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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 63

[IB Docket No. 16–155; FCC 21–104]

Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership

AGENCY: Federal Communications Commission.

ACTION: Final action.

SUMMARY: This document summarizes the Federal Communications Commission's (Commission) decision in the Second Report and Order in the *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership* proceeding, in which the Commission adopted Standard Questions that certain applicants with reportable foreign ownership will be required to answer as part of the Executive Branch review process of their applications.

DATES: The Commission adopted the Standard Questions on September 30, 2021.

FOR FURTHER INFORMATION CONTACT: Jocelyn Jezierny, International Bureau, Telecommunications and Analysis Division, at (202) 418–0887 or *Jocelyn.Jezierny@fcc.gov.* For information regarding the PRA information collection requirements contained in the PRA, contact Cathy Williams, Office of the Managing Director, at (202) 418–2918 or *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order, FCC 21–104, adopted on September 30, 2021, and released on October 1, 2021. The full text of this document is available on the Commission's website at *https://docs.fcc.gov/public/attachments/FCC-21-104A1.pdf.* To request materials in accessible formats for people with disabilities, send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Supplemental Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared a Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) of the possible significant impact on small entities of the Standard Questions and procedures addressed in this Second Report and Order.

Congressional Review Act

The Commission will include a copy of this Second Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

Synopsis

I. Introduction

1. In this Second Report and Order, we adopt a set of standardized national security and law enforcement questions (Standard Questions) that certain applicants and petitioners (together, ''applicants'') with reportable foreign ownership will be required to answer as part of the Executive Branch review process of their applications and petitions (together, ''applications''). In the *Executive Branch Review Order,* the Commission adopted rules and procedures to facilitate a more streamlined and transparent review process for coordinating applications with the Executive Branch agencies (the Departments of Justice, Homeland Security, Defense, State, and Commerce, as well as the United States Trade Representative) for their views on any national security, law enforcement, foreign policy, or trade policy issues associated with the foreign ownership of the applicants. The *Executive Branch Review Order* also established firm time frames for the Executive Branch agencies to complete their review consistent with Executive Order 13913, which established the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (the Committee).[1] To expedite the national security and law enforcement review of such applications, applicants must provide their answers to the Standard Questions directly to the Committee prior to or at the same time they file their applications with the Commission. This process would replace the current practice of the Executive Branch seeking such threshold information directly from the applicants after the Commission refers the applications.

II. Background

2. For over 20 years, the Commission has referred certain applications that have reportable foreign ownership to the Executive Branch agencies for their review.[2] In the *Executive Branch Review Order,* the Commission formalized the review process and established firm time frames for the Executive Branch national security and law enforcement agencies to complete their review, consistent with Executive Order 13913 that established the Committee in 2020. The types of applications the Commission generally refers include applications for international section 214 authorizations and submarine cable landing licenses and applications to assign, transfer control or modify such authorizations and licenses where the applicant has reportable foreign ownership, and all petitions for section 310(b) foreign ownership rulings.[3]

[1] Executive Order No. 13913 of April 4, 2020, Establishing the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector, 85 FR 19643, 19643 through 44 (Apr. 8, 2020) (Executive Order 13913) (establishing the ''Committee,'' composed of the Secretary of Defense, the Secretary of Homeland Security, and the Attorney General of the Department of Justice, who serves as the Chair, and the head of another executive department or agency, or any Assistant to the President, as the President determines appropriate (Members), and also providing for Advisors, including the Secretary of State, the Secretary of Commerce, and the United States Trade Representative); *id.* (stating that, ''[t]he security, integrity, and availability of United States telecommunications networks are vital to United States national security and law enforcement interests'').

[2] In adopting rules for foreign carrier entry into the U.S. telecommunications market over two decades ago in its *Foreign Participation Order,* the Commission affirmed that it would consider national security, law enforcement, foreign policy, and trade policy concerns in its public interest review of applications for international section 214 authorizations and submarine cable landing licenses and petitions for declaratory ruling under section 310(b) of the Act. *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market; Market Entry and Regulation of Foreign-Affiliated Entities,* IB Docket Nos. 97–142 and 95–22, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23919, paragraph 63 (1997) (*Foreign Participation Order*), recon. denied, 15 FCC Rcd 18158 (2000).

[3] *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership,* IB Docket No. 16–155, Report and Order, 85 FR 76360 (Nov. 27, 2020), 35 FCC Rcd 10927, 10935–38, paragraphs 24 through 28 (2020) (*Executive Branch Review Order*) (setting out which types of applications will generally be referred to the Executive Branch, but noting the Commission has the discretion to refer additional types of applications if we find that the specific circumstances of an application require the input of the Executive Branch); *see also Erratum* (Appendix B—Final Rules), DA 20–1404 (OMD/IB rel. Nov. 27, 2020), 47 CFR 1.40001(a)(1); *Numbering Policies for Modern Communications,* WC Docket No. 13–97; *Telephone Number Requirements for IP-Enabled Service Providers,* WC Docket No. 07–243; *Implementation of TRACED Act Section 6(a)—Knowledge of Customers by Entities with Access to Numbering Resources,* WC Docket No. 20–67; *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership,* IB Docket No. 16–155, Further Notice of Proposed Rulemaking, FCC 21 through 94, paragraphs 23 through 29 (2021) (seeking comment on referring certain numbering applications to the

3. Among other requirements of the Executive Order, for applications referred by the Commission, the Committee has 120 days for initial review, plus an additional 90 days for secondary assessment if the Committee determines that the risk to national security or law enforcement interests cannot be mitigated with standard mitigation measures.[4] The Executive Order states that the 120-day initial review period starts when the Chair of the Committee determines that an applicant has provided complete responses to the Standard Questions.

4. In the *Executive Branch Review Order,* the Commission required (1) international section 214 authorization and submarine cable landing license applicants with reportable foreign ownership and (2) petitioners for a foreign ownership ruling under section 310(b) whose applications are not excluded from routine referral, to provide specific information regarding ownership, network operations, and other matters when filing their applications. The Commission adopted the following five categories of information that will be required by rule from applicants, but did not adopt the specific questions: (1) Corporate structure and shareholder information; (2) relationships with foreign entities; (3) financial condition and circumstances; (4) compliance with applicable laws and regulations; and (5) business and operational information, including services to be provided and network infrastructure. The Commission directed the International Bureau (Bureau) to develop, solicit comment on, and make publicly available on the Commission's website the Standard Questions. The Commission also directed the Bureau to maintain and update the Standard Questions, as needed. The rules require applicants to submit responses to the Standard Questions directly to the Committee prior to, or at the same time as, the filing of certain applications with the Commission.[5] As explained in the Executive Branch Review Order, responses to the Standard Questions are only required to be submitted for applications that the Commission refers to the Committee. If an application is not subject to referral, or is subject to one of the exclusion categories in section 1.40001(a)(2), then the applicant need not submit responses to the Standard Questions to the Committee.[6]

5. Under the Commission's rules, the Committee has up to 30 days after the Commission refers an application to send further specifically tailored questions (Tailored Questions) to an applicant in the event that additional information is needed to conduct the national security and law enforcement review of the application. The initial 120-day review time frame begins when the Committee Chair notifies the Commission that it has determined that the responses to the national security and law enforcement questions are complete.[7]

6. *Standard Questions Public Notice.* On December 30, 2020, the Bureau released a public notice seeking comment on six separate sets of Standard Questions and a supplement for the provision of personally identifiable information (PII), all of which are based on questions that the Committee currently provides to applicants after our referral of an application.[8] Specifically, the Bureau invited comment on specific suggested changes to language in the questions contained in the following documents:

- Attachment A—Standard Questions for an International Section 214 Authorization Application.[9] Standard Questions for an international section 214 authorization application filed pursuant to 47 CFR 63.18, including a modification of an existing authorization;
- Attachment B—Standard Questions for an Application for Assignment or Transfer of Control of an International Section 214 Authorization.[10] Standard Questions for an assignment or transfer of control of an international section 214 authorization application filed pursuant to 47 CFR 63.24;
- Attachment C—Standard Questions for a Submarine Cable Landing License Application.[11] Standard Questions for a cable landing license application filed pursuant to 47 CFR 1.767 including a modification of an existing license;
- Attachment D—Standard Questions for an Application for Assignment or Transfer of Control of a Submarine Cable Landing License.[12] Standard

Executive Branch). Pursuant to the new rules, an applicant for an international section 214 authorization or submarine cable license is considered to have ''reportable foreign ownership'' when any foreign owner of the applicant must be disclosed in the application pursuant to section 63.18(h) of the Commission's rules. 47 CFR 63.18(h); *see Erratum,* 47 CFR 1.40001(d).

[4] *See* Executive Order No. 13913, 85 FR at 19645, § 5. During the initial review or secondary assessment of an application, ''if an applicant fails to respond to any additional requests for information after the Chair determines the responses are complete, the Committee may either extend the initial review or secondary assessment period or make a recommendation to the FCC to dismiss the application without prejudice.'' *Id.* at § 5(d).

[5] *Executive Branch Review Order,* 35 FCC Rcd at 10946, paragraphs 48 through 49; *see Erratum,* 47 CFR 1.40003(a), 47 CFR 1.767(i), 1.5001(m), 63.18(p) (effective date delayed indefinitely, *see* 85 FR 76360, Nov. 27, 2020). Currently, and consistent with the national security and law enforcement agencies' practice prior to release of the *Executive Branch Review Order,* the Committee generally initiates review of a referred application by sending the applicant a set of questions seeking further information (that is, after an application has been filed). The applicant provides answers to these questions and any follow-up questions directly to the Committee, without involvement of Commission staff. The Committee uses the information gathered through the questions to conduct its review and determine whether it needs to negotiate a mitigation agreement, which can take the form of a letter of assurances or national security agreement with the applicant to address potential national security or law enforcement issues. *See Executive Branch Review Order,* 35 FCC Rcd at 10929 through 30, paragraph 5.

[6] Since the *Executive Branch Review Order* specifically stated that applicants whose application comes within the categories of applications generally excluded from referral will not be required to submit responses to the Standard Questions, we see no need to make any changes to address MLB's suggestion that an applicant submitting an application that fits within the referral exclusion categories ''should only be required to complete a certification to that effect and be able to forgo responding to the Standard Questions.'' *See Executive Branch Review Order,* 35 FCC Rcd at 10942, paragraph 40, n.107.

[7] 47 CFR 1.40004(e)(1) (''In the event that the Executive Branch has not transmitted the tailored questions to an applicant within thirty (30) days of the Commission's referral of an application, petition, or other filing, the Executive Branch may request additional time by filing a request in the public record established in all applicable Commission file numbers and dockets associated with the application, petition, or other filing. The Commission, in its discretion, may allow an extension or start the Executive Branch's 120–day review clock immediately. If the Commission allows an extension and the Executive Branch does transmit the tailored questions to the applicant, petitioner, or other filer within the authorized extension period, the initial 120–day review period will begin on the date that Executive Branch determines the applicant's, petitioner's, or other filer's responses to be complete. If the Executive Branch does not transmit the tailored questions to the applicant, petitioner, or other filer within the authorized extension period, the Commission, in its discretion, may start the initial 120–day review period.'').

[8] *International Bureau Seeks Comment on Standard Questions for Applicants Whose Applications Will Be Referred to the Executive Branch for Review Due to Foreign Ownership,* IB Docket No. 16–155, Public Notice, 35 FCC Rcd 14906 (IB 2020), 86 FR 12312 (Mar. 3, 2021) (*Standard Questions Public Notice*).

[9] *Standard Questions Public Notice,* Attachment A—Standard Questions for an International Section 214 Authorization Application, 35 FCC Rcd at 14911 (Attachment A/International Section 214).

[10] *Standard Questions Public Notice,* Attachment B—Standard Questions for an Application for an Assignment or Transfer of Control of an International Section 214 Authorization, 35 FCC Rcd at 14924 (Attachment B/International Section 214 Assignment or Transfer).

[11] *Standard Questions Public Notice,* Attachment C—Standard Questions for Submarine Cable Landing License Application, 35 FCC Rcd at 14938 (Attachment C/Submarine Cable Application).

[12] *Standard Questions Public Notice,* Attachment D—Standard Questions for an Application for Assignment or Transfer of Control of a Submarine Cable Landing License, 35 FCC Rcd at 14951

Continued

Questions for an assignment or transfer of control of a cable landing license application filed pursuant to 47 CFR 1.767;

- Attachment E—Standard Questions for a Section 310(b) Petition for Declaratory Ruling Involving a Broadcast Licensee.[13] Standard Questions for a petition for declaratory ruling for foreign ownership in a broadcast licensee above the benchmarks in section 310(b) of the Communications Act (the Act) filed pursuant to 47 CFR 1.5000–1.5004;
- Attachment F—Standard Questions for a Section 310(b) Petition for Declaratory Ruling Involving a Common Carrier Wireless or Common Carrier Earth Station Licensee.[14] Standard Questions for a petition for declaratory ruling for foreign ownership in a common carrier wireless or common carrier earth station licensee above the benchmarks in section 310(b) of the Act filed pursuant to 47 CFR 1.5000–1.5004; and
- Attachment G—Personally Identifiable Information (PII) Supplement.[15] Each set of Standard Questions references a supplement to assist the Committee in identifying PII.

III. Discussion

7. Based on the comments in the record, we adopt the Standard Questions largely as proposed in the *Standard Questions Public Notice,* with some important changes to more narrowly tailor and clarify the instructions and certain questions that will decrease the burdens on applicants. We find that the Standard Questions—with these changes and clarified instructions—will ensure that the Committee has the information it needs to conduct its national security and law enforcement review, while also addressing concerns raised by commenters that certain questions were unclear or overly burdensome.

A. Terminology

8. *Clarification and Improvement of Definitions.* The instructions section in each questionnaire contains definitions of key terms. The term ''Corporate Officer'' is defined in all attachments to encompass ''Senior Officers,'' a separately defined term. As proposed, each set of Standard Questions included a definition of ''Senior Officer,'' but only Attachment E/Broadcast Section 310(b) PDR included the term ''Senior Vice President'' in the definition as an example of a ''Senior Officer.'' MLB states that ''the Standard Questions include separate definitions for 'corporate officer,' 'senior officer,' and 'director,' even though the questions themselves do not distinguish between these categories because they seek the same information from all individuals in these managerial roles.'' With respect to Attachment E/Broadcast Section 310(b) PDR, NAB states that by only including Senior Vice President in this attachment's definition of ''Senior Officer,'' it puts ''an undue and unjustified burden on broadcast petitioners'' because broadcasters assign the title of Senior Vice President to numerous employees, many of whom have no ability to make executive decisions at the company level. NAB recommends that the term ''Senior Officer'' should be limited to those officers who have authority to make executive decisions at the company level.

9. We agree that the definition of ''Senior Officer'' should be modified to be consistent across all the Standard Questions. Specifically, as suggested by NAB, we modify the definition of ''Senior Officer'' to capture any individual with authority to act on behalf of the entity, not by an individual's title. In the Standard Questions, the definition of ''Senior Officer'' is modified to include: ''any individual that has actual or apparent authority to act on behalf of the Entity. Depending upon the circumstances, such individuals could include the Chief Executive Officer, the President, Chief Financial Officer, Chief Information Officer, Senior Vice President, Chief Technical Officer, or Chief Operating Officer.''

10. We reject MLB's suggestion to eliminate separate definitions for ''Remote Access'' and ''Managed Services.'' MLB questions why the terms ''Remote Access'' and ''Managed Services'' are defined separately, ''even though these features are functionally identical for the underlying information sought by the questions.'' MLB suggests condensing definitions in order to ''lessen the likelihood of confusion over terms that can be used interchangeably. . . .'' The Standard Questions define ''Remote Access'' as ''access from a point that is not physically co-located with the Applicant's network facilities, or that is not at a point within the Applicant's network.'' The term ''Managed Services'' is also referred to as ''Enterprise Services'' both of which are defined as ''the provision of a complete, end-to-end communications solution to customers.'' While it is possible that there may be situations in which an applicant's ''Managed Services'' could include ''Remote Access,'' we do not view the terms as synonymous. We therefore retain the separate definitions of these two terms. For consistency with the questionnaires, we correct an omission and add the definitions of ''Remote Access'' and ''Managed Services'' to Attachment F/Common Carrier Wireless or Earth Station PDR.

11. MLB adds that the terms ''Controlling Interest'' and ''Immediate Owner'' are defined but not used in any questions. Contrary to MLB's claim, the term ''Controlling Interest'' is used in Attachment C/Submarine Cable Application, Question 3.[16] However, after review of the other questionnaires, we observed that versions of this question are used in all other attachments without using the term ''Controlling Interest.'' For clarity and consistency, we modify this question in all other attachments to add the term ''Controlling Interest.'' We remove ''Immediate Owner'' from the definitions section of all Standard Questions as that term is not used in any subsequent questions.

12. We also recognize that the Standard Questions used inconsistent terms, and correct these inadvertent errors in each set of Standard Questions. For example, we have revised all questionnaires so that they are consistent in the use of the defined terms ''Ultimate Owner'' and ''Ultimate Parent.'' In addition, questions in the proposed questionnaires inconsistently asked for information about Corporate Officers, Senior Officers, and Directors, or occasionally just Corporate Officers.[17] We modify the questions

(Attachment D/Submarine Cable Assignment or Transfer).

[13] *Standard Questions Public Notice,* Attachment E—Standard Questions for Section 310(b) Petition for Declaratory Ruling Involving a Broadcast Licensee, 35 FCC Rcd at 14965 (Attachment E/Broadcast Section 310(b) PDR).

[14] *Standard Questions Public Notice,* Attachment F—Standard Questions for Section 310(b) Petition for Declaratory Ruling Involving a Common Carrier Wireless or Common Carrier Earth Station Licensee, 35 FCC Rcd at 14979 (Attachment F/Common Carrier Wireless or Earth Station PDR).

[15] *Standard Questions Public Notice,* Attachment G—Personally Identifiable Information (PII) Supplement, 35 FCC Rcd at 14993 (Attachment G/PII).

[16] Attachment C/Submarine Cable Application, Question 3 states: ''Identify each Individual or Entity included as part of the submarine cable system Applicant, specifically identifying any foreign Entities or Foreign Government-controlled Entities, including the Ultimate Parent/Owner of the Applicant and any other Individuals/Entities holding an Ownership Interest in the chain of ownership, including a *Controlling Interest* in the Applicant.''

[17] For example, *compare* Attachment A/International Section 214, Question 13, 35 FCC Rcd at 14916 (''Has the Applicant, *any investor with an Ownership Interest in the Applicant, any of its Corporate Officers,* or any associated foreign entities . . . ''), *with* Attachment B/International Section 214 Assignment or Transfer, Question 13,

such that each time a question asks for Corporate Officer information, the question will include Senior Officers and Directors.

13. *Five Percent (5%) Ownership Interest.* We reject comments that request we modify the definition of ''Ownership Interest.'' Each set of Standard Questions defines an Owner as ''an Individual or Entity that holds an Ownership Interest in the Applicant/Licensee'' and an Ownership Interest in turn is defined as ''a 5% or greater equity (non-voting) and/or voting interest, whether directly or indirectly held, or a Controlling Interest in the Applicant, and includes the ownership in the Ultimate Parent/Owner of the Applicant and any other Entity(ies) in the chain of ownership. . . .'' Subsequent questions in each questionnaire seek information, including PII, about applicant owners and entities with ownership interests (*i.e.,* the 5% or greater interest holders).

14. MLB, NAB, and USTelecom argue that the Ownership Interest definition is too expansive and requires applicants to submit information for owners that have no influence or control over the applicant, including as insulated interest holders. MLB argues that ''[s]ome of the information, including PII, requested from intermediate or non-controlling investors should not be required if the applicant can certify that the intermediate investor is truly passive and has no ability to control or influence the operations of licensee, as is the case with limited partners in a private equity fund.'' MLB also believes that ''[c]ompiling and reviewing this information is a tedious endeavor that has negligible bearing on the fundamental questions of foreign ownership, control, and influence analyzed by the Committee.'' USTelecom urges the Commission to ''revise the Standard Questions to apply only to the Commission's standard 10% ownership interest because the 5% threshold would sweep in far too many owners, with little influence per owner, and lead to unnecessary complications, delays and burdens in responding to the standard questions,'' and adds that ''[l]arge, publicly traded companies may not have the level of visibility into entities owning 5% stakes that would enable them to complete the questions as proposed.'' C&B argues for using a 20% ownership threshold or the ability to appoint Board members as the basis for defining Relevant Parties. NAB contends that a publicly traded company should be required to provide only publicly available information about its shareholders. MLB states that the questions should be revised to clarify that PII is sought from only those individuals or entities in the ownership chain with control over the applicant and who participate in ''operations or decision-making related to the applicant or the licensee.''

15. The Committee staff, in response, advises that a 5% threshold is appropriate because in some instances a less-than-ten percent foreign ownership interest—or a collection of such interests—may pose a national security or law enforcement risk. The Committee staff adds that when ownership is widely held, five percent can be a significant interest and is consistent with requirements imposed by other agencies such as the Securities and Exchange Commission, which requires disclosure beyond that threshold. The Committee staff states that a group of foreign entities or persons, each owning nine percent and working together, could easily reach a controlling interest in a company without having to disclose any of their interests to the Committee for certain FCC application types.[18] In addition, the Committee staff states that retaining the current threshold is particularly important with respect to those foreign entities who have been identified by the Commission and the Executive Branch as posing a national security threat.[19] Finally, the Committee staff adds that Commission's ownership rules serve their own purpose—for the Commission's analysis and for its referral threshold—while the Committee reviews the applications for a different purpose, a comprehensive national security and law enforcement analysis as required under Executive Order 13913.

16. While we recognize that requiring the submission of 5% ownership information to the Committee is a lower threshold for information than the 10% ownership threshold generally set out in our rules, we agree with the Committee staff and reject commenters' requests to modify the submission of 5% or greater ownership information or otherwise change the definition to exclude insulated interests. As indicated by the Committee staff, national security and law enforcement analysis is separate and apart from the foreign ownership analysis the Commission conducts under its statutory authority.[20] We also take into account the Committee's expertise in assessing national security and law enforcement concerns and the importance of collecting this information to assess any national security or law enforcement risks under Executive Order 13913. Additionally, consistent with the goal of this proceeding to streamline and expedite consideration of these applications, we believe that a 5% or greater bright line rule avoids the kinds of complex case-by-case inquiries into, for example, the adequacy of insulation criteria that the Commission conducts for section 310(b) reviews. Given our experience, this could otherwise result in potentially extensive Committee delays and may circumvent the Commission's timeframes and streamlined processing we put in place in the *Executive Branch Review Order.* Finally, in our experience, this information has been collected in the past, and we expect applicants for Commission authorizations and licenses to be in a position to exercise reasonable diligence in securing important information from their investors required by the Commission or the Committee.

17. *Definition of Relevant Parties.* We agree that including the current owners of an international section 214 authorization holder or cable landing licensee within the definition of ''Relevant Parties'' goes beyond the

35 FCC Rcd at 14929 (''Have any of the Relevant Parties *or any of their Corporate Officers, Senior Officers, Directors,* or any associated foreign entities . . . '') (emphases added).

[18] FCC Staff/Committee Staff Sept. 7, 2021 *Ex Parte* Letter at 2, n.6 (citing 31 CFR 800.208(b) (2021) (noting for Committee on Foreign Investment in the United States (CFIUS) reviews that in ''examining questions of control in situations where more than one foreign person has an ownership interest in an entity, consideration will be given to factors such as whether the foreign persons are related or have formal or informal arrangements to act in concert''); 31 CFR 800.256(d) (2021) (when determining voting interests for CFIUS critical technology mandatory declarations, providing that the individual holdings of multiple foreign persons who are related or have arrangements to act in concert may be aggregated)).

[19] *Id.* at 2–3, n.7 (citing FCC, List of Equipment and Services Covered by Section 2 of the Secure Networks Act, Mar. 12, 2021, *https://www.fcc.gov/supplychain/coveredlist*).

[20] However, the Commission has employed a 5% ownership standard in other contexts. For example, section 1.767(h)(2) requires all entities owning or controlling 5% or greater interest in a submarine cable system (and using U.S. points of the cable system) to be applicants for, and licensees on, a cable landing license. *See* 47 CFR 1.767(h)(2). In addition, the Commission uses a 5% standard in the foreign ownership review context. *See* 47 CFR 1.5001(i); *Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended,* GN Docket 15–236, Report and Order, 31 FCC Rcd 11272, 11284 through 85 & 11293 through 97, paragraphs 22–24 & 44–52 (2016) (*2016 Foreign Ownership Order*), *pet. for recon. dismissed,* 32 FCC Rcd 4780 (2017); *Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees Under Section 310(b)(4) of the Communications Act of 1934, as Amended,* IB Docket 11–133, Second Report and Order, 28 FCC Rcd 5741, 5767–72, paragraphs 47–54 (2013) (*2013 Foreign Ownership Second Report and Order*).

scope of the Committee's current triage questions and serves no additional purpose. Attachment B/International Section 214 Assignment or Transfer and Attachment D/Submarine Cable Assignment or Transfer define ''Relevant Parties'' and use the term in a manner that would require information from both the current owners and proposed owners of authorization or license holders. Question 1 in these questionnaires seeks broad information, such as ownership and PII about all Relevant Parties. Several commenters urge the Commission to clarify that the disclosures in these questions do not apply to transferors or assignors. CTIA indicates that the current triage questions only request information concerning the ''Prospective Owner(s)/Controller(s) and Prospective Licensee(s).''

18. We amend Question 1 of the transfer and assignment questionnaires in Attachments B/International Section 214 Assignment or Transfer and D/Submarine Cable Assignment or Transfer. The Committee's national security or law enforcement review is primarily focused on the buyer or new entity obtaining the authorization or license. We therefore remove transferors and assignors (the sellers) from the definition of ''Relevant Parties.'' Accordingly, the term ''Relevant Parties'' will only include ''the Proposed Authorization Holder(s) of an international section 214 authorization or the Proposed Licensee(s) of a cable landing license, and any individual or entity with an ownership interest in the Proposed Authorization Holder(s) or Proposed Licensee(s).'' This change focuses the Standard Questions on the appropriate parties and decreases burdens on the applicants.

19. *Domestic Communications Infrastructure.* We reject USTelecom's request to remove Network Operations Center (NOC) facilities from the definition of ''Domestic Communications Infrastructure.'' USTelecom notes that Domestic Communications Infrastructure includes any NOC facilities, and argues this ''is inconsistent with the many cases where the NOC is placed outside the U.S. (and thus not 'domestic.')[.]'' USTelecom ''urge[s] the Commission to remove NOC facilities from the definition of 'Domestic Communications Infrastructure' and address [sic] as a separate item.'' We disagree. Although a NOC can be located outside of the United States, a foreign NOC can control an entity's Domestic Communications Infrastructure, and is therefore appropriately included within this definition. Information concerning a NOC located outside the United States, including information regarding the individuals and entities with access to that NOC, is critical information to assess the national security and law enforcement concerns of the foreign NOC. As a result, we reject USTelecom's suggestion to remove NOC facilities located outside of the United States from the definition of ''Domestic Communications Infrastructure,'' or to address NOC facilities as a separate item. Accordingly, we retain the current definition.

B. Protection of Submitted Information

20. We concur with MLB that all information submitted in response to the Standard Questions should be treated as business confidential and protected from disclosure and change the instructions accordingly. As proposed, the Standard Questions stated that applicants must ''[s]pecifically identify answers or documents for which a claim of privilege or confidentiality is asserted based on the information containing trade secrets or commercial or financial information.'' MLB notes that ''all of the information submitted by applicants to the Committee should be automatically deemed as business confidential information and properly exempt from disclosure under FOIA and Section 8 of Executive Order 13913.'' Based on our experience and understanding of the responses to such questions from the Executive Branch agencies in the past, we agree that most of the information supplied in response to the Standard Questions is business confidential as it is ''extremely sensitive and proprietary.'' Moreover, no commenter opposed MLB's suggestion. Most importantly, however, the Committee staff—to whom the information will be submitted—agrees that all responses to the Standard Questions submitted to the Committee will be treated as business confidential and the applicant(s) should not have to specifically identify information for such treatment.[21] Consequently, we modify the instructions in all questionnaires to provide that all of the submitted information will be treated as business confidential and that applicants will not have to specifically identify information for such treatment.

21. We decline, however, to take any specific action with regard to MLB's request for ''heightened protection'' of PII and restrictions on sharing it within Committee agencies. The Privacy Act already requires federal agencies to protect PII[22] and Executive Order 13913 explicitly addresses this issue, thereby ensuring the Committee protects this information. In particular, Section 8 of the Executive Order states that ''[i]nformation submitted to the Committee . . . shall not be disclosed beyond Committee Member entities and Committee Advisor entities, except as appropriate and consistent with procedures governing the handling of classified or otherwise privileged or protected information . . . .'' Therefore, we do not believe any additional Commission action is necessary to address this concern.

C. Filings Involving Multiple Applicants

22. Based on comments in the record, we decline to revise and reorganize the Standard Questions with regard to filings involving multiple applicants (joint applicants); however, we clarify and improve the instructions on how applicants can submit joint filings confidentially. USTelecom urges the Commission to make the questionnaires clearer so that questions requiring joint responses can be separated from questions where applicants must respond individually. CTIA asks that the questions be organized so when there are multiple applicants they can clearly see which questions can be answered jointly and which can be separated so sensitive information is not shared. USTelecom requests removal of questions that ask for a list of all government customers and descriptions of services. We recognize that joint applicants have a legitimate interest in preventing the sharing of certain information and identifying which questions an applicant is responsible for answering. Consequently, we will

[21] Information submitted to the Committee may not be shared except under the terms of Executive Order No. 13913.

[22] The Privacy Act generally applies to U.S. citizens and legal permanent residents; however, in 2016 Congress enacted the Judicial Redress Act of 2015, 5 U.S.C. 552a note, which extends the right to pursue certain civil remedies under the Privacy Act to citizens of designated countries or regional economic organizations. Claims under the Judicial Redress Act are limited to those involving ''covered records,'' defined as a record that is transferred—(A) by a public authority of, or private entity within, a country or regional economic organization, or member country of such organization, which at the time the record is transferred is a covered country; and (B) to ''a designated Federal agency or component'' for purposes of preventing, investigating, detecting, or prosecuting criminal offenses. *Id.* § 2(h)(4). The Attorney General is responsible for designating covered countries or regional economic organizations, as well as federal agencies and components for purposes of the Judicial Redress Act. *Id.* § 2(d), (e), (h)(2), and (h)(5). A list of covered countries is available at 84 FR 3493 (Feb. 12, 2019). A list of designated federal agencies and components is available at 82 FR 7860 (Jan. 23, 2017) and includes members of the Committee.

clarify the instructions in the Standard Questions on how joint applicants can file confidentially with the Committee, but we will not reorganize or remove certain questions. This approach is consistent with the instructions in the proposed questionnaires, which state, ''[i]f there are multiple applicants, each applicant should also clearly mark any answers or documents that contain sensitive information that should not be disclosed to the other applicants.''

23. When there are multiple applicants for a single application (such as consortium applicants for a single submarine cable landing license), each applicant should (1) provide a clear statement as to how they have submitted their responses and (2) identify which applicants have filed jointly and which applicants can view each other's business confidential information.[23] For instance, Committee staff recommend that applicants clearly identify, in headings, the group of applicants that have filed together, along with a case name and FCC file number, and suggest that applicants use an applicant-specific identification system, such as Bates Numbering, along with the identification of the FCC file number and case/transaction name(s).[24] We believe that this approach would alert the Committee staff of which information should not be shared and should prevent disclosure of customer lists between joint applicants. We direct the International Bureau to provide, on an as-needed basis, updated instructions on the Commission's website regarding coordination of multiple applicant responses and other issues based on feedback from interested parties.

D. Cross-Referencing Previously Filed Materials

24. We reject commenters' request that applicants generally be allowed to cite to previously filed information in their responses to the Standard Questions rather than resubmit information that was previously filed with the Commission and that remains unchanged. We recognize that allowing applicants to cross-reference to previously filed materials within their responses to questionnaires may ease certain burdens on the applicants. We believe, however, that permitting cross references to previously filed materials may delay Committee staff review of applicants' submissions because Committee staff would then have to locate materials that were previously filed with respect to a different application. Accordingly, we require applicants to provide full and complete responses to the Standard Questions in a complete, self-contained document (or documents). This approach is consistent with Commission staff practice for applications, and it benefits applicants by focusing Committee staff resources on the review of applicants' responses to the Standard Questions. We will, however, allow internal cross-referencing of responses within a single document to streamline the process for applicants. For example, if an applicant provided a response to Question 15, and the applicant's response to Question 27 contains the same information, the applicant may refer back to its earlier response.

25. We also reject NAB's specific request that, for petitioners that have previously been granted a declaratory ruling approving foreign investment, the petitioner be permitted to respond to a streamlined questionnaire that only seeks information on that new investor, rather than having to complete the questionnaire with respect to all Relevant Parties. We decline this request and note that we continue to require petitioners to provide a full and complete Petition for Declaratory Ruling to the Commission, and we similarly require petitioners to submit full and complete responses to the Standard Questions to the Committee. The Committee needs information regarding all owners to conduct its review, including updated information, just as the Commission requires a complete petition with information on all owners, not just the new investors, when reviewing the petition. Consequently, the responses must include the requested information with respect to all Relevant Parties as defined by the Questionnaires.

E. Relationships With Foreign Individuals or Entities

26. *Retain ''Prior Relationship'' in Attachment E/Broadcast Section 310(b) PDR and Remove it from Attachment F/Common Carrier Wireless or Earth Station PDR.* We reject NAB's recommendation ''to eliminate prior relationships'' from Question 3 in Attachment E/Broadcast Section 310(b) PDR, or to ''establish a defined 'look-back' period of six months prior to the date a Section 310(b) petition is filed.'' We will retain the request for information concerning broadcast petitioners' prior relationships, with no time limit or ''defined look-back period,'' as Committee staff advise that this information is necessary for staff's national security and law enforcement review of broadcast applications.[25] Specifically, Committee staff states that this information may identify situations where past agency relationships with foreign principals, such as funding or employment arrangements, may be relevant to an assessment of continuing foreign influence over broadcast content. We note that the legislative history of Section 310(b) reflects particular concern regarding foreign influence over broadcast licensees. However, Commission staff unintentionally added language regarding prior relationships to Attachment F, Question 3. Because Committee staff expresses a particular interest in prior foreign relationships only with regard to broadcasters, we remove the prior relationship language from Attachment F.

27. *Modify and Clarify ''Planned'' Relationships in Attachments A–F.* We agree with commenters that the question asking if applicants have ''planned'' relationships with certain foreign individuals and entities can be improved, and we clarify this in each set of Standard Questions. MLB argues that what constitutes a ''relationship'' outside of funding or a contract is unclear and argues that there should be a timeframe associated with the question. C&B proposes that the question should be limited to relationships that confer foreign government influence over the applicant's operations. C&B also asserts that the question should exclude subscribers to the applicant's service and foreign employees of the applicant who are covered in another question.

28. We clarify that ''planned relationships'' are ''current relationships or those reasonably anticipated by negotiations or that are identified under current business plans'' and clarify that this includes any situations in which contracts have been signed or where the parties are already in negotiations. We decline to place a time limit on this question, as this question should capture any reasonably anticipated future foreign relationships regardless of the timeframe. We find that this change will clarify for applicants the scope of reportable foreign relationships and will improve and facilitate Committee review of applicants' responses to the Standard Questions.

[23] Applicants should provide this information in a cover letter or email (if responses are submitted electronically).

[24] The Committee staff indicated that if co-applicants decide to submit separate Standard Question responses by email, co-applicants should submit them on the same day, so the Committee may easily assess if all expected Standard Question responses for an application have been submitted.

[25] Committee staff also indicated that this information helps the Committee evaluate foreign influence concerns related to the Foreign Agents Registration Act (FARA), 22 U.S.C. 611 *et seq.,* that are specific to broadcasters.

29. *Clarify Foreign Relationships Do Not Include Customers.* As requested by C&B, we clarify that existing or planned relationships/partnerships, and prior relationships/partnerships in the case of broadcast applicants, and funding or service contracts, do not include foreign subscribers to an applicant's retail services. We also clarify that, for the purposes of this question, these relationships do not include foreign employees who are identified in other questions, such as Senior Officers and Directors, and Non-U.S. Individuals with physical access to certain facilities, records, networks, or electronic interfaces.[26] We decline, however, C&B's request to limit the question to only relationships with foreign governments or foreign government owned entities, as foreign individuals and entities also may raise national security and law enforcement concerns.

30. *Limit the Use of ''Foreign Party'' in Attachment E/Broadcast Section 310(b) PDR.* As proposed, the Standard Questions ask if the Applicant or ''Relevant Parties'' have ''existing (or planned) relationships'' with any foreign Individuals, foreign companies, Foreign Governments, and/or any Foreign Government-controlled companies or entities but only Attachment E/Broadcast Section 310(b) PDR ''contains an expansive definition of 'Foreign Party' in Question 3 and incorporates this term in numerous subsequent questions.'' NAB argues that the inclusion of Foreign Party in the questions requires broadcasters to gather extensive information on each Foreign Party even if that party has a limited relationship with the applicant, ''such as a one-time agreement for access to a location for the production of a single program.'' NAB expresses concern about the burden imposed on broadcaster petitioners by the expanded scope of the Standard Questions.

31. We recognize that the broadcaster questionnaire alone seeks detailed information about relationships with Foreign Parties. Committee staff explain that questions 13–17 in Attachment E/Broadcast Section 310(b) PDR are designed to identify situations in which the applicant may be acting as an agent for a foreign principal and are directly related to Committee concerns under FARA. As recommended by Committee staff, we retain the Foreign Parties information requirement in questions 13–17. However, since the Committee staff do not identify the need for such information in connection with the remaining questions, we conclude the burden of producing Foreign Party information in other questions asked in Attachment E/Broadcast Section 310(b) PDR outweighs the benefit of this information to the Committee. Therefore, we remove the reference to ''Foreign Party'' in certain questions of Attachment E/Broadcast Section 310(b) PDR.[27]

F. Background Information Regarding the Applicant(s)

32. Based on the comments in the record, we modify the Standard Questions to clarify the type of background information applicants should provide. Currently, each set of proposed Standard Questions includes several questions regarding the applicant's background and asks if ''the Applicant, any Corporate Officers, Senior Officers, Directors, or any Individual/Entity with an Ownership Interest in the Applicant'' have ''ever been involved or associated with'' a previous application to the Commission or a previous filing with the Committee on Foreign Investment in the United States (CFIUS), or if these individuals or entities have ''ever been convicted of any felony'' or ''been subject to any criminal, administrative, or civil penalties for imposed for violating the regulations of'' a number of government agencies.

33. With respect to prior Commission or CFIUS filings, USTelecom is concerned that the phrase ''involved or associated with'' could include ''any level of activity associated with a filing from corporate officer responsibilities to more mechanical involvement with accomplishing a filing, which seems far outside the scope of concern.'' To clarify and reduce burdens on the applicants, we amend this language to specify that an ''involved'' or ''associated'' Individual or Entity was either the Applicant in a prior Commission or CFIUS filing or listed as an owner in such a prior filing. Modifying the questionnaires accordingly would focus the inquiry to the parties most relevant to any prior Commission or CFIUS filings.

34. We decline USTelecom's recommendation that the Commission provide a two-year time limit for questions concerning previous filings with the Commission or CFIUS, or that the Commission eliminate this question with respect to prior Commission applications. We will not impose any time limit for CFIUS filings as Committee staff state that all information regarding prior CFIUS filings would be relevant to their national security and law enforcement review. We find, however, that we can adopt a ten-year time boundary regarding prior Commission filings, which the Committee indicated would be acceptable. Although we agree that imposing a time limit regarding previous Commission filings is appropriate, we find that USTelecom's proposed two-year limit on such filings is too short and would likely exclude many relevant filings and information. The ten-year time limit will reduce the burdens on the applicant while providing the Committee sufficient relevant information concerning recent Commission filings it requires for its review.

35. We are unpersuaded by USTelecom's argument that the questions regarding criminal, administrative, or civil penalties are ''incredibly broad . . . and could be extremely burdensome to even attempt to answer,'' particularly taking into consideration the age of some communications companies. We therefore reject USTelecom's recommendation that the Commission set parameters on this question ''by limiting the ownership interest threshold by 10% and creating a definitive timeframe of interest, not to exceed two years.'' As we explained above, we are not increasing the numerical ownership threshold from 5% or greater to 10% or greater. As to the time frame, we do not believe it would create an undue burden for applicants to report as to such serious actions taken against them or their officers, directors, or attributable owners, as we would expect them to have records of such actions.[28] Additionally, Committee staff state that no time limits can be placed on the reporting period for this inquiry due to the serious nature of the underlying question, as past felonies or regulatory violations may be indicative of possible future behavior, or may give the Committee staff insight on where to focus any additional questions for the applicant.[29] We agree with the

[26] In their responses to the foreign relationship questions, applicants may want to consider cross-referencing their response to these other foreign employee questions to aid the Committee in its review.

[27] Committee staff did not object to the deletion of ''Foreign Party'' from all other questions in this questionnaire. Specifically, we remove the reference to ''Foreign Party'' from questions 12, 18 through 21, 26, 31 through 34 in Attachment E/Broadcast Section 310(b) PDR.

[28] To the extent that an applicant is unable to provide a complete answer as to relevant criminal, administrative, or civil penalties, as discussed below, it should explain this in its submission to the Committee.

[29] The Committee staff added that placing a time limit from the date of conviction would allow for situations in which an applicant would not be required to disclose a serious offense.

Committee staff's views on this matter and decline to accept USTelecom's recommendations.

G. Provision of Personally Identifiable Information (PII) by Applicants

36. We modify the Standard Questions in Attachment E/Broadcast Section 310(b) PDR to clarify the set of individuals for whom broadcasters must provide PII, as requested by NAB. Each set of Standard Questions requires applicants to provide PII for several categories of individuals involved in the ownership and management of the applicant as well as non-U.S. individuals with access to the applicant's facilities. This PII will be required to be submitted in a separate attachment, Attachment G. This PII is required so that the Committee can conduct investigations of individuals involved in the ownership and operations of the applicant and those non-U.S. individuals with access to facilities.[30] NAB contends that Question 19 in Attachment E/Broadcast Section 310(b) PDR, which seeks information concerning ''any non-U.S. Individual, owners, or management, including independent or third-party Individuals/Entities of the Relevant Party or Foreign Party'' that has access to ''physical facilities or equipment under the Relevant Party's or Foreign Party's control,'' is ''overly broad, unduly burdensome and intrusive.'' NAB argues that Question 19 ''appears to sweep in virtually any non-U.S. employee, all of whom presumably have access to 'physical facilities' of the Relevant Parties. . . .'' NAB suggests that we modify Question 19 ''to describe specific types of facilities or equipment that would give rise to potential Committee concerns and to focus on U.S. facilities only.''

37. We agree with NAB that, as proposed, Question 19 is overly inclusive and could be viewed as applying to any non-U.S. employee with access to any facility of the broadcaster, including production facilities located outside of the United States. Additionally, Committee staff has clarified that it is only concerned with facilities outside of the United States that store, process, or provide access to U.S. person data (including data on current, past, and potential customers) or that are used to broadcast into the United States. Based on this, we believe that narrowing the scope of this question is therefore warranted. Accordingly, we clarify that broadcasters must provide the information listed in Question 19 for non-U.S. Individuals with access to (1) all facilities and equipment in the United States, (2) facilities outside the United States that are used to broadcast into the United States, and (3) facilities both inside and outside the United States that store, process, or provide access to U.S. person data (including data on current, past, and potential U.S. customers).

38. We decline USTelecom's request that we change the PII reporting requirements for individuals with access to submarine cable facilities. USTelecom argues that Question 34 in Attachment C—which seeks information on Non-U.S. Individuals' access to submarine cable facilities, equipment, communications content, and customer records, among other things, including PII concerning those Non-U.S. Individuals with such access—''should be confined to the Domestic Communications Infrastructure (except for the NOC), as it has been in practice in past proceedings.'' USTelecom also argues that because this question ''applies to specific individuals, this will be a constantly changing list given normal personnel activity over time'' and ''in certain foreign jurisdictions, some of the required information may not be legally obtainable from individuals or may be very difficult to provide to the U.S government given the country's own limitations and privacy laws.'' USTelecom urges the Commission to eliminate Question 34 or revise the question to ask generally if non-U.S. individuals will have such access ''without any requirement to identify specific individuals.''

39. We reject USTelecom's suggestion. The Committee staff oppose the modification of this question, stating that submarine cables are U.S. critical infrastructure and that applicants should provide PII and other details about non-U.S. individuals with access to either U.S. or foreign facilities (*e.g.,* cable landing stations, Network Operations Centers, etc.) related to the submarine cable as it is necessary for the Committee's national security and law enforcement analysis. We agree. We also agree with Committee staff that submarine cable operators should have in place access control policies for these critical facilities that will enable them to provide details concerning the individuals with access to their facilities, whether they are located in the United States or in a foreign country. With regard to USTelecom's contention that it would be difficult to answer this question given the changes in personnel activity and limitations imposed by foreign laws, the Standard Questions can only be answered with information known at the time of submission. If there are future changes, we anticipate that a mitigation agreement between the applicant and the Committee could address how the applicant should update the Committee with any necessary information.[31]

40. We agree with USTelecom that questions that require the applicant to identify an Individual to be the Licensee's authorized law enforcement point of contact should be limited to the U.S. cable landing party. This is consistent with the Commission's statement in the *Executive Branch Review Order* that for consortium cables, the consortium must ''identify one U.S. citizen or lawful permanent U.S. resident as a point of contact for lawful requests and an agent for legal service of process for each licensee of the consortium cable.''

H. Information About the Applicant's Services

1. Critical Infrastructure

41. Based on C&B's request, we will update the list of U.S. critical infrastructure sectors outlined in the Standard Questions to track Presidential Policy Directive 21 (PPD–21). Each set of Standard Questions (excluding Attachment E/Broadcast Section 310(b) PDR) asks if the applicant will serve any sectors of U.S. critical infrastructure and includes a checklist of various sectors. C&B notes that ''the listed sectors do not align with the current list of critical infrastructure sectors identified under Presidential Policy Directive 21 (PPD–21).'' PPD–21 establishes a national policy on critical infrastructure security and resilience, and identifies 16 critical infrastructure sectors, not all of which overlap with the sectors listed in the proposed Standard Questions' checklist. Upon closer review and consultation with Committee staff, we agree with C&B that the list of critical infrastructure sectors provided in the Standard Questions should be revised to be consistent with PPD–21. Accordingly, we have modified the Standard Questions to reflect the list of sectors contained in PPD–21.

42. We agree with C&B that additional clarity is needed with regards to the meaning of the word ''serve'' in questions pertaining to serving sectors of U.S. critical infrastructure. C&B

[30] Pursuant to the process set out in the Executive Order, for each application reviewed by the Committee, the Office of the Director of National Intelligence shall produce a written assessment of any threat to national security interests of the United States posed by granting the application or maintaining the license.

[31] Committee staff also state that if an applicant is unable to provide this information, it can explain such limitations in its response.

contends that the intent of Question 36 in Attachment A/International Section 214, which asks whether ''the Applicant [will] serve any sectors of U.S. critical infrastructure,'' is unclear. C&B notes that this question could be interpreted in different ways and asks the Commission to provide clarity as to the meaning of ''serve'' to ''appropriately narrow the scope of the question.'' We modify the question to be consistent between the Attachments to use the phrase ''provide services to,'' which includes situations where the applicant provides service to, has customers in, or participates in the market in certain sectors of U.S. critical infrastructure. We also note that if applicants are unsure whether or to what extent they believe they are providing service to a critical infrastructure sector, applicants should provide an explanatory note in their answers to the Standard Questions explaining to the Committee why they responded in a particular way.

2. Proposed Services Checklist

43. We will not modify the list of services in the Reference Question section in Attachments A/International Section 214, B/International Section 214 Assignment or Transfer, and F/Common Carrier Wireless or Earth Station PDR, but will rename this list to clarify the information targeted by this question. Attachments A/International Section 214, B/International Section 214 Assignment or Transfer, and F/Common Carrier Wireless or Earth Station PDR as proposed included an ''Applicant Services Portfolio Checklist and Reference Questions'' section designed to gather detailed information regarding the types of telecommunication services applicants intend to provide. Applicants indicate with a checkmark the types of services and technologies they intend to offer. C&B contends that some of the named proposed services are not services (such as TDM) or are too generic (such as ''video'' or ''email''). C&B therefore suggests we revise the proposed services checklist ''to add specificity and eliminate redundancies, or remove it altogether.'' Although we agree with C&B that not all items included on this list are strictly services, we find that the list will be useful to the Committee, which has a specific interest in knowing if the applicant will provide any of the items in the checklist, including certain technologies and types of network infrastructure. To address any confusion as to what the list includes, we will rename the list from ''Proposed Services'' to ''Proposed Services/Technologies/Network Infrastructure.'' We do not believe applicants will be unduly burdened in determining how to fill out the checklist, and, as we have discussed, we encourage applicants to explain to the Committee how they interpreted a particular question in providing their response.

3. Reference Questions

44. We do not agree that the ''Reference Questions'' and Questions 35 in Attachments A/International Section 214 and B/International Section 214 Assignment or Transfer and 38 in Attachment F/Common Carrier Wireless or Earth Station PDR are duplicative, but we provide clarification regarding the information sought by each question. MLB believes that the ''Reference Questions'' are duplicative of an earlier question that seeks information concerning the manner in which applicants will deliver services to their customers. Specifically, MLB argues that Reference Question 1 in Attachments A/International Section 214 and B/International Section 214 Assignment or Transfer, as proposed, is nearly the same as Question 35 regarding delivery of services. MLB also asserts that the Reference Questions ask for network infrastructure information that would have already been provided in response to Question 32(b) in Section V. MLB advises omitting the Reference Questions altogether, suggesting they are redundant and ''needlessly expend the resources of applicants and the Committee.'' Although Question 35 and Reference Question 1 appear to be similar, the Committee indicate that they are in fact meant to seek different, albeit related, information. Importantly, Committee staff states that Question 35 is intended to obtain a general description of the services to be provided, whereas the Reference Questions are intended to obtain finer technical detail on the way services are or will be provided with specific reference to each service selected in the services checklist table. Similarly, we find that Question 32(b) is intended to obtain a more general description of the Applicant's network, whereas the Reference Questions are structured to obtain specific technical details, such as equipment models and software update plans. We give deference to the Committee on their need for this information to inform their national security and law enforcement review. Accordingly, we will retain these separate questions but revise Question 35 (now Question 36 in Attachment A/International Section 214) to indicate that this question seeks a general description of the manner in which services will be delivered to customers. To the extent that an applicant believes that its responses to questions are the same, it can cross-reference its responses as directed in the Standard Questions' instructions.

4. Use of Interconnecting Carriers and Peering Relationships

45. We decline to make any changes to questions concerning interconnecting carriers or peering relationships. Questions 33 in Attachment B/International Section 214 Assignment or Transfer, 41 in Attachment C/Submarine Cable Application, and 42 in Attachment D/Submarine Cable Assignment or Transfer ask whether the Proposed Authorization Holder(s) or Applicant(s) ''use interconnecting carriers and/or peering relationships,'' and ask the Applicants to provide details and list the carriers with whom they have these relationships. USTelecom argues that these questions are ''misguided'' because ''it is unclear as to how this information is useful to the determination of a submarine cable's public interest, nor does it evince a clear understanding of what 'interconnecting carriers' do or what 'peering relationships' mean in this case.'' USTelecom contends that ''[t]his is particularly true because [these questions] seek[ ] this information only from the Applicants, not anyone who will purchase the capacity on the system, which for some cables will represent the bulk, if not all, of the traffic carried.'' These types of relationships are relevant to the Committee's national security and law enforcement analysis of the application, even if they do not reach everyone who may use the submarine cable. With regard to CTIA's argument that ''[r]ather than require a comprehensive, detailed list of peering and interconnection relationships . . . the question should allow sufficient flexibility for parties to determine the level of detail they are able and expected to provide,'' we believe that the Standard Questions do provide applicants with flexibility in how they choose to describe peering relationships, and thus do not need to be changed or eliminated.

I. National Security/Law Enforcement Questions

46. We do not make any changes to the questions related to an applicant's national security and law enforcement obligations. Question 19 in Attachments A/International Section 214 and B/International Section 214 Assignment or Transfer asks whether the applicant, ''if required by law, regulation, or license condition,'' would report certain named incidents immediately upon discovery. USTelecom asks what the effect of a

''no'' answer is to Question 19, expressing concern that the question ''appears to be an attempt to compel Applicants to provide information they would not otherwise be legally required to provide'' and if so, USTelecom says it should be made an explicit obligation through other regulatory means. We do not share USTelecom's concerns regarding this question. If Committee staff has any concerns with an answer of ''no,'' they may decide to follow up with Tailored Questions.

47. USTelecom also has concerns with the national security implications of certain questions in the section 214 and submarine cable questionnaires (Attachments A–D). Question 21 in Attachments A/International Section 214 and B/International Section 214 Assignment or Transfer asks if any non-U.S. individuals will have access to any of the applicant's facilities, equipment, customer records, and network control features, among other things, and if so, to provide their identity and certain PII. Question 23 in these questionnaires asks for information about encryption technologies that have been or will be installed in the applicant's network. USTelecom believes that together, Questions 21 and 23 require disclosure of too much network security plan information, and this disclosure could amount to a security risk in and of itself. We find that USTelecom's concern about over-disclosure of network security plans through responses to Questions 21 and 23 is misplaced and we make no changes to these questions. The disclosure in this case is solely to the U.S. government agencies most involved in network security issues and for the purposes of assessing risk to U.S. national security and law enforcement interests. To the extent that an applicant has concerns about co-applicants seeing its responses to Questions 21 and 23, it can mark those responses as sensitive and ask that they not be shared with co-applicants.

48. USTelecom recommends ''greater clarity surrounding the security expectations of applicants,'' citing Question 33 in Attachment C/Submarine Cable Application, which asks ''[w]hat provision will be made to monitor suspicious activity occurring over the paths of the cables,'' as an example. USTelecom believes that the details regarding ''what an applicant can and cannot monitor from a practical standpoint can vary widely depending on the arrangement and technical architecture of the submarine cable equipment,'' and requests that the question be modified to reflect these different arrangements. We understand USTelecom's concern that Question 33 in Attachment C, as written, may not capture the variations in different cable systems' monitoring systems. The Standard Questions must be high-level to a certain extent and applicants may want to consider providing additional details about their monitoring capabilities as part of their response to the Standard Questions to properly frame and explain their responses.

J. Legal Authority for Certain Questions Concerning Broadcasters

49. We reject NAB's argument that the Commission should eliminate certain questions in Attachment E/Broadcast Section 310(b) PDR, ''because they concern issues outside of the scope of the Commission's jurisdiction and are thus not properly the subject of Committee review.'' Specifically, NAB raises concerns with Questions 29,[32] 30,[33] 31,[34] and 34.[35] NAB argues that the ''Committee's review should analyze whether the proposed transaction will implicate national security, law enforcement, foreign policy or trade policy issues arising from the assignment or transfer of the broadcast license, not from other business lines a broadcaster may be involved in or activities the FCC cannot lawfully regulate.'' NAB contends, among other things, that ''the Commission does not regulate consumer data privacy or security of broadcast audiences and has no authority to review broadcasters' data privacy and security practices either generally or in connection with proposed transactions.'' We disagree with NAB that these questions should be excluded from Attachment E/Broadcast Section 310(b) PDR. The Commission considers national security, law enforcement, foreign policy, and trade policy concerns of foreign ownership in excess of the 25% statutory benchmarks in its public interest review of petitions for declaratory rulings under section 310(b)(4) of the Act and refers applications with reportable foreign ownership to the Committee, which has specific expertise in these matters. In this regard, the information solicited by the Standard Questions enables the Committee to assess potential foreign influence of such foreign owners over a licensee as part of the Committee's review of a particular application for national security and law enforcement concerns. Thus, we are not regulating format or content but are assessing whether the public interest would be served by not permitting foreign ownership in accordance with section 310(b) of the Act, and information provided to the Committee concerning the nature of the broadcast services, for example, is relevant to the Committee's review of the potential for such influence by foreign owners.[36] To the extent a broadcast applicant finds that a question raises a particular concern, it should explain that in its response to the Committee, which may send Tailored Questions to the applicant if the Committee requires further explanation.

K. Additional Recommendations Concerning the Submission of the Standard Questions to the Committee

50. By their very nature, Standard Questions that are meant to address a broad range of situations will ask for information that an individual applicant may not find to be specific to its own situation. To the extent that a question is not applicable to an applicant's

[32] Question 29 asks, ''Will programming be rebroadcast via satellite or cable? If yes, provide details.''

[33] Question 30 asks, ''Will programming be available online? If yes, describe the streaming business operation (including what platform(s) will be used to make the programming available online.)''

[34] NAB Comments at 9 through 10 (arguing that Question 31 implicates a Licensee's First Amendment rights as well as the Act's prohibition on the Commission engaging in censorship and stating that ''questions concerning a station's format, target audience, and sources of advertising are not appropriate for Executive Branch review''). Question 31 asks the Applicant to ''[d]escribe the intended viewer/listener base of the Licensee's broadcasts, primary language spoken of the target audience, and other demographics, including: a) An explanation of how services are offered to each category of viewers/listeners and platform; and b) Identification of any specific business or economic sectors that supply advertising or other assistance to either the Licensee or Petitioner.''

[35] NAB Comments at 9, 10–11 (contending that ''the Commission does not regulate consumer data privacy or security of broadcast audiences and has no authority to review broadcasters' data privacy and security practices either generally or in connection with proposed transactions''). Question 34 asks the Applicant to ''[i]ndicate whether any Relevant Party or any of its subsidiaries that offer application or web-based content collect, process, or store any U.S. subscriber data. If so, identify what types of data (*e.g.,* name, address, email address, phone number, credit card number, etc.) are collected, processed, or stored for each U.S. subscriber.'' Among other things, Question 34 also seeks the location of U.S. subscriber data storage, who serves as the custodian and/or has access to such data and those individuals' countries of citizenship, as well as whether U.S. subscriber data is disclosed to third parties, and the security measures that are intended to protect subscriber data from unauthorized access or disclosure.

[36] *See, generally, 2013 Broadcast Clarification Order,* 28 FCC Rcd at 16245 through 46, paragraph 3 (stating that ''[t]he Commission's approach to the benchmark for foreign investments in broadcast licensees has reflected 'heightened concern for foreign influence over or control of [broadcast] licensees which exercise editorial discretion over the content of their transmissions.'' (citing *Market Entry and Regulation of Foreign-Affiliated Entities,* Notice of Proposed Rulemaking, 10 FCC Rcd 4844, 4884, paragraph 99) (1995)).

situation, we encourage applicants to explain this in their responses to the Standard Questions. Similarly, to the extent that an applicant finds a question to be overly broad or unclear in its applicability to the applicant's situation, it should explain that in its response. To the extent the Committee requires further explanation, it can send Tailored Questions to the applicant. Framing responses in this way will help the Committee in its review and assessment of applicants' responses and whether there will be a need for further information from the applicants.

51. Along those lines, commenters also ask whether they can consult with Committee staff regarding how to respond to certain questions, as they currently do. The Committee staff have stated a strong preference against negotiating the questions or responses with applicants before the responses are filed with the Committee or prior to Commission referral of an application. For instance, Committee staff state that there could be situations in which an application might not be referred at all. The Committee staff state that applicants should explain in their submissions the scope of their responses and any limitations in their responses. The Committee staff note that they can coordinate with applicants regarding responses after the Commission refers the application or when the Committee sends any Tailored Questions.

L. Other Revisions to Standard Questions

52. We also make several revisions to the Standard Questions to correct spelling and grammatical mistakes, to correct formatting issues, and to ensure that questions are standardized across the six questionnaires. These revisions correct unintentional drafting errors and do not change the substance of the Standard Questions beyond what has been discussed in this Second Report and Order. We believe that harmonizing the language across the Standard Questions will ease the application process and facilitate Committee review of applications.[37]

IV. Implementation

53. With the adoption of Standard Questions in this Second Report and Order, we direct the International Bureau to work with the Media Bureau and the Wireline Competition Bureau to seek approval from the Office of Management and Budget (OMB) for the Standard Questions and the rules adopted in the *Executive Branch Review Order* that are subject to the Paperwork Reduction Act. Upon completion of OMB review, the International Bureau shall issue a Public Notice informing the public of the effective date of the requirements, including the requirement to file responses to the Standard Questions with the Committee. The International Bureau shall make the Standard Questions available on the Commission's website no later than the time the Public Notice is released. Once the rules are effective, all parties filing applications subject to Executive Branch referral will be required to submit answers to the Standard Questions to the Committee prior to or at the same time that they file their applications with the Commission.

Supplemental Final Regulatory Flexibility Analysis

54. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), we have prepared this Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) of the possible significant economic impact on small entities of the Standard Questions and procedures addressed in this Second Report and Order to supplement the Commission's Initial and Final Regulatory Flexibility Analyses in this proceeding. The Commission previously sought written public comment on the proposals in the *Executive Branch Review NPRM,* including comment on the Initial Regulatory Flexibility Analysis (IRFA). The Commission did not receive comments regarding the IRFA. Thereafter, in the *Executive Branch Review Order,* the Commission issued a Final Regulatory Flexibility Analysis (FRFA) conforming to the RFA. Subsequently, the Commission's International Bureau released a public notice seeking comment on specific proposed ''Standard Questions'' for applications and petitions as prescribed by the *Executive Branch Review Order* (Standard Questions Public Notice). As noted in the *Executive Branch Review Order,* standardizing these questions should improve the timeliness and transparency of the Executive Branch review process, thereby lessening the burden on all applicants and petitioners, including small entities. The *Standard Questions Public Notice* included a Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA). This Supplemental FRFA supplements the FRFA to reflect the actions taken in this Second Report and Order, which adopts a final set of Standard Questions and conforms to the RFA.[38]

A. Need for, and Objectives of, the Second Report and Order

55. This Second Report and Order adopts a set of standardized national security and law enforcement questions (Standard Questions) that certain applicants and petitioners (together, ''applicants'') with reportable foreign ownership will be required to answer as part of the Executive Branch review process of their applications and petitions (together, ''applications''). To expedite the national security and law enforcement review of such applications, applicants must provide their answers to the Standard Questions directly to the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee)[39] prior to or at the same time they file their applications with the Commission.

56. The *Executive Branch Review Order* specified that the Standard Questions should include the following categories of information: (1) Corporate structure and shareholder information; (2) relationships with foreign entities; (3) financial condition and circumstances; (4) compliance with applicable laws and regulations; and (5) business and operational information, including services to be provided and network infrastructure. The adopted Standard Questions are based on the *Executive Branch Review Order* and the sample questions previously made available in this docket and the comments provided to the Commission regarding those questions. The adopted Standard Questions consist of the following:

- Attachment A—Standard Questions for an International Section 214

[37] CTIA, NAB, and USTelecom ask the Commission to clarify when the 120-day clock starts. We believe that the *Executive Branch Review Order* and the rules clearly state when the 120-day review will begin. *See* Executive Order No. 13913, 85 FR at 19645, § 5(b)(iii); *Executive Branch Review Order,* 35 FCC Rcd at 10958, paragraph 82. *See also* 47 CFR 1.40004(e)(2) (providing that the 120-day review will begin on the date of the Committee's deferral request (under Section 1.40002(b), 47 CFR 1.40002) if it includes a notification that tailored questions are not necessary).

[38] *See* 5 U.S.C. 604.

[39] Executive Order No. 13913 of April 4, 2020, Establishing the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector, 85 FR 19643, 19643–44 (Apr. 8, 2020) (Executive Order 13913) (establishing the ''Committee'' composed of the Secretary of Defense, the Secretary of Homeland Security, and the Attorney General of the Department of Justice, who serves as the Chair, and the head of any other executive department or agency, or any Assistant to the President, as the President determines appropriate, and also providing for Advisors, including the Secretary of State, the Secretary of Commerce, and the United States Trade Representative).

Authorization Application. Standard Questions for an international section 214 authorization application filed pursuant to 47 CFR 63.18, including a modification of an existing authorization;

• Attachment B—Standard Questions for an Application for Assignment or Transfer of Control of an International Section 214 Authorization. Standard Questions for an assignment or transfer of control of an international section 214 authorization application filed pursuant to 47 CFR 63.24;

• Attachment C—Standard Questions for a Submarine Cable Landing License Application. Standard Questions for a cable landing license application filed pursuant to 47 CFR 1.767 including a modification of an existing license;

• Attachment D—Standard Questions for an Application for Assignment or Transfer of Control of a Submarine Cable Landing License. Standard Questions for an assignment or transfer of control of a cable landing license application filed pursuant to 47 CFR 1.767;

• Attachment E—Standard Questions for a Section 310(b) Petition for Declaratory Ruling Involving a Broadcast Licensee. Standard Questions for a petition for declaratory ruling for foreign ownership in a broadcast licensee above the benchmarks in section 310(b) of the Communications Act (the Act) filed pursuant to 47 CFR 1.5000–1.5004;

• Attachment F—Standard Questions for a Section 310(b) Petition for Declaratory Ruling Involving a Common Carrier Wireless or Common Carrier Earth Station Licensee. Standard Questions for a petition for declaratory ruling for foreign ownership in a common carrier wireless or common carrier earth station licensee above the benchmarks in section 310(b) of the Act filed pursuant to 47 CFR 1.5000–1.5004; and

• Attachment G—Personally Identifiable Information (PII) Supplement. Each set of Standard Questions references a supplement to assist the Committee in identifying PII.

57. The Commission adopted the Standard Questions largely as proposed in the *Standard Questions Public Notice,* with some important changes to more narrowly tailor and clarify the instructions and certain questions so as to decrease the burden on applicants. The changes include:

• All Attachments: Modify the definition of ''Senior Officer'' to capture any individual with authority to act on behalf of the entity, rather than referring to specific individuals' titles.

• Attachment A/Question 2 Attachment B/Question 2; Attachment D/Question 3; Attachment E/Question 2; Attachment F/Question 2: For clarity and consistency, modify these questions by adding the term ''Controlling Interest.''

• All Attachments: Remove the term ''Immediate Owner'' from the definitions section as that term is not used in any subsequent questions.

• All Attachments: Correct inadvertent use of inconsistent terms. For example, we have revised all questionnaires so that they are consistent in the use of the defined terms ''Ultimate Owner'' and ''Ultimate Parent.''

• Attachment B/Question 1 and Attachment D/Question 1: Remove transferors and assignors (the sellers) from the definition of ''Relevant Parties.''

• All Attachments: Modify the instructions in all questionnaires to provide that all of the submitted information will be protected from disclosure according to the provisions of Executive Order 13913, Section 8, and that applicants will not have to specifically identify information for such treatment.

• All Attachments: Clarify the instructions for multiple applicants for a single application (such as consortium applicants for a single submarine cable landing license).

• All Attachments: Modify the instructions to allow internal cross-referencing of responses within a single questionnaire to streamline the process for applicants. For example, if an applicant provided a response to Question 15, and the applicant's response to Question 27 contains the same information, the applicant may refer back to its earlier response.

• Attachment F/Question 3: Remove language regarding prior relationships from this question as it was unintentionally added to the proposed questionnaire.

• Attachment A/Question 3; Attachment B/Question 3; Attachment C/Question 8; Attachment D/Question 21; Attachment E/Question 3; Attachment F/Question 3: Clarify that ''planned relationships'' are ''current relationships or those reasonably anticipated by negotiations or that are identified under current business plans'' and clarify that this includes any situations in which contracts have been signed or where the parties are already in negotiations.

• Attachment A/Question 3; Attachment B/Question 3; Attachment C/Question 8; Attachment D/Question 21; Attachment E/Question 3; Attachment F/Question 3: Clarify that existing or planned relationships/partnerships, and prior relationships/partnerships in the case of broadcast applicants, and funding or service contracts, do not include foreign subscribers to an applicant's retail services. Also clarify that, for the purposes of these questions, these relationships do not include foreign employees who are identified in other questions, such as Senior Officers and Directors, and Non-U.S. Individuals with physical access to certain facilities, records, networks, or electronic interfaces.

• Attachment E: Remove the reference to ''Foreign Party'' in questions 12, 18–21, 26, 31–34.

• Attachment A/Questions 7, 9; Attachment B/Questions 7, 9; Attachment C/Questions 12, 14; Attachment D/Questions 13, 15; Attachment E/Questions 5, 7; Attachment F/Questions 7, 9: Amend language pertaining to an applicant's involvement or association with prior Commission or Committee on Foreign Investment in the United States (CFIUS) filings to specify that an ''involved'' or ''associated'' Individual or Entity was either the applicant in a prior Commission or CFIUS filing or listed as an owner in such a prior filing.

• Attachment A/Question 7; Attachment B/Question 7; Attachment C/Question 12; Attachment D/Question 13; Attachment E/Question 5; Attachment F/Question 7: Adopt a ten-year time boundary regarding prior Commission filings that must be disclosed.

• Attachment E/Question 19: Clarify that broadcasters must provide the information listed in Question 19 for non-U.S. Individuals with access to (1) all facilities and equipment in the United States, (2) facilities outside the United States that are used to broadcast into the United States, and (3) facilities both inside and outside the United States that store, process, or provide access to U.S. person data (including data on current, past, and potential U.S. customers).

• Attachment C/Question 37; Attachment D/Question 39: Clarify that for submarine cable applicants, only the U.S. cable landing party need identify an authorized law enforcement point of contact.

• Attachment A/Question 37; Attachment B/Question 36; Attachment C/Question 45; Attachment D/Question 48; Attachment F/Question 38: Update the list of U.S. critical infrastructure sectors outlined in the Standard Questions to track Presidential Policy Directive 21 (PPD–21).

• Attachment A/Section VI; Attachment B/Section VI; Attachment F/Section VI: Rename the list of services in the Reference Questions section from ''Proposed Services'' to ''Proposed Services/Technologies/Network Infrastructure.''

• Attachment A/Question 36; Attachment B/Question 35; Attachment F/Question 37: Revise questions so as to obtain a general description of the manner in which applicants will deliver services to customers.

• Attachment A/Question 37; Attachment B/Question 36; Attachment C/Question 45; Attachment D/Question 48; Attachment F/Question 38: Revise questions to use phrase ''provide services to'' and add a statement clarifying that the phrase ''provide services to'' in these questions includes situations in which the applicant provides service to, has customers in, or participates in the market in sectors of U.S. critical infrastructure.

• All Attachments: Advise applicants that in the event that they find a question to be overly broad or unclear in its applicability, they should explain that in their response.

• All Attachments: Make several revisions to the Standard Questions to correct spelling and grammatical mistakes, to correct formatting issues, and to ensure that questions are standardized across the six questionnaires.

The Standard Questions—with these changes and clarified instructions—will ensure that the Committee has the information it needs to conduct its national security and law enforcement review, while also addressing concerns raised by commenters that certain questions were unclear or overly burdensome.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

58. The Commission did not receive comments specifically addressing the rules and policies proposed in the Supplemental IRFA. Nonetheless, in adopting the Standard Questions reflected in this Second Report and Order, the Commission has considered the potential impact of the rules and procedures proposed in the IRFA on small entities in order to reduce the economic impact of the rules and procedures enacted herein on such entities.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

59. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.

60. The Chief Counsel did not file any comments in response to the proposed Standard Questions in this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

61. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Initial and Final Regulatory Flexibility Analyses were incorporated into the *Executive Branch Review Order* and the Notice of Proposed Rulemaking associated with that Order. In this Second Report and Order, we hereby incorporate by reference the descriptions and estimates of the number of small entities, as well as the associated analyses, set forth therein.

E. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities

62. This Second Report and Order adopts Standard Questions that would affect reporting, recordkeeping, and other compliance requirements for applicants who file for international section 214 authorizations, submarine cable landing licenses or applications to assign or transfer control of such authorizations, and section 310(b) petitions for declaratory rulings (common carrier wireless, common carrier satellite earth stations, or broadcast). Applicants with reportable foreign ownership will be required to submit responses to standard national security and law enforcement questions and will need to certify in their applications that they have submitted the Standard Questions and will send a copy of their FCC application to the Committee. As noted in the FRFA in connection with the *Executive Branch Review Order,* all applicants for international section 214 authority and submarine cable licenses, regardless of whether they have reportable foreign ownership will be required to certify that they: (1) Will comply with the Communications Assistance for Law Enforcement Act (CALEA); (2) will make certain communications and records available and subject to lawful request or valid legal process under U.S. law; (3) will designate a point of contact in the United States who is a U.S. citizen or lawful permanent resident; (4) will keep all submitted information accurate and complete during application process and after the application is no longer pending for purposes of section 1.65 of the rules, the authorization holder and/or licensee must inform the Commission and the Committee of any contact name changes; and (5) understand that failing to fulfill any condition of the grant or providing materially false information could result in revocation or termination of their authorization and other penalties. Petitioners for broadcast licensee petitions for a section 310(b) declaratory ruling for broadcast licenses will make the last three certifications but will not need to make the first two certifications.

F. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternative Considered

63. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following alternatives, among others: ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

64. In this Second Report and Order, the adopted Standard Questions will help improve the timeliness and transparency of the review process, thus lessening the burden of the licensing process on all applicants, including small entities. Requiring applicants to submit responses to the Standard Questions prior to or at the same time that they file their applications at the Commission (rather than after filing the application at the Commission) should facilitate a faster response by the Executive Branch on its national

security and law enforcement review and advance the shared goal of the Commission and industry, including small entities, to make the Executive Branch review process as efficient as possible. As discussed in the FRFA in the *Executive Branch Review Order,* timeframes for review of FCC applications referred to the Executive Branch have also been adopted, which will help prevent unnecessary delays and make the process more efficient and transparent, which ultimately benefits all applicants, including small entities.

G. Report to Congress

65. The Commission will send a copy of the Second Report and Order, including this Supplemental FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996.

Ordering Clauses

66. *It is ordered* that, pursuant to sections 4(i), 4(j), 214, 303, 309, 310 and 413 of the Communications Act as amended, 47 U.S.C. 154(i), 154(j), 214, 303, 309, 310 and 413, and the Cable Landing License Act of 1921, 47 U.S.C. 34–39, and Executive Order No. 10530, Section 5(a) reprinted as amended in 3 U.S.C. 301, this Second Report and Order *is adopted.*

67. *It is further ordered* that as discussed herein, pursuant to 47 U.S.C. 155(c) and 47 CFR 0.261, the Chief of the International Bureau *is directed* to administer and make available on a public website, a standardized set of national security and law enforcement questions for the Categories of Information set forth in Part 1, Subpart CC of the Commission's rules.

68. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Second Report and Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

69. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Second Report and Order, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2021–24944 Filed 12–1–21; 8:45 am]

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GENERAL SERVICES ADMINISTRATION

48 CFR Parts 502, 509, 511, 512, 514, 532, 536, 538, and 552

[GSAR Case 2021–G510; Docket No. GSA–GSAR 2021–0026; Sequence No. 1]

RIN 3090–AK37

General Services Administration Acquisition Regulation (GSAR); Updating References to Commercial Items

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is issuing a final rule amending the General Services Administration Acquisition Regulation (GSAR) to conform to changes in the Federal Acquisition Regulation (FAR) that reflect an updated ''commercial item'' definition pursuant to a section of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019.

DATES: Effective January 3, 2022.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Carroll at 817–253–7858 or *gsarpolicy@gsa.gov,* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite GSAR Case 2021–G510.

SUPPLEMENTARY INFORMATION:

I. Background

This final rule amends the General Services Administration Acquisition Regulation (GSAR) to change instances of ''commercial item(s)'' with commercial product(s), commercial services(s), or both commercial product(s) and commercial service(s) to match similar actions taken in the Federal Acquisition Regulation (FAR).

FAR Case 2018–018 was published as a final rule at 86 FR 61017 on November 4, 2021, to implement section 836 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 to separate the definition of ''commercial item'' into the definitions of ''commercial product'' and ''commercial service.''

It is important to note that the amendment to separate ''commercial item'' with ''commercial product'' and ''commercial service'' does not expand or shrink the universe of products or services that the Government may procure using GSAR part 512, nor does it change the terms and conditions vendors must comply with.

This rule does not add any new solicitation provisions or contract clauses. This rule merely replaces the term ''commercial item(s)'' with ''commercial product(s),'' ''commercial service(s),'' ''commercial product(s) or commercial service(s),'' or ''commercial product(s) and commercial service(s)'' in the GSAR including in part 552, as appropriate. It does not add any new burdens because the case does not add or change any requirements with which vendors must comply.

II. Authority for This Rulemaking

Title 40 of the United States Code (U.S.C.) Section 121 authorizes GSA to issue regulations, including the GSAR, to control the relationship between GSA and contractors.

III. Discussion and Analysis

As changed by FAR Case 2018–018, and as required by section 836 of the NDAA for FY 2019, this final rule replaces instances of commercial item(s) with commercial product(s), commercial service(s), or both commercial product(s) and commercial service(s).

This final rule also replaces all instances of ''non-commercial'' and ''noncommercial'' with ''other than commercial'' as it relates to this rule. This is an editorial change and will provide consistent language to the FAR and throughout the GSAR.

Other minor editorial changes are made in this final rule to provide consistent language.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been reviewed and determined by OMB not to be a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a ''major rule'' may take