

**STATEMENT OF
COMMISSIONER GEOFFREY STARKS**

Re: *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket No. 16-155

I'm glad we're adopting these rules to govern our coordination with the Executive Branch on applications potentially impacting national security and law enforcement. These procedures will formalize our coordination process with Team Telecom so we can work more effectively to protect national security while providing predictability and timely feedback to applicants on their proposals.

Communications networks have become even more essential to our national security because of the critical nature of the internet and because adversary states and criminals continue their attempts to tamper with, block, or illegally access our communications. While the Commission has been rightfully focused on removing threats within US networks, whether through foreign-made equipment or via authorizations to operate within the United States, I again call attention to a critical aspect of modern communications that is also subject to the Commission's oversight -- the international carriage of traffic between the US and the rest of the world via undersea cables.

Far below the surface of the ocean, 99% of the world's internet traffic travels through about 300 fiber optic cables about the width of a garden hose.¹ The first undersea cable transmission was a telegraph message between the US and the UK three years before the Civil War. Back in those days, it took more than two minutes to transmit a single character.² The latest undersea cables will transmit at 250 terabits per second -- fast enough to send everything in the Library of Congress to Europe three times every second.³

These cables have been important to international communications for a long time, but the internet has made them essential. Earlier this year, we saw the catastrophic effect of an undersea cable cut in Yemen, when the loss of a single cable reduced the entire country's internet capacity by 80 percent.⁴ Cloud computing allows us to store our data in remote servers around the world, and undersea cables allow us to access those servers wherever we're located. That's why an increasing number of cables are owned by tech companies, as opposed to traditional communication companies. Companies like Google, Microsoft, Facebook and Amazon now own or lease nearly half the world's undersea bandwidth.⁵

¹ Alex Gray, *This Map shows how Undersea Cables move Internet around the World*, World Economic Forum (Nov. 26, 2016), <https://www.weforum.org/agenda/2016/11/this-map-shows-how-undersea-cables-move-internet-traffic-around-the-world/>.

² Duncan Geere, *How the First Cable Was Laid Across the Atlantic*, WIRED (Jan. 18, 2011), <https://www.wired.co.uk/article/transatlantic-cables>.

³ Klint Finley, *How Google is Cramming More Data into its New Atlantic Cable*, WIRED (Apr. 5, 2019), <https://www.wired.com/story/google-cramming-more-data-new-atlantic-cable/>.

⁴ Lily Hay Newman, *Cut Undersea Cable Plunges Yemen Into Day-Long Internet Outage*, WIRED (Jan. 13, 2020), <https://www.wired.com/story/yemen-internet-blackout-undersea-cable/>.

⁵ Nadia Schadlow & Brayden Helwig, *Protecting Undersea Cables Must be Made a National Security Priority*, Defense News (July 1, 2020), <https://www.defensenews.com/opinion/commentary/2020/07/01/protecting-undersea-cables-must-be-made-a-national-security-priority/>.

Because these cables are so important, we must ensure that adversary countries and other hostile actors can't tamper with, block, or intercept the communications they carry. That's why I expressed concerns about the Pacific Light Cable Network, which was proposed by two major American tech firms and a Chinese partner and would have connected landing sites in Los Angeles and Hong Kong. Team Telecom shared my concerns, stating that if the project was granted with the Hong Kong connection, "U.S. customers may soon have little choice but to let their traffic flow through Hong Kong in order to reach final destinations in other parts of Asia,"⁶ and that such a cable "landing in Hong Kong would provide additional opportunities for [Chinese government] authorities to collect U.S. communications traffic for further big data analysis."⁷ This summer, the applicants withdrew their application for the Hong Kong connection. Just a few weeks ago, another pair of American tech companies and a Chinese partner withdrew their application to connect San Francisco and Hong Kong as part of the Bay to Bay Express Cable System.⁸

The concerns aren't just about the landing sites of the cables but who owns and operates them. Even though PLCN will no longer connect through Hong Kong, it's still owned in part by a Chinese company that has been convicted of bribing Chinese government officials and that built a surveillance network for Beijing police.⁹ In its opposition to the PLCN application, Team Telecom raised additional concerns about this company's compliance with FCC transfer of control requirements as well as Chinese government connections with the company that will operate the undersea cable.¹⁰ And the Chinese partner for the Bay to Bay Express Cable System remains none other than China Mobile,¹¹ whose application to operate in the United States was denied by this Commission last year.

It doesn't stop there. One of the largest undersea cable companies in the world is Huawei Marine, which has built or repaired almost a quarter of the world's cables. This includes upgrades to a major submarine cable connecting the US and Canada, as well as a cable connecting New York City and London.¹² Huawei Marine was sold to another Chinese company last year, but that company's director

⁶ Executive Branch Recommendation Partial Denial and Partial Grant of Application, *GU Holdings Inc., et al.*, File Nos. SCL-LIC-20170421-00012 *et seq.* at 52 (filed June 17, 2020) (hereinafter "Team Telecom PLCN Recommendation").

⁷ *Id.* at 15.

⁸ *Facebook drops San Francisco - Hong Kong submarine cable amid growing national security concerns*, Intelligence Online, (Sept. 14, 2020), <https://www.intelligenceonline.com/international-dealmaking/2020/09/14/facebook-drops-san-francisco-hong-kong-submarine-cable-amid-growing-national-security-concerns,109606444-art>.

⁹ Kate O'Keefe, Drew FitzGerald & Jeremy Page, *National Security Concerns Threaten Undersea Data Link Backed by Google, Facebook*, Wall St. J., (Aug. 28, 2019), <https://www.wsj.com/articles/trans-pacific-tensions-threaten-u-s-data-link-to-china-11566991801>.

¹⁰ Team Telecom PLCN Recommendation at 42-43, 44-47.

¹¹ *NEC to Build the Bay to Bay Express Cable System*, Submarine Telecoms Forum (July 9, 2018), <https://subtelforum.com/nec-build-bay-to-bay-cable/>.

¹² Jeremy Page, Kate O'Keefe, and Rob Taylor, *America's Undersea Battle with China for Control of the Global Internet Grid*, Wall St. J. (March 12, 2019).

and founder is a Chinese government official. As one official Chinese Communist Party outlet explained, “although undersea cable laying is a business, it is also a battlefield where information can be obtained.”¹³

Clearly, undersea cables are a critical national security asset. The FCC must work with our partners at Team Telecom to treat them accordingly. We must take a closer look at cables with landing locations in adversary countries. This includes the four existing submarine cables connecting the US and China, most of which are partially owned by Chinese state-owned companies. One of these cables received FCC approval only three years ago.¹⁴ While undersea cable connections between the United States and China are appropriate, the Commission must work with Team Telecom to ensure that our communications are secure. And new cables are essential to our economic and technological future, but they, too, must be secure. Because of their greater capacity and speed, these new cables will likely become the least expensive option for our communications.¹⁵ There is more work to be done here.

As I’ve stated previously, the Commission should issue a Public Notice forming a national security inter-bureau task force. The Commission currently reviews national security issues on a distributed basis among the various bureaus. For example, the International Bureau refers undersea cable landing license applications to Team Telecom for national security review. The Public Safety and Homeland Security Bureau participates in the National Security Council’s NSPM-4 process. And the Wireline Competition and Wireless Telecommunications Bureaus consider national security in license transfers and number portability matters. Even now, we’re considering an item from the Media Bureau that would establish disclosure requirements for broadcast television and radio content sponsored or provided by foreign governments.

This distributed structure makes internal coordination challenging and risks inconsistent treatment of national security issues between different bureaus. These issues will only happen more often as our world becomes even more interconnected. We must be more intentional than ever to ensure that the whole of the FCC is more coordinated, more deliberative, and more collaborative.

Finally, the Commission should work with Congress and the Executive Branch to examine whether our authority over these cables should be updated. The Commission’s authority to grant undersea cable landing licenses is pursuant to a delegation of authority from the President under a statute that predates the Communications Act by 13 years. That’s nearly 100 years old! Given that the issues surrounding these cables will only become more complex and important to our national security, we must take a close look at whether our regulatory authority is sufficient to meet the moment.

Thank you to the International Bureau for their work on this important item.

¹³ See *supra* note 5 (citing Notice of Withdrawal of Cable Landing License Application, *Edge Cable Holdings USA LLC, et al.*, File No. SCL-LIC-20181125-00037 (filed Sept. 10, 2020)).

¹⁴ Mark Harris, *Google and Facebook Turn their Backs on Undersea Cable to China*, (Feb. 6, 2020), <https://techcrunch.com/2020/02/06/google-and-facebook-turn-their-backs-on-undersea-cable-to-china>.

¹⁵ For example, the PLCN can transmit data at a rate of 144 terabits per second, dwarfing the capabilities of existing trans-Pacific cables. If the Hong Kong portion of the cable had been approved, it would have become the least costly option for routing communications between the US and Asia. Team Telecom PLCN Recommendation at 47-48.