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March 25, 2020

Matthew S. Borman
Deputy Assistant Secretary for Export Administration
Regulatory Policy Division
Bureau of Industry and Security
U.S. Department of Commerce
1401 Constitution Ave NW
Washington, DC 20230

Re: Request for Comments on Future Extensions of Temporary General License (TGL), BIS 2020-0001 / RIN 0694–ZA02

Dear Mr. Borman:

The Computing Technology Industry Association (CompTIA),[1] the leading association for the global information technology (IT) industry, thanks you on behalf of our members for the opportunity to provide feedback on future extensions of the Temporary General License to Huawei and 114 of its non-US affiliates on the Entity List ("TGL").[2]

We appreciate the Department's recognition that the TGL serves an important purpose for U.S. businesses by giving them time to transition to non-Huawei products and services. However, the 45-day time period of the TGL has caused uncertainty and prevented companies from making actionable business decisions for the future. If the TGL is not extended, companies will experience a loss of revenue, negative impacts on customer relationships and reputational damage largely due to the inability to provide critical updates and patches that are necessary to maintain the security and stability of critical software.

As such, we recommend that BIS incorporate activities authorized by the TGL into the actual Entity List designation for Huawei and its named affiliates, rather than subjecting businesses to

[1] CompTIA works to promote investment and innovation, market access, robust cybersecurity solutions, commonsense privacy policies, streamlined procurement, and a skilled IT workforce.

[2] Department of Commerce, Bureau of Industry and Security (BIS), *Request for Comments on Future Extensions of Temporary General License (TGL)*, 85 Fed. Reg. 14428 (Mar. 12, 2020), https://www.govinfo.gov/content/pkg/FR-2020-03-12/pdf/2020-05194.pdf.

the uncertainty of short-term license extensions. Rather than continuing short-term extensions, a permanent codification of the TGL will allow companies to focus and develop long-term plans and transition strategies as opposed to focusing on short term (45-90 day) mitigation strategies.

In terms of modifying the substance of the TGL itself, please see our recommendations below:

- **Recommendation #1:** BIS should remove the certification requirement in the TGL which requires that exporters obtain a copy of the contract between Huawei and a third party. The current requirement adds an unreasonable administrative burden, especially as it relates to patches and software updates and is unclear as to how far the requirement extends. At the very least, BIS needs to confirm that a copy of one contract between Huawei and a third party that is in compliance with the certification statement fulfills the requirement for certification for the applicable patch/fix, without the need to obtain a copy of the contract from every third party that will receive the same patch/fix.

- **Recommendation #2:** BIS should remove the limitation in the TGL on upgrades and enhanced functionality which has a significant impact on network stability. Because the current TGL does not authorize upgrades that enable new functionality or features, companies are unable to provide security updates and bug fixes. Additionally, the security patches and bug fixes that are currently authorized under the TGL are more difficult to provide on an older landscape. Typically, software companies fix security issues and vulnerabilities in the latest release and ask customers to upgrade to the latest version. However, with the current restrictions, telecom companies are forced to operate an older version of software. This creates not only risks related to security and stability, but also creates challenges when a company has to connect to newer technology. Previous releases are often not tested from a landscape integration point of view and need to be done manually for situations such as this, where upgrading to a newer release is not permitted by law. Allowing upgrades to newer versions of software will give telecom companies the ability to operate their networks with minimal disruption and maintain their stability, which aligns with the overarching purpose of the TGL.

- **Recommendation #3:** BIS should authorize the sharing of technology with Huawei for purposes of jointly troubleshooting issues experienced by telecom companies and joint customers/end-users. The current limitation not only prevents companies offering joint support but also causes delays in maintenance of critical infrastructure.

Complying with the elements of the TGL as described above has created an extensive administrative burden on companies large and small, taking important resources away from critical projects and limiting U.S. industry's ability to achieve the ideal end-state described by BIS. Finally, if the TGL is not extended and modified, the resulting technological restrictions

and support limitations may cause significant security and stability issues with critical infrastructure, making it even more difficult to transition to non-Huawei hardware. Further, if telecom providers decide to switch to non-standard hardware, software companies will be required to develop and/or certify the new hardware, which will also take substantial time and resources. Therefore, the U.S. government's interest in switching to non-Huawei hardware and infrastructure should be balanced with the impacts that such a transition will have on the software (e.g., compatibility, certification, stability on the new infrastructure).

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CompTIA sincerely appreciates the opportunity to provide feedback on the TGL and hopes to continue engaging with BIS on this issue. Since the circumstances of the TGL are unique and require careful weighing of economic and national security considerations, we believe these modifications would ensure that the restriction remains end-user and end-use based and give companies the assurance needed to plan long-term transitions. Our members are in full support of furthering U.S. national security while maintaining U.S. technological leadership, and we believe the above requested modifications will provide the necessary balance to achieve those purposes.

Sincerely,

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