

October 7, 2019

Secretary Wilbur Ross
U.S. Department of Commerce
1401 Constitution Ave NW
Washington, DC 20230

Dear Secretary Ross,

We understand that you are preparing to publish an Interim Final Rule that will implement Executive Order 13873 on Securing the Information and Communications Technology and Services Supply Chain. We write today to share our view on related matters. First, we wanted to underscore our appreciation of the national security concerns that drove the Administration to issue the Executive Order in May. Our members share many of these concerns, and we are committed to managing associated risks through our own efforts, as well as working on collaborative efforts with government.

We were disappointed to learn that you are not planning to issue the rule for public comment before it enters into force, and we write today to respectfully request that you reconsider and issue a proposed rule that will enter into force only after stakeholders are afforded a reasonable window for public comment. At a minimum, we strongly urge you not to impose any restrictions until you have received and analyzed public comments on the rulemaking. We also urge you to establish an open and transparent process to assist in related implementation efforts going forward. We believe that such a process will enable all interested parties to contribute and assist the Department in avoiding any unintended consequences. Given the broad scope of the Executive Order and the complex nature of supply chains in the technology sector, input from the private sector is of critical importance.

Collectively, our organizations represent the broad range of companies and industries that make up the information and communications technology (ICT) ecosystem. Our members are among the world's most innovative companies, developing cutting-edge solutions in use across the range of information technology platforms, and they are global leaders in advancing best practices for developing quality, secure, trustworthy ICT products and services. As such, our organizations share the Administration's interest in developing effective approaches to supply chain security that balance the priority of averting adversarial threats and the imperative of sustaining global commerce and consumer trust. Such a balance requires supply chain risk management strategies that are risk-based, transparent, globally interoperable, and fair.

Many of our organizations and the companies we represent have been pleased to participate in collaborative efforts to enhance resilience and trust across the ICT ecosystem, like the Administration's ICT Supply Chain Risk Management Task Force since its inception last year. The Task Force has proven to be a useful mechanism for convening experts from government and industry to discuss key supply chain risk management challenges and recommend targeted next steps to address them. The intrinsically interconnected nature of government and industry supply chains demands such a multi-stakeholder approach.

Given the growing success of the Task Force model and related public-private initiatives to address policy considerations directly relevant to the Executive Order, we are deeply troubled that the

Administration may now bypass public consultation prior to issuing an Interim Final Rule outlining policies and processes that could result in the exclusion of certain ICT suppliers, products, and/or services.

At a time when many foreign governments are considering their own supply chain initiatives, the United States should demonstrate leadership, both in terms of policy substance and process, in adopting approaches that are fair, transparent, and collaborative. We are concerned that the Administration's decision to issue an enforceable Interim Final Rule prior to soliciting stakeholder input could serve as precedent for protectionist interventions by governments in foreign markets. Accordingly, we respectfully request that you consider issuing a proposed rule that will enter into force only after stakeholders are afforded a reasonable window for public comments.

We appreciate your consideration of our concerns about the rulemaking process and look forward to working with you on this important effort.

Sincerely,

ACT | The App Association
BSA | The Software Alliance
Coalition of Services Industries (CSI)
Computer & Communications Industry Association (CCIA)
Semiconductor Industry Association