

FCC National Security and Law Enforcement Rules for Team Telecom Review are Now Effective

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Recently the Federal Communications Commission (the “Commission” or “FCC”) issued a [Public Notice](#) announcing that certain rules adopted in its September 2020 “[Executive Branch Review Order](#)” and September 2021 “[Executive Branch Standard Questions Order](#)” have finally become effective and codified in Title 47 of the US Code of Federal Regulations. The codification of these rules marks an important milestone in the Commission’s ongoing efforts to promote efficiency and transparency in its application review process involving the [Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector](#) (the “Committee”, also informally known as “Team Telecom”). Below, we highlight the major rules that went into effect:

Rules Governing the Referral of Certain Applications to the Committee

In the 2020 *Executive Branch Review Order*, the Commission adopted rules and procedures aimed at formalizing and modernizing the interagency review process for applications from companies with foreign ownership seeking to participate in the US telecommunications market. Among other things, the Executive Branch Review Order adopted rules governing the types of applications that the Commission will, and will generally not, refer to the Committee for review. These exceptions to the Team Telecom referral process were intended to streamline the process and put the Committee’s resources to their best and highest use by not requiring staff to review applications that generally do not raise national security concerns. Notably, however, the Commission reserved and did not codify the proposed exceptions to its referral process until now.

As a general matter, the Commission will no longer refer to the Committee the following types of applications:

- (i) Satellite earth station applications unless associated with a request for a section 310(b) foreign ownership ruling;
- (ii) *pro forma* notifications and applications;
- (iii) International section 214 applications, submarine cable applications, and section 310(b) petitions where the only reportable foreign ownership is through wholly owned intermediate holding companies and the ultimate ownership and control is held by US citizens or entities;
- (iv) International section 214 applications where the applicant has an existing mitigation agreement and there are no new reportable foreign owners of the applicant; and
- (v) International section 214 applications where the applicant was cleared by Team Telecom within the past 18 months without mitigation and there are no new reportable foreign owners.

Notwithstanding the foregoing, the Commission retained the discretion to refer any application to the Committee. Please see our October 2020 [Insight](#) for additional details.

Concurrent Submission of Team Telecom Standard Questions

In the 2021 *Executive Branch Standard Questions Order*, the Commission adopted rules requiring an applicant whose application and/or petition is referred to Committee to provide its responses to the corresponding set of national security and law enforcement questions (“Standard Questions”) directly to the Committee either prior to or simultaneously with its application and/or petition to the Commission. The Standard Questions adopted include information from the following five categories:

- (i) corporate structure and shareholder information;
- (ii) relationships with foreign entities;
- (iii) financial condition and circumstances;
- (iv) compliance with applicable laws and regulations; and
- (v) business and operational information, including services to be provided and network infrastructure.

As of August 2024, impacted applicants must now provide responses to relevant Standard Questions to the Committee at the same time as they submit the underlying FCC application. Applicants must also submit a copy of its application and/or petition to the Committee within three (3) business days after the applicant submits it to the Commission. Note that applicants must file responses to the Standard Questions through a file-sharing link to be provided upon request by the Committee.

Certifications

In the 2021 *Executive Branch Standard Questions Order*, the Commission adopted rules requiring applicants and petitioners to make certain certifications regarding national security and law enforcement, and to “designate a point of contact who is located in the United States and is a US citizen or lawful US permanent resident, for the execution of lawful requests and as an agent for legal service of process.” As with the referral exceptions and standard questions, these rules have finally gone into effect.

The codification of these rules reflects the Commission’s efforts to improve the timeliness and transparency of the Committee’s national security reviews. However, it remains to be seen whether these measures will actually streamline or shorten the Team Telecom review process. We encourage clients with forthcoming or existing applications before the Commission to reach out to us to discuss how these changes may impact them.

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