

FCC Commissioner O’Rielly Statement Hints at Possible Long-Awaited Movement on Team Telecom Review Process Reform

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In 2016, the Federal Communications Commission (“FCC” or “Commission”) initiated a [rulemaking proceeding proposing changes](#) to the process of reviewing certain Section 214 and submarine cable landing license applications, conducted by the group of Executive Branch agencies commonly referred to as “Team Telecom.” That proceeding largely stalled after the comment cycle ended later that year. However, a [Statement issued earlier this week by FCC Commissioner Michael O’Rielly](#) endeavors to reignite movement on the long-pending issue of Team Telecom review process reform.

On April 18, 2018, the FCC released a Notice of Proposed Rulemaking seeking comment on a proposal to help ensure federal funding is not used to purchase equipment and services from sources that could undermine or pose a threat to American national security (the “National Security NPRM”). (Check back for our upcoming post with more on the National Security NPRM.) Identifying and mitigating potential national security concerns related to U.S. telecommunications networks are a Team Telecom focus when reviewing licensing and transactional applications that are filed with the FCC and that involve foreign ownership or critical infrastructure. Team Telecom’s focus on national security concerns affecting U.S. communications infrastructure and services makes Team Telecom a logical resource for achieving the Commission’s objectives behind this new proceeding. In his Statement on the National Security NPRM, Commissioner O’Rielly acknowledged the need for cooperation between the FCC and Team Telecom: “The item raises a host of issues in which the Commission will need to work with those in the Executive Branch on matters involving what equipment poses national security risks, potential waivers and other critical decisions.”

However, telecommunications industry members may recall that, in the past, [Commissioner O’Rielly has been vocal regarding his concerns about the current Team Telecom process](#) of reviewing FCC applications referred to it. The Commissioner’s Statement on the National Security NPRM suggests his views have not changed and it should be no surprise that he is taking this opportunity to revive his push to reform the Team Telecom review process which he earlier called a “[black hole](#),” reflecting concerns about the opacity and lengthiness of the process. Now, Commissioner O’Rielly underscores the “critical” need for “revising our dealings with what is known as ‘Team Telecom’” and remarks that “we are going to need to have a better process than the opaque and unnecessarily lengthy one that exists under the current Team Telecom structure.” Particularly notable was Commissioner O’Rielly’s closing comment that he was “pleased that the Chairman agrees with me on this point, and I look forward to moving a related Team Telecom order in the very near future.”

This invitation to Chairman Pai to move to the front burner the Commission's 2016 Team Telecom reform rulemaking, which had received overwhelming industry support for reform, was loud and clear. While it remains to be seen, it looks like Team Telecom review process reform may soon be back on the FCC's agenda.

Kelley Drye is tracking this issue and will continue to update this blog with any new developments.