

Client Alert

25 February 2021

**For further information
please contact**



Junko Suetomi
Partner
+81 3 6271 9741
junko.suetomi@bakermckenzie.com



Izumi Matsumoto
Counsel
+81 3 6271 9720
izumi.matsumoto@bakermckenzie.com



Mami Ohara
Senior Associate
+81 3 6271 9539
mami.ohara@bakermckenzie.com



Takumi Hasegawa
Senior Associate
+81 3 6271 9540
takumi.hasegawa@bakermckenzie.com

US FCC seeks comments on proposals to modify its supply chain reimbursement program rules

The US Federal Communications Commission (FCC) held its first meeting under the new Biden Administration on 17 February 2021 and unanimously voted to seek comments on proposals that would modify its Secure and Trusted Network Reimbursement Program rules¹. This Program aims to remove, replace and dispose of communications equipment and services that the FCC deems to pose a national security threat. In June 2020, the FCC formally designated Huawei and ZTE as threats to US national security, a declaration that barred US companies from using government funds to purchase equipment and services from these companies².

The Secure and Trusted Communications Networks Act of 2019 (SNA)³, signed into law on 12 March 2020 by then-President Trump, prohibits the use of certain federal funds to procure communications equipment or services from a companies deemed to pose a national security risk to US communications networks. The Act also directed the FCC to publish a list of covered communications equipment and services and establish the above-mentioned Reimbursement Program to remove covered communications equipment and services from networks, replace and dispose of it. Subsequently, on 30 June 2020, the FCC's Public Safety and Homeland Security Bureau formally designated Huawei and ZTE as companies that pose a national security threat to the integrity of communications networks and the communications supply chain⁴.

Although Congress did not appropriate funds to implement the Reimbursement Program under the SNA, the Consolidated Appropriations Act of 2021 (CAA)⁵, which was signed into law on 27 December 2020, appropriated \$1.9 billion for the FCC to implement the SNA, of which \$1,895,000 must be used for the Reimbursement Program.

The FCC is now seeking comments on a proposal to raise the cap on eligibility for participation in the Reimbursement Program to providers of advanced communications services with 10 million or fewer customers, consistent with the CAA⁶. Prior to the enactment of the CAA, the SNA restricted eligibility to providers with two million or fewer customers. In addition, another proposal aims to modify the rules to allow Reimbursement Program recipients to use funds to remove, replace and dispose of equipment or services that were purchased, rented, leased or otherwise obtained on or before 30 June 2020.

These decisions last week by the FCC show that the Trump administration's policies will continue in this area under the new administration. This is an early

¹ <https://www.fcc.gov/document/fcc-seeks-comment-modifying-supply-chain-rules>

² <https://www.fcc.gov/document/fcc-designates-huawei-and-zte-national-security-threats>

³ <https://www.congress.gov/bill/116th-congress/house-bill/4998/text>

⁴ See *supra* note 2.

⁵ <https://www.congress.gov/bill/116th-congress/house-bill/133/text>

⁶ See *supra* note 1.



sign that the overall structure giving rise to US-China tensions will not significantly change under the Biden Administration, and companies with overseas trade relations must remain abreast of developments and take appropriate precautions in response to the likelihood of continued tensions.