

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Review of Submarine Cable Landing License Rules and Procedures to Assess Evolving
National Security, Law Enforcement, Foreign Policy, and Trade Policy Risks

OI Docket No. 24-523

MD Docket No. 24-524

REPLY COMMENTS OF GATEWELL GROUP LLC

Filed in reply to comments on the Second Report and Order and Second Further Notice of Proposed Rulemaking, FCC 26-42, published at 91 Fed. Reg. 46844 (Second Report and Order) and 91 Fed. Reg. 46888 (Second Further Notice) (July 27, 2026).

I. Introduction and Statement of Interest

This reply addresses one subject. Paragraph 76 of the Second Report and Order adopts a routine condition prohibiting the use or addition of principal equipment produced by a foreign adversary-controlled entity on a licensed submarine cable system. Gatewell addresses what a licensee should hold to show that the condition is met. Gatewell takes no position on any other license term adopted in the Second Report and Order or proposed in the Second Further Notice.

Gatewell's interest is commercial. Gatewell Group LLC advises buyers and manufacturers on Covered List exposure and origin evidence. It publishes the Gatewell Protocol for Origin Evidence at gatewellgroup.com/protocol/v1.0, an open documentation standard for the evidence file behind a not-covered certification. Gatewell sells services assembling and verifying files under that standard. Gatewell does not ask the Commission to adopt or endorse that standard. Nothing recommended below would require a licensee to retain Gatewell or any other party. The recommendations state the documentary content of an obligation that now exists.

Gatewell asks the Commission, through the Office of International Affairs under the authority delegated in § 1.70001(m), or in the certification forms or a guidance public notice, to state that a cable landing licensee should hold:

- (1) a production-origin record naming the producers and countries of production of the principal equipment on its system, with the basis stated per line;
- (2) independent confirmation of the declarations behind that record for the equipment classes that carry access to cable operations; and
- (3) a standing obligation to re-confirm and to screen the named producers when the Covered List or the foreign adversary designations change.

II. The Condition Adopted at Paragraph 76

The Commission stated the condition at paragraph 76.

> "We adopt . . . a routine condition that prohibits the use or addition of any principal equipment . . . produced . . . by any entity owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, as defined in section 1.70001(g). . . . Existing licensees must ensure that no such principal equipment is added, whether by the licensee or any other entity, on their licensed submarine cable system."

Second Report and Order ¶ 76. The codified rules repeat the same operative terms. See Appx. A (§§ 1.70006(e), 1.70007(u), 1.70025), adopted as amendatory instructions 9, 11 and 18. The obligation runs to production rather than purchase. It reaches equipment the licensee did not buy or install.

Footnote 321 supplies a construction of "produced by." It states that "[w]e understand this term broadly, as we do in contexts involving equipment on the Covered List," and cites a construction adopted in the equipment authorization proceeding. Second Report and Order at 44 n.321, citing Protecting Against National Security Threats to the Communications Supply Chain through the Equipment Authorization Program, ET Docket No. 21-232, Second Report and Order and Second Further Notice of Proposed Rulemaking, 40 FCC Rcd 8430, 8456-57, paras. 51-53 & n.203 (2025) (EA Security Second Report and Order). The cited construction reads as follows.

> "[I]n determining whether a device is 'produced by' a particular entity, a broad interpretation likely includes substantial responsibility for or control over any major stage of the process by which a device comes into existence. . . . It is entirely possible that a device would be understood as 'produced by' more than one entity."

EA Security Second Report and Order ¶ 53.

The Commission stated the limit of that construction this year in the same docket, holding that it is "not, at this time, imposing additional obligations on applicants to investigate component lineage beyond what is ordinarily required for compliance with the equipment authorization rules." Third Report and Order and Third Further Notice of Proposed Rulemaking, ET Docket No. 21-232, FCC 26-50, ¶ 82 (rel. July 23, 2026). Nothing recommended here goes beyond that limit. The recommendations describe a record about the producers of principal equipment. They do not call for an audit of component lineage below the finished component.

Section 1.70001(m) defines "principal equipment" as "the primary electronic components of the submarine cable system that supports it end-to-end and any other such equipment, whether physical or providing logic-bearing service, that performs the functions described in this definition that licensees of a submarine cable system may use in the normal course of business," followed by sixteen enumerated categories. 47 CFR § 1.70001(m). The same subsection delegates the work of specification to the Office of International Affairs. *Id.*

III. What the Opening Round Did Not Address

The opening round does not reach the subject of this reply. The phrase "principal equipment" appears in none of the five opening comments. None cites paragraph 76 or its footnote 321, proposes a reading of "produced by," or states what a licensee must hold to show that the condition is met.

INCOMPAS describes the adopted equipment prohibition as running to procurement, stating that SLTE licensees "would remain subject to the affirmative prohibitions against contracting with and procuring equipment from foreign adversaries and Covered List entities." INCOMPAS Comments at 9. The order prohibits principal equipment "that is produced . . . by any entity owned by, controlled by, or subject to the

jurisdiction or direction of a foreign adversary." Second Report and Order ¶ 76; Appx. A (§ 1.70007(u), amendatory instruction 11). Procuring from an entity and equipment produced by an entity are different facts. Different documents prove them. A licensee that buys from a supplier in an allied jurisdiction has satisfied a procurement test without answering the adopted one. The producer may be an entity that designed or developed the device without appearing on the invoice. Re-branding does not change the producer. EA Security Second Report and Order ¶¶ 52, 53. INCOMPAS's reading shows the cost of leaving the proof of the condition unstated.

IV. The Effective Dates and the Sixty-Day Clock

Sections 1.70001(i) through (p) take effect on September 25, 2026. Public Notice, DA 26-784, at 1. The rules that carry the condition itself do not take effect on that date. The Federal Register states that the rules "are effective September 25, 2026, except for amendatory instructions . . . 9 (Sec. 1.70006), . . . 11 (Sec. 1.70007(u), (w)(2), (y) through (ii)), . . . 18 (Sec. 1.70025), . . . which are delayed indefinitely." 91 Fed. Reg. 46844, 46844-45 (July 27, 2026). Instructions 9, 11 and 18 are the applicant certification, the routine condition, and the existing-licensee certification. The Office of International Affairs stated that compliance with the remaining rules "will not be required until the completion of the review of any information collections by the Office of Management and Budget under the Paperwork Reduction Act and the announcement by the Office of International Affairs of the effective date of the new rules." Public Notice, DA 26-784, at 1.

That interval is why the documentary question is timely. The Office of International Affairs has stated that the remaining rules may contain new or modified information collection requirements. What a licensee holds to support a certification is the substance of any such collection. The regulatory flexibility analysis for the Second Further Notice states that "[l]icensees may need to engage in necessary recordkeeping to ensure and, if necessary, demonstrate compliance with the rules." Second Report and Order, Appx. C (Initial Regulatory Flexibility Analysis for Second Further Notice) ¶ 7. Section 1.70025 also sets a short clock. It requires every existing cable landing licensee to certify, per system, within sixty days of the effective date of instruction 18, filed in ICFS under the relevant license file numbers. Appx. A (§ 1.70025(a), (b), amendatory instruction 18); Second Report and Order ¶ 87. A licensee that learns the documentary content of that

certification when the sixty days begin has sixty days to build a record about equipment installed over the life of a cable.

V. The Record That Supports the Certification

The order states what is prohibited. It does not state what proves compliance. No paragraph identifies a document, sets a retention period, or describes an equipment file. The nearest statements of a proof standard sit outside the equipment condition. At paragraph 98 the Commission "expect[s] licensees to conduct substantial due diligence" in respect of third-party service providers, and at paragraph 107 it applies the same expectation to capacity arrangements and rejects the alternative, holding that "mere reliance on third-party representations is not the substantial due diligence that we would permit from entities that hold such vital strategically critical licenses." Second Report and Order ¶¶ 98, 107. Neither paragraph speaks to principal equipment.

Gatewell recommends that the Commission state the evidentiary content in three levels. Each level is drawn from the construction footnote 321 cites.

A. Level One, a Production-Origin Record for Principal Equipment

The record should identify, for each item of principal equipment on the licensed system, the entity or entities that produced it and the country or countries of production, with the basis for each entry named on the line. Because "produced by" reaches design and development and can attach to more than one entity, a line naming a seller answers a question the rule does not ask. A line naming the brand is likewise not responsive, because the presenting entity is presumed to be among the producers without excluding others. EA Security Second Report and Order ¶ 53, n.204. Attributes for such a record already exist in published form. No new container format is needed. Gatewell described one published example in its reply in ET Docket No. 21-232. That example records, for each bill-of-materials line, the component manufacturer rather than the distributor, the manufacturer's headquarters country, the country of origin, the country of design, and the date origin was last confirmed. See Reply Comments of Gatewell Group LLC, ET Docket No. 21-232, § IV (filed Sept. 17, 2026) (Gatewell ET Reply).

B. Level Two, Independent Confirmation for the Equipment Classes Where Design Control Reaches Cable Operations

A record composed of unconfirmed statements reproduces, one tier down, the problem the Commission identified when it declined to accept bare third-party representations at paragraph 107. The method has three steps. The reviewer, rather than the applicant, selects which declarations are confirmed. The reviewer obtains or corroborates the declarant's contact details independently of the applicant. The reviewer records what was confirmed and with whom. See Gatewell ET Reply § III. How many are confirmed is a calibration question for the Commission. Confirmation should be required for the equipment classes where a producer's control over design or development reaches the operation of the cable rather than the physical plant alone. Section 1.70001(m) enumerates those classes. Tailoring confirmation to them follows the reason the Commission gave for adopting a narrow definition. Second Report and Order ¶¶ 80, 81.

C. Level Three, Continuous Screening Against the Covered List and the Foreign Adversary Designations

The condition prohibits addition for as long as the license runs. The Commission expects the installed base to change gradually, stating that "equipment obsolescence, coupled with the prohibition on new equipment, will lead licensees to gradually rely less on principal equipment provided by entities owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary." Second Report and Order ¶ 228; see id. ¶ 133 (declining to require removal). A record built once at certification therefore ages out of usefulness while the obligation continues. The facts underneath the record also move. Entries are added to the Covered List. Foreign adversary designations under § 1.70001(g) can change. A producer's site or corporate control can also change without any change on the licensee's system. Level three is therefore a standing obligation with three parts. The licensee re-confirms production origin for the classes at level two on a stated cycle and carries the date of last confirmation on the line. The licensee screens the producers named in the record against the Covered List and against the foreign adversary designations when either changes, rather than at certification alone. The licensee records what it found, so that the next certification rests on a dated inquiry.

VI. Conclusion

The order does not state what proves compliance. The opening round did not take the question up. The Office of Management and Budget has not completed review of the

associated information collections, so the Commission can address the documentary question before any licensee must certify.

Gatewell asks the Commission, through the Office of International Affairs under the authority delegated in § 1.70001(m), or in the certification forms or a guidance public notice, to state that a cable landing licensee should hold:

- (1) a production-origin record naming the producers and countries of production of the principal equipment on its system, with the basis stated per line;
- (2) independent confirmation of the declarations behind that record for the equipment classes that carry access to cable operations; and
- (3) a standing obligation to re-confirm and to screen the named producers when the Covered List or the foreign adversary designations change.

Respectfully submitted,

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