

10-27-2014

To the Office of Engineering and Technology:

Re: Request for confidential treatment for information within Experimental License Application, File No. 0765-EX-PL-2014

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 redacted information from our experimental license application and related exhibits, File Number 0765-EX-PL-2014, which includes the antenna parameters, waveform information, channel width and output power information. 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.

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."² 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 and conduct the program of research into developing 5G technology. Therefore, this information is "confidential" under Exemption 4 of FOIA.³ Moreover, Ericsson would suffer substantial competitive harm if the antenna information and output power settings of our research program were disclosed.⁴

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

¹ 5 U.S.C. § 552(b)(4).

² *Id.*

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

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

⁵ 47 C.F.R. § 0.459(b).



1. IDENTIFICATION OF THE SPECIFIC INFORMATION FOR WHICH CONFIDENTIAL TREATMENT IS SOUGHT⁶

Ericsson seeks confidential treatment of the antenna parameters, waveform information channel width and output power for the experiment, as contained in the exhibit portion of the application and redacted in the public version of the exhibit.

2. DESCRIPTION OF CIRCUMSTANCES GIVING RISE TO THE SUBMISSION⁷

Ericsson is submitting an application for authorization for an experimental radio license, to conduct research into 5G technology.

3. EXPLANATION OF THE DEGREE TO WHICH THE INFORMATION IS COMMERCIAL OR FINANCIAL, OR CONTAINS A TRADE SECRET OR IS PRIVILEGED⁸

The information for which Ericsson seeks confidential treatment contains sensitive trade secrets and commercial information “which would customarily be guarded from competitors.”⁹ Ericsson has invested finances, planning and expertise into developing this “secret commercially valuable plan” that is the program of research into 5G, and it will use this research to develop 5G products. The antenna parameters, waveform information, channel width and output power information are at the core of what and how we will research and it is not information we would disclose outside of Ericsson 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 COMPETITION¹⁰

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.

5. EXPLANATION OF HOW DISCLOSURE OF THE INFORMATION COULD RESULT IN SUBSTANTIAL COMPETITIVE HARM¹¹

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

⁶ 47 C.F.R. § 0.459(b)(1).

⁷ 47 C.F.R. § 0.459(b)(2).

⁸ 47 C.F.R. § 0.459(b)(3).

⁹ 47 C.F.R. § 0.457.

¹⁰ 47 C.F.R. § 0.459(b)(4).

¹¹ 47 C.F.R. § 0.459(b)(5).



made to develop the current 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 DISCLOSURE¹²

The information has been kept within Ericsson, disclosed only to personnel working on the experiment, except as discussed in the next section. 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 PARTIES¹³

The information is not available to the public. The draft application has been disclosed to one person at NTIA, which in addition to the FCC will review the full unredacted application because we are requesting authorization to operate on spectrum used by the government. The information was shared with the expectation that it would not be given to members of the public and for the purpose of understanding and addressing potential concerns government users may have about experiment in the application. This is the only disclosure that has been made outside of Ericsson. 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 DISCLOSURE¹⁴

Ericsson requests that the antenna and output power information be treated as confidential for a period of 5 years. We request this time period so that competitors cannot benefit from our research as the industry develops 5G technology. By the end of 5 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 GRANTED¹⁵

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

¹² 47 C.F.R. § 0.459(b)(6).

¹³ 47 C.F.R. § 0.459(b)(7).

¹⁴ 47 C.F.R. § 0.459(b)(8).

¹⁵ 47 C.F.R. § 0.459(b)(9).



Respectfully submitted,

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