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Good Morning. I am Glen Nager, outside counsel for Huawei, and a partner at Jones Day.

Our Petition for Review challenges the Order of the Federal Communications Commission (“FCC”) both insofar as it bars use of federal Universal Service Funds to purchase products and services from companies that the Commission deems a threat to U.S. national security, and insofar as it arbitrarily and capriciously designates Huawei as such a company.

The FCC issued its Order through a rulemaking process that supposedly addressed the telecommunications industry in general. But, in reality, at the behest of certain members of Congress, the FCC has simply adopted a standardless rule that, by its own admission, was designed with only Huawei and ZTE in mind; and it has applied that rule to Huawei without fair process and without proper support in evidence or law.

The Order exceeds the FCC’s statutory authority. Nothing in the Universal Service provisions of the Communications Act authorizes the Commission to make national security judgments or to restrict use of USF funds based on such judgments. Indeed, the Commission has no national security expertise or authority. And Congress could not constitutionally give the Commission such authority, because it is an independent agency not subject to the direction of the President.

The Commission’s Order is also arbitrary and capricious. The Commission failed to address multiple legal arguments and material facts presented in comments on the proposed rule. And its cost-benefit analysis considered *only* costs associated with prohibiting the use of USF funds for Huawei and ZTE products and services—a remarkable deficiency that exposes the Rule as simply a vehicle for targeting and burdening these two companies, not a genuine attempt to develop a generally-applicable and fair rule that would seriously protect telecommunications networks and supply chains.

The Rule is also unlawfully vague and inconsistent with Due Process. The Order states *no* standard or criteria whatsoever for identifying a company as a genuine threat to the integrity of communications networks or supply chains—again revealing that the Commission’s goal in the Order was simply to impose restrictions on Huawei and ZTE, and them alone. Furthermore, the Order fails to give Huawei constitutionally required due process before stigmatizing it as a national security threat, such as an opportunity to confront supposed evidence and witnesses, and a fair and neutral hearing process. This is contrary to all American constitutional traditions.

The Commission’s initial designation of Huawei also lacks legal or factual support. It is based on a fundamental misunderstanding of Chinese law, and on unsound, unreliable, and inadmissible accusations and innuendo, not “evidence.” The designation is simply shameful prejudgment of the worst kind.

The rule of law to which the United States adheres does not permit this kind of arbitrary and unfair action by a government agency. Under the rule of law in the United States, the ends do not suffice to justify such unlawful means. We are confident that the Fifth Circuit will vacate the Commission’s Order.

Thank you.