

Congress of the United States
Washington, DC 20510

December 21, 2018

The Honorable David S. Johanson, Chairman
U.S. International Trade Commission
500 E Street, SW, Room 112-A
Washington, DC 20436

Re: *Certain Mobile Electronic Devices and Radio Frequency and Processing Components
Thereof*, Inv. No. 337-TA-1065

Dear Chairman Johanson and Commissioners:

As members of the Oregon congressional delegation, we appreciate the opportunity to respond to the Commission's Notice of the Commission Determination to Review in Part a Final Initial Determination Finding a Violation of Section 337; Schedule for Filing Written Submissions on the Issues Under Review and on Remedy, Public Interest, and Bonding; and Extension of Target Date, Investigation No. 337-TA-1065, In The Matter of Mobile Electronic Devices and Radio Frequency and the Processing Components Thereof. This investigation directly impacts Intel Corporation, an Oregon company, but more importantly gives rise to critical public interest issues. We support Administrative Law Judge Pender's determination regarding harms to public interest that would arise from an exclusion or cease and desist order.

Our comments do not address the merits of the patent issues at stake in this case. However, the Commission's determination whether to grant Qualcomm Incorporated's request for exclusion of Apple Inc.'s iPhones with baseband chipsets supplied by Intel raises important public interest implications. Under Section 337(d) of the Tariff Act of 1930, even if the Commission determines that there has been a violation of Section 337, that exclusion will not apply if the Commission finds it should not be excluded

after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers.

Appropriately, findings that an exclusion should not apply for these public interest reasons are rare. However, the unique circumstances in this case justify its application. We agree with Administrative Law Judge Pender's finding that the requested exclusionary order, which would exclude Apple products that contain Intel chip sets, and not products that contain Qualcomm chip sets, would result in only one premium baseband chip maker in the merchant market.

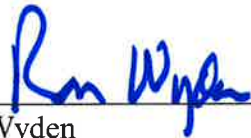
As the ALJ explained, an exclusion order that creates a monopoly market and eliminates competition in the premium chipset market will dampen the "quality, innovation, competitive pricing, and in this case, the preservation of a strong U.S. presence in the development of 5G and thus the national security of the United States." Competition is critically important for research-

intensive industries like baseband chipset development. Suppliers of critical technology components that are denied access to collaborative and iterative design processes with sophisticated digital device manufacturers can be placed at a significant disadvantage to competitors. Given the demonstrated facts of a very limited number of competitors in the premium baseband chipset market, government action taken to reduce the number of companies competing in that market would severely impact the competitive conditions in the United States, ultimately harm the American consumer, and would be clearly against the public interest.

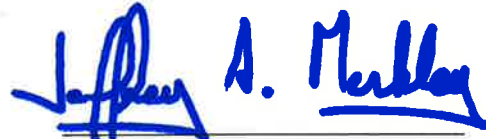
Additionally, diminished American research and development in the baseband chipset market impacts competitive conditions in a sector that has national security implications. In general, it is in the interest of the United States to support in-country research and development, and that interest is compounded in fields such as telecommunications where new innovations can directly lead to better communications security that benefit the public as a whole. A healthy and competitive global market driven by American companies will enable our companies to compete on security and privacy, in addition to other market drivers such as performance and cost, leading to a more secure communications infrastructure. We support and agree with ALJ Pender's determination that "5G is crucial to U.S. national security and competitiveness in the national economy and thus Intel's exit would harm the national interests of the United States."

We appreciate the opportunity to provide our views and your consideration of them.

Sincerely,



Ron Wyden
United States Senator



Jeffrey A. Merkley
United States Senator



Suzanne Bonamici
Member of Congress



Kurt Schrader
Member of Congress



Peter DeFazio
Member of Congress