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**CLIENTS & FRIENDS ALERT<sup>1</sup>**

**Foreign Investment in U.S. Wireless Infrastructure under the U.S. Administration**

This alert accompanies the author's presentation delivered May 11, 2025, at the Center for International Legal Studies (CILS) Conference, Vienna, Austria.<sup>2</sup> As the forum's participants included European based experts in international arbitration and mediation, the presentation was largely focused on European investment in U.S. wireless infrastructure.<sup>3</sup>

**I. Executive Summary.**

With the surging expansion of artificial intelligence (AI), internet of things (IOT) and similar technologies in the U.S. comes increasing demand for wireless spectrum, fiber, and data centers. All attractive investment opportunities - but they come with foreign entry barriers. Some are familiar, "traditional" ones such as spectrum ownership limits and carrier control transfer regulation. More recent ones are enhanced Congressional and regulatory scrutiny of access to critical national infrastructure by unfriendly countries.

There is also an accompanying "mood change" in U.S. foreign policy. The second Trump administration ("Trump 2.0"), at a dizzying fast pace, has introduced disruptive tariffs and other changes to U.S. traditional relationships with long-standing allies, while escalating its official distrust of foreign adversaries, notably the Peoples Republic of China. The tariff changes, apparently intended to reduce U.S. trade deficits, are part of an "America first" shift toward

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<sup>1</sup> While accurate to the best of our knowledge, this alert is for tutorial purposes only, not a legal opinion and is not to be treated as legal advice. Please contact us if you have any questions regarding this disclaimer.

<sup>2</sup> <https://cils.org/conference.php?Start=2025-05-09&Title=5th%20Biennial%20International%20Mediation%20Symposium> It was the author's privilege to speak at this conference. The power point is available at <C:\Users\Walt Sapronov\OneDrive - Sapronov & Associates, P.C\Laptop\Desktop\European Investment US Wireless Trump Administration 5.8.25.final.pdf>

<sup>3</sup> Citations to authorities cited in this alert are largely omitted but are available either upon request or more generally at [https://wstelecomlaw.com/wp-content/uploads/2024/06/Brochure-Foreign-Investment-in-Wireless-Infrastructure-July-2020\\_m-1.pdf](https://wstelecomlaw.com/wp-content/uploads/2024/06/Brochure-Foreign-Investment-in-Wireless-Infrastructure-July-2020_m-1.pdf)

supporting U.S. based (rather than foreign) manufacturers and infrastructure developers. Notably, the administration - with Congressional support - has emphasized the role of telecommunications networks as a matter of national security, emphasizing the need to identify and deny foreign adversaries access to these networks.

The tariffs and national security measures create uncertainty for foreign investors and vendors alike, both long accustomed to relatively easy access to U.S. telecommunications supply chain and markets opportunities. While European investors in U.S. wireless infrastructure enjoy relatively favorable treatment in comparison to entrants from “unfriendly” nations, they too must factor in entry hurdles. As discussed below, “know your customer” (KYC) and sanctions diligence are a must, and some wireless infrastructure segments present easier investment opportunities than others.

## **II. Opportunities.**

The template for wireless infrastructure investment is evidenced by the acquisitions of the three largest U.S. carriers of fiber, especially to the home, the most recent being Verizon’s acquisition of Frontier Communications. In layman’s terms, the demand for AI will require massive amounts of storage and bandwidth. When delivered over 5G (or 6G), the frequencies will be very high on the electromagnetic spectrum but with low amplitude – meaning transmissions will occur over short distances. These signals must be repeated and the content stored in data centers. This implies increased demand for spectrum, data centers, and cell sites (towers).

There are “roll up” opportunities involving serial acquisitions of small (typically) rural carriers with fiber-to-the-home. There are also “pure play” providers of fiber, both “lit” and “dark” (with and without electronics, respectively). Increased demand for towers creates acquisition opportunities, with an “exit” sale to large tower companies such as Crown Castle. Data centers will continue to grow in demand as AI-driven storage needs increase. These are, in essence, commercial real estate plays

But as discussed below, there are varying degrees of entry barriers to foreign investors (including European ones) seeking access to these markets.

## **III. Entry Barriers.**

### **1. Regulatory.**

Telecommunications control transfer and spectrum ownership limits date back to World War II and to the enactment of the Communications Act of 1934 (the “Act”), enacted as part of the New Deal. Modeled on the Interstate Commerce Act, the legislation, included entry and control transfer approval (“Section 214”)<sup>4</sup> on communications providers, now regulated as interstate common carriers by the newly created Federal Communications Commission (FCC).<sup>5</sup>

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<sup>4</sup> 47 U.S.C. § 214 (2018)

<sup>5</sup> See generally, A LEGISLATIVE HISTORY OF THE COMMUNICATIONS ACT OF 1934 (M. Paglin ed., 1989)

The Act imposed entry, rate, and other common carrier regulations (Title II”)<sup>6</sup> and included a separate “Title III” devoted exclusively to radio communications, giving the FCC plenary jurisdiction over radio wave (spectrum) allocation, licensing and control transfers.

Title III also limits foreign ownership over direct license ownership (20 %) and indirect foreign ownership (25 %), the latter subject to upward adjustment if found to be in the public interest.<sup>7</sup> There was no legislative precedent for Title III in the Interstate Commerce Act. They were enacted to bar “alien” ownership of U.S. radio waves by Axis Powers in WWII.

Later, the 1996 amendments to the Act, determined that certain commercial mobile radio service (CMRS) providers – *e.g.*, AT&T, Verizon, and T-Mobile - were also “telecommunications carriers”, thus subjecting them to Title II and Title III (Sections 214 and Section 310(a)(d)) control transfer reviews. While simple acquisitions or pro-forma equity transfers often receive streamlined FCC review, transactions involving foreign entities almost always trigger “Team Telecom” review –an extended process involving multiple federal agencies.<sup>8</sup>

Thus, while the current administration and Republican-controlled FCC have made outspoken initiatives to lessen or “delete” burdensome telecommunications regulation,<sup>9</sup> foreign ownership constraints are unlikely to be eliminated.

## 2. Legislative.

In addition to regulatory constraints, long-standing legislative entry barriers to foreign ownership of critical U.S. assets include CFIUS, FIRRMA, and the Corporate Transparency Act (CTA).<sup>10</sup> Congress is also expected to soon pass the Foreign Adversary Communications Transparency Act (H.R. 906) – currently pending in the U.S. Senate. This would require the FCC to identify and report foreign adversary ownership stakes in telecom networks. Accordingly, foreign investment in U.S. wireless infrastructure – particularly from geopolitical competitors like China - is likely to face heightened scrutiny.

## 3. U.S. Trade Policies.

Perhaps most confusing are the new tariffs that the President Trump intends to assess on allies and adversaries alike. These tariffs could affect both international trade relations and foreign investment strategies in the U.S. technology and telecommunications sectors. Ironically, the

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<sup>6</sup> 47 U.S.C. §§ 201–276

<sup>7</sup> 47 U.S.C. § 310 (b)(3)(4).

<sup>8</sup> For details on these and other barrier to foreign ownership, please see “Negotiable Hostilities Part II, Telecom Deals with Foreign Investors in the Current Administration: <https://wstelecomlaw.com/wp-content/uploads/2023/08/Attachment-B-Negotiable-Hostilities-Part-II-Power-Point.pdf>

<sup>9</sup> The FCC has sought comment as to which of its myriad regulations should be “deleted.” <https://www.fcc.gov/document/fcc-opens-re-delete-delete-delete-docket>

<sup>10</sup> On the confusingly changing rules of the CTA, please see our alert, “The Corporate Transparency Act – At War with Itself”. [https://www.linkedin.com/posts/walt-sapronov-4909021-the-corporate-transparency-act-cta-at-activity-7312908789760819201-Gvx8/?utm\\_source=share&utm\\_medium=member\\_desktop&rcm=ACoAAABPzCwBX\\_RaB4qxJ2-FuWeVgY6yb8hhkX4](https://www.linkedin.com/posts/walt-sapronov-4909021-the-corporate-transparency-act-cta-at-activity-7312908789760819201-Gvx8/?utm_source=share&utm_medium=member_desktop&rcm=ACoAAABPzCwBX_RaB4qxJ2-FuWeVgY6yb8hhkX4)

One perfectly clear rule of the CTA, however, is that unless otherwise exempt, foreign investors in U.S. infrastructure will have to comply with it.

administration is also actively encouraging domestic and allied investments in U.S. technology infrastructure. Notable examples include Taiwanese chip manufacturer TSMC and Softbank, each announcing \$100 billion investments in U.S. technology projects. Even so, the mere anticipation of tariffs has already caused Ericsson (Sweden) to miss profit estimates and warn of serious impacts to future results.

#### **IV. Investment Opportunities with Lighter Entry Barriers.**

While foreign investment in spectrum – even from “friendly” European ones – faces statutory limits and review hurdles under Title III and Section 214, fiber and data center investments by European investors face far fewer restrictions.

Fiber assets not owned or controlled by telecom carriers (*e.g.*, dark fiber) are not subject to Title II or Title III because they are not a “communication by wire or radio.”<sup>11</sup> Though some state or municipal rules may apply, there are no express federal foreign ownership caps for such assets.

Data center investments are essentially commercial real estate transactions, largely free from federal telecom regulation. The same is true for investments in cell tower, subject only to zoning and property-related limitations.

One caveat. Infrastructure investments must consider applicable environmental law enforced by the Environmental Protection Agency (EPA) and state environmental agencies.<sup>12</sup>

Wireless equipment transactions are generally governed by the Uniform Commercial Code (UCC) or international sale of goods law, not FCC rules. Still foreign suppliers and investors should scrutinize foreign equipment imports carefully, especially to avoid importation of restricted components from China.

Finally, national security concerns are ever present. Encouragingly, recent CFIUS initiatives suggest an effort to ease approval easier for European and other U.S. friendly investors.<sup>13</sup>

#### **V. Conclusion and Takeaways.**

European investors in U.S. wireless infrastructure, while enjoying a more favorable status than entities from geopolitical rivals, still face substantial diligence and procedural requirements, especially where spectrum or licensed telecom assets are involved. However, infrastructure segments like fiber, data centers, and towers present substantially fewer regulatory hurdles and other entry barriers. As AI and IoT technologies continue to stimulate demand in such infrastructure, it continues to be an attractive investment target.

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<sup>11</sup>47 USC U.S.C. § 151 (2018).

<sup>12</sup> A discussion of environmental laws is beyond the scope of this alert.

<sup>13</sup> See J.K. Wholey, *U.S. Treasury Moves Ahead with CFIUS ‘Fast-Track’ Process* (May 14, 2025), <https://phillipslytle.com/u-s-treasury-moves-ahead-with-cfius-fast-track-process/>.

This alert is a very brief sketch of what investors should anticipate when pursuing such investments in the U.S. Proper planning, local regulatory counsel, and risk mitigation (including sanctions and CFIUS diligence) are not just advisable — they are essential. Please contact us if you wish additional information at [info@wstelecomlaw.com](mailto:info@wstelecomlaw.com) or by phone at +1 770 309-0462.