

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of	)	
	)	
Improving Customer Service and Protecting Consumers Through Onshoring	)	CG Docket No. 26-52
	)	
Advanced Methods to Target and Eliminate Unlawful Robocalls	)	CG Docket No. 17-59
	)	
Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991	)	CG Docket No. 02-278
	)	
Empowering Broadband Consumers Through Transparency	)	CG Docket No. 22-2

**REPLY COMMENTS OF THE U.S. CHAMBER OF COMMERCE, MICHIGAN
CHAMBER OF COMMERCE, GEORGIA CHAMBER OF COMMERCE, KENTUCKY
CHAMBER OF COMMERCE, BUSINESS COUNCIL OF NEW YORK STATE, INC.,
AND PENNSYLVANIA CHAMBER OF BUSINESS AND INDUSTRY**

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I. INTRODUCTION AND SUMMARY

The record before the Commission confirms that the proposed onshoring regulations are misguided as a matter of policy and beyond the Commission’s lawful authority. The opening comments overwhelmingly oppose the proposed onshoring rules. Several commenters—including the Chamber—explain in detail why the Commission lacks authority to issue the proposed regulations, while not a single comment offers a meaningful defense of the Commission’s statutory authority to issue the proposed regulations.¹ That should be dispositive: the *Notice* proposed a dozen potential sources of statutory authority, and no supportive commenter is willing to defend a single one.

¹ This reply comment, like the earlier opening comment, is from a coalition of organizations including the United States Chamber of Commerce and five state organizations with similar missions to the U.S. Chamber’s. We refer to these comments as coming from “the Chamber” for short.

Perhaps the closest to a statutory-authority defense is a comment by America First Legal, which suggests that the Commission has authority to issue the proposed regulations because they implicate national security. But even accepting the dubious characterization of these regulations as implicating “national security,” abstract concerns about national security cannot and do not give the Commission authority it otherwise lacks, as the Chamber’s opening comment explains.

If anything, the fact that the wide array of commenters focus on policy arguments rather than statutory ones confirms that the proposed onshoring regulations cannot be squared with the major-questions doctrine. After all, a “decision of such magnitude and consequence on a matter of earnest and profound debate across the country must rest with Congress itself, or an agency acting pursuant to a clear delegation from that representative body.”²

Finally, as other commenters have noted, the proposed regulations would both unconstitutionally forbid and unconstitutionally compel speech—or at least would generate serious constitutional questions sufficient to trigger the canon of constitutional avoidance.³

II. THE RECORD CONFIRMS THE COMMISSION’S LACK OF AUTHORITY TO ISSUE THE PROPOSED REGULATIONS

A. The record fails to explain how any of the Commission’s cited authorities authorize the Commission’s proposed regulations.

Several commenters (including the Chamber) have explained that the Commission lacks the statutory authority to implement its proposed rules—including by walking through the *Notice*’s suggested authorities and showing why each one is wanting.⁴ By contrast, no commenter has

² *Biden v. Nebraska*, 600 U.S. 477, 504 (2023) (alteration adopted and internal quotation marks omitted).

³ *See, e.g.*, Comments of CTIA at 43-45; Comments of NCTA at 21-23.

⁴ *See, e.g.*, Comments of the U.S. Chamber of Commerce, et al., at 6-25; Comments of CTIA at 27-41; Comments of NCTA – The Internet & Television Association at 4-17; Comments of USTelecom – The Broadband Association at 17-24; Joint Comments of INCOMPAS and the

provided a serious defense of the Commission’s statutory authority to issue onshoring rules. Nobody has expanded on the Commission’s flawed overreading of Section 201(b) in *Ohio Telecom Association v. FCC*;⁵ nobody has volunteered to defend a massive expansion of the TCPA to inbound customer-service calls; nobody has come up with a creative construction of the grab bag of other provisions in the *Notice*.

The principal defense of the Commission’s proposed onshoring regulations comes from America First Legal.⁶ Although America First Legal defends the Commission’s policy, it offers no analysis of why the Commission’s implementing statutes authorize its proposed regulations.⁷ Meanwhile, various accessibility organizations urge the Commission to take specific actions regulating call centers to improve the customer experience of individuals with disabilities. In so doing, they argue that *other* statutory provisions besides the ones cited by the Commission in the *Notice* support these rules, but they never explain how any of the provisions cited by the Commission could support the Commission’s contemplated onshoring rules.⁸ To be sure, the

Cloud Communications Alliance at 3-19; Comments of Competitive Carriers Association at 4-10; Comments of America’s Communications Association at 6-9; Comments of the Ad Hoc Telecom Users Committee at 2-9; Comments of ACA International at 3-11; Comments of the Voice on the Net Coalition at 3-6.

⁵ 150 F.4th 694 (6th Cir. 2025).

⁶ See generally Comments of America First Legal. The National Association of Consumer Advocates filed a comment in support of the *Notice*’s bond requirement but took no position on the substantive onshoring regulations. See generally Comments of the National Association of Consumer Advocates. Other comments are broadly supportive of some of the Commission’s policy objectives but propose alternative approaches to prescriptive onshoring regulations. See, e.g., Comments of The Global Clarity Foundation at 1, 7-8 (expressing support for “the Commission’s consumer protection objectives” but explaining opposition to onshoring mandates).

⁷ See generally Comments of America First Legal.

⁸ Comments of The Accessibility Organizations at 14-16. In passing, the Organizations say that “various other Commission rules and federal law governing or concerning the scope of this proceeding” support their proposed rules, *id.* at 16, but they do not say which ones or why. Similarly, Contact Center Compliance says that it “agrees with [the Commission’s] authority” but

Chamber agrees that accessibility in customer service is important. But any additional accessibility measures should be considered through a properly focused proceeding tied to the Commission’s disability-access authority—not used to justify onshoring mandates the Communications Act does not authorize.

The absence of any real argument in support of the Commission’s statutory authority to issue the onshoring mandates “can be likened to the dog that did not bark.”⁹ No commenter offered a meaningful defense of the Commission’s authority to issue the proposed onshoring mandates because no plausible defense exists.

B. The Commission cannot rely on national security to fill the statutory gaps in its proposal.

The closest any commenter comes to a statutory defense of the proposed onshoring rules is a generalized appeal to national security. Seizing on the Commission’s suggestion in the *Notice*,¹⁰ America First Legal argues that the proposed rules would “protect[] national security” by reducing foreign-adversary access to Americans’ data and cites the Communications Act’s general reference to “national defense.”¹¹ But a congressional statement of policy is not a delegation of unchecked substantive regulatory authority.

The Chamber explained this point in its opening comments—and other commenters did the same.¹² Although the preamble of the Communications Act lists “the purpose of the national

does not explain how any of the Commission’s cited provisions support the proposed rules. Comments of Contact Center Compliance at 2.

⁹ *Chisom v. Roemer*, 501 U.S. 380, 395 n.23 (1991) (citing A. Doyle, *Silver Blaze*, in *The Complete Sherlock Holmes* 335 (1927)).

¹⁰ See *Notice* ¶¶ 2, 13, 21, 54-55, 95.

¹¹ Comment of America First Legal Foundation at 3-4.

¹² See, e.g., Comments of INCOMPAS and CCA at 16; Comments of CTIA at 40.

defense” among Congress’s reasons for creating the Commission,¹³ it is well established that “statements of purpose ... by their nature cannot override [a statute’s] operative language.”¹⁴ The Supreme Court has made clear that “no legislation pursues its purposes at all costs”¹⁵—so an agency cannot use statutory purpose to displace the limits Congress imposed in the statute’s operative provisions. That principle controls here. The Commission may not convert the preamble’s general statement of purpose into a roving national-security mandate over call-center location, staffing, routing, and foreign-contracting practices.

Nor can the Commission rely on the fact that *other* federal actors have addressed national-security risks in adjacent data-security contexts. If anything, the fact that Congress may have granted other agencies more precise statutory authority underscores that the Commission lacks a comparable authority here. For example, America First Legal points to the Department of Justice’s Data Security Program.¹⁶ But DOJ acted under a different legal framework: Executive Order 14117, which specifically directed the Attorney General to issue regulations restricting certain data transactions and was issued under the International Emergency Economic Powers Act, the National Emergencies Act, and 3 U.S.C. § 301.¹⁷ The Chamber takes no position on the lawfulness of DOJ’s Data Security Program, which must be evaluated on its own terms for compliance with the statutory scheme at issue there. But either way, the point remains that the FCC has identified no comparable Communications Act provision authorizing it to impose the onshoring rules

¹³ 47 U.S.C. § 151.

¹⁴ *Sturgeon v. Frost*, 587 U.S. 28, 57 (2019) (alteration in original); *see* Comments of the Chamber of Commerce at 30.

¹⁵ *Rodriguez v. United States*, 480 U.S. 522, 525-526 (1987) (per curiam).

¹⁶ Comments of America First Legal at 3-4.

¹⁷ *See Preventing Access to U.S. Sensitive Personal Data and Government-Related Data by Countries of Concern or Covered Persons*, 90 Fed. Reg. 1636, 1636-1637 (Jan. 8, 2025).

proposed here. Because “agencies are creatures of statute,”¹⁸ the relevant question is whether the Commission—and only the Commission—can identify a statutory provision authorizing these particular rules. It cannot borrow authority from other agencies or infer its own authority from the Executive Branch’s broader national-security capabilities.

To be clear, the Commission has important—albeit limited—national-security responsibilities where Congress has assigned them. In particular, “[a]ssessing security risks to telecom networks falls in the FCC’s wheelhouse.”¹⁹ For example, Congress has directed the Commission to maintain a list of communications equipment that poses an unacceptable national-security risk. And the Commission has relied on that specific statutory framework—together with its equipment-authorization rules—to bar authorization of covered equipment.²⁰ But those responsibilities do not authorize the Commission to pursue broad national-security goals by any regulatory means it chooses. To the contrary, “[t]he FCC deals with national communications, not foreign relations.”²¹ “It is not the Department of Defense, or the National Security Agency, or the President,”²² and it may not act as “‘a sort of junior-varsity [State Department].’”²³ The question in this proceeding is not whether data security and foreign-adversary risks matter; they do. The question is whether Congress authorized the FCC to address those risks by mandating onshoring, restricting foreign call-center operations, and regulating workforce characteristics. Nothing in the

¹⁸ *NFIB v. OSHA*, 595 U.S. 109, 117 (2022).

¹⁹ *Huawei Techs. USA, Inc. v. FCC*, 2 F.4th 421, 427 (5th Cir. 2021).

²⁰ See 47 U.S.C. §§ 1601, 1608; *Protecting Against National Security Threats to the Communications Supply Chain Through the Equipment Authorization Program*, 88 Fed. Reg. 7592, 7592 (Feb. 6, 2023).

²¹ *Huawei Techs. USA*, 2 F.4th at 427.

²² *Id.*

²³ *Id.* (quoting *Mistretta v. United States*, 488 U.S. 361, 427 (1989) (Scalia, J., dissenting)).

Act supplies that authority. National security therefore cannot fill the statutory gaps in the *Notice*'s proposal.

C. The record reinforces that the proposed regulations would trigger the major-questions doctrine.

Several comments underscore the breadth of the Commission's proposed rules. CTIA explains that a 70% onshore-call requirement could cost wireless providers more than \$6.3 billion over three years, and more than \$1.8 billion annually thereafter.²⁴ The proposed regulations would thus "radically reorder customer service operations across multiple industries with far-reaching effects on the national economy."²⁵ The Ad Hoc Telecom Users Committee explains that the Commission's Section 251(e) theory would subject "virtually every American business" using a telephone number to FCC regulation, which would affect a substantial portion of the American economy.²⁶ And America First Legal's comment demonstrates the passionate policy disagreements about onshoring.²⁷ These are only a few examples, but they are not outliers. The overwhelming message from the comments—particularly the comments submitted by organizations that are best positioned to assess the impacts of the proposed rules—is that (1) the proposed rules would have a dramatic effect across the economy, and (2) any legal theory justifying these rules would make the Commission the overseer of vast areas well beyond its historic mandate.

These comments reinforce the ways in which the proposed onshoring regulations trigger, and would fail under, the major-questions doctrine. Regulations that would affect virtually every

²⁴ Comments of CTIA at 15.

²⁵ *Id.* at 28.

²⁶ Comments of the Ad Hoc Telecom Users Committee at 5-6.

²⁷ *See* Comments of America First Legal at 2-4.

American industry and impose billions of dollars in costs present questions of “vast economic and political significance.”²⁸ And any theory of the Commission’s authority that gives it plenary power to regulate labor policy—whether of some subset of companies or of some broader portion of the economy—would give the Commission a “newfound power” and “breathtaking amount of authority” that it has never exercised before.²⁹ In short, the *Notice*’s onshoring regulations would be the exact kind of agency overreach that the major-questions doctrine is designed to prevent: a novel assertion of sweeping authority based on (at most) vaguely worded statutory mandates.

III. CONCLUSION

Based on the overwhelming record, we respectfully urge the Commission to refrain from pursuing the regulations proposed in the *Notice*. We would like to thank the Commission for considering these comments. If you have any questions, please do not hesitate to contact jcrenshaw@uschamber.com.

²⁸ *West Virginia v. EPA*, 597 U.S. 697, 716, 721 (2022) (internal quotation marks omitted).

²⁹ *Id.* at 724; *Alabama Ass’n of Realtors v. Dep’t of Health & Hum. Servs.*, 594 U.S. 758, 764 (2021) (per curiam).

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