

Motor & Equipment Manufacturers Association

1030 15th Street, NW Suite 500 East Washington, DC 20005
Tel 202.393.6362 Fax 202.737.3742 www.mema.org



January 10, 2020

The Honorable Wilbur Ross
Secretary of Commerce
U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Washington, DC 20230

Dear Secretary Ross:

The Motor and Equipment Manufacturer's Association (MEMA) appreciates the opportunity to submit comments on the Proposed Department of Commerce (DOC) rule to Implement the May 2019 Executive Order 13873, "Securing the Nation's Information and Communications Technology and Services (ICTS) Supply Chain." Specifically, this November 26, 2019, DOC Notice of Proposed Rulemaking (NPRM) or draft rule is written: "set out the procedures the Secretary of Commerce plans to use to identify, assess, and address ICTS transactions that pose an undue risk to ICTS in the U.S., to the critical infrastructure or the digital economy in the U.S., or an unacceptable risk to the national security or to the security and safety of U.S. persons."

While we support your important objectives of securing the nation's telecommunications technology and services supply chain, we have a series of concerns regarding the scope of this proposed rule and believe there may be unintended consequences of the current draft, which might adversely impact key national manufacturing industries, such as the motor vehicle and parts sector. In our sector, concerns have surfaced on the impact of this rule in the important new technology of vehicle connectivity, which is highlighted in the May 17, 2019, Presidential proclamation. Continued leadership in this arena is critical to the international competitiveness of our motor vehicle and parts industry.

MEMA represents 1,000 vehicle suppliers that manufacture and remanufacture components and systems providing new original equipment and aftermarket parts for use in passenger cars and heavy trucks. Our members lead the way in developing advanced, transformative technologies that enable safer, smarter and more efficient vehicles.

Vehicle suppliers are the largest sector of manufacturing jobs in the United States, directly employing over 871,000 Americans in all 50 states plus the District of Columbia. Together with indirect and employment-inducing jobs, the total employment impact of the motor vehicle parts manufacturing industry is 4.26 million jobs. Nearly \$435 billion in economic contribution to the U.S. GDP is generated by the motor vehicle parts sector and its supported activity. In total, motor vehicle parts suppliers contribute more than 77 percent of the value in today's vehicles.

MEMA members operate in a global supply chain of suppliers and customers both in and outside of the United States. In this global environment, open telecommunication is critical to our member companies, both for internal and external discussions and data transmission. We certainly understand that some ICTS transactions must be scrutinized and blocked on a national security basis. However, our members are particularly worried about the overall uncertainty and lack of definition of the current rule draft. Therefore, we have several suggestions below to tighten this proposed rule to make sure that it focuses on problematic nations and foreign individuals for your consideration.



First, we request that the DOC formally narrow this proposal in a supplemental notice of proposed rulemaking. That would give the department an additional opportunity for dialogue with various U.S. sectors, including ours.

Secondly, under this proposed rule, the DOC has broad discretion to determine commercial transactions that are problematic without providing specific criteria, transparency, and accountability. And that authority is concentrated in the Secretary’s office, not in the traditional bureaus with expertise such as the Bureau of Industry and Security, and the National Telecommunications and Information Administration.

Third, in addition to better internal DOC process, we would encourage better coordination with the Committee on Foreign Investment in the United States at the U.S. Treasury and the relevant jurisdictions of the State Department such as the International Traffic in Arms Regulations (ITAR). Perhaps more formal criteria and an interagency process should be instituted.

Fourth, if a company engaged in a broad range of information and communication technology or services transactions that include the “acquisition, importation, transfer, installation, dealing in or use of ICTS by any person,” a company could be subject to a transaction review. While we understand that it was not the intent, some of our members believe that internal proprietary company telecommunications could be covered by this current broad language.

Finally, we are concerned about the retroactivity of this rule. Specifically, if a company has an ICTS transaction of concern to DOC that “was initiated, is pending or will be completed after May 15, 2019,” that company could be subject to ICTS review.

As currently drafted, the proposed rule goes significantly further than current law to prohibit a range of commercial transactions that it determines present national security risks. While some reform is clearly warranted, this proposed rule increases uncertainty for manufacturing companies such as our members and could potentially disrupt global supply chains with allied nations beyond those with whom we might have reason to be concerned.

Thank you for your consideration of these comments. Please contact Bill Frymoyer, Vice President of Public Policy at 202 312-9253 or bfrymoyer@mema.org, with any questions or if there is any additional information that we can provide.

Sincerely,

A handwritten signature in black ink that reads "Bill Long". The signature is written in a cursive, slightly slanted style.

Bill Long

President & CEO, MEMA