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FCC Proposes Expansive New Ownership Disclosure Rules for Telecom Investors

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In recent years, the Federal Communications Commission (FCC) has increasingly focused on safeguarding the US telecommunications network from potentially adverse foreign interests. In response to these concerns, the FCC has proposed significant changes to its requirements for reporting foreign ownership – and potentially all ownership – in companies that provide regulated international telecommunications services, including voice and high-capacity services. These changes would require any 5% interest (and potentially even smaller interests) to be reported and would result in national security review of future investments that today would not be reported at all.

A telecommunications carrier in the US must have an authorization (called an international Section 214 authorization) from the FCC before it can send telecommunications traffic outside the US. Accordingly, a US telephone company, cable operator or wireless carrier that provides standard long-distance telephone service (or other telecommunications services used to reach international destinations, such as high-capacity services) should hold an international telecommunications authorization. Applications for international telecommunications authorizations currently must disclose parties that hold a 10% or greater equity or voting interest in the applicant. However, there is no obligation to update those ownership disclosures after an authorization is granted unless there is a change of control.

In a notice of proposed rulemaking, the FCC proposed to significantly expand the reporting requirements applicable to international telecommunications authorization holders. Under the proposal, the threshold for a reportable investment would be reduced from 10% to 5%. This change would force carriers with international telecommunications authorizations to publicly disclose many investors that previously did not have to be disclosed. Because of the additional disclosures of foreign ownership, this change also would subject many more applications to national security review or evaluation by “Team Telecom,” an interagency committee that reviews FCC applications for national security concerns.

In addition, the FCC proposed a 10-year renewal requirement for international telecommunications authorizations. As part of the renewal process, or as part of any application for new ownership, the FCC proposed to collect information about all holders of 5% or greater direct or indirect voting and equity interests. The FCC also proposed that carriers update their ownership information every three years.

The FCC is seeking public comment on its proposals. Questions raised by the FCC include whether the 5% disclosure requirement should apply to all interest holders or only to foreign individuals or entities, how the FCC will determine whether an investment crosses the 5% threshold, and whether passive or insulated interests should be disclosable.

Comments on the FCC’s proposals are due on August 31, 2023, and reply comments are due by October 2, 2023. If you would like more information about the FCC’s proposed new rules or the rulemaking process, you can reach out to one of the Cooley attorneys listed below.

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Key Contacts

J.G. Harrington Washington, DC	jgharrington@cooley.com +1 202 776 2818
Christy Burrow Washington, DC	cburrow@cooley.com +1 202 776 2687
Robert M. McDowell Washington, DC	rmcdowell@cooley.com +1 202 842 7862
Henry Wendel Washington, DC	hwendel@cooley.com +1 202 776 2943

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