

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of	)	
Encouraging the Provision of New	)	GN Docket No. 18-22
Technologies and Services to the Public	)	
	)	

**COMMENTS OF THE  
CONSUMER TECHNOLOGY ASSOCIATION**

The Consumer Technology Association (“CTA”)<sup>1</sup> respectfully submits these comments in response to the above-captioned Notice of Proposed Rulemaking (“*Notice*”) on proposed guidelines and procedures to implement Section 7 of the Communications Act of 1934, as amended. The *Notice* aims to ensure that new services and technologies that serve the public interest are made available to the public in a timely manner.<sup>2</sup>

**I. INTRODUCTION**

As developers and strong supporters of innovative and disruptive technologies, CTA’s members deeply appreciate the Commission’s many ongoing efforts to promote and facilitate deployment of new products and services. CTA applauds the Commission for commencing this proceeding to determine how best to fulfill the Congressional mandate to facilitate the

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<sup>1</sup> Consumer Technology Association (“CTA”)™ is the trade association representing the \$351 billion U.S. consumer technology industry, which supports more than 15 million U.S. jobs. More than 2,200 companies – 80 percent are small businesses and startups; others are among the world’s best known brands – enjoy the benefits of CTA membership including policy advocacy, market research, technical education, industry promotion, standards development and the fostering of business and strategic relationships. CTA also owns and produces CES® – the world’s gathering place for all who thrive on the business of consumer technologies. Profits from CES are reinvested into CTA’s industry services.

<sup>2</sup> *Encouraging the Provision of New Technologies and Services to the Public*, Notice of Proposed Rulemaking, FCC 18-18 (rel. Feb. 23, 2018) (“*Notice*”).

introduction of new technologies and services that would serve the public interest in a timely manner.<sup>3</sup> The consumer technology industry is rapidly introducing and improving technologies to enhance users' experiences and improve their daily lives. Whether through smart homes, wearables, access to telemedicine, or any number of other ways, 5G and the Internet of Things ("IoT") are already transforming Americans' lives and U.S. industries. Nowhere can these transformations be seen more readily than walking the CES show floor from one year to the next as innovators demonstrate devices and prototypes that were barely ideas the previous year. Keeping pace with innovative concepts, researchers are experimenting with new types of antennas, spectrum sharing techniques, and methods of harmonizing existing and on-the-horizon technologies. The incredible growth of IoT-connected devices and the corresponding development of backhaul and data-processing to support ubiquitous connectivity also are driving innovators to build upon existing technologies, making them more efficient and useful, and to discover and deploy new technologies and services. Consumers and the U.S. economy benefit when innovative new technologies and products can reach the market quickly.

The *Notice* recognizes that establishing rules to guide the application of Section 7 of the Communications Act would potentially provide another implement in the Commission's toolbox to encourage the timely provision of innovative technologies and services.<sup>4</sup> The statute does not define how the Commission should evaluate requests for consideration under Section 7, and therefore, the Commission could construct guidelines around Section 7 in a variety of ways.

For example, with ample budgetary and staffing resources, the most direct path to implementing Section 7 could be for the Commission to make a broad-based effort to streamline and improve its existing processes involving applications and petitions generally, thereby

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<sup>3</sup> 47 U.S.C. § 157 (Communications Act § 7).

<sup>4</sup> *Notice* ¶ 8.

decreasing overall processing times for all items that may implicate new technologies or services.

However, given the Commission’s personnel and resource limitations, the procedures proposed in the *Notice* could be a practical way to implement Section 7. Nonetheless, while CTA offers suggestions to help ensure the proposed procedures’ success, the Commission should think carefully about how any new rules would operate in practice, especially given Section 7’s one-year timeframe mandated by Congress. As the Commission moves forward, CTA urges it to consider the following:

- The Commission should set forth clear rules-of-the-road to define the parameters of a new technology or service, and apply the rules liberally and consistently to avoid picking “winners” and “losers” among new offerings.
- Any Section 7 program should expedite the process for introducing new technologies and services within the one-year timeframe prescribed by Congress, rather than provide an additional opportunity for wasteful contention among interested parties.
- The Commission should evaluate the potential effect of a Section 7 program on the Office of Engineering and Technology (“OET”) workload. To support the innovation ecosystem, adequate engineering resources in OET and elsewhere must be available to the Commission for both its ongoing technical work and the successful implementation of any new Section 7 program. If it adopts a Section 7 program, the Commission should ensure that it will not adversely impact experimental license applications processing and other existing OET duties.

In recognition of these challenges, the Commission should consider “beta testing” new Section 7 rules as part of a time-limited trial program. For example, the rules could sunset after four years without further Commission action.

CTA looks forward to working with the Commission as it explores means of ensuring that new technologies and services are not blocked or delayed regulatory obstacles. In the global race to 5G, American innovators, entrepreneurs, and consumers will benefit if the regulatory process is more efficient and timely where new technologies and services are concerned.

## **II. A SECTION 7 PROCESS SHOULD ENABLE INNOVATIVE NEW TECHNOLOGIES AND SERVICES**

Any Section 7 program must, above all else, expedite the process for addressing petitions and applications involving new technologies or services. Given the dynamic, unpredictable, and innovative technologies and services that the Commission routinely considers, a management plan for decreasing processing times in proceedings expected to implicate new technologies or services would be an ideal way to implement Section 7. This approach would focus on streamlining and improving existing Commission processes rather than attempting to define what constitutes a “new” technology or service.<sup>5</sup> However, given resource constraints, the Commission may not be able to adjust its overall internal processes such that proceedings covered by Section 7 would generally be resolved within a year.

Thus, the Section 7 rules proposed in the *Notice* take a different approach, focusing on an initial finding as to whether particular technologies or services are “new” and therefore eligible for accelerated consideration.<sup>6</sup> While a laudable goal, defining “new” will be a significant challenge, and the Commission should consider very carefully its approach for determining whether any given technology or service would fit in that category.

The record amassed in this proceeding will be particularly important because participants in different industry sectors may have unique and varying concepts of what technologies or services are new. As the *Notice* correctly observes, “technologies and services in the

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<sup>5</sup> Such an approach could provide incentives for Commission technical staff implementing a management plan to be rewarded for efficient procedures to consider or approve a new innovation.

<sup>6</sup> *Notice* ¶¶ 22-23.

communications industry are often evolutionary rather than revolutionary.”<sup>7</sup> As a result, without extreme care, determining what technologies or services are “new” could be a time-consuming and difficult line-drawing exercise.

With those challenges in mind, for any adoption of a Section 7 process as proposed in the *Notice*, CTA urges the Commission to ensure there are clear guidelines to establish what constitutes a new technology or service. Furthermore, the Commission should apply any rules broadly, to avoid slotting particular implementations of services or technologies into regulatory “new” or “not new” categories. Additionally, the *Notice* reasonably proposes that the Section 7 timeline would be available for technology or services slightly more mature than nascent technologies and services that could be tested through the Commission’s Part 5 experimental license regime.<sup>8</sup>

Finally, CTA concurs that the proposed 90-day timeline for the initial determination is reasonable given the time limits mandated in Section 7. However, any initial comment period on the question of “newness” should be narrow in scope to avoid becoming an additional means for competitors to debate the merits of the technology or service at issue.<sup>9</sup> To provide the intended benefits, any Section 7 timeline the Commission adopts must adhere to the congressionally mandated deadlines and not create an additional opportunity for wasteful contention among interested parties.

Given the potential complexity of defining whether a technology or service is new and of administering rules such as those proposed in the *Notice*, CTA respectfully suggests that the

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<sup>7</sup> *Id.* ¶ 16. In this regard, Class II permissive changes, which can alter key aspects of a device, recognize the evolutionary development of communications technologies and services by encompassing an already streamlined process. *See* 47 C.F.R. § 2.1043.

<sup>8</sup> *Id.* ¶ 15, n.15.

<sup>9</sup> *Id.* ¶ 22.

Commission consider adopting any new Section 7 rules for a trial period. For example, the rules could be drafted to sunset after four years if, after experience with them, the Commission decides not to act to extend them. The Commission and stakeholders would then have both the incentive and opportunity to examine whether any new Section 7 rules are functioning as intended.

### **III. SUFFICIENT ENGINEERING RESOURCES MUST BE AVAILABLE TO SUPPORT SECTION 7 PROCEEDINGS AND THE COMMISSION’S ONGOING TECHNICAL WORK**

Sound engineering must continue to be the Commission’s lodestar as it facilitates and evaluates new technologies. The *Notice* proposes rules that rely on intensive participation by the OET engineers, which could be some cause for concern given that the Commission’s engineers already face a sizeable workload.<sup>10</sup> Accordingly, the Commission must ensure that it has a sufficient number of qualified engineers to facilitate innovative new solutions and remain dedicated to the Commission’s important daily work. CTA understands and values the importance of the Commission’s engineering work and again applauds the Commission for establishing an honors engineering program to add valuable engineering talent to the agency.<sup>11</sup>

OET engineers are instrumental to technical Commission proceedings, such as initiatives in recent years to examine new bands of spectrum, expand the Commission’s experimental licensing program, and modernize the Commission’s equipment authorization regime.<sup>12</sup> The

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<sup>10</sup> *Id.* ¶ 20.

<sup>11</sup> FCC, News Release, *FCC Launches New Honors Engineering Program* (Apr. 2, 2018), [https://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2018/db0402/DOC-350020A1.pdf](https://transition.fcc.gov/Daily_Releases/Daily_Business/2018/db0402/DOC-350020A1.pdf); Comments of the Consumer Technology Association, ET Docket No. 18-21, at 9 (May 2, 2018) (“CTA Spectrum Horizons Comments”).

<sup>12</sup> CTA Spectrum Horizons Comments at 3; Comments of the Consumer Technology Association, ET Docket No. 17-215, at 10 (Oct. 30, 2017); Comments of the Consumer Technology Association, ET Docket No. 15-170, at 1 (Oct. 9, 2015). CTA urges the Commission to resolve the outstanding issues in the equipment authorization docket, 15-170, that took important initial steps towards modernizing the Commission’s equipment authorization rules.

timely introduction of FCC-compliant products and services would not be possible without OET's Knowledge Database publications, inquiry program, and its measurement and technical rule guidance. Likewise, industry's cutting-edge research that will provide the foundation for future commercial products and service depends in part on the ability to readily obtain experimental licenses from the Commission. Section 7 proceedings could be an additional burden on Commission engineers, who would need to continue the important ongoing work of evaluating new rules and licenses, and providing guidance to industry and other stakeholders.

Before adopting Section 7 rules, the Commission should evaluate the potential effect of the program on the OET workload. The Commission should ensure that a Section 7 program would not unduly slow down ongoing important tasks, including work related to equipment authorizations, measurement guidance, frequency coordination, RF exposure, and the review of applications for experimental licenses. Indeed, verifying that OET has the appropriate staffing for these tasks, as well as administration of Parts 2, 5, 15 and 18 of the Commission's rules, could be as effective a catalyst for new technologies and services as the proposed Section 7 rules.

#### IV. CONCLUSION

CTA looks forward to working with the Commission to facilitate the introduction of new technologies and services, including through any new Section 7 program. The Commission should consider very carefully any new rules to implement Section 7, and should consider a trial program to test such new rules. The Commission should evaluate the potential effect of a Section 7 program on OET's resources and workload.

Respectfully submitted,

CONSUMER TECHNOLOGY ASSOCIATION

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May 21, 2018