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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

William F. Caton, Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Re: Information Technology Industry Council  
ET Docket No. 97-94

Dear Mr. Caton:

Please find enclosed, on behalf of the Information Technology Industry Council, an original and four copies of its Comments in the above-referenced proceeding.

Should you have any questions regarding this submission, please contact the undersigned.

Sincerely,

WILKINSON, BARKER, KNAUER & QUINN



By: Lawrence J. Movshin  
Jeffrey S. Cohen

Enclosures

cc: J. Reed  
J. Knapp

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BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, DC 20554

In the Matter of )  
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Amendment of Parts 2, 15, 18 and Other parts of )  
the Commission's Rules to Simplify and )  
Streamline the Equipment Authorization Process ) ET Docket No. 97-94  
for Radio Frequency Equipment )  
 )  
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**COMMENTS OF THE INFORMATION TECHNOLOGY INDUSTRY COUNCIL**

Summary

The Information Technology Industry Council ("ITI") hereby comments on the several important issues raised by the Commission in its Notice of Proposed Rulemaking (FCC 97-84, released March 27, 1997) in the above-captioned proceeding. ITI commends the Commission's decision to further simplify and streamline its equipment authorization program. ITI particularly welcomes those changes that can improve the time to market for computing devices without impairing the interference protection provided by compliance with the Commission's limits on RF emissions from Part 15 devices.

ITI heartily endorses the general approach taken in this rulemaking and urges the expeditious implementation of the rules with the modifications discussed herein. Many foreign administrations that have not previously imposed regulations governing equipment authorization are looking to the FCC's rules as model guidelines, so it is particularly timely that these rules be updated and simplified to minimize unnecessary burdens and/or product delays.

There are, however, several specific proposals on which ITI has particular

concern:

- In merging the type acceptance procedures into the certification process, the Commission should not impose more burdensome requirements, and in particular, the requirement to supply full circuit diagrams should be eliminated.
- The verification process should be retained, and the Commission should consider subjecting Personal Computers and Personal Computer Peripherals generally to the verification process rather than to certification; in any case, the accreditation requirement imposed on manufacturers' test facilities should be eliminated, as requested by ITI in Docket 95-19.
- A strong post-marketing enforcement program is essential to the success of any equipment authorization requirement, but a mandatory "voucher" system will be quite burdensome for manufacturers.
- An effective electronic filing system should be adopted and mandated after an adequate trial period.
- Certification should be an available alternative for personal computers without any sunset period.
- The Commission should continue to vigorously pursue mutual recognition of test facilities and accrediting bodies with all of its trading partners.

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, DC 20554

In the Matter of )  
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Amendment of Parts 2, 15, 18 and Other parts of )  
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Streamline the Equipment Authorization Process ) ET Docket No. 97-94  
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To: The Commission

**COMMENTS OF THE INFORMATION TECHNOLOGY INDUSTRY COUNCIL**

The Information Technology Industry Council ("ITI"), by its attorneys and pursuant to section 1.415 of the Commission's rules, hereby comments on the several important issues raised by the Commission in its Notice of Proposed Rulemaking (FCC 97-84, released March 27, 1997)(the "NPRM") in the above-captioned proceeding. ITI<sup>1</sup> is a long-standing participant in FCC proceedings that have developed and defined equipment authorization regulations applicable to computers and computing devices. ITI commends the Commission's decision to further simplify and streamline its equipment authorization program. ITI particularly welcomes those changes that can improve the time to market for computing devices, without impairing the interference protection provided by compliance with the Commission's limits on RF emissions from Part 15 devices.

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<sup>1/</sup> ITI represents the information technology industry, including manufacturers, integrators and service providers. ITI and its predecessor, the Computer and Business Equipment Manufacturers Association, for more than two decades have played a leading role in the development of rules governing the design and marketing of computing devices, including equipment authorization programs, test procedures and importation rules. As with most industry organizations, the positions expressed herein represent a consensus of ITI's members' views, and individual member companies may file comments in this proceeding expressing independent views on particular subject matters.

A. ITI Generally Supports the Proposal

As the Commission properly notes in the NPRM, use of an effective authorization program is a significant adjunct to the Commission's regulations limiting the emission levels from radio frequency devices. Absent a requirement for manufacturers to demonstrate compliance with the RF limits imposed under the rules in advance of widespread delivery of devices into commerce, the potential for interference would clearly increase. ITI has long been a strong proponent for the development of adequate testing methods and procedures by which manufacturers could reasonably determine and demonstrate compliance with appropriate emanation limits as part of the equipment production cycle.

On the other hand, as ITI and the Commission have recognized,<sup>2</sup> prior governmental review and approval of a manufacturer's evidence of compliance can create significant delays in the product introduction cycle, adding substantial costs to the manufacturing process and denying the public the early benefits of product innovation and improvement. To that end, ITI has regularly argued for minimizing the burdens of any authorization process, and particularly for limiting those classes of devices which must be subject to governmental review and approval prior to marketing. ITI was a major force in the development of the Verification process and its application to Class A computing devices, and more recently in the creation of the Declaration of Conformity program.<sup>3</sup> In each instance, the Commission has recognized that the burdens of more detailed prior review of manufacturers' compliance evidence was not needed to control the interference potential of the classes of devices in question. A similar analysis underlies the current proposals in the NPRM.

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<sup>2/</sup> See, e.g., Report and Order, ET Docket 95-19, 11 FCC Rcd 17915 (1966).

<sup>3/</sup> Report and Order, ET Docket 95-19, 11 FCC Rcd 17915 (1966)

In the NPRM, the FCC has proposed significant changes in the equipment authorization program, designed both to reduce the number of different authorization types to which equipment may be subject and to reclassify the authorization program to which many different types of equipment will be subject. As the Commission notes in the NPRM, “the current multiplicity of equipment authorization process has resulted in an extensive and complicated set of regulations.”<sup>4</sup> The Commission goes on to state that “submittal and review of equipment authorization applications to the Commission is no longer warranted for certain equipment authorization applications where the technical requirements are met with little difficulty, the test methods are widely understood, interpretive questions arise infrequently, and there has been an excellent record of compliance.” With these conclusions, the Commission has proposed to eliminate the type acceptance and notification procedures and to change the equipment authorization processes applicable to numerous classes of devices. For the most part, these changes reduce the filing burdens associated with the manufacture and marketing of RF emanating devices.

ITI heartily endorses the general approach taken in this rulemaking and urges the expeditious implementation of the rules with the modifications discussed herein. Many foreign administrations that have not previously imposed regulations governing equipment authorization are looking to the FCC’s rules as model guidelines, so it is particularly timely that these rules be updated and simplified to minimize unnecessary burdens and/or product delays.

B. ITI Has Some Specific Concerns with the Proposed Rules

There are, however, several specific proposals on which ITI has particular concern:

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<sup>4/</sup> NPRM at para.5

1. The Merger of Authorization Procedures Should Not Result in the Creation of New Obligations.

ITI agrees with the concept of merging the type acceptance and certification processes and eliminating the notification process; in each case, such actions appropriately simplify and limit the involvement of the FCC in the compliance process. However, this simplification should not be done at the expense of increasing the certification process requirements that remain applicable to personal computing devices that are not utilizing the DOC program.

Unfortunately, this appears to be the case in at least one instance where apparently similar type acceptance and certification requirements have been merged into the newly proposed certification requirements. Specifically, the Commission proposes that the more detailed requirement in existing Section 2.983(a)(7) of the type acceptance rules, which requires the provision of "complete circuit diagrams," will be introduced into proposed new Section 2.1033(b)(4). However, existing Section 2.1003(b)(4) currently requires only "a brief description of the circuit functions of the device along with a statement describing how the device operates." If the NPRM is adopted as proposed, the new rule would require the submission by computer manufacturers of significantly more documentation than is needed or currently required.<sup>5</sup>

While the submission of circuit diagrams may have some relevance for intentional radiators, the circuit diagrams provide little guidance as to the interference potential of

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<sup>5/</sup> As already noted, many other nations look to the FCC as an example in setting up their own EMC regulations, so that including a requirement in the revised Certification procedures for disclosure of complete circuit diagrams could lead to similar requirements in other nations. To the extent that regulatory authorities in some nations do not protect the confidentiality of submissions as closely as the FCC, this could easily lead to undesired disclosure of intellectual property.

unintentional radiators. This requirement should not be added to the certification process generally. Moreover, to the extent that other minor changes that have been made in the effort to merge two apparently similar requirements could have a similarly burdensome impact on previously certified unintentional radiators, such changes should be carefully weighed before adoption.

2. Verification Should Be Retained.

ITI agrees with the Commission's decision to maintain both the Verification and DOC processes, notwithstanding the several similarities between them. There is clearly no reason to eliminate the Verification process; it has been used by Class A computer manufacturers for more than fifteen years to establish compliance, and there is virtually no record of interference from products authorized under this approach.

On the other hand, the DOC process provides a reasonable method for computing device manufacturers and assemblers of personal computer components to demonstrate to the FCC and the consumer public the compliance of their products with the FCC's limits on RF emanations.<sup>6</sup>

3. Verification Should Be Extended to Personal Computers.

Rather than eliminate verification, ITI continues to believe that Class B personal computers should be subject to the verification process rather than to the more burdensome DOC

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<sup>6</sup> This proceeding provides a handy vehicle for fixing one problem with the DOC process: the requirement that the responsible party include on the Declaration Of Conformity the phone number of the responsible party should be eliminated. ITI's members have experienced many phone calls, but very few relating to the EMC issues appropriate to the responsible party (indeed, for consumers, the phone number becomes a source of confusion and consternation when they are advised that complaints and consumer assistance is at another number). Moreover, phone numbers change much more often than the address, and so many numbers are long out of date by the time that they are needed.

process. As the Commission has noted in the NPRM, the verification process is appropriate “for equipment that has an excellent record of compliance, where the measurement methods are well known and understood, and it is relatively easy to determine the party responsible for compliance.” This is an apt description of the personal computer.

The personal computer industry’s record of compliance is second to none; given the number of personal computers and PC peripherals in use today, the number of interference complaints associated with this industry is infinitesimal in size. The measurement methods are well known and long in use; indeed, ANSI C63.4, and CISPR 22, the standard measurement procedures used for computing devices domestically and internationally, were developed with the major participation of domestic computer manufacturers. And the information provided to purchasers with verified products provides more than adequate identification of the party responsible for compliance.

By contrast, there may remain some need to retain the DOC requirement for Class B CPU Boards and power supplies and for Class B Computers assembled from authorized CPU Boards and power supplies. The compliance program for Class B CPUs and power supplies, and for computers assembled from certified CPUs and power supplies, is relatively new, having been adopted less than two years ago. However, there is no similar basis or need to retain this somewhat more burdensome regulatory scheme for Class B Personal Computers generally.<sup>7</sup>

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<sup>7/</sup> On a related matter, if the DOC approach is to be retained for all Class B computing devices, ITI wishes to renew the concerns already urged in its July 19, 1996 Petition for Reconsideration filed in Docket No. 95-19. In that Petition, ITI has requested that the FCC reconsider the existing DOC rules and instead exempt manufacturers’ test facilities from the lab accreditation requirement. The Commission has no reason to believe that the manufacturers’ laboratories currently performing certification testing are not capable of continuing to perform the tests that they have performed for more than a decade. There is simply no basis for burdening this industry with the cost, expense and general  
(continued...)

4. Post-marketing Enforcement Is Essential to the Success of the Equipment Authorization Process.

The Commission has asked for suggestions on strengthening its enforcement processes, even as it reduces the filing burdens of the equipment authorization procedures. ITI strongly agrees. While it is now clear that requiring the FCC's prior review and approval of test results has generally added little to the compliance process, allowing self-verification without some post-marketing enforcement is a prescription for laxness in the compliance programs. As long as a real threat of post-marketing sampling and enforcement exists, there is a potential that substantial changes in the design and production process may be required by the FCC if non-compliance is found. This will provide manufacturers with a strong incentive to "get it right" prior to introducing products into the stream of commerce.

In this regard, ITI agrees that a reasonable, but limited time, should be given for the submission of samples upon FCC request, particularly where the device is readily available in the marketplace. While 60 days is clearly too long, ITI believes that fourteen days is not enough time for the Commission to require a response. In larger companies, the RF compliance team may be well separated from the group responsible for retail distribution. It could therefore

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<sup>2/</sup> (...continued)  
nuisance associated with a mandatory accreditation program. To the extent that accreditation is deemed by any particular manufacturer to add value to its test laboratory -- i.e., that accreditation establishes that its lab is better qualified than one that is not accredited -- positive marketplace forces will create the appropriate incentives, without government intervention, to achieve those benefits. On the other hand, requiring a manufacturer's test facility to meet artificial standards for accreditation purposes may require many changes that add nothing to the adequacy or validity of the test results but do adversely affect the manufacturing facility. Nothing contained in these comments should be construed as suggesting any ITI support for the continued application of the accreditation requirement to manufacturers' test facilities.

regularly take longer than two weeks from the receipt of a request for the RF group to obtain a sample for submission. ITI recommends instead that a thirty day window be allowed.

ITI cannot support the imposition of a mandatory “voucher” program for this purpose. While ITI agrees with the idea that the sample should represent the product that is readily available to the public, most companies do not have a “voucher” system in place. Creating such a process to accommodate the occasional FCC inspection request would be quite burdensome. Rather than require a mandatory voucher system, ITI believes that the rule should require a responsible party to submit a sample device directly out of the retail distribution chain without modification. As an alternative only, the responsible party should be given the ability to provide the FCC with a means for obtaining such a sample directly from a retail outlet, e.g., with a voucher or other payment method. In this fashion, manufacturers will not be able to provide “lab queens” that have been tested and modified to establish compliance before submission, and the responsible party will have the ability either to send in a sample or the means for the FCC to buy one on its own

5. Electronic Filing Should Be Adopted over a Transitional Period.

ITI supports the move to electronic filing of applications along with any other means for simplifying, streamlining and expediting the applications process. As the Commission is aware, ITI initiated the standardization of the measurement report for computing devices. With this initial standardization of reporting ITI believes that electronic filing can be readily accomplished through the use of Internet facilities. Certainly the FCC’s positive experience in

utilizing electronic filing for other license applications provides a strong basis for optimism that similar advances can be made in the equipment authorization process.<sup>8</sup>

ITI believes that the Internet provides the most effective means of filing and accessing information filed electronically. Given the continued improvements in Internet access, ITI believes that providing over the Internet access to all information contained in an application should not be overly burdensome to the FCC's resources and should therefore be accommodated by the FCC. By contrast, FCC use of an outside contractor to provide such information would result either in the maintenance of duplicate databases (with the potential that, over time, they would not contain identical information) or the imposition of a contractor's costs associated with the retrieval of information that is otherwise available in the public domain without charge. This is not a good solution.

One issue that has not been addressed in the NPRM is the means of protecting the confidentiality of information as part of the electronic filing process. As the Commission is aware, until certification is actually obtained, none of an application's contents are publicly available; even after certification grant, manufacturers may request confidentiality of information that will not be readily available to the public. Means must be provided for retaining pre-grant confidentiality absolutely, and for separating out of any filings made electronically any portions of the information for which confidentiality from public access is requested.

ITI opposes the introduction of mandatory electronic filing until a thorough trial period has passed. As the Commission is well aware, the certification process already adds time

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<sup>8/</sup> A signature verification/coding process similar to that used by the Food and Drug Administration would solve any signature verification/authentication problem that may be identified.

and expense to the marketing of computing devices. Any added time associated with the problems inherent in an untested filing process could be severely damaging to manufacturers who remain subject to the prior approval process. When electronic filing is made available for the public to use, it should be given a thorough shakedown before it is mandated.<sup>9</sup>

6. Certification Should Continue to Be Available Indefinitely for Personal Computing Devices.

The NPRM proposes to eliminate the availability of the certification process within two years after this proceeding is completed. ITI does not support the termination of the certification procedure as it applies to personal computing devices that may alternatively be approved by the DOC process. As ITI's members have unfortunately learned, the process of test facility accreditation is taking much longer than the FCC originally anticipated. Indeed, because of limited resources by the accrediting bodies, many sites, while ISO/IEC Guideline 25 compliant, remain unaccredited by either NIST or A2LA, which are still the only accrediting

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<sup>9/</sup> In order to encourage manufacturers to use this approach during the transition, the Commission might reduce the filing fees for electronically filed applications as a financial incentive for moving to the new process sooner.

bodies in the United States.<sup>10</sup> Given these circumstances, the Commission needs to extend the transition period from the certification to the DOC program, not terminate it.

Moreover, to the extent that some manufacturers may continue to prefer to use non-accredited facilities, or otherwise to retain the FCC-authorization benefits of the certification process for international trade purposes, the certification process should remain an available alternative. There is no reason to create a sunset on the availability of this equipment authorization alternative at this time.

7. Mutual Recognition of Test Results and Accrediting Bodies Should Be Pursued with All Trading Partners.

Finally, ITI wants to take the opportunity to congratulate the Commission on its efforts in negotiating a Mutual Recognition Agreement with the European Union nations. However, ITI urges that the momentum created by the signing of the MRA should not be lost in developing implementing regulations for the treaty. Much work needs to be done in assuring

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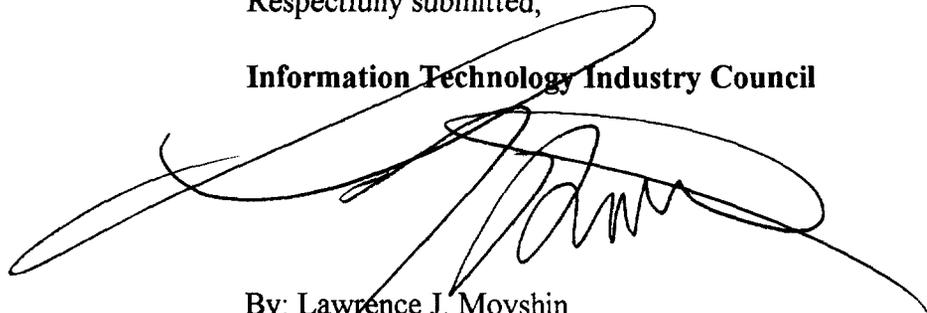
<sup>10/</sup> ITI also restates its fundamental opposition to the Commission's requirement that accreditations of testing labs outside the United States will only be recognized by the FCC if there is a mutual recognition agreement between the U.S. and the foreign administration that permits similar accreditation of U.S. facilities to perform testing for products marketed in the that country. This limitation has created substantial burdens on U.S. based manufacturers that utilize overseas facilities for manufacturing and testing, as these companies have been forced to ship products to U.S. accredited labs for compliance testing even though their overseas facilities meet ISO/IEC Guide 25 guidelines and could be NVLAP or A2LA approved. Moreover, this rule gives the United States Trade Representative an inappropriate role in determining equipment authorization policies and applying criteria that have nothing to do with protection of the domestic radio spectrum. Indeed, as anticipated by ITI in its comments in Docket 95-19, several foreign administrations have imposed reciprocal restrictions on the use of United States test facilities in response to the FCC limitations on the use of overseas facilities. For example, a U.S. tested product cannot be marketed in Taiwan without being retested by a facility accredited by that country's accrediting body, severely burdening export opportunities for the information technologies industry. ITI therefore renews its request, still pending in its Petition for Reconsideration in Docket 95-19, that the restriction contained in the Note to Section 2.948(d) should be deleted.

that accrediting bodies are identified and recognized both here and in Europe, so that an accreditation of a test facility will be recognized worldwide for purposes of declaring conformity both here and abroad. And the Commission should not relax its efforts to agreements with its other trading partners in Asia and the Americas for recognizing and accepting compliance test results accomplished in other countries. Such agreements are critical to assure that domestic manufacturers are able to export product as expeditiously and easily as possible, while also bringing to this country devices that they have manufactured and tested overseas on reliable facilities.

For the reasons stated above, ITI urges expeditious adoption of the simplification of the equipment authorization processes described in the NPRM.

Respectfully submitted,

**Information Technology Industry Council**

A large, stylized handwritten signature in black ink, appearing to read 'Lawrence J. Movshin', is written over the typed name and extends across the width of the signature block.

By: Lawrence J. Movshin

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