

Statement on Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019

On August 13, 2018, the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (the “NDAA”) was signed into law. Section 889 of the NDAA restricts U.S. federal government agencies from, among other things, procuring or obtaining any equipment, system or service that uses telecommunications and video surveillance equipment from certain Chinese manufacturers as a substantial or essential component of any system, or as critical technology as part of any system (See §889(a)(1)(A)). Among the products expressly impacted by this restriction, which went into effect August 13, 2019, are video surveillance and communications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company and Dahua Technology Company (or any subsidiary or affiliate of such entities), when such equipment is used for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes.

Section 889 of the NDAA contains additional prohibitions that take effect on August 13, 2020, which restrict U.S. federal government agencies (1) from entering into or renewing any contract with any entity that uses any of the prohibited telecommunications or video surveillance equipment, systems or services as a substantial or essential component of any system, or as critical technology of any system (See §889(a)(1)(B)), or (2) from loaning or granting funds to procure or obtain (or to extend or renew a contract to procure or obtain) any of the equipment or services prohibited under Section 889 of the NDAA (See §889(b)). These additional provisions of Section 889 contain a number of important but ambiguous terms that will likely be defined as regulations are developed in advance of these restrictions taking effect on August 13, 2020.

On August 13, 2019: interim Federal Acquisition Regulation rules were published implementing the initial ban on purchases of the subject telecommunications and video surveillance equipment that took effect on that date. While we are still assessing the interim rules, and the overall impact of Section 889 of the NDAA, on the Tyco Video product line, we can provide the following guidance based on our current understanding of the statute:

The following Tyco Video products are not affected by Section 889 of the NDAA: the victor software product line, VideoEdge software and servers, exacqVision software, exacqVision network video recorders (except as noted below regarding the M-Series), Tyco Cloud solutions, as well as both the Illustra Pro and Flex range of IP cameras.

The following entry-level Tyco Video products are affected by Section 889 of the NDAA: all four models of Illustra Essentials entry-level IP cameras, American Dynamics HD Analog cameras, the 4 and 8 channel Holis and Holis HD entry level recorders and the exacqVision E-Series encoders (obsolete, not in catalog). While our customers are at liberty to install Tyco Video products in any application that they deem reasonably suitable, we do not believe that these products are generally appropriate for U.S. government and U.S. government-funded projects, regardless of the prohibitions in Section 889 of the NDAA. Notations have been made on the respective data sheets and website to highlight this status to any prospective purchaser.

We continue to monitor the regulatory situation to assess the impact of Section 889 of the NDAA on other Tyco Video products, including whether certain third-party components included in the exacqVision M-Series network video recorders are impacted.

As part of the Tyco Video products policy, our portfolio is constantly under review as we plan for the future to meet our vision and execute our strategy. While the regulations implementing Section 889 of the NDAA are being established, we will continue to monitor the situation and keep our customers updated.

Contact

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