

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
 )  
To Expand Marketing Opportunities for ) RM-11857  
Innovative Technologies )  
 )

**COMMENTS OF SAMSUNG ELECTRONICS AMERICA, INC.**

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## I. INTRODUCTION

Samsung Electronics America, Inc. (“Samsung”) submits these comments in support of the Petition for Rulemaking to Expand Marketing Opportunities for Innovative Technologies (“CTA petition”) filed by the Consumers Technology Association.<sup>1</sup> The Federal Communications Commission (“Commission”) plays a unique role via its marketing and importation rules, which greatly influence the pace of deployment for fifth generation (“5G”) wireless services and devices in the US and globally. By acting on the CTA petition the Commission can provide industry with greater flexibility in pre-market activities by allowing for pre-sale of devices prior to completion of equipment authorization, as well as allowing for limited importation of devices to enable consumers to touch and feel these innovative devices prior to purchasing as quickly as possible after Commission certification. These enhancements not only will benefit consumers but also will increase the speed with which technology companies can bring 5G devices to market, as they will not have to wait for equipment authorization in order to complete certain tasks necessary for product readiness. As stated in the CTA petition, the Commission can provide these enormous benefits to industry, while continuing to protect consumers and maintain the device authorization process.

For over a decade, Samsung and our partners across industry and government have worked tirelessly to develop and nurture the technologies that will thrust the world into a whole new level of intelligence and connectivity. Often referred to as the Fourth Industrial Revolution, this fundamental shift will change the way consumers, businesses and governments interact with the world around them. While artificial intelligence, cloud computing, and the Internet of Things

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<sup>1</sup> Consumers Technology Association, Petition for Rulemaking or in the Alternative, Waiver to Expand Marketing Opportunities for Innovative Technologies, (“CTA Petition”), June 2, 2020.

are changing how we use and interact with technology, the high speed, low latency and massive throughput enabled by 5G will be the catalyst for new applications and use cases to truly thrive.

The potential of 5G is especially exciting to Samsung since we are currently the only company in the world whose 5G portfolio spans the entire ecosystem—from chips to network equipment to mobile devices—all from a trusted, secure supply chain. Samsung is a global 5G leader, uniquely positioned to bring the power of 5G to our customers. In the past two years, leading mobile operators worldwide, including AT&T<sup>2</sup>, Sprint<sup>3</sup>, US Cellular<sup>4</sup>, and Verizon<sup>5</sup> in the US, have selected Samsung as a 5G network solutions provider. This year we continued our push to bring 5G to consumers and released the Galaxy S20, S20+ and S20 Ultra devices, which can support 5G networks.<sup>6</sup> We have continued this momentum as we started sales of our latest 5G mobile device for the US market on June 19, 2020, the Samsung Galaxy A71 5G, which is offered by Samsung starting at \$599.99. This device has the ability to bring the power of 5G connectivity to more consumers than ever before.<sup>7</sup> The Samsung Galaxy A71 5G features a 6.7 in. Super AMOLED Infinity Display, Quad Camera, Long-Lasting 4,500mAh (25W) Super-

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<sup>2</sup> “AT&T Selects Samsung as a Technology Supplier for CBRS and 5G Initiatives”, Sept. 10, 2018, <https://news.samsung.com/us/att-selects-samsung-technology-supplier-cbrs-5g-initiatives/> (visited June 29, 2020).

<sup>3</sup> “Samsung Technology Provides Foundation for Sprint Mobile 5G Network in Chicago,” July 11, 2019, <https://news.samsung.com/us/samsung-technology-provides-foundation-sprint-mobile-5g-network-chicago/> (visited June 29, 2020).

<sup>4</sup> “U.S. Cellular Selects Samsung 5G and 4G LTE Network Solutions,” Feb. 21, 2020, <https://news.samsung.com/us/us-cellular-selects-samsung-5g-4g-lte-network-solutions/>, (visited June 29, 2020).

<sup>5</sup> “Samsung Networks joins Verizon to demonstrate another 5G first: Verizon achieves 4.2 Gbps on its live 5G network”, Feb 25, 2020, <https://news.samsung.com/us/verizon-samsung-5g-network-motorola-qualcomm-achieves-4-2-gbps/> visited June 29, 2020).

<sup>6</sup> “The Next Generation Speed and Performance Starts with Galaxy S10 5G, Samsung’s First 5G Smartphone on the Market”, Apr. 1, 2019, <https://news.samsung.com/global/the-next-generation-speed-and-performance-starts-with-galaxy-s10-5g-samsungs-first-5g-smartphone-on-the-market> (visited June 23, 2020).

<sup>7</sup> “5G Comes to A series with Galaxy A71 5G”, <https://news.samsung.com/us/galaxy-a71-5g-a-series-announcement/> (visited June 22, 2020)

Fast Charging Battery, 6GB RAM and 128GB base storage with support for 1TB of expandable memory.

The CTA petition aims to remove existing hurdles to bringing new innovative products to market in the US. These include prohibitions on certain conditional sales to consumers and limitations on importation prior to equipment authorization. We recommend the Commission move as expeditiously as possible in clearing these hurdles to bringing new innovative products to US consumers. As noted by Commissioner Michael O’Rielly, every stage in the process of bringing new electronic devices to consumers can be difficult and time consuming.<sup>8</sup> Unfortunately, the Commission’s rules can unintentionally make this more onerous than necessary.

As Chairman Ajit Pai has noted, the Commission has made significant process in delivering on the FAST Plan<sup>9</sup> on spectrum—the first component of that Plan—and the Commission has left no stone unturned in its quest to make a mix of low-, mid-, and high-band spectrum available for 5G services.<sup>10</sup> Further the Commission has acted on updating its infrastructure policy—the second component of the FAST Plan—by speeding up the federal review of infrastructure deployment and speeding up state and local government review of small cell deployments. It is now time add the third pillar of the FAST Plan of modernizing outdated regulations by acting on the proposals outlined in the CTA petition.

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<sup>8</sup> Statement of FCC Commissioner Michael O’Rielly before the Senate Committee on Commerce, Science, and Transportation, “Oversight of the Federal Communications Commission”, June 24, 2020.

<sup>9</sup> The FCC 5G Fast Plan consists of three key components: (1) pushing more spectrum into the marketplace; (2) updating infrastructure policy; and (3) modernizing outdated regulations, <https://www.fcc.gov/5G> (visited June 24, 2020).

<sup>10</sup> Statement of FCC Chairman Ajit Pai before the Senate Committee on Commerce, Science, and Transportation, “Oversight of the Federal Communications Commission”, June 24, 2020.

## II. THE COMMISSION SHOULD ACT SWIFTLY ON CTA’S PETITION

### A. Samsung Supports CTA’s Proposal to Modify or, in the Alternative, Waive Section 2.803(c)(2) to Promote Innovation in the 5G Marketplace

CTA has petitioned the Commission to revise Section 2.803(c)(2)(i) and delete Section 2.803(c)(2)(ii) or, alternatively, waive both sections to allow for conditional sales of devices to consumers prior to receipt of regulatory authorization. Samsung agrees that the expanded conditional sales would give manufacturers a better sense of end-user demand, help manufacturers manage supply chains and product development cycles, and reduce waste.

As noted by CTA<sup>11</sup>, allowing pre-orders is important to generating efficiencies and meeting business challenges. The revisions proposed in the CTA petition will allow for technology companies to better gauge market demand, source supplies, arrange for appropriate manufacturing volumes, and anticipate and allocate proper inventory allotments for product launches. Most importantly in this time of quickly evolving technology, manufacturers lack the luxury of time; competition compels a race to market as quickly as feasible without compromising the quality, functionality, or security of their devices. These factors are exacerbated in the current pandemic, as factory work and other related in-person activities may be only intermittently available. In addition, the need to physically distance personnel for required in-person tasks is slowing necessary testing and certification activities. Adopting the revisions proposed will help mitigate the negative effects of any future unexpected disruptions to manufacturing or supply chains.

We agree with Commissioner O’Rielly’s observation that circumstances have changed in the many years since these rules were adopted to in order to protect consumers.<sup>12</sup> Internet campaigns to crowd source new products of various types have become increasingly popular and many big ticket

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<sup>11</sup> CTA Petition at 9.

<sup>12</sup> Commissioner O’Rielly Blog (June 2, 2020), <https://www.fcc.gov/news-events/blog/2020/06/02/kickstarting-fccs-product-marketing-import-rules> (visited June 23, 2020).

items, such as automobiles, are available to consumers with a low initial reservation price. In the case of radiofrequency devices, however, technology companies are currently unable to offer device pre-sales until very late in the product readiness cycle, only after Commission equipment authorization is obtained. We agree that concerns of allowing consumers to purchase devices prior to authorization are minimal as a device would not be delivered to a consumer until the device had completed the Commission equipment approval process. As noted above, many other products are sold through pre-sale efforts and Commission-authorized devices should be no different. Device manufacturers will be able to adequately and clearly communicate to consumers that the pre-sale is conditioned on the device's obtaining Commission authorization. Pre-sales and conditional sales are not new to consumers, so they will not be misled if the Commission allows them here.<sup>13</sup> Section 2.803, which originated in the 1970s, has become outdated as the industry's processes for developing and marketing new radiofrequency devices has evolved. When the Commission modified its rules in 1989 to permit conditional sales of equipment to wholesalers and retailers it declined to adopt a similar process for consumer sales citing concerns about interference. We believe those concerns are not founded if the sales are conditioned on the device being delivered to the consumer only after it receives Commission approval.

**B. The Commission Should Expand Section 2.1204(a) to Expedite the Delivery of Innovative 5G Devices to Consumers.**

The Commission already has in place rules to permit importation of devices for limited purposes such as testing, evaluation, and trade shows, but not for pre-market activities that enable a consumer to see a device immediately after it has been approved by the Commission. For highly anticipated, high-demand products, it can take considerable time and effort to prepare

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<sup>13</sup> See FTC On-line disclosure guidelines that ensures consumers are informed of conditions of sales in a clear and conspicuous manner, March 2013, <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-staff-revises-online-advertising-disclosure-guidelines/130312dotcomdisclosures.pdf>, visited June 24, 2020.

devices for retail display including importing the devices into the US, preparing devices to meet customer specifications, packaging the devices to meet customer specifications, and delivering them to retail locations. Currently, these activities must occur after equipment authorization has been obtained. This increases the time from approval to the start of marketing campaigns and actual sale of approved devices. Lacking the ability to import a sufficient quantity of new devices, for display purposes only, adds to the enormity of the challenge. Furthermore, if the authorization is unexpectedly delayed, whole marketing and rollout campaigns can be put at risk or completely destroyed, threatening the success of a product for reasons that could be easily avoided.

Samsung supports the Commission’s expansion of Section 2.1204(a) to allow for the expedited delivery of innovative 5G devices to consumers. As noted by the CTA petition, these pre-authorization activities would include imaging of devices, packaging and delivery of limited quantities of devices to retail locations prior to equipment authorization.<sup>14</sup> This would help manufacturers control the product launch timeline by allowing for certain activities to occur prior to device authorization. The expansion of Section 2.1204(a) will also help mitigate the impact of unexpected delays in completing Commission certification, which could be caused by a variety of factors some of which may have nothing to do with the actions of the manufacturer such as a government shutdown, major ports shutdown due to unrelated disputes<sup>15</sup>, or a global event such as the COVID-19 pandemic<sup>16</sup>.

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<sup>14</sup> CTA Petition at 12.

<sup>15</sup> “US Ports shutdown: Millions of dollars lost in exports as exports labor secretary flies in,” Feb 16, 2015, <https://www.theguardian.com/us-news/2015/feb/16/west-coast-labor-dispute-labor-secretary> (visited June 23, 2020).

<sup>16</sup> “Activity at US Ports Plummets as Corona Virus Slows World Economy,” April 8, 2020, <https://www.ttnews.com/articles/activity-us-ports-plummets-coronavirus-slows-world-economy>, (visited June 23, 2020).

The safeguards recommended in the CTA petition serve to ensure that devices do not fall into consumers' hands prior to authorization. They are more than sufficient and are consistent with previous Commission actions that provided additional opportunities for acquainting the public with radiofrequency devices without compromising the equipment authorization regime or increasing the risk of harmful interference.

- Manufacturers would only be able to import radiofrequency devices for which they have a reasonable basis to believe authorization will be granted within 30 days of importation. This is an especially important safeguard as only devices pending Commission authorization and reasonably believed by the manufacturer to receive authorization will qualify for the exception under the proposal.
- These devices would not be displayed or advertised at retail locations prior to equipment authorization and would have labels attached indicating the same.
- The radiofrequency devices would remain under the ownership of the device manufacturer prior to authorization.
- Manufacturers would be required to have processes in place to retrieve the equipment from retailers in the unlikely event that equipment authorization was denied.
- Manufacturers would only be permitted to import a maximum of 4,000 devices for preparatory pre-sale activities, except with the express permission of the Chief of the Commission's Office of Engineering and Technology ("FCC OET").

Samsung recommends the Commission seek comment on the 4,000 device threshold for which permission is needed from the FCC OET Chief. In our experience during a rollout of



flagship mobile devices, the proposed 4,000 device threshold is insufficient to provide enough (1-2) models to each retail store located in the United States.

Samsung also recommends that the Commission consider a process that would allow a manufacturer to obtain advance approval, through a single application, to exceed the 4,000 device threshold (or whatever the threshold the Commission ultimately adopts) for multiple models that are expected to come into the market place over a one year time frame. To ensure that the Commission knows when such approval is later used during the year, it could require the manufacturer to notify the FCC OET Chief 30 days prior to leveraging this advance approval for any single device that would exceed the 4,000 device threshold. This would allow manufacturers to seek such permission well in advance of the need, thus removing uncertainty and increasing administrative efficiency. Indeed, based on our extensive experience launching new devices in the United States, we believe that seeking separate approvals for each model (with a unique FCC ID) would be overly burdensome and time consuming for both the manufacturer and the Commission. For example, from July 1, 2019 to the present, Samsung has introduced 12 key models into the US market, each of which has a unique FCC ID.<sup>17</sup> We believe that a majority of these models would have benefitted from leveraging approval to bring more than 4,000 units into the country for premarketing activities noted above. Given the number of devices at issue, adopting a streamlined process such as the one we outline above makes sense for Samsung, other manufacturers, the Commission, and consumers.

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<sup>17</sup> Some key models include Galaxy A51 5G, Galaxy S10 lite, Galaxy A51, Galaxy A01, Galaxy Z Flip, Galaxy S20, Galaxy S20+, Galaxy S20 Ultra, Galaxy Note 10+ 5G (two variants), Galaxy Note 10, Galaxy Note 10+.

### III. CONCLUSION

Leveraging its rich history of innovation, Samsung is helping to make 5G a reality through the development of end-to-end 5G solutions. To facilitate the ongoing investment and innovation in 5G technologies and recognizing the changes in the marketplace, the Commission should move forward and issue a rulemaking to adopt the recommendations of CTA and Samsung's additional recommendations as outlined above so that consumers in the US can best capitalize on the promise of 5G mobile services.

Respectfully submitted,

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