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

JUL 19 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of	)	
	)	
Amendments of Parts 2 and 15 of the	)	ET Docket No. 95-19
Commission's Rules to Deregulate	)	
the Equipment Authorization	)	
Requirements for Digital Devices	)	

To: The Commission

**PETITION FOR RECONSIDERATION**

Hewlett-Packard Company ("HP") petitions the Commission for reconsideration of its action in this docket to restrict the use of test laboratories outside the United States for preparing declarations of conformity ("DoC"), under Part 15, Subpart B, of the Commission's Rules for personal computers and personal computer peripherals (collectively "PCs").<sup>1</sup> In adopting this provision, the Commission is for the first time discriminating between radiated and conducted electromagnetic interference ("EMI") testing on PCs performed in the United States and testing performed in foreign countries, without regard for whether those countries impose restrictions on EMI testing performed in the United States. HP believes that the Commission's action unreasonably restricts the availability of the DoC process and will encourage other nations that currently do not discriminate between domestic and U.S. test labs to follow suit.

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<sup>1</sup> *Report and Order*, ET Docket No. 95-19, FCC 96-208 (May 14, 1996) ("*Report and Order*"), ¶ 40

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On July 16, 1996, the FCC issued a public notice ("July 16 Public Notice") that clarifies the status of foreign accreditation bodies, but not foreign laboratories. If incorporated into Section 2.948(d) of the Commission's Rules, the July 16 Public Notice would be a welcome step, but it would not change the fundamental principle in Section 2.948(d) that foreign laboratories may not be used in the DoC process until they are specifically permitted by the Commission, and the grounds for granting permission are not required to be related to EMI testing and qualification of PCs.

HP manufactures and tests PCs at its facilities in the United States and in foreign countries. In most major markets, including Japan, the European Union, Australia and Canada, performing EMI testing in U.S. laboratories has not been an impediment to importing or selling PCs. In fact, the European Union, Canada, and Australia currently allow EMI testing in the United States with no accreditation requirement for testing laboratories. The Japanese Voluntary Control Council for Interference requires only EMI test lab registration similar to the current FCC requirement. Other countries, such as New Zealand, do require accreditation of EMI testing laboratories, but permit the accreditation of foreign laboratories directly or through private reciprocal recognition agreements between domestic and U.S. accreditation bodies. In the United States, the existing FCC certification procedure for PCs allows the registration and use of foreign testing laboratories to generate the data for applications for certification.

HP's comments and reply comments in this proceeding were motivated by the importance of reducing the administrative cost of duplicative EMI testing, qualification and labeling, and to concentrate instead on ensuring the manufacture of compliant

product. Unfortunately, the Commission's decision to restrict accreditation of laboratories abroad will require HP's foreign laboratories to use FCC certification or repeat product qualification testing in the United States while its U.S. labs may use DoCs, defeating the goal of truly streamlining equipment authorization of PCs.

HP believes that the Commission is taking a step backward by barring the use of foreign test labs for DoCs, including those affiliated with U.S.-based manufacturers, until the U.S. Government concludes formal mutual recognition agreements ("MRAs") with every other government. Even if a country has no existing barrier to the EMI testing and qualification of PCs in the United States, the final rule would prohibit EMI testing in that country for DoCs until the two governments conclude such an agreement. To HP's knowledge, the U.S. Government is not currently planning to negotiate such agreements with every other nation where EMI testing is or may be conducted.

By contrast, accreditation bodies often accredit test laboratories in other countries and establish MRAs directly among themselves. Indeed, A2LA and NVLAP<sup>2</sup> have entered into such agreements with foreign bodies. These procedures provide a more efficient alternative to formal intergovernmental agreements. In the July 16 Public Notice, the Commission has indicated that it will consider such MRAs in addition to intergovernmental MRAs required by the rule. This is a positive step and should be incorporated into the rule.

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<sup>2</sup> The American Association for Laboratory Accreditation ("A2LA") and the National Institute of Standards and Technology National Voluntary Laboratory Accreditation Program ("NVLAP") are the two accreditation bodies that the Commission has initially authorized under the DoC procedure. *Report and Order*, ¶ 38.

The new accreditation rule may have the counterproductive effect of encouraging other countries to establish discriminatory accreditation procedures for EMI testing labs, even if they currently have none. The Commission's rule on accreditation of laboratories for EMI compliance testing permits the denial of accreditation of foreign laboratories for reasons that are unrelated to EMI qualification of PCs. If an intergovernmental MRA or other trade matter under negotiation turns on unrelated issues, accreditation of laboratories for EMI testing in the other country could still be denied. Under such circumstances, there would be a clear incentive for the foreign nation to impose its own discriminatory accreditation requirement.

To discourage other countries from imposing countervailing discriminatory accreditation requirements, the FCC should allow accreditation of foreign EMI testing laboratories unless the countries in which they are located already have discriminatory accreditation requirements for EMI testing of PCs. In this respect, the July 16 Public Notice does not go far enough. It does not limit the issues that the Commission--and the government agencies that it consults--may consider in granting accreditation to those related to EMI testing and qualification of PCs.

As a manufacturer of PCs in the United States and abroad, HP has found that EMI qualification of PCs is one area that does not present significant barriers to trade. It would be unfortunate if the Commission's rules establishing such discriminatory practices were to encourage other nations to do so as well. If the Commission nonetheless believes that it is necessary to exclude testing laboratories in certain nations from the DoC program, the

purpose of the exclusion would be better reflected if the note in section 2.948(d), *Report & Order*, at 34, read:

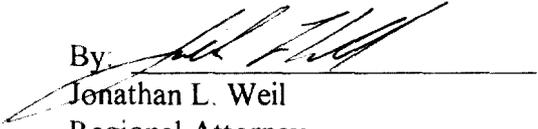
Parties that are located outside the United States or its possessions may not be accredited if the U.S. Department of Commerce and Office of the U.S. Trade Representative jointly issue a finding that the country in which they are located does not permit accreditation of U.S. facilities for the testing of equivalent products, and this discrimination places such products tested in U.S. facilities at a significant competitive disadvantage.

### CONCLUSION

For the foregoing reasons, Hewlett-Packard Company requests that the Commission grant regulatory relief such that Part 2 and Part 15 of the Commission's Rules do not impose unilateral discriminatory accreditation requirements.

Respectfully submitted,

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