



OFFICE OF THE  
CHAIRWOMAN

Federal Communications Commission  
Washington, D.C. 20554

June 6, 2022

The Honorable Marco Rubio  
United States Senate  
284 Russell Senate Office Building  
Washington, DC 20510

Dear Senator Rubio:

Thank you for your letter regarding the national security risks posed by certain Chinese state-owned telecommunications companies operating in the United States. I agree with you that the Federal Communications Commission must do all it can within its legal authority to address these kinds of national security threats. To this end, I am pleased to report that under my leadership the agency has taken unprecedented action to protect the communications infrastructure that is so essential for our national and economic security. Moreover, these efforts have been unanimous, with the bipartisan support of all of my colleagues. I appreciate the opportunity to provide you with more information regarding our work to increase network security and ensure compliance with our decisions.

As you recognize in your letter, “the presence of Chinese Communist Party (“CCP”)-owned, -operated, or -directed administered companies in our technological infrastructure . . . represents a profound threat to our national and cybersecurity.” Indeed, this view is shared by the Commission and Executive Branch agencies with responsibility for national security reviews, which have found that Chinese state-owned companies may be subject to exploitation, influence, and control by the Chinese government.<sup>1</sup> According to U.S. national security assessments, these risks cannot be mitigated through changes to operations or other conditions.<sup>2</sup>

Accordingly, to better secure our networks against this threat, the Commission has established a first-of-its-kind process for revoking a foreign carrier’s existing authorization when our national security colleagues raise national security concerns. Over the past year, the Commission has used this process to revoke the Communications Act Section 214 authority of China Telecom Americas, China Unicom Americas, Pacific Networks Corp., and its wholly

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<sup>1</sup> See, e.g., Executive Branch Recommendation to the Federal Communications Commission to Revoke and Terminate [China Telecom Americas’] International Section 214 Common Carrier Authorizations, (filed Apr. 9, 2020) (Executive Branch CTA Recommendation to Revoke and Terminate); Letter from Kathy Smith, Chief Counsel, National Telecommunications and Information Administration, U.S. Department of Commerce, to Denise Coca, Chief, Telecommunications and Analysis Division, FCC International Bureau (Nov. 16, 2020) (Executive Branch CUA Nov. 16, 2021 Letter); Letter from Kathy Smith, Chief Counsel, National Telecommunications and Information Administration, U.S. Department of Commerce, to Denise Coca, Chief, Telecommunications and Analysis Division, FCC International Bureau (Nov. 16, 2020) (Executive Branch PN/CN Nov. 16, 2021 Letter).

<sup>2</sup> See Executive Branch CTA Recommendation to Revoke and Terminate at 2, 53-56; Executive Branch CUA Nov. 16, 2021 Letter at 37-38; Executive Branch PN/CN Nov. 16, 2021 Letter at 2, 10-11; Executive Branch PN/CN June 4, 2021 Reply at 1-3.

owned subsidiary, ComNet. As a result of these orders, these four companies are no longer authorized to provide any domestic or international telecommunications services in the United States that require Section 214 authorization from the Commission.

Since then, the Commission has taken steps to confirm that the companies are complying with the revocation orders and discontinuing their U.S.-based telecommunications services:

- On October 26, 2021, the Commission ordered China Telecom Americas to discontinue any domestic or international telecommunications services within the United States by January 3, 2022. China Telecom Americas previously offered consumers mobile service under the brand name “CTExcel” as a mobile virtual network operator (“MVNO”). On November 12, 2021, the Commission released a consumer guide advising China Telecom Americas’ customers, which include individuals and businesses, that they will need to find alternative service providers, or understand that their service will stop on January 3, 2022. On December 29, 2021, China Telecom Americas submitted a letter stating it provided affected customers at least 30 day’s advance notice. The company stated it discontinued the CTExcel service, however, it also filed a petition for review of the Commission’s Order pending before the United States Court of Appeals for the District of Columbia.
- On January 27, 2022, the Commission ordered China Unicom Americas to discontinue any domestic or international telecommunications services within the United States by April 4, 2022. China Unicom Americas previously offered consumers mobile service under the brand name “CUniq” as an MVNO. On February 3, 2022, the Commission released a consumer guide advising China Unicom Americas’ customers, which include individuals and businesses, that they will need to find other service providers or understand that their service will stop on April 4, 2022. On April 4, 2022, China Unicom Americas submitted letters stating that it had timely provided affected customers at least 30 days’ advance notice. The company stated it discontinued the CUniq service, however, China Unicom Americas filed a petition for review of the Commission’s Order that is pending before the United States Court of Appeals for the Ninth Circuit.
- On March 16, 2022, the Commission ordered Pacific Networks and its wholly owned subsidiary, ComNet, to discontinue all domestic and international telecommunications services within the United States by May 23, 2022. ComNet previously provided retail calling card services in the United States. On March 25, 2022, the Commission released a consumer guide advising consumers they no longer will be able to use ComNet’s calling cards starting May 23, 2022. On May 19, 2022, Pacific Networks and ComNet filed a letter with the Commission stating that it discontinued its retail calling card services, however, the Pacific Networks and ComNet filed a petition for review of the Commission’s order that remains pending in the United States Court of Appeals for the District of Columbia.

As you note in your letter, China Telecom Americas asserted that it will continue to operate its private carrier business in the United States after the January 3<sup>rd</sup> deadline.<sup>3</sup> These services include its International Private Leased Circuit, International Ethernet Private Line, and Multiple Protocol Label Switching/Virtual Private Network services. China Telecom Americas has stated that it offers these services to enterprise customers and not to the general public. Citing longstanding precedent in *National Association of Regulatory Utility Comm'rs v. FCC*,<sup>4</sup> the company is asserting that these non-MVNO services are private carrier services that do not require Section 214 or other Commission authorization and, as such, fall outside our statutory jurisdiction.

To date, the company has not provided the detailed and verifiable factual support needed for the Commission to evaluate the claim that its non-MVNO services are provided as private carriage. As such, the Commission expects China Telecom Americas to comply fully with the terms of its Order and advised the company to that effect, including in a letter sent on December 30, 2021.<sup>5</sup> In addition, I directed the Commission's Enforcement Bureau to investigate each of the companies' compliance with the revocation orders, including China Telecom Americas' continued operation of its private carrier business after the January 3, 2022, deadline. We take our responsibility in this regard seriously. However, to maintain the integrity of such investigations, the Commission's practice is not to comment further until the investigation has concluded. Should the Enforcement Bureau conclude that one or more of these companies violated federal law, I intend to take swift action.

National security threats are constantly evolving. Consequently, in addition to enforcing our prior decisions, the Commission is taking additional action to continue to monitor and restrict the CCP's influence on U.S. telecommunications:

*First*, the Commission added services provided by China Mobile International USA Inc. and China Telecom Americas to the Covered List it maintains pursuant to the Secure and Trusted Communications Networks Act. The Covered List includes equipment or services determined to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons. The Commission is required to update the list annually based on determinations of certain federal agencies or interagency bodies with appropriate national security expertise. Accordingly, earlier this year, I sent letters to the Department of Commerce, the Office of the Director of National Intelligence, the Federal Acquisition Security Council, the Department of Justice, and the Federal Bureau of Investigation requesting their help to update the Covered List to reflect our recent actions against Chinese state-owned enterprises. As a result of these efforts, the Commission was able to update the Covered List in March of this year

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<sup>3</sup> Letter from Andrew D. Lipman, Counsel to China Telecom (Americas) Corporation, Morgan, Lewis & Bockius LLP, to Marlene H. Dortch, Secretary, FCC, at 4 (November 19, 2021) (on file in GN Docket No. 20-109; IB File Nos. ITC-214-20010613-00346; ITC-214-20020716-00371; and ITC-T/C-20070725-00285).

<sup>4</sup> 533 F.2d 601, 608-609 (D.C. Cir. 1976).

<sup>5</sup> Letter from Jessica Rosenworcel, Chairwoman, FCC, to Andrew D. Lipman, Counsel to China Telecom (Americas) Corporation, Morgan, Lewis & Bockius LLP (December 30, 2021) (on file in GN Docket No. 20-109; IB File Nos. ITC-214-20010613-00346; ITC-214-20020716-00371; and ITC-T/C-20070725-00285).

to include services provided by China Mobile International USA Inc. and China Telecom Americas, and we anticipate taking similar action as to China Unicom Americas, Pacific Networks, and ComNet. These listings carry important consequences. For one thing, U.S. telecommunications providers are prohibited from using universal service support to purchase services from listed companies. For another, I proposed rules that will align our equipment authorization procedures with our national security policies and ensure going forward, the Commission will not approve equipment on the Covered list—including listed equipment from Huawei and ZTE—for importation or sale in the United States.

*Second*, we are taking action to restrict the companies' and the CCP's access to submarine cable systems that land in the United States. We worked with the Department of State to change the 20-year-old process used for approving submarine cable licenses. The revised approach better incorporates the new Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (the "Committee") into the assessment process. In addition, we are working with the Department of Justice and the Committee to ensure greater oversight of requests for special temporary authority to start building submarine cables and stronger conditions on submarine cable licenses. For example, we recently worked with applicants for a submarine cable landing license for the Pacific Light Cable Network (PLCN) to remove connections and ownership that raised national security concerns. This included removing a proposed direct connection between the United States and Hong Kong and removing a Hong Kong-based applicant, Pacific Light Data Communication Co. Ltd., and its PRC-based owner, Dr. Peng Telecom & Media Group Co., Ltd, over concerns about ties to Chinese intelligence and security services and to China Unicom. Finally, we worked with our federal partners on a national security agreement with the remaining owners that included non-standard mitigation conditions that require the owners to conduct annual assessments of risk to sensitive data, pursue diversification of interconnection points in Asia, and restrict access to information and infrastructure by entities that raise national security concerns, among others.

*Third*, in response to increasing cyber threats following Russia's invasion of Ukraine, the Commission launched a new inquiry into the security of Border Gateway Protocol, which is a critical routing protocol for the internet. This is important because public reports claimed at least one Chinese state-owned telecommunications company has previously exploited flaws in BGP to hijack and misroute internet traffic, including from the United States, through China.<sup>6</sup> The inquiry seeks to build a public record on the vulnerabilities threatening the security and integrity of the BGP, commercial efforts to address them, and what role the U.S. government should play.

*Fourth*, we are taking action to more broadly reduce our cyber risk and encourage better information sharing. Earlier this year, I shared with my colleagues a proposal to modernize our rules about data breach reporting. These rules were first adopted in 2007, and I believe it is time for an update. I look forward to the agency adopting this rulemaking without further delay because data breaches are increasing and in response we need to increase our efforts to restore network trust.

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<sup>6</sup> See Executive Branch CTA Recommendation to Revoke and Terminate at 44-47.

*Fifth*, we are increasing transparency and better coordinating within the government on Section 214 authorizations. On September 30, 2021, the Commission adopted a set of standardized national security questions to ask when screening a Section 214 applicant with reportable foreign ownership for security review. In addition, I agree with you that we need audits and other formal reviews of past grants of authority. That is why I have directed the Commission's International Bureau to review all past grants of international Section 214 applications for ownership by additional Chinese telecommunications companies that may pose a risk to the United States. Similarly, in the wake of the Russia-Ukraine conflict, we launched an internal assessment of Russian ownership of telecommunications interests in the United States. We are sharing our findings with the Department of Justice and the Committee so that we can pursue further action where appropriate. Through our increased oversight of past grants of authority, we have been able to pursue enforcement activity against companies that violated our rules in ways that undermine our ability to assess foreign investment in licenses under the Communications Act. That includes issuing a record fine against Truphone, Inc.—a company with ties to Russian owners who have been sanctioned by the United Kingdom—for exceeding statutory limits for foreign ownership.

I believe the Commission's recent actions helped to meaningfully advance the national security of the United States. However, it is clear that the U.S. government still needs other tools in its toolbox to mitigate the many distinct risks posed by these kinds of state-owned enterprises. No single action or agency can address the full risk posed by a technology company, product, or service. As such, it will take a more concerted approach across the U.S. government to ensure the protection of U.S. networks and consumers' data. For our part, we are surveying additional authorities throughout the U.S. government that can reach services that may fall outside the Commission's statutory jurisdiction, such as interim regulations at the Department of Commerce regarding information and communications technology services transactions and engaging the authority of the Committee to advance whole-of-government approaches.

I look forward to working with you on these and other efforts to advance the national security of the United States.

Sincerely,

A handwritten signature in black ink, appearing to read "Jessica Rosenworcel", with a long horizontal flourish extending to the right.

Jessica Rosenworcel