



October 26, 2020

*Via Electronic Submission at Regulations.gov*

Matthew S. Borman,  
Deputy Assistant Secretary for Export Administration  
Bureau of Industry and Security, U.S. Department of Commerce  
14th Street and Pennsylvania Avenue, NW  
Washington, DC 20230

**RE: Docket No. 200824-0224 Identification and Review of Controls for Certain Foundational Technologies**

Dear Deputy Assistant Secretary:

Pursuant to the request for comments published by the U.S. Department of Commerce, Bureau of Industry and Security (BIS) in the Federal Register at 85 Fed. Reg. 52,934 (August 27, 2020), the Computer & Communications Industry Association (CCIA) submits the following comments regarding the review of controls for certain foundational technologies.<sup>1</sup> CCIA represents technology products and services providers of all sizes, including computer hardware and software, electronic commerce, telecommunications and Internet products and services, and serves customers around the world.

The U.S. should work to achieve an export control regime that is narrowly tailored at addressing exports that pose direct threats to national security, without impeding the leadership of U.S.-based companies and research institutions in these technological fields. CCIA has concerns that the new controls do not meet this standard.

CCIA would like to make the follow general points in response to queries posed in the Federal Register Notice:

**The proposed export controls on foundational technologies would impede U.S. innovation.** The controls as outlined in the Federal Register notice would limit U.S. exports to global customers, risk technological advancements, and deter global adoption of U.S. technologies. Overbroad controls that would unduly limit or burden U.S. exports of technologies will place U.S. companies at a disadvantage vis-a-vis foreign competitions that do not face similar restrictions. There is a real risk that excessive controls will bolster Chinese competitors at a precarious time when U.S. companies are strongly competing with large Chinese technology firms.

---

<sup>1</sup> CCIA's submission to BIS regarding the review of controls for certain "emerging technologies" is available here: <https://www.cciagnet.org/wp-content/uploads/2019/01/CCIA-Comments-in-BIS-2018-0024-Review-of-Controls-for-Certain-Emerging-Technologies.pdf>.



**The proposed export controls would not be effective as those already in place to address national security concerns.** Many “foundational technologies” are now ubiquitous in products around the world, and additional controls will not be more effective than ones already in place. The proposed controls for “foundational” technologies would apply to technologies widely available outside the U.S. and technology-based controls would be broader than necessary to achieve national security objectives.

**Any identification of a foundational technology should be made pursuant to a clear and careful process.** If the U.S. is to move forward with these controls, there should be a clear and careful process to ensure that the controls are narrowly targeted. To do so, BIS must first, confirm that the product subject to controls provides the United States with a specific and identifiable qualitative advantage; second, confirm that the product is essential to the national security interests of the U.S. as demonstrated through identification of the specific weapon, military, or intelligence application to which the item is essential; and third, determine, through a formal foreign availability assessment by BIS, that the product is not produced or available in foreign countries.

Thank you for your consideration of these comments.

Sincerely,

Matt Schruers

President  
Computer & Communications Industry Association  
25 Massachusetts Avenue NW, Suite 300C  
Washington, DC 20001