

June 14, 2019

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

RE: Request for clarification from developers of standards and industry specifications concerning the addition of Huawei and its affiliates to the Entity List

Dear Secretary Ross:

The undersigned represent a sample of the many hundreds of U.S.-based technology consortia that today create the majority of standards and technical specifications that shape global technology ecosystems. The May 16, 2019 order adding Huawei and its affiliates to the Entity List has created a serious problem of uncertainty for standards-setting consortia, causing harm to the consortia system and the many major U.S. companies that rely on it. We write now to ask that you act to resolve this uncertainty.

The information and communications technology industry (ICT) faces complex needs for interoperability between third party products and services, from the smallest component level up through globe-spanning communications networks. Over the past several decades the ICT industry has developed and honed a model for the formation and operation of private sector-led standards and specification development organizations that has enabled ICT product interoperability in a diverse array of technology areas. A very significant percentage of activity takes place in so-called "consortia." These organizations adopt rules and procedures that are largely similar to those of entities that have chosen to seek accreditation by the American National Standards Institute (ANSI), but rarely seek such accreditation themselves, in part to emphasize their status as neutral platforms for international collaboration.

Consortia almost invariably make their standards and technical specifications available for adoption by anyone, because universal adoption is the goal. Some require adopters to become members, but then welcome anyone to do so for a reasonable fee relative to the costs of maintaining standards development. The difficult question for organizations and their participating members as a result of the May 16, 2019 Entity List order has been whether this level of openness and public output sufficiently meets the criteria set forth in 15 CFR 734.7 (or other relevant exceptions) such that participants can continue to engage in typical consortia activities in organizations where Huawei is a member without violating the new Entity List order.

Due to the current uncertainty on this question, some consortia have taken the precaution of suspending Huawei and its non-U.S. affiliates from organization membership; others have restricted the participation of Huawei and its affiliates to non-technical activities. A key difficulty with this solution is that it ultimately undermines the effectiveness of the consortia-based development process, as well as the desirability, in the eyes of the global ICT community, of hosting such activities in U.S. based consortia at all. This creates a serious risk that specifications developed by U.S.-based consortia will fail to achieve the goal of adoption as formal or *de facto* international standards, and that future necessary standardization efforts will be led elsewhere. Further, if companies with large market presence are

excluded from U.S.-based standards efforts, a possible result is the launch of competing standards, leading to lengthy and destructive “standards wars.”

Accordingly, we urgently request: *please make a clear statement that development of open enrollment, consensus-based standards or technical specifications as conducted by consortia is exempt from the scope of the Entity List designation.*

We welcome clarification in whatever form you deem appropriate. For purposes of illustration we have attached (as Attachment A) an example of how the current Temporary General License language focused on standards could be adapted to address our concerns—although we emphasize that any clarification should be permanent, not temporary. We do not suggest that this proposed text is the only or best way to address our concerns, however.

We respectfully request your prompt attention to this matter. We welcome the opportunity to provide additional information to your staff – please let us know how we can be of assistance.

Yours truly,

3D PDF Consortium	MIPI Alliance
Alliance for Open Media	Mopria Alliance
AXIe Consortium	MulteFire Alliance
The Broadband Forum	NFC Forum
CCIX Consortium	NVM Express
Consortium for On-Board Optics (COBO)	Open Connectivity Foundation
Ethernet Alliance	Open Geospatial Consortium
GlobalPlatform	Open Network Video Interface Forum
HDMI Forum	Open Security & Safety Alliance
IMS Global Learning Consortium	PDES
Joint Development Foundation	PXI Systems Alliance
Khronos Group	SD Association
LXI Consortium	Video Electronics Standards Association (VESA)

Address for correspondence: consortia-bis-letter@giste.org*

cc: Nazak Nikakhtar, acting Under Secretary for Industry and Security
Walter G. Copan, Undersecretary for Standards and Technology

* Distribution list to all signers provided as a courtesy by non-signatory list host

ATTACHMENT A

*Engagement as Necessary for Development of **technical specifications and 5G-Standards** by a ~~Duly Recognized Standards Body~~*: BIS authorizes, subject to other provisions of the EAR, engagement with Huawei and/or the sixty-eight non-U.S. affiliates as necessary for the development of 5G-standards, **technical specifications, and related services (including testing and certification services)** in ~~duly~~ recognized international standards bodies **and industry consortia** (e.g., IEEE—Institute of Electrical and Electronics Engineers; IETF—Internet Engineering Task Force; ISO—International Organization for Standards; ITU—International Telecommunications Union; ETSI—European Telecommunications Standards Institute; 3GPP—3rd Generation Partnership Project; TTA—Telecommunications Industry Association; GSMA, a.k.a., GSM Association, Global System for Mobile Communications).