

To the Office of Engineering and Technology:

***Re: Request for confidential treatment for information within STA Application,
File. No. 0134-EX-ST-2016***

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 the antenna parameters and waveform information from the Exhibit to our STA application, File Number 0134-EX-ST-2016. This information qualifies as trade secrets and commercial information that falls within Exemption 4 of the Freedom of Information Act ("FOIA").¹ It is not necessary to provide this information to the public for purposes of interference mitigation as the application seeks authorization to operate on government spectrum and NTIA and affected government users will conduct their own review of the full unredacted application. Ericsson has previously requested, and been granted, confidential treatment for this same information from the Commission in several experimental license and STA applications.²

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."³ 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 STA. Therefore, this information is "confidential" under Exemption 4 of FOIA.⁴ Moreover, Ericsson would suffer substantial competitive harm if the antenna and waveform portion of our research program were disclosed.⁵

In support of this request and pursuant to Section 0.459(b) of the Commission's rules,⁶ Ericsson hereby states as follows:

¹ 5 U.S.C. § 552(b)(4).

² See, e.g., File Number 0765-EX-PL-2014 (application to conduct a 5G testbed); File No. 0806-EX-ST-2015 (application to demo 5G at Verizon 5G Forum); File No. 0808-EX-ST-2015 (application to demo 5G at CTIA show); File No. 1253-EX-ST-2015 (application to demo 5G at CES).

³ *Id.*

⁴ See *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992).

⁵ See *National Parks and Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974).

⁶ 47 C.F.R. § 0.459(b).



1. IDENTIFICATION OF THE SPECIFIC INFORMATION FOR WHICH CONFIDENTIAL TREATMENT IS SOUGHT⁷

Ericsson seeks confidential treatment of the antenna parameters and waveform information for the STA, which is contained in the Exhibit. We have provided a public version of the Exhibit in which we have redacted this information.

2. DESCRIPTION OF CIRCUMSTANCES GIVING RISE TO THE SUBMISSION⁸

Ericsson is submitting an application for authorization for an STA to conduct an exhibition for the FCC at its March 10 5G Workshop. While there is obviously a public component to the demo, this specific information is not publicly known nor will it be publicly disclosed.

3. EXPLANATION OF THE DEGREE TO WHICH THE INFORMATION IS COMMERCIAL OR FINANCIAL, OR CONTAINS A TRADE SECRET OR IS PRIVILEGED⁹

The information for which Ericsson seeks confidential treatment contains sensitive trade secrets and commercial information “which would customarily be guarded from competitors.”¹⁰ Ericsson has invested finances, planning and expertise into developing this “secret commercially valuable plan” that is the program of research into 5G, and we were previously granted confidential treatment for the information when we applied for an experimental license for that program of research. Ericsson will use this research to develop 5G products. The antenna parameters and waveform information are a key, core part of our 5G research it is not information we would disclose outside of Ericsson except for the need to obtain the STA.

4. EXPLANATION OF THE DEGREE TO WHICH THE INFORMATION CONCERNS A SERVICE THAT IS SUBJECT TO COMPETITION¹¹

Developing network products is the core of Ericsson’s business and 5G is the next generation of network technology, which is still in the research and development stage. Ericsson faces competition in the US and globally to develop the best 5G products.

⁷ 47 C.F.R. § 0.459(b)(1).

⁸ 47 C.F.R. § 0.459(b)(2).

⁹ 47 C.F.R. § 0.459(b)(3).

¹⁰ 47 C.F.R. § 0.457.

¹¹ 47 C.F.R. § 0.459(b)(4).



5. EXPLANATION OF HOW DISCLOSURE OF THE INFORMATION COULD RESULT IN SUBSTANTIAL COMPETITIVE HARM¹²

The release of the plan we are using to research and develop 5G products could result in competitive harm to Ericsson to the extent it became available to competitors. Disclosing the information would enable competitors to use and benefit from the investment Ericsson has made to develop the 5G program of research and to shortcut their own research processes. It would unjustly benefit our competitors to gain this insight into our research.

6. IDENTIFICATION OF ANY MEASURES TAKEN BY THE SUBMITTING PARTY TO PREVENT UNAUTHORIZED DISCLOSURE¹³

The information has been kept within Ericsson and disclosed only to personnel working on the program of 5G research, except as discussed in the next section. We have provided a redacted exhibit 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 PARTIES¹⁴

The information is not available to the public. As referenced above, this information has been previously disclosed to the FCC in applications for experimental licenses and for STAs. The information has also been disclosed to NTIA, as they reviewed the full unredacted applications because we requested authorization to operate on spectrum used by the government. The information has also been disclosed to certain operator customers under nondisclosure agreements as part of joint 5G research. No other disclosures have been made outside of Ericsson, and the FCC consistently has granted confidential treatment to this information when we have applied for experimental licenses and STAs. Accordingly, Ericsson requests that the Commission accord the information covered by this Request 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 DISCLOSURE¹⁵

Ericsson requests that the antenna and output power information be treated as confidential for a period of 4 years. (The Commission granted confidentiality to this information for 5 years in our previous experimental license application, File Number 0765-EX-PL-2014; granting 4 years here will keep the time periods aligned.). We request this time

¹² 47 C.F.R. § 0.459(b)(5).

¹³ 47 C.F.R. § 0.459(b)(6).

¹⁴ 47 C.F.R. § 0.459(b)(7).



period so that competitors cannot benefit from our research as the industry develops 5G technology. By the end of 4 years, research into 5G 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 GRANTED¹⁶

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
Director, Government Affairs and Public Policy

¹⁵ 47 C.F.R. § 0.459(b)(8).
¹⁶ 47 C.F.R. § 0.459(b)(9).