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TO: The ATIS Membership, Individual Members of 3GPP and oneM2M
FROM: Tom Goode, General Counsel, ATIS
DATE: September 5, 2019
SUBJECT: Impact of Recent Changes to US Export Regulations

The US Department of Commerce, Bureau of Industry and Security (BIS) issued a General Advisory Opinion on August 19, 2019 (the "Advisory Opinion") regarding "the disclosure of technology or software subject to the Export Administration Regulations (EAR) between and among members of standards setting or development groups or bodies." A copy of the Advisory Opinion is available at <https://www.bis.doc.gov/index.php/documents/advisory-opinions/2437-general-advisory-opinion-concerning-prohibited-activities-in-the-standards-setting-or-development-context-when-a-listed-entity-is-involved/file>. The Advisory Opinion clarifies that technology or software disclosed or released during standards development activities that is "not made available to the public without restrictions upon its further dissemination (i.e., non-public exchanges or disclosures)," may be subject to the EAR.

Certain ATIS materials are not subject to the EAR because they are available to the public without restriction upon their further dissemination. These include final ATIS Deliverables – i.e., ATIS developed Standards, Technical Requirements, Technical Specifications, Technical Reports, industry guidelines, and white papers. Also, even though as a general rule ATIS and its Forums do not accept or consider contributions, presentations, or other documentation that are subject to any confidentiality restrictions, even non-confidential information that is disclosed in the course of ATIS technical activities may not be available to the public. For example, technical information provided in the course of technical discussions in and related to ATIS Forums, Subgroups (Subtending Committees or Subcommittees), or Task Forces is available only to the participants in those groups and not made available to the public. It therefore may be subject to the EAR even if it is not subject to confidentiality restrictions.

Participants in ATIS technical activities are responsible for ensuring that they do not disclose non-public information subject to the EAR to representatives of companies subject to export restrictions under the EAR. These companies are included in the Entity List that was published on May 21, 2019, and amended on August 21, 2019. The current Entity List can be found at <https://www.bis.doc.gov/index.php/documents/regulations-docs/2326-supplement-no-4-to-part-744-entity-list-4/file>.

ATIS Member Companies with questions regarding the impact of the EAR or other laws and regulations on their participation in ATIS should contact their companies' legal counsel.