incentives in the equipment authorization processes for improved trust through the adoption of cybersecurity best practices in consumer devices.¹ The NOI sought comment on, among other things, the means to promote greater cybersecurity for “Internet of Things” (IoT) devices, including seeking comment on the work done in this context by the National Institute of Standards and Technology (NIST) and by industry stakeholders.²

While Notices of Inquiry are, by default, classified as exempt proceedings under the Commission’s rules governing *ex parte* presentations, this proceeding was designated as permit-but-disclose under section 1.1206 of the Commission’s rules, 47 CFR § 1.1206.³

In the time since the Commission issued the NOI significant developments have taken place to advance initiatives for IoT cybersecurity labeling. For example, NIST hosted a virtual public workshop on this topic and published its “Recommended Criteria for Cybersecurity Labeling for Consumer Internet or Things (IoT) Products.”⁴ Recently it has become apparent that additional opportunities for informal discussion would greatly assist various agencies in crystallizing their thinking on these issues. To facilitate the free exchange of exploratory ideas among the staff of Federal agencies and interested stakeholders working toward the important goal of promoting security of IoT devices, by this Public

¹ *Protecting Against National Security Threats to the Communications Supply Chain through the Equipment Authorization Program; Protection Against National Security Threats to the Communications Supply Chain through the Competitive Bidding System*, ET Docket No. 21-232, EA Docket No. 21-233, Notice of Proposed Rulemaking and Notice of Inquiry, 36 FCC Rcd 10578 (2021). This Public Notice pertains only to the NOI component of these proceedings, which is part of ET Docket No. 21-232.

² *See id.* at 10616-18, paras. 100-101, 104-105.

³ *Id.* at 10618-19, para. 108.

⁴ *See* Workshop on Cybersecurity Labeling Programs for Consumers: Internet of Things (IoT) Devices and Software (September 14-15, 2021), available at <https://www.nist.gov/news-events/events/2021/09/workshop-cybersecurity-labeling-programs-consumers-internet-things-iot>; *Recommended Criteria for Cybersecurity Labeling for Consumer Internet of Things (IoT) Products*, National Institute of Standards and Technology (Feb 4, 2022), available at <https://nvlpubs.nist.gov/nistpubs/CSWP/NIST.CSWP.02042022-2.pdf>.

Notice, the Office of Engineering and Technology, pursuant to the Commission's rules,⁵ announces that the NOI portion of this proceeding will revert to being treated as an exempt proceeding as set forth under section 1.1204(b)(1) of the Commission's rules, 47 CFR § 1.1204(b)(1). Accordingly, *ex parte* presentations to or from Commission decision-making personnel directed to the merits or outcome solely of the NOI in ET Docket No. 21-232 are permissible and need not be disclosed. Presentations that are directed in whole or in part to the merits or outcome of issues raised in the June 17, 2021 NPRM or in the Further Notice of Proposed Rulemaking in ET Docket No. 21-232 and EA Docket No. 21-233⁶ remain subject to the permit-but-disclose rules.

For further information, contact Jamison Prime of the Office of Engineering and Technology, at (202) 418-7474.

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⁵ 47 CFR § 1.1200(a) (stating that “[w]here the public interest so requires in a particular proceeding, the Commission and its staff retain the discretion to modify the applicable *ex parte* rules by order, letter, or public notice.”).

⁶ *Protecting Against National Security Threats to the Communications Supply Chain through the Equipment Authorization Program; Protection Against National Security Threats to the Communications Supply Chain through the Competitive Bidding System*, ET Docket No. 21-232, EA Docket No. 21-233, Report and Order, Order, and Further Notice of Proposed Rulemaking, FCC 22-84 (rel. Nov. 25, 2022).