

FCC Mandates Foreign Ownership Reporting and Increased Oversight for International Section 214 Authority Holders

Tricia Paoletta and Ivory Mills

On April 20, 2023, the Federal Communications Commission (the “Commission”) released an [Order](#) (“Order”) and Notice of Proposed Rulemaking (“NPRM”) proposing and seeking comment on comprehensive changes to the current international Section 214 framework in its continued efforts to address threats to national security, law enforcement, and trade policy considerations.

The Order imposes a requirement on all current international Section 214 authorization holders to respond to a one-time collection of information, disclosing the name, address, citizenship and principal business of any 10 percent direct or indirect foreign interest holders.

Since international Section 214 authorizations do not require renewal, the Commission’s records are woefully out of date, making it difficult to assess emergent or existent threats to the nation’s telecommunications infrastructure.

Highlighting the significance of this undertaking, the Commission also proposes to cancel the international section 214 authority of those that do not respond to the one-time collection requirement in the Order.

To collect this information, the FCC must first obtain Paperwork Reduction Act (“PRA”) approval from the Office of Management and Budget (“OMB”). Once OMB’s approval is published in the Federal Register, international Section 214 authority holders will have no fewer than 30 days to file the requisite information in forms to be developed by the FCC’s Office of International Affairs.

Alongside the Order, the Commission released an NPRM, proposing rules which would expand oversight of foreign ownership of international section 214 authorizations.

First, the NPRM proposes rules requiring the renewal of international section 214 authorizations every 10 years, or alternatively seeks comment on adopting rules that would require authority holders to provide updates such that the Commission can review the public interest and national security implications of new information.

The NPRM proposes that the renewal process to be adopted prioritize certain applications based on the existence and significance of foreign ownership and the likelihood of said applications raising national security, law enforcement, foreign policy, or trade policy concerns. In effect, this would mean that there are streamlined or otherwise simplified procedures for those that do not have reportable foreign ownership.

The NPRM also seeks comment on other proposals that expand or significantly change the existing international section 214 application requirements, including:

- Whether the threshold for reportable foreign ownership should be lowered from 10 percent to five percent;
- Whether all applicants should have to provide current and forecasted service and geographic market information;
- Whether certain applicants should be required to disclose information on foreign-owned managed network service providers;
- Whether applicants should be required to identify facilities that they use and/or will use to provide service between the United States and Canada or Mexico;
- Whether the Commission should require applicants to certify compliance with baseline cybersecurity standards; and,
- Whether the Commission should require applicants to certify whether or not they use equipment or services identified on its "Covered List," deemed to pose an unacceptable risk to the national security of the United States or the safety and security of U.S. persons.

The NPRM proposes and seeks comment on an array of other changes, including but not limited to, restrictions on the number of authorizations one entity may hold and requiring that new authority holders commence service within one year of the grant of authorization.

While the proposed rule changes are not yet final, their impact could be far-reaching given the continued prioritization of national security concerns across the political spectrum. In addition to increasing regulatory compliance burdens, the ever-changing geopolitical climate may mean heightened scrutiny for certain applicants and authorization holders.

Comments are due 30 days after the notice's publication in the Federal Register, with reply comments due 30 days thereafter.

* * * *

Please contact Tricia Paoletta, Kent Bressie, Colleen Sechrest, Julie Veach, or the HWG attorney with whom you regularly work if you are interested in having HWG monitor or file comments in this proceeding.

This advisory is not intended to convey legal advice. It is circulated publicly as a convenience and does not reflect or create an attorney-client relationship.