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

Federal Communications Commission
Office of Secretary

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

**COMMENTS OF THE CONSUMER ELECTRONICS
MANUFACTURERS ASSOCIATION**

The Consumer Electronics Manufacturers Association ("CEMA"), a sector of the Electronic Industries Association, submits the following comments in support of the two petitions for reconsideration that were filed in the above-captioned proceeding on July 19, 1996.¹

I. BACKGROUND AND INTRODUCTION

In its recent *Report and Order* in this proceeding, the Commission decided to allow manufacturers and importers of digital devices and peripherals to "self authorize" those devices by declaring that they conform with the Commission's regulations. CEMA applauds the Commission for moving to eliminate unnecessary regulatory constraints on manufacturers. However, the petitions for reconsideration demonstrate that further deregulation is both possible and necessary. Before a party may avail itself of the Declaration of Conformity ("DoC")

¹ See Petition for Reconsideration of Hewlett-Packard Company, ET Docket No. 95-19 (filed July 19, 1996) [hereinafter "HP Petition"]; Petition for Reconsideration of the Information Technology Industry Council, ET Docket No. 95-19 (filed July 19, 1996) [hereinafter "ITI Petition"]. CEMA formerly was known as the Consumer Electronics Group of the Electronic Industries Association and previously has participated in this proceeding under that name.

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process, the Commission's new rules require (1) the accreditation of any laboratory that performs measurements necessary to substantiate DoCs, and (2) if the party is located in a foreign country, that there be an agreement between that country and the United States mutually recognizing each other's accreditation or similar procedures (*i.e.*, a mutual recognition agreement or "MRA").² In their petitions for reconsideration, Hewlett-Packard Company ("HP") and the Information Technology Industry Council ("ITI") have argued that the Commission's accreditation requirements, and in particular those affecting foreign laboratories, impose unnecessary burdens on manufacturers of digital devices and significantly limit the effectiveness of the Commission's deregulatory efforts in this proceeding.

CEMA agrees and respectfully urges the Commission to take steps consistent with the petitions that will ensure that the Commission's deregulatory are served, without undermining the integrity of the DoC process. As set forth more fully below, if the Commission is to be successful in achieving its stated goals of facilitating the introduction of new equipment through reduced regulation, the Commission's rules should be modified so as to eliminate the laboratory accreditation and MRA requirements or, at a minimum, limit the burdens they create.

II. THE COMMISSION SHOULD ELIMINATE, OR SUBSTANTIALLY REDUCE THE BURDEN OF, THE ACCREDITATION REQUIREMENT

In its petition, ITI asks the Commission to eliminate the requirement that testing laboratories owned by computer or computer peripheral manufacturers must have accreditation

² See *Amendment of Parts 2 and 15 of the Commission's Rules to Deregulate the Equipment Authorization Requirements for Digital Devices*, Report and Order, ET Docket No. 95-19, FCC 96-208, at Appendix C (released May 14, 1996) [hereinafter "*Report and Order*"].

before they can be used to substantiate DoCs.³ In the earlier phase of this proceeding, CEMA similarly urged the Commission to forego an accreditation requirement. CEMA noted, among other things, that the number of accredited laboratories is insufficient to perform the massive amount of testing required to achieve streamlined authorization through the DoC process.⁴ As a consequence, the delays caused by the accreditation requirement could be even more burdensome than the certification process which the DoC process is meant to augment and simplify.

The Commission's Office of Engineering and Technology has at least implicitly recognized the delays which accreditation creates. In its July 16, 1996, Public Notice, the OET indicated that numerous laboratories now have applied for accreditation creating an application backlog. Given the backlog, the OET announced that it will allow, until no later than August 19, 1997, the use of those laboratories that have applied for accreditation and provided OET evidence that the laboratory meets ISO/IEC Guide 25 standards.⁵

ITI suggests that in lieu of accreditation, and to eliminate any concerns regarding the delays accreditation will create, the Commission should simply require testing facilities to file with the Commission basic qualifying information as they now do in performing certification measurements.⁶ CEMA concurs that this approach would more effectively serve the

³ See ITI Petition at 3-4.

⁴ See, e.g., Reply Comments of the Consumer Electronics Group of the Electronic Industries Association, ET Docket No. 95-19, at 7 (filed July 5, 1995).

⁵ See "OET Takes Steps to Encourage Self-Declaration for Computer Compliance," FCC Public Notice 64009 (July 16, 1996).

⁶ See ITI Petition at 4.

Commission's goals. The Commission already has correctly noted that product cycles in the computer and consumer electronics industry have shortened so that delay of even a month is significant.⁷ By decreasing regulatory delay as much as possible, the Commission can accelerate the introduction of new products. ITI's proposed approach would not undermine the Commission's concerns regarding laboratory qualifications. As ITI aptly points out, manufacturers' existing laboratories have successfully performed certification testing for years, and there is no reason to believe that those same laboratories cannot successfully employ the DoC process without accreditation.⁸

In the alternative, ITI requests that the Commission extend to two years the period in which U.S. laboratories can obtain provisional accreditation by filing qualifying information with the Commission.⁹ CEMA agrees that this alternative would provide a degree of relief, but it strongly urges the Commission to address this issue permanently by eliminating the accreditation requirement.

III. THE COMMISSION SHOULD RECONSIDER ITS PRESUMPTION THAT FOREIGN ACCREDITATION REQUIREMENTS CREATE TRADE BARRIERS FOR U.S.-MADE DIGITAL DEVICES

The Commission has indicated that it will accept accreditations of foreign laboratories if the Commission has an agreement with the foreign government nation to mutually

⁷ *See Amendment of Part 2 and 15 of the Commission's Rules to Deregulate the Equipment Authorization Requirements for Digital Devices*, Notice of Proposed Rule Making, 10 FCC Rcd. 8345, 8347 (1995).

⁸ *See ITI Petition* at 4.

⁹ *See id.* at 5.

recognize each other's accreditations. The Commission has thus determined that the mutual recognition of accreditations is an international trade issue. At least with regard to the RF emissions of digital devices, CEMA concurs with ITI and HP that any concerns regarding mutual recognition of accreditation are not significant enough to warrant the Commission's all-encompassing, unqualified MRA requirement.

ITI asks the Commission to eliminate the MRA requirement altogether.¹⁰ HP also objects to the Commission's new limitations on the use of foreign laboratories, but proposes that the Commission should require an MRA only where the U.S. government has found that a foreign government discriminates against U.S. testing facilities.¹¹ CEMA agrees with ITI that the MRA requirement is unnecessary, but if the Commission deems MRAs useful, it urges the Commission to adopt the more narrowly tailored approach that HP advocates.

In explaining the MRA requirement, the Commission suggests that "it would be unfair to accept the accreditation of labs from foreign countries that either do not accept U.S. accreditations or that impose additional barriers upon U.S. companies."¹² While ostensibly addressing questions of fairness, however, the Commission has adopted an approach that itself is unfair because it is overly broad. By requiring MRAs to be in place before foreign laboratories are accredited, the Commission ensnares in its rules countries with which there are no accreditation or related problems, but with which no MRA exists. Both ITI and HP argue, for example, that U.S. laboratory testing is recognized as sufficient for the shipment of digital

¹⁰ *See id.* at 1-2.

¹¹ *See HP Petition* at 4.

¹² *Report and Order* at ¶ 40.

devices to Europe, Canada, Japan and Australia.¹³ Rather than *presume* that an MRA must be in place to address trade issues, the Commission should address real trade issues where they arise.

The Commission's blunt MRA requirement also fails to take into account the impact on consumers. By limiting the extent to which foreign-based manufacturers can employ the DoC process, the Commission will limit the ability of these manufacturers to import their new equipment into the United States quickly, and quickly bring the benefits of that equipment to U.S. consumers. Above all, the Commission's new rules should not create trade obstacles where none existed before, especially to the detriment of U.S. consumers.

¹³ See ITI Petition at 2; HP Petition at 2.

IV. CONCLUSION

For all of the reasons set forth above and in CEMA's previous pleadings, the Commission should reconsider its accreditation requirements in order to more effectively foster use of the DoC process.

Respectfully submitted,

**CONSUMER ELECTRONICS
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CERTIFICATE OF SERVICE

I, Marc Berejka, do hereby certify that on this 28th day of August 1996 I have caused a copy of the foregoing to be served via postage paid first-class mail upon the persons listed below.


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