



Federal Communications Commission
Washington, D.C. 20554

March 1, 2023

Mr. Alexander Hunt
Chief, Information Policy Branch
Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street, NW
Washington, D.C. 20503

Dear Mr. Hunt:

The Federal Communications Commission (Commission) requests Office of Management and Budget (OMB) approval to submit the information collection described herein under the “emergency processing” provisions of the Paperwork Reduction Act (PRA) of 1995, 5 CFR § 1320.13. The Commission is requesting clearance for a revised information collection entitled: 3060-0057, Application for Equipment Authorization, FCC Form 731. We respectfully request OMB approval for this revised information collection no later than 10 business days after it is received at OMB.

On November 11, 2022, the Commission adopted a Report and Order, Order, and Further Notice of Proposed Rulemaking in ET Docket No. 21-232 and EA Docket No. 21-233, FCC 22-84, *Protecting against National Security Threats to the Communications Supply Chain through the Equipment Authorization Program* (Report and Order). By this Report and Order, the Commission amends its rules to protect the nation’s telecommunications supply chain from equipment that poses a security risk to the United States or a threat to the security and safety of United States persons. Specifically, the Commission amends the equipment authorization procedures to prohibit authorization of equipment that has been identified on the Commission’s “Covered List” and to prohibit the marketing and importation of such equipment in the United States. Pursuant to section 1.50002 of the Commission’s rules, the “Covered List” is a list of communications equipment and services that are deemed to pose an unacceptable risk to national security. The Commission’s Public Safety and Homeland Security Bureau maintains the Covered List at <https://www.fcc.gov/supplychain/coveredlist>. The Commission’s new rules and procedures comply with Congress’s directive in the Secure Equipment Act of 2021 (Pub. L. No. 117-55, 135 Stat. 423 (2021)) to adopt such rules within one year of that Act’s enactment.

The information collection at issue in the Report and Order is necessary to identify whether and in which cases equipment for which authorization is sought falls within the designation of covered equipment on the Covered List. At this time, the focus of the statutory bar is certain equipment produced by five Chinese companies and their subsidiaries or affiliates: Huawei Technologies Company; ZTE Corporation; Hytera Communications Corporation; Hangzhou Hikvision Digital Technology Company; and Dahua Technology Company. Because the Covered List does not enumerate each piece of covered equipment, without the information collection at issue here, the Commission will be unable to confirm that an equipment authorization will not endanger the national security or safety of U.S. persons. The Commission previously received OMB approval, pursuant to the process in 5 CFR § 1320.11, for collection of a proposed written and signed certification that the equipment for which the applicant seeks equipment authorization is not covered equipment on the Covered List. The Commission sought pre-

approval to minimize the risk that a rush of applications for authorization of equipment on the Covered List would be submitted and granted during the period before the new rules could take effect.

The adopted Report and Order expands the pre-approved certification collection in several respects that are necessary to identify whether an application is for equipment on the Covered List. At least some of these changes appear to us to be substantive revisions to the approved collection. In conjunction with the pre-approved certification described above, the additional information includes collecting from applicants for equipment authorization, transferees (by, for example, transfer of control, sale, merger, or transfer of manufacturing rights), or for a modification to an existing equipment authorization, contact information for the applicant's or transferee's designated agent for service of process in the United States, and that entity's acknowledgment of its obligations to accept service of process. Requiring that the agent expressly consent to service within the United States will enable the Commission to efficiently carry out its enforcement duties, and if the grantee is foreign-based, will facilitate enforcement without the need to resort to unwieldy procedures that may otherwise apply under international law. The Report and Order also directs the collection of identification and contact information for each Covered List entity's associated entities (e.g., subsidiaries and affiliates). This information is necessary to identify whether an application is for equipment produced by any of the five companies identified on the Covered List, where the application is submitted by an affiliate or subsidiary under a different name.

The Commission seeks emergency approval of the Report and Order's additional information collection requirements to further minimize the risk that a rush of applications for authorization of equipment on the Covered List would be submitted, and granted, during the period before the modified information collection could take effect. Emergency processing of an information collection may be justified on the ground that "[p]ublic harm is reasonably likely to result if normal clearance procedures are followed," 5 CFR § 1320.13(a)(2)(i), and we believe the continued authorization of equipment that has been determined to pose an unacceptable risk to national security, which the new rules are intended to prevent, constitutes "public harm." In particular, requiring the Commission to seek OMB's approval for the additional information collection requirements under the regular PRA processing procedures in 5 CFR § 1320.12 would significantly delay the Commission's efforts to address the serious and immediate risk to national security posed by equipment produced by the entities identified on the Covered List. Given the national security interests here, the Commission found under the Administrative Procedure Act that we have good cause to make our rules implementing this statutory mandate effective upon publication. Our concern is that the additional information collection requirements requiring PRA review are critical to the implementation of our new regulations, and that any delay in approving the information collections, even a delay of 30 days or less, would allow the continued introduction of new equipment that poses an unacceptable risk to national security into the U.S. market.

We further believe the exigencies are such that OMB should waive the requirement that the agency publish notice in the Federal Register stating that it is seeking emergency processing and the time period within which OMB action is requested, so that the rules can take effect immediately upon publication. The Commission will conduct all the necessary regular submission requirements under the PRA and 5 CFR § 1320.12 after approval of this emergency request.

The Commission's staff is ready to work with your PRA Desk Officer to immediately provide any additional information needed to facilitate OMB's approval of this emergency request to this new information collection no later than 10 days after it is received at OMB. Please have your PRA desk officer contact Nicole Ongele at (202) 418-2991, or nicole.ongele@fcc.gov, if there are any questions or any additional information that may be needed.

Sincerely,

Mark Stephens
Managing Director
Office of Managing Director
Federal Communications Commission