Before the
UNITED STATES DEPARTMENT OF COMMERCE
Washington, D.C.

In the Matter of	)	
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Request for Comments on Future Extensions of Temporary General License under the Export Administration Regulations	)	Docket No. BIS-2020-0001
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COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION AND NTCA—THE RURAL BROADBAND ASSOCIATION

Competitive Carriers Association ("CCA")[1] and NTCA—The Rural Broadband Association ("NTCA")[2] submit these comments in response to the United States Department of Commerce's ("DOC") Bureau of Industry and Security's ("BIS") Request for Comments on Future Extensions of the Temporary General License ("TGL")[3] under the Export Administration Regulations ("EAR") for export, re-exports and in-country transfers to Huawei Technologies and 114 of its non-US affiliates (collectively "Huawei") on the Entity List.

CCA and NTCA (collectively, "the Associations") submit these comments on behalf of their members to express their collective desire to work with BIS to establish a flexible approach

[1] CCA's membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 customers to regional and national providers serving millions of customers. CCA also represents vendors and suppliers that provide products and services throughout the mobile communications supply chain.

[2] NTCA represents approximately 850 independent, community-based telecommunications companies and cooperatives, along with more than 400 other firms that support or are themselves engaged in the provision of communications services in the most rural portions of America.

[3] Request for Comments on Future Extensions of Temporary General License (TGL), 85 Fed. Reg. 14,428 (Mar. 12, 2020) (to be codified at 15 C.F.R. pt. 744).

to the TGL extension process during this unprecedented national crisis stemming from the COVID-19 pandemic. To this end, the Associations offer comments in several key areas, including: (I) the COVID-19 pandemic's dramatic impact on U.S. businesses, including competitive carriers; (II) telecommunications companies face acute challenges as a result of COVID-19; (III) the telecommunications industry—and CCA and NTCA members in particular—are marshalling an essential and multifaceted response to the ongoing crisis; and (IV) the importance of BIS granting reasonable extensions of the TGL under EAR for exports, reexports, and transfers (in-country) to Huawei on a prospective basis and maintaining a flexible approach to its licensing policy in the face of this unprecedented national crisis.

I. There Are Dramatic Economic Consequences for U.S. Businesses from COVID-19.

The COVID-19 pandemic has been a shock to the national and global economy. Businesses are shutting down, workers are staying home, and millions of Americans are adjusting their daily lives in order to contain the spread of the virus. Some analysts and policymakers predict that COVID-19 could have an economic impact on par with the global financial crisis.[4] In the short term, Goldman Sachs economists forecast a 24-percent decline in GDP in the second quarter of 2020, the largest quarterly decline in the history of modern GDP statistics.[5] On March 19, the U.S. Department of Labor reported a 30 percent increase in

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[4] *E.g.*, Press Release, IMF, IMF Managing Director Kristalina Georgieva's Statement Following a G20 Ministerial Call on the Coronavirus Emergency, IMF Press Release No. 20/98 (Mar. 23, 2020), https://www.imf.org/en/News/Articles/2020/03/23/pr2098-imf-managing-director-statement-following-a-g20-ministerial-call-on-the-coronavirus-emergency.

[5] Patti Domm, *Goldman Sees Unprecedented Stop in Economic Activity, with 2nd Quarter GDP Contracting 24%*, CNBC (Mar. 20, 2020, 2:30 PM EDT), https://www.cnbc.com/2020/03/20/goldman-sees-an-unprecedented-stop-of-economic-activity-with-2nd-quarter-gdp-contracting-by-24percent.html.

unemployment claims over the past week, and unemployment is only expected to continue to rise for the near future.[6] These are uncharted waters for American businesses.

II. Telecommunications Companies Face Acute Challenges as a Result of COVID-19.

The crisis is having an acute effect on the telecommunications industry in particular. With many offices and schools closed, telecommunications providers have faced a surge in demand to support videoconferencing and other technological solutions for remote work and learning. At the same time, telecommunications companies are operating under the same conditions as other U.S. businesses, with reduced capacity to make the home visits that are sometimes necessary to maintain service. The pandemic has caused challenges across the board, from the obvious strains on infrastructure and service capacity to areas of telecommunications that are often overlooked. For instance, providers of telecommunications relay services—a critical service that allows individuals with hearing or speech disabilities to make and receive phone calls by way of a human operator as an intermediary—are under significant stress. As elsewhere, demand for these services has increased, and the number of employees available to relay calls at in-person call centers has been sharply diminished.[7]

That is just one example of how COVID-19's impact in the United States has called for a response from the telecommunications industry. Doctors and patients are increasingly making use of telehealth and telemedicine services in lieu of in-person consultations, in order to limit

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[6] Patricia Cohen, *A Torrent of Job Losses Threatens to Overwhelm the U.S. Economy*, N.Y. TIMES (Mar. 19, 2020), https://www.nytimes.com/2020/03/19/business/economy/coronavirus-employers-unemployment.html.

[7] *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program*, Order, DA No. 20-281, CG Docket Nos. 03-123, 10-51 (rel. Mar. 16, 2020), https://docs.fcc.gov/public/attachments/DA-20-281A1.pdf.

exposure to coronavirus and efficiently allocate scarce health care resources. Schools across the nation have closed, some for the remainder of the school year, and at-home distance learning has unexpectedly become a central part of the curriculum for students from elementary school to graduate school. Under these circumstances, it is no surprise that telecommunications have generally been exempted from state and local "stay-at-home" orders as essential services[8] and that the Cybersecurity and Infrastructure Security Agency identified communications workers as part of the essential critical infrastructure workforce.[9]

The challenges set forth above are even more pronounced for smaller wireless and wireline carriers, who may have fewer resources or capacity to balance the surge in demand and the necessity for enhanced services with the strains on infrastructure and operational and workforce restrictions.

III. The Telecommunications Industry—and CCA and NTCA Members in Particular—Are Marshalling an Essential and Multifaceted Response to the Ongoing Crisis.

The industry has responded to these challenges with remarkable speed and vigor. The Federal Communications Commission ("FCC" or "Commission") has temporarily waived

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[8] *See, e.g.*, NEW YORK STATE, GOVERNOR CUOMO ISSUES GUIDANCE ON ESSENTIAL SERVICES UNDER THE 'NEW YORK STATE ON PAUSE' EXECUTIVE ORDER (2020), https://www.governor.ny.gov/news/governor-cuomo-issues-guidance-essential-services-under-new-york-state-pause-executive-order; COMMONWEALTH OF MASSACHUSETTS, COVID-19: ESSENTIAL SERVICES (2020), https://www.mass.gov/info-details/covid-19-essential-services; STATE OF CALIFORNIA, LIST OF ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS (2020), https://covid19.ca.gov/img/EssentialCriticalInfrastructureWorkers.pdf.

[9] CYBERSECURITY AND INFRASTRUCTURE SECURITY AGENCY, MEMORANDUM ON IDENTIFICATION OF ESSENTIAL CRITICAL INFRASTRUCTURE WORKERS DURING COVID-19 RESPONSE (2020), https://www.cisa.gov/publication/guidance-essential-critical-infrastructure-workforce.

various recertification and verification requirements[10] and extended filing deadlines[11] due to the disruption caused by COVID-19 and the importance of maintaining connectivity. The Commission has provided carriers temporary access to additional spectrum in order to respond to usage patterns changed by the pandemic.[12] Some telecommunications companies have even volunteered to make their spectrum available to meet the increased demand.[13] Local radio and television broadcasters have aired thousands of public service announcements, donating over $10 million in airtime.[14] Many service providers have done their part by removing data caps, providing resources for education, increasing broadband speeds, and offering free services to customers.[15]

The Associations' members—in particular—have answered the call. A significant number of CCA- and NTCA-affiliated wireless and wireline providers have signed FCC Chairman Ajit Pai's "Keep Americans Connected" pledge, by which they agreed not to terminate

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[10] *Lifeline Link Up Reform and Modernization*, Order, DA No. 20-285, WC Docket No. 11-42 (rel. Mar. 17, 2020), https://docs.fcc.gov/public/attachments/DA-20-285A1.pdf.

[11] Public Notice, Wireline Competition Bureau Directs USAC to Extend E-Rate Application Filing Window for Funding Year 2020 Due to Potential Coronavirus Disruptions, DA No. 20-273, CC Docket No. 02-6 (rel. Mar. 13, 2020), https://docs.fcc.gov/public/attachments/DA-20-273A1.pdf.

[12] Press Release, FCC, FCC Grants AT&T and Verizon Further Temporary Spectrum Access to Keep Americans Connected During Coronavirus Pandemic (Mar. 20, 2020), https://docs.fcc.gov/public/attachments/DOC-363211A1.docx.

[13] Press Release, FCC, FCC Provides T-Mobile Temporary Access to Additional Spectrum to Help Keep Americans Connected During Coronavirus Pandemic (Mar. 15, 2020), https://docs.fcc.gov/public/attachments/DOC-363051A1.pdf.

[14] Press Release, National Association of Broadcasters, NAB's COVID-19 PSA Campaign Receives Unprecedented Support (Mar. 20, 2020), https://www.nab.org/documents/newsroom/pressRelease.asp?id=5530.

[15] Press Release, FCC, FCC Chairman Thanks Companies That Have Gone Above and Beyond the Keep Americans Connected Pledge (Mar. 18, 2020), https://docs.fcc.gov/public/attachments/DOC-363135A1.pdf.

service to any residential or small business customers who are unable to pay their bills due to the coronavirus, to waive late fees for affected customers, and to make their Wi-Fi hotspots available to the public at large.[16] CCA, NTCA, and their members are actively working with the FCC, the Administration, and Congress on measures to address the COVID-19 crisis.[17] CCA and NTCA members recognize that their services are critical to ensuring that individuals, particularly those in rural areas, can remain in contact with friends and family, connect with doctors, work from home, and continue their education with minimal disruption.

IV. The Associations Respectfully Request A Reasonable Extension of the Temporary General License on a Prospective Basis and a Flexible Licensing Policy in the Face of the COVID-19 Crisis.

CCA and NTCA respectfully request that BIS consider granting a reasonable extension of the TGL under the EAR for exports, reexports, and transfers (in-country) to Huawei on a prospective basis and maintain a flexible approach to its licensing policy in the face of this unprecedented national crisis stemming from COVID-19. What telecommunications providers need most during this challenging period is the ability to focus time, effort, and resources on maintaining and enhancing connectivity for all Americans. It is unclear when business operations and economic conditions will return to relative normalcy. Some forecasters expect a return to economic growth in the third quarter of 2020, while others are more pessimistic.[18]

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[16] Press Release, FCC, Chairman Pai Launches the Keep Americans Connected Pledge, (Mar. 13, 2020), https://docs.fcc.gov/public/attachments/DOC-363033A1.pdf.

[17] Press Release, CCA, Statement on the Keep Americans Connected Pledge (Mar. 13, 2020), https://www.ccamobile.org/statement-on-the-keep-americans-connected-pledge; Press Release, NTCA—The Rural Broadband Association, NTCA Members Are Keeping America Connected (Mar. 19, 2020), https://www.ntca.org/ruraliscool/newsroom/press-releases/2020/19/ntca-members-are-keeping-america-connected.

[18] *See, e.g.*, Russell Berman, *The Economic Devastation Is Going to Be Worse Than You Think*, THE ATLANTIC (Mar. 21, 2020), https://www.theatlantic.com/politics/archive/2020/03/covid-19s-devastating-effects-jobs-and-businesses/608461/.

As a result of this uncertainty, CCA and NTCA believe that a 3 to 6-month extension of the TGL is appropriate. The top priority of the Associations and their members during this crisis is maintaining and enhancing connectivity for their customers. Any action that would require service providers to forgo updates or maintenance of existing telecommunications equipment would jeopardize the remarkable efforts taken by CCA and NTCA members and the rest of the industry during this crisis. CCA and NTCA urge BIS to take a flexible approach to the TGL extension process, in light of the critical importance of telecommunications infrastructure to the country's response to the COVID-19 pandemic.

Finally, the TGL was implemented to prevent the interruption of existing network communication systems and equipment and allow time for companies to shift to other sources of equipment, software, and technology (*i.e.*, those not produced by Huawei). The Associations' members have been working diligently to develop and implement specific plans to transition away from Huawei network equipment.[19] But—in addition to the potential of degrading connectivity and impeding the maintenance and operations of existing network equipment during a national crisis—a precipitous end to the TGL could lead to immediate and widespread public safety problems that might be created in a situation where a smaller carrier, reliant on Huawei network equipment is also the sole service provider for a remote area, and the decommissioning (or reduced support) of such equipment will reduce emergency services availability. For these public safety considerations as well, the Associations urge BIS to grant a reasonable extension of the TGL.

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[19] Temporary General License Final Rule, 84 Fed. Reg. 23,468 (May 22, 2019) (to be codified at 15 C.F.R. pts. 744 & 762).

In response to the COVID-19 pandemic, and the uncertain and fraught conditions that many Americans will face in the coming months, FCC Chairman Pai challenged the telecommunications industry to ensure that Americans do not lose their broadband or telephone connectivity as a result of these exceptional circumstances. So far, more than 550 companies and associations have stepped up to the challenge and committed to the "Keep Americans Connected" pledge.[20] As CCA and NTCA members continue to contribute to providing essential services ranging from telehealth to distance learning to lifesaving communication, and to do so in the face of massive operational, logistical, and economic challenges, the Associations respectfully request that BIS grant a reasonable 3 to 6-month extension of the TGL and exercise maximum flexibility during this unprecedented time.

Respectfully submitted,

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[20] FCC, KEEP AMERICANS CONNECTED (2020), https://www.fcc.gov/keep-americans-connected.