

FCC Signals It May Be Prepared to Greatly Expand Its Proposed Ban on Huawei and ZTE Equipment

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As previously reported, the [FCC's ban of Huawei and ZTE equipment and services](#) from projects subsidized by the FCC's Universal Service Fund (USF) became effective on January 3, 2020, following the publication of its December Order [in the Federal Register](#). In the next phase of its plan to address perceived risks posed by such equipment and services, the FCC is now requesting public comment on what further steps it should take to secure U.S. communications networks. [Public comments are due](#) on February 3, 2020.

The latest request is focused on proposals by the FCC to “remove and replace” existing US equipment and services “produced or provided by” Huawei and ZTE from USF recipients’ network operations. Currently, the FCC plans to require “as a condition on the receipt of any USF support” that eligible telecommunications carriers (ETCs) avoid the use of communications equipment or services from covered companies and commit to removal of any such existing equipment and services from their networks.

The cost of such efforts would be compensated, at least partially, by a “reimbursement program” that the FCC would establish “to offset reasonable transition costs.” In connection with possible offsets, the FCC is now seeking comments on how best to reimburse companies for replacement costs. For example, the FCC asks for comments on whether it can reimburse technology upgrade costs in conjunction with [replacements of Huawei and ZTE equipment](#) and how best to identify and prioritize valid reimbursement claims.

As currently proposed, the “remove and replace” requirement is limited to ETC networks receiving USF support. It is also focused exclusively on equipment which the FCC considers to be “the greatest concern regarding equipment and services posing a national security threat.”

Importantly, however, the published FNPRM also invites comment on whether the FCC “can and should prohibit **any** communications company from purchasing, obtaining, maintaining, improving, modifying, or otherwise supporting any equipment or services produced or provided by” Huawei and

ZTE, “regardless of whether they use universal service support to do so.” Moreover, the FCC has asked for comment on whether any expanded remove-and-replace order should cover **all** equipment and services from Huawei and ZTE. As possible support for such actions, the FCC references laws that entrust the FCC with authority to protect the public interest and cites to an increase in “the likelihood of preventing engineered, backdoor access to the network.”

These requests for additional comment could be highly significant. They strongly signal that the FCC may be prepared to require many more entities to remove and replace prohibited Huawei and ZTE equipment and services, and may seek to rely on a broad range of statutory authority to do so. Companies with an interest in USF programs as well as any company that may have Huawei and ZTE equipment and services as part of its existing or planned installed base should pay close attention to the FCC's rulemaking process and consider commenting in response to the FNPRM.

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