

To the Office of Engineering and Technology:

***Re: Request for confidential treatment for information within Experimental License Application, File No. 0565-EX-CN-2017***

Ericsson respectfully requests that, pursuant to Sections 0.457 and 0.459 of the Commission's rules, 47 C.F.R. §§ 0.457 and 0.459, the Commission withhold from public inspection and accord confidential treatment to objectives and testing details from our application exhibit in File Number 0565-EX-CN-2017. This information qualifies as trade secrets and commercial information that falls within Exemption 4 of the Freedom of Information Act ("FOIA").<sup>1</sup>

Exemption 4 of FOIA provides that the public disclosure requirement of the statute "does not apply to matters that are . . . (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential."<sup>2</sup> Ericsson is providing the trade secrets and commercial information "of a kind that would not customarily be released to the public" because such disclosure is necessary to obtain an experimental license. Therefore, this information is "confidential" under Exemption 4 of FOIA.<sup>3</sup> Moreover, Ericsson would suffer substantial competitive harm if the identified information in our research program were disclosed.<sup>4</sup>

In support of this request and pursuant to Section 0.459(b) of the Commission's rules,<sup>5</sup> Ericsson hereby states as follows:

**1. IDENTIFICATION OF THE SPECIFIC INFORMATION FOR WHICH CONFIDENTIAL TREATMENT IS SOUGHT<sup>6</sup>**

Ericsson seeks confidential treatment of the objectives and testing details, which are contained in the Exhibit to the application. We have provided a public version of the Exhibit in which we have redacted this information.

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<sup>1</sup> 5 U.S.C. § 552(b)(4).

<sup>2</sup> *Id.*

<sup>3</sup> *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992).

<sup>4</sup> *See National Parks and Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974).

<sup>5</sup> 47 C.F.R. § 0.459(b).

<sup>6</sup> 47 C.F.R. § 0.459(b)(1).



**2. DESCRIPTION OF CIRCUMSTANCES GIVING RISE TO THE SUBMISSION<sup>7</sup>**

Ericsson is submitting an application for authorization for an experimental license.

**3. EXPLANATION OF THE DEGREE TO WHICH THE INFORMATION IS COMMERCIAL OR FINANCIAL, OR CONTAINS A TRADE SECRET OR IS PRIVILEGED<sup>8</sup>**

The information for which Ericsson seeks confidential treatment contains sensitive trade secrets and commercial information “which would customarily be guarded from competitors.”<sup>9</sup> Ericsson has invested finances, planning and expertise into developing the “secret commercially valuable plan” that is the program of research this testing in part of, and we will use this testing to develop more products. The testing details and objectives would reveal strategic business information that is part of this plan and that is not information we would disclose except for the need to obtain the experimental license.

**4. EXPLANATION OF THE DEGREE TO WHICH THE INFORMATION CONCERNS A SERVICE THAT IS SUBJECT TO COMPETITION<sup>10</sup>**

Advancing mobile technology is the core of Ericsson’s business and we face intense competition both domestically and internationally to develop the best products at the best prices.

**5. EXPLANATION OF HOW DISCLOSURE OF THE INFORMATION COULD RESULT IN SUBSTANTIAL COMPETITIVE HARM<sup>11</sup>**

The release of the objectives and testing details could result in competitive harm to Ericsson to the extent it became available to competitors. Disclosing the information would enable competitors to undermine Ericsson’s business strategy and to disrupt our relationships with existing and potential customers. It would unjustly benefit our competitors to gain this insight into our testing.

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<sup>7</sup> 47 C.F.R. § 0.459(b)(2).

<sup>8</sup> 47 C.F.R. § 0.459(b)(3).

<sup>9</sup> 47 C.F.R. § 0.457.

<sup>10</sup> 47 C.F.R. § 0.459(b)(4).

<sup>11</sup> 47 C.F.R. § 0.459(b)(5).



**6. IDENTIFICATION OF ANY MEASURES TAKEN BY THE SUBMITTING PARTY TO PREVENT UNAUTHORIZED DISCLOSURE<sup>12</sup>**

The information has been disclosed only to Ericsson personnel, and as needed, with strategic partners for joint research, with the agreement of confidentiality. We have provided a redacted narrative to the application to keep the information confidential.

**7. IDENTIFICATION OF WHETHER THE INFORMATION IS AVAILABLE TO THE PUBLIC AND THE EXTENT OF ANY PREVIOUS DISCLOSURE OF THE INFORMATION TO THIRD PARTIES<sup>13</sup>**

The information is not available to the public, and has only been discussed with strategic partners in a confidential setting aimed at meeting customer needs. Such discussions are the only disclosures that have been made outside of Ericsson. Accordingly, Ericsson requests that the Commission accord the information covered by this Request for Confidential Treatment under Sections 0.457 and 0.459 of the Commission's rules.

**8. JUSTIFICATION OF THE PERIOD DURING WHICH THE SUBMITTING PARTY ASSERTS THAT MATERIAL SHOULD NOT BE AVAILABLE FOR PUBLIC DISCLOSURE<sup>14</sup>**

Ericsson requests that the requested information be treated as confidential for a period of 5 years. We request this time period so that competitors cannot benefit from our research. By the end of 5 years, research should have developed to an extent where disclosing this information to the public would not be a competitive risk.

**9. OTHER INFORMATION THAT ERICSSON BELIEVES MAY BE USEFUL IN ASSESSING WHETHER ITS REQUEST FOR CONFIDENTIALITY SHOULD BE GRANTED<sup>15</sup>**

Granting this request for confidentiality is consistent with a policy of supporting innovation and the investment necessary to conduct research.

Respectfully submitted,

/s/ Kelley A Shields

Kelley A. Shields  
Director, Government Affairs and Public Policy

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<sup>12</sup> 47 C.F.R. § 0.459(b)(6).

<sup>13</sup> 47 C.F.R. § 0.459(b)(7).

<sup>14</sup> 47 C.F.R. § 0.459(b)(8).

<sup>15</sup> 47 C.F.R. § 0.459(b)(9).