

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
In the Matter of Amendment of Parts 0, 1, 2, 15 and)	ET Docket No. 15-170
18 of the Commission's Rules regarding)	
Authorization of Radiofrequency Equipment)	
)	
Request for the Allowance of Optional Electronic)	RM-11673
Labeling for Wireless Devices)	
)	

**COMMENTS OF THE
TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

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EXECUTIVE SUMMARY

The Telecommunications Industry Association (“TIA”) represents hundreds of companies that manufacture or supply information and communications technology (“ICT”), the vast majority of which are directly impacted by the Federal Communications Commission’s (“Commission”) proposed revisions to the rules that govern the evaluation and approval of RF devices. TIA appreciates the Commission’s focus and attention to important equipment authorization issues which squarely impact manufacturers’ and suppliers’ ability to provide innovative products and services to diverse markets both in the United States and elsewhere.

The Commission’s equipment authorization process has been largely successful. TIA agrees with the appropriateness of this NPRM given that today’s RF devices are evolving more rapidly than ever before, and we share the Commission’s anticipation that this evolution will continue and even accelerate in the coming years. While the system has been successful, the Commission should be constantly examining its rules and procedures for opportunities to make improvements. By prioritizing the streamlining of its equipment authorization rules, the Commission will enable greater investment in new, cutting-edge products such as software-defined radio and modular transmitter-based devices that respond to market-driven demands and will be key to the deployment of the Internet of Things. TIA believes that the Knowledge Database (KDB) process is a valuable tool that allows the Commission to keep pace with the explosive growth of devices and products while still ensuring that its technical requirements are met. It has been successful because its flexible approach allows for necessary revisions as technology and testing procedures evolve. The Commission should ensure that the KDB process and its resulting guidance maintain a degree of adaptability.

TIA supports the Commission’s goals to further improve its equipment authorization process. We provide detailed comments on each of the Commission’s proposals which include: the unification of self-approval procedures, proposed updates to certification procedures with regard to modular approvals and devices with software based capabilities, proposed changes to the processes for certified equipment, modification of certified equipment by third parties, the Commission’s proposals regarding repaired/refurbished equipment, imported equipment, proposals regarding information to be included with applications for certification, the Commission’s proposed changes to short-and long-term grant confidentiality rules, and the time frame for requesting review of certification grants.

The Supplier’s Declaration of Conformity (“SDoC”) allows manufacturers to produce innovation at a faster pace with a lower cost for consumers. The Commission should extend its SDoC approach to other classes of equipment regularly as classes of equipment develop established records of compliance with Commission rules. We urge the Commission to delegate to the Office of Engineering and Technology (“OET”) the ability to maintain detailed KDB guidance on types of equipment that may utilize an SDoC. The OET Labs would then have the flexibility to maintain detailed guidance that would list products able to use an SDoC moving forward, and expand the list as appropriate.

Third party vendors should not be able to modify a product without first consulting the original vendor and obtaining permission to do so. Otherwise, unauthorized modifications could

create issues such as warranty and repairs, trademark, and any changes that could affect the quality of a certified product's performance, which could adversely impact the product thus reflecting negatively on the equipment manufacturer whose name is on the product.

We support the Commission's proposals to realize the benefits of electronic labels to display the FCC identification number and other required regulatory information . Historically, the use of physical markings or labels have played a key role in providing this important information, but the continuous evolution of industrial design (e.g., smaller smartphones) and multiple regulatory environments has led to increased costs and difficulty in ensuring all required markings or labels are affixed in an efficient and convenient manner for the user of the device. Electronic labeling has several benefits for manufacturers and consumers, including greater design flexibility and decreased costs for manufacturers, which will inure to the benefit of consumers.

TIA generally supports the Commission's proposed reforms to importation rules. While we agree with the elimination of Form 740, we believe additional steps are needed to achieve meaningful reduction in overall administrative burdens. Compliance at the point of entry into the United States should be a self-regulating activity. The Commission should remove 2.1203 in its entirety as the current rule results in duplicative data collection at "point of import" and at "point of sale" and places a significant burden on imported products. TIA also provides comments on topics such as: proposed modification of customs bonded warehouse requirements, excluded devices proposals, support for proposals to increase the number of imported trade show devices, and the Commission's proposals regarding devices imported for personal use.

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COMMENTS OF THE TELECOMMUNICATIONS INDUSTRY ASSOCIATION

I. INTRODUCTION AND STATEMENT OF INTEREST

The Telecommunications Industry Association (“TIA”)¹ hereby submits its comments in response to the Commission’s Notice of Proposed Rulemaking (“NPRM”) in this proceeding.² As the leading trade association for the information and communications technology (“ICT”) industry, TIA applauds the Commission for initiating this review and proposed reform of its equipment authorization processes and rules. TIA members manufacture devices and infrastructure enabling WiFi, 3G, 4G, Bluetooth, GPS, near-field communications transmitters, and P25 wireless transmitter, among others; as well as wireline products such as routers and switches. Further, TIA members are making substantial investments in the development of

¹ TIA is a trade association based in the Washington, DC area which represents approximately 500 global information and communications technology (“ICT”) manufacturers, vendors, and suppliers. TIA represents the global ICT industry through policy advocacy and standards development. TIA member products and services empower communications in every industry and market, including healthcare, education, security, public safety, transportation, government, the military, the environment and entertainment. TIA is also accredited by the American National Standards Institute (“ANSI”) to develop industry consensus technical standards. *See* <http://www.tiaonline.org/>.

² Amendments of Parts 0, 1, 2, 15 and 18 of the Commission’s Rules regarding Authorization of Radiofrequency Equipment, Notice of Proposed Rulemaking, ET Docket No. 15-170, RM-11673 (rel. July 21, 2015) (“NPRM”).

connected devices and the underlying networks that make up the the Internet of Things. As a result, TIA membership consists of the manufacturers and vendors of a wide array of equipment regulated by the Commission that are directly impacted by this NPRM.

We appreciate the Commission’s focus and attention to important equipment authorization issues which squarely impact the ability of manufacturers to provide innovative products and services to diverse markets both in the United States and elsewhere. The Commission’s equipment approval process helps ensure that non-compliant manufacturers and vendors do not gain an unfair competitive advantage over companies that develop compliant products. TIA’s existing efforts to streamline the approval of devices are led by our Technical Regulatory Policy Committee (“TRPC”),³ which meets several times each year with Commission lab staff to address device approval issues and to share information among stakeholders. TIA is also interested in this issue as an American National Standards Institute (“ANSI”)-accredited standard developer for the telecommunications industry.

TIA also notes its existing efforts to work directly with the Telecommunications Certification Bodies (“TCBs”). TIA members constantly work with TCBs to ensure the quality of submissions to the Commission’s OET Labs. In addition, TIA is a liaison between the TCB Council⁴ and the ICT manufacturer and vendor community, and engages with TCB Council members on emerging trends and issues at the TCB Council Workshops held in April and October of each year in Baltimore, MD.

³ TIA’s TRPC advocates public policy positions related to the FCC equipment certification procedures through interaction with the Commission’s Office of Engineering and Technology (OET) and the OET Laboratory, as well as other governmental bodies, including but not limited to those issues which are affected by related TIA standardization activities. See <http://www.tiaonline.org/policy/tia-policy-committees-divisions>.

⁴ The TCB Council is a non-profit entity that provides a forum for periodic dialogue between the FCC and the TCB’s and to facilitate on-going activities geared toward the improvement of TCB technical and administrative performance. See <http://www.tbcouncil.org/>.

II. DISCUSSION

A. TIA'S GENERAL EXPERIENCES WITH, AND ASSOCIATED VIEWS REGARDING, THE COMMISSION'S EQUIPMENT APPROVAL PROCESS

1. THE COMMISSION'S EQUIPMENT AUTHORIZATION PROCESS HAS BEEN LARGELY SUCCESSFUL

Initially, TIA notes its support for the Commission's equipment authorization process and commends the Commission staff for its responsive work with industry to ensure that the Commission's system is efficient and ever-improving. For example, the Commission has taken significant efforts to effect these improvements over the years, such as its improvements to the Knowledge Database ("KDB") portal on its website.⁵ TIA agrees with the appropriateness of this NPRM given that today's RF devices are evolving more rapidly than ever before, and we share the Commission's anticipation that this evolution will continue and even accelerate in the coming years.

We also generally commend the Commission's creation of the TCB program.⁶ The program has succeeded in providing manufacturers with an alternative to obtaining certification from the Commission, and has facilitated the more rapid introduction of RF equipment into the market. The TCB program has allowed for the Commission to oversee, most recently, approximately 13,000 radio applications in FY2012.

TIA agrees with the Commission that while the system has been successful, the Commission should be constantly examining its rules and processes for opportunities to make improvements. TIA further notes that the Commission's equipment authorization process stands

⁵ See <https://apps.fcc.gov/oetcf/kdb/index.cfm>.

⁶ See 1998 Biennial Regulatory Review--Amendment of Parts 2, 25 and 68 of the Commission's Rules to Further Streamline the Equipment Authorization Process for Radio Frequency Equipment, Modify the Equipment Authorization Process for Telephone Terminal Equipment, Implement Mutual Recognition Agreements and Begin Implementation of the Global Mobile Personal Communications by Satellite (GMPCS) Arrangements, GEN Docket No. 98-68, *Report and Order*, 13 FCC Rcd 24687 (1998).

as a model for other Federal agencies and for regulators globally.

2. TIA APPLAUDS THE COMMISSION’S PROPOSALS TO MAKE ITS REGULATIONS CLEAR AND EASILY UNDERSTOOD

TIA notes its broad support for the Commission’s efforts to make its regulations more easily understood through such steps as moving Part 15 certification rules into Part 2.⁷ Such steps will enable ease – and reduced resource expenditure – in compliance with important rules that protect the public’s interest by preventing harmful interference. By prioritizing the streamlining of its equipment authorization rules, the Commission will enable greater investment in new, cutting-edge products such as software-defined radio and modular transmitter-based devices that will be critical to the deployment of the Internet of Things.

3. TIA SUPPORTS THE COMMISSION’S KDB PROCESS AND ITS CONTINUED ROLE IN THE COMMISSION’S EQUIPMENT AUTHORIZATION PROCESS

The NPRM proposes to codify several aspects of the Commission’s Knowledge Database (“KDB”) guidance.⁸ TIA supports the KDB process and its continued role in the Commission’s equipment authorization process. The guidance that the Commission has regularly provided through its Office of Engineering and Technology Laboratory (“OET Lab”) has proven invaluable for TIA’s members as they navigate the equipment authorization framework. At the same time, TIA is concerned that elevating the KDB guidance to rules could impact the overall flexibility of the approach. To this end, TIA submits that the Commission should ensure that the KDB process and its resulting guidance maintain a degree of adaptability.

⁷ See, e.g., NPRM ¶¶ 39-42.

⁸ See, e.g., NPRM ¶¶ 14, 39-40, 88, 104, 107.

The KDB process has been a success because of its flexible and efficient approach to disseminating information to industry members. Importantly, the Commission’s KDB guidance preserves flexibility by allowing for necessary revisions as technology and testing procedures continue to evolve. Not only are stakeholders able to submit inquiries directly to the Commission’s OET Lab staff as questions arise, but the OET Labs also regularly seek comment on and publish equipment authorization procedures and measurement guidance in response to issues facing the industry. Through KDB publications, the OET Lab provides non-binding staff guidance on how to comply with Commission requirements.⁹ As the Commission notes, KDB publications can cover a range of topics, including general directions on how to file for authorization of new types of devices or more particularized compliance testing guidance.¹⁰

These KDB publications have been extraordinarily helpful to stakeholders, and the OET Lab process for drafting and finalizing its guidance has been transparent, responsive, and timely. The KDB portal in particular provides a transparent means of drafting and conveying critical technical guidance to manufacturers, Telecommunications Certification Bodies (“TCBs”), and other stakeholders.¹¹ Moreover, the KDB process facilitates on-going dialogue between the Commission and industry that helps ensure a robust and efficient equipment authorization process. TIA and its members regularly engage in the KDB process by submitting their views on draft publications and plan to continue this engagement well into the future.

The Commission’s authority to promulgate guidance through the KDB process is clear. The Communications Act grants the Commission authority, consistent with the public interest,

⁹ See *id.* ¶ 12, n.24 (“The staff guidance provided in the KDB is intended to assist the public in following Commission requirements.”).

¹⁰ See *id.*

¹¹ See FCC, Office of Engineering & Technology Laboratory Division Knowledge Database, *available at* <https://apps.fcc.gov/oetcf/kdb/index.cfm>

convenience, and necessity, to “make reasonable regulations” governing the interference potential of devices capable of emitting radiofrequency energy “in sufficient degree to cause harmful interference to radio communications.”¹² With this authority, the Commission may establish technical requirements and administer an equipment authorization program that ensures that equipment reaching the marketplace does not cause harmful interference. The KDB process is a key component of this regime, allowing the Commission to “keep pace” with the explosive growth of devices and products while still ensuring that its technical requirements are met.¹³ With these important benefits at stake, TIA believes that to the extent the Commission codifies portions of existing KDB guidance, it should ensure that the flexibility and fluidity of the KDB process is preserved.¹⁴

¹² 47 U.S.C. § 302a(a)(1). Further, the Act prohibits manufacturing, importing, selling, offering for sale, or shipping devices or home electronic equipment and systems, or use devices, which fail to comply with the regulations the Commission has promulgated. *See id.* § 302a(b).

¹³ *NPRM* ¶ 1.

¹⁴ *See, e.g., id.* ¶ 40 (proposing to incorporate KDB guidance into the Commission’s revised Part 2 rules).

B. TIA SUPPORTS THE COMMISSION’S GOALS TO FURTHER IMPROVE ITS EQUIPMENT AUTHORIZATION PROCESS

1. TIA SUPPORTS THE COMMISSION’S PROPOSAL TO UNIFY SELF-APPROVAL PROCEDURES

TIA notes its support for the Commission’s proposal to unify its self-approval processes, and to combine elements of the declaration of conformity (“DoC”) and verification processes into a single self-approval process, the Supplier’s Declaration of Conformity (“SDoC”) for equipment that has a strong record of compliance and for which there is minimal risk of harmful interference.¹⁵ With the SDoC process, manufacturers are able to innovate at a faster pace and at a lower cost that will be passed on to the consumer. ICT manufacturers themselves would not be helped by creating a product that does not meet the Commission’s technical criteria, as consumers would not tolerate equipment that did not work well.¹⁶ However, TIA urges the Commission to continue to require the use of an accredited testing laboratory for performing the testing for any device that is subject to self-approval process.¹⁷ Retaining this requirement will ensure traceability to ISO 17025 quality procedures. Further, this clarification is significant in light of December 2014-issued rules re: treatment of laboratories.¹⁸

TIA also urges the Commission to consider extending its SDoC approach to additional classes of trusted equipment on a recurring basis as classes of equipment develop established records of compliance with Commission rules. We urge the Commission to delegate to the

¹⁵ *Id.* at ¶¶ 24-32.

¹⁶ *See* In the Matter of 2000 Biennial Regulatory Review of Part 68 of the Commission’s Rules and Regulations, *Report and Order*, CC Docket No. 99-216, FCC 00-400 at ¶ 21 (2000).

¹⁷ TIA believes that both the lab accreditation program and the lab listing program used to test unintentional radiators, specifically in the consumer market, has been successful in regards to overall compliance specifically for consumer products.

¹⁸ *Amendment of Parts 0, 1, 2, and 15 of the Commission’s Rules regarding Authorization of Radiofrequency Equipment; Amendment of Part 68 regarding Approval of Terminal Equipment by Telecommunications Certification Bodies*, Report and Order, 29 FCC Rcd 16335 (2014).

Office of Engineering and Technology (“OET”) the ability to maintain detailed KDB guidance on the types of equipment that may utilize a SDoC for compliance with Commission certification rules. The OET Labs would then have the flexibility to maintain detailed guidance that would list products able to use a SDoC moving forward, and expand the list as appropriate.

2. TIA GENERALLY SUPPORTS THE COMMISSION’S PROPOSED UPDATES TO CERTIFICATION PROCEDURES

In the NPRM, the Commission, based on ongoing changes in RF device design and manufacturing, proposes amendments to the certification rules to provide RF equipment manufacturers with a clear understanding of the application requirements and their compliance responsibilities for a variety of design scenarios.¹⁹ TIA agrees that the Commission’s proposed clarifications, such as the Commission’s proposal to provide for the certification of a group of related devices under a single Commission ID, would provide needed flexibility for ICT manufacturers and vendors. Below, TIA provides detailed input on the Commission’s proposals for modular approvals and software defined radios (“SDRs”).

(a) Modular Approvals

With respect to modular transmitters, TIA supports the Commission’s rationale for and proposal to relocate the rule governing certification of modular transmitters from Part 15, which covers only unlicensed device operation, to Part 2 of the Commission’s rules, which broadly apply to all RF devices regulated by the Commission.²⁰ Though TIA supports the Commission’s proposal to move module approval requirements to Part 2, we strongly encourage the

¹⁹ NPRM at ¶¶ 33-37.

²⁰ NPRM at ¶ 39

Commission to ensure that its relevant regulations do not memorialize prescriptive processes for modular approvals that may need to change due to the evolution of modular transmitter technology. TIA urges the Commission to provide the OET Labs with adequate delegated authority and flexibility to update its KDB for modular approvals to reflect the latest guidance in regard to installing or approving devices with radio modules. For example, moving forward Section 15.212's eight requirements for modular transmitter approval²¹ will need to be updated to reflect changes in technology. Consistent with our views above on the crucial role that the KDB process plays (and should continue to play), we urge the Commission to ensure that it provides flexibility in CFR text to allow for the OET Labs and industry to collaboratively and responsibly address issues related to modular transmitter approvals moving forward.²²

Should the Commission nonetheless move forward with its proposed Section 15.212,²³ TIA alternatively requests that the Commission specify the following in regard to modular transmitters:

- Manufacturers developing radio modules must use good engineering practices and the module must be capable of meeting all regulatory requirements as both a radio module and to comply with regulations that may apply to installation in a host device.
- The manufacturer shall provide all necessary information with regard to installing and operating the module in a host device.
- Radio modules shall be tested to the recommended test requirements as referenced in C63.10 and C63.26 with regard to radio modules. This further includes the use of testing the module outside a host device using control cables a minimum of 10cm in length or longer as to reduce the effect of shielding or interaction from the host.
- Devices must be properly shielded as to prevent or reduce spurious emissions or unwanted emissions.

²¹ *NPRM* at ¶¶39-40.

²² *See supra* at 4-6.

²³ *See NPRM* Appendix A, proposed 47 C.F.R. 15.212.

- The device must have its own voltage regulation or use components that fix the maximum power and current for the device. Devices should also allow for voltage regulation or power management within its radio chip or package.
- The device must use buffering or filtering as needed to reduce electromagnetic compatibility (“EMC”) emissions or over-modulation.
- If powered by alternating current (“AC”) power, the radio module must meet line conducted emissions; if not powered by AC, the radio module should meet line conducted testing done when connected to a typical host device, or be exempt if battery-powered. However, for modules integrated into hosts, this is a redundant test that is not needed; the host motherboard and power supply are the contributors, and filters to AC power line emissions, not the module.
- The module or the host system must meet RF exposure requirements based on its normal usage conditions, and be marketed either as a mobile or portable device. Further, the module manufacturer must give the host manufacturer information pertaining to RF exposure compliance and what restrictions the module certification contains.

Further, TIA supports the current definition of “limited modules” as a module not fully meeting the requirements of the above module requirements or not tested as a standalone module is classified as a limited module.²⁴ If a manufacturer chooses to classify their module as a limited module with regard to what hosts or types of hosts it can be used in, or confines the use to its own internal products, TIA believes that the module can be classified as a limited module. Further, TIA believes that a manufacturer should provide information to the installer or original equipment manufacturer (“OEM”) with regard to what additional testing must be done in order to incorporate the module.

TIA also urges the Commission to consider retaining the ability to attain certification of limited modular transmitters that are “split” into the “radio front end” (the radio elements) and

²⁴ See *NPRM* at ¶40.

the “transmitter control element” (the hardware on which the software that controls the radio operation resides). Rather than eliminate the ability to seek grants in this manner, we urge the Commission to retain it as an option. The Commission can provide the option to seek such a certification by providing ample flexibility in relevant CFR text, and deferring to the OET Labs’ KDB process. Should the Commission nonetheless decide to retain the ability to seek “split” certifications of limited modular transmitters in CFR, TIA recommends that the Commission provide maximum flexibility for stakeholders (*e.g.*, the Commission should not mandate a digital connection between the “front end” and “control element” when an analog connection should also be allowed to suffice).

(b) Devices with software-based capabilities

TIA applauds the Commission for addressing software-defined radios in the NPRM.²⁵ SDRs are no longer a novelty, and their use is essential to the proliferation of the Internet of Things. The Commission’s clarification around SDR approvals is directly correlated to reducing the burdens for these deployments across sectors of the economy. TIA specifically notes its support for the Commission’s proposal to simplify its rules by removing the SDR designation from grants of certification and incorporating any necessary requirements for software control of RF parameters and software security for all devices in its general certification rules and guidance.²⁶

Until 2014, the Commission’s OET Labs required that only the authorization branch could do an SDR review; as a result, SDR reviews were slow and most manufacturers did not undertake them. In 2014, the Commission turned SDR reviews over to the TCBs via the permit-

²⁵ NPRM at ¶ 43

²⁶ NPRM at ¶ 45

but-ask (“PBA”) process, effectively cutting approval time in half, though it is still slower review than the standard non-PBA process. Though a number of radios have gone through the Commission SDR process or TCB process, in practice the Commission has not required such a process for all radios that may fall under the category of an SDR and, as a result, views on whether or not SDR certifications are underutilized may not be entirely accurate. TIA recommends that radios that are considered to be SDRs not have to go through the PBA review process by TCBs so as to speed time to market. Radios have greatly evolved since the first SDR approval, and TIA supports removing the separate SDR approval process as most radios in some way could be considered SDR anyway or effectively operate as such.²⁷ Further, some of the original features as considered for SDR could be defined as Cognitive Radio Techniques.²⁸

TIA believes that radios which can be updated or modified via software should provide needed information as part of the certification process. Further warnings in the product manual about loading unauthorized software that could modify the device and the impact on maintaining compliance should also be provided. TIA strongly urges the Commission to ensure that the existing KDB guidance for SDRs,²⁹ which industry worked closely with the Commission’s OET Labs to develop, is not invalidated through this NPRM and can continue to be relied upon (either by allowing the OET Labs to continue to use the existing KDB guidance, or by allowing new KDB guidance issued pursuant to this rulemaking to incorporate relevant KDB guidance in use today).

²⁷ *Definitions of Software Defined Radio (SDR) and Cognitive Radio System (CRS)*, Report ITU-R SM.2152 (09/2009) (“ITU SDR/CRS Report Report”), available at http://www.itu.int/dms_pub/itu-r/opb/rep/R-REP-SM.2152-2009-PDF-E.pdf.

²⁸ See, e.g., *Dynamic Spectrum Access*, Cisco, available at <https://techradar.cisco.com/trends/Dynamic-Spectrum-Access> (last visited Sept. 22, 2015) (describing how “[d]ynamic frequency selection (DFS)... [is a] cognitive radio techniques that allow co-existence with radar and satellite systems.”).

²⁹ See KDB Publication 594280.

For example, one of TIA's concerns is that current SDR rules allow, under some conditions, Part 15 master devices as defined under Part 15.202³⁰ to have configuration schemes to select country settings based on location awareness methods. Consistent with our views elsewhere in these comments regarding the utility of KDB guidance, TIA recommends that the Commission clarify via its KDB process – not in CFR text – under what conditions a Part 15 master devices (or any radio device) may be allowed to load non-US code, or use automatic country configurations, as long as (1) the system only operates on US bands and within US power limits and (2) when the device is operated in the US and Commission settings are default.

The Commission raises a question regarding requirements for software security to limit changes to wireless devices.³¹ In the view of TIA, the concern is that unauthorized software could modify the operating parameters of the radio such as transit power output, turning off compliance mitigation techniques, or operating on channels or bands which were not approved during authorization process and would impact the compliance of the device authorized and could cause possible interference problems. As such the Commission is looking at restricting software uploads that would change such parameters. TIA notes the basic requirements for software security are already codified in various parts in the Commission's regulations, specifically Part 2.944 (b), Part 15.15 (c) Part 15.202, and more recently in Part 15.407 of the rules; in addition there are requirements established in KDB 594280.³² The Commission's proposal to the possible elimination of the SDR certification process includes requiring the SDR software security process to apply to all wireless devices. TIA argues the rules as noted above already require manufacturers to include a statement in their approved equipment manuals

³¹ See *NPRM* at ¶ 43.

³² See, e.g., KDB 594280.

warning that unauthorized changes could void the grant of certification, as well requirements established in the KDB 594280 that include specific information that must be part of the application process concerning the software security.

With regard to Part 15 wireless devices, the issue of software security is already addressed in the rules, so TIA feels the issue becomes one for the licensed services. This has already been addressed in part as the FCC OET lab has issued further guidance in several FCC KDB's including those that have been in effect for the last several years.³³ TIA believes that the intent of the Commission's action here is to clarify the current regulations by including the specific requirements as spelled out in the software configurations under SDR to apply to all software controlled devices. As this is already being done in part for Part 15 devices, to which the industry must already comply as part of the product approval process. TIA supports the recent security changes to Part 15.407 as well as relevant OET KDBs,³⁴ and thus the TIA sees no reason to oppose the overall concept of software security in regards to specific radio operation. As the Commission raises both the issue of software security and flexibility, TIA recommends that the Part 2 rules simply reference the applicable KDB's addressing software security as part of the consolidation of the SDR rules into the general radio rules. This would allow the industry to move forward with the Commission regarding ongoing KDB software guidance discussions to include all wireless devices that would fall under software configuration to expand or consolidate requirements as needed.

³³ *See, e.g., Id.*

³⁴ *See, e.g.,* Comments of the Telecommunications Industry Association on Draft Knowledge Database Publication 594280 (Software Security and Configuration Control Requirements for Non-SDR Devices) (May 23, 2014), *available at* <http://www.tiaonline.org/sites/default/files/pages/TIA%20Comments%20-%20Draft%20KDB%20594280%20%28052314%29.pdf>.

As noted above, the role of KDB guidance documents is crucial to an SDR approval process that is efficient and responsive, and we therefore urge the Commission to ensure that the flexibility needed by OET staff to maintain and update guidance on the process is not hampered by overly-proscriptive CFR text.

3. TIA SUPPORTS THE COMMISSION’S PROPOSED CHANGES TO PROCESSES FOR CERTIFIED EQUIPMENT

TIA agrees with the Commission’s rationale in evolving the “electrically identical” benchmark,³⁵ and agrees that the Commission’s differentiation between changes that do and do not require new FCC IDs is straight-forward, and will provide certainty to innovators. Specifically, TIA supports removal of the Class III SDR upgrade and placing it under a Class II change, thus allowing hardware changes without affecting SDR approval and requiring a new FCC ID.

TIA further recommends that the addition of antennas of different family types to Part 15 devices where the gain is less than the maximum antenna gain already approved be allowed as a Class I approval, providing that the manufacturer has updated their information to the user and the data is kept on file. This can be supported as the Commission currently allows most testing, including out-of-band-emissions (“OOBE”) and spurious emissions to be done either by conducted testing or using the applicable antenna termination load; in these cases the various antennas are not actually tested for radiated testing as part of the final certification test except for the antenna selected to be tested with the Part 15 unintentional transmitter test for EMC. TIA further offers the following caveats for a Class I change of an antenna for a Part 15 radio: (1) if

³⁵ *NPRM* at ¶ 51.

the radio operates in the DFS bands and the antenna gain is lower than the minimum antenna gain needed to comply with the DFS detection requirements and thus would be subject to Class II changes; and (2) if the antenna gain is higher than previously approved in the application or exceeds the allowed gain within the rules section (example: 6dBi gain or lower used in part 15.247 otherwise the conducted power must be decreased by 1dB for every 1dB above 6dBi gain). Furthermore, TIA recommends that the Commission provide a non-exhaustive list of examples of changes to certified equipment and their effect with regard to requiring FCC IDs, and give the OET Labs the flexibility to maintain such a list moving forward through the KDB process. With such a resource, innovators can have greater certainty around required actions when changes to certified equipment are made.

Lastly, TIA notes its agreement with the Commission's proposal to recognize the concept of a "family of products" existing under a single FCC ID. TIA believes that the KDB guidance process will be crucial to ensuring that the Commission and the TCBs can identify those cases where a grouping of products under one FCC ID is not appropriate. TIA urges a similar approach to the analysis around what constitutes a change "substantial enough to require the issuance of a new FCC ID."

4. TIA SUPPORTS CHANGES PROPOSED REGARDING RESPONSIBLE PARTIES FOR CERTIFIED EQUIPMENT

In the NPRM, the Commission proposes to clarify the parties responsible for ensuring the compliance of devices in different scenarios, and to make sure that all devices requiring authorization are properly tested for compliance and clearly identify the responsible party.³⁶ TIA

³⁶ NPRM at ¶ 59.

notes its support for the Commission's proposal to codify rules to clarify the responsible party for the certification of modular transmitters (including limited modular transmitters) and to relocate the certified modular transmitter requirements of Part 15 into Part 2 of the Commission's rules. TIA is also supportive of the Commission's proposals for installed certified modular transmitters that would not require a certification application.³⁷ However, we again urge that the Commission, in codifying the responsibilities of integrators, ensure that KDB guidance flexibility be maintained.

Further, TIA believes that the Commission grantee, or the vendor who has issued the original SDoC, should be the responsible party. Further, any changes to the product need to be approved by the vendor of record. For wireless devices in actual installation settings, though the equipment vendor is responsible for general product compliance, the installer is responsible for any and all modifications to the installed system and responsible for maintaining compliance of such an installation. As such an installer must document any changes made in the set up process that are not in line with the product guidance.

5. TIA VIEWS ON COMMISSION PROPOSALS REGARDING MODIFICATION OF CERTIFIED EQUIPMENT BY THIRD PARTIES

In the NPRM, the Commission proposes rule changes to address modifications of certified equipment by third parties.³⁸ TIA does not support the Commission allowing a third party vendor to modify a product without first consulting the original vendor and attaining express permission.³⁹ TIA notes its concern lies not only with regard to compliance, but also in

³⁷ NPRM at ¶ 62.

³⁸ NPRM at ¶¶ 69-72.

³⁹ NPRM at ¶ 70.

relation to issues as warranty and repairs, trademark, and any changes that could affect the quality of a certified product's performance, which could adversely impact the product thus reflecting negatively on the equipment manufacturer whose name is on the product.

With regard to the integration of radio modules, the Commission proposal as written will provide needed flexibility in some circumstances. However, TIA urges the Commission to define baseline requirements in CFR text, and to otherwise defer to the OET Labs' flexible and responsive KDB process. For example, in order to address the integration of modules, TIA recommends that the issues raised in the Commission's discussion of radio modules which include providing the necessary information needed to incorporate a radio module be addressed in the OET Labs' relevant KDB guidance rather than set in stone through the CFR. TIA further recommends that the information provided to the installer or OEM include any and all restrictions stated by Commission's grant for the relevant device be included in this information to better facilitate module approvals.

TIA notes that, with regard to radio modules and radio approval RF exposure proposals (both on host devices and radio modules), concern rests with the Commission's proposed co-location restriction on radio devices.⁴⁰ To address this issue, TIA suggests that this Commission proposal be removed, and instead exist as part of the device's instructions with regard to module integration. In this alternative approach it would be advised that the OEM or installer adding (1) a module to a device which may already have a radio installed that needed to perform a RF exposure assessment or (2) in case of portable device, that a specific absorption rate ("SAR") test (RF exposure assessment) must be completed to ensure compliance to the Commission's RF exposure limits.

⁴⁰ *NPRM* at ¶ 72.

With regard to end products incorporating certified modular transmitters, TIA generally supports the Commission's proposals, noting several requested changes:

- TIA urges that, for a device approved as a full module approval and where the device is placed in a host which meets the specification of the module, that if additional radio modules are added that the RF exposure assessment on the host device can be treated as a Class I change with no requirement to file. Further, we urge that the integrator must include any updated RF exposure information, including listing of SAR number, if overall system SAR is higher than listed on the Commission grant of the module.
- TIA urges that the host device be subject only to testing for compliance with the Commission's Part 15 B requirements as specified by the host manufacturer (Class A or Class B).
- TIA urges that a manufacturer's host device chosen to be certified with several modules be allowed to be covered by a family approval, allowing the removal of one or more approved radio modules as long as no other radios falling outside of the family for a host that was certified are added to the product without going through a Class II change or attaining a new FCC ID.

6. TIA SUPPORTS THE COMMISSION'S PROPOSALS REGARDING REPAIRED/REFURBISHED EQUIPMENT

In the NPRM, the Commission proposes to clarify procedures for the repair and refurbishing of certified devices, specifically that it formally adopt the current practice whereby a third party that repairs or refurbishes certified equipment to the device's original specification does not need to submit an application for certification if the equipment continues to operate as specified in its current grant.⁴¹ TIA notes its support for the Commission's proposals regarding repaired and/or refurbished equipment, and agreement with the Commission's rationale for these proposed changes.

⁴¹ *Id.* at ¶¶ 73-74.

7. TIA SUPPORTS THE COMMISSION’S PROPOSALS REGARDING IMPORTED EQUIPMENT

TIA notes its agreement with the Commission’s proposed requirement for manufacturers to provide identification and contact information of a domestic responsible party.⁴² TIA believes that the Commission should, however, consider publishing the contact information of the responsible domestic party through the FCC ID search engine for importers when importing devices certified by a third party. As noted by the Commission, importers are not always the responsible party of the certification.⁴³

8. TIA SUPPORTS THE COMMISSION’S PROPOSALS REGARDING INFORMATION TO BE INCLUDED WITH APPLICATIONS FOR CERTIFICATION

In the NPRM, the Commission proposes to streamline its rules which describe the information that must be included when applying for equipment certification, suggesting the combination of duplicative information requirements listed in paragraphs (b) and (c) of Section 2.1033 and to reorganize the information required only in specific rule parts or for specific types of operation into a more logical structure.⁴⁴ TIA notes its support for the Commission’s proposals regarding what information must be included with applications for certification, and the rationale for proposing such changes.

⁴² *Id.* at ¶¶ 75-76.

⁴³ *Id.* at ¶ 75.

⁴⁴ *NPRM* at ¶¶ 77-79.

9. TIA GENERALLY SUPPORTS THE COMMISSION'S PROPOSED CHANGES TO SHORT- AND LONG-TERM GRANT CONFIDENTIALITY RULES

As the Commission is aware, confidentiality of grant applications is crucial to the protection of proprietary designs that manufacturers heavily invest in. In general, TIA applauds the Commission's proposals to improve the system in the context of grant confidentiality.⁴⁵

In the context of short-term confidentiality of grant applications, while TIA generally supports the Commission's proposals, we urge the Commission to make the following refinements:

- TIA urges that the Commission permit all test results be given short-term confidentiality. This important step would reflect the reality that there are additional approval processes that require the Commission grant (*e.g.*, PTCRB approval⁴⁶).
- In regard to the Commission's proposal to permit 45 days with extensions up to 180 days total as the proper length of time to allow short-term confidentiality,⁴⁷ TIA urges for the Commission to keep the current rule of up to 180 days of confidentiality, rather than making manufacturers request multiple extensions, adding to the administrative burden.

TIA also notes its support for the Commission's proposals in regard to long-term confidentiality.⁴⁸ As required by the Commission's rules, very specific documents such as theory of operation, specific software controls, schematics and block diagrams all require long-term confidentiality. Under the existing rules, the process for attaining long-term confidentiality is to seek confidentiality when applying for certification, but the Commission's proposed changes would ensure that confidentiality is maintained even if administrative errors result in a

⁴⁵ NPRM at ¶¶ 80-89

⁴⁶ See *About PTCRB*, PTCRB, available at <https://www.ptcrb.com/index.cfm> (last visited Sept. 22, 2015).

⁴⁷ NPRM at ¶ 84.

⁴⁸ NPRM at ¶¶ 87-89.

manufacturer either forgetting to apply or the documents not being marked as confidential. As such we support the Commission view that these documents be automatically treated confidentially. Further, TIA believes that additional documents, as determined by the manufacturer, will need to be considered confidential (*e.g.*, trademarked) to be eligible for long-term confidentiality, based on request from the manufacturer.

10. TIA VIEWS ON THE COMMISSION’S PROPOSALS REGARDING THE TIMEFRAME FOR REQUESTING REVIEW OF CERTIFICATION GRANTS AND THE ALLOWANCE FOR PROVISIONAL CERTIFICATION FOR PURPOSES OF IMPORTATION

In the NPRM, the Commission proposes to adopt rules to specify that the “release date” for the grant of a certification is the date that the grant is published on the Commission’s website.⁴⁹ TIA supports keeping the 30 day review and comment period after the issuing of the Commission grant and posting of all non-long-term confidential information. However, this Commission proposal leaves an open question as to whether redacted appendices will need to also be included with a certification grant under the codified confidentiality rules.⁵⁰ TIA maintains that the required information needed to establish compliance is already included in published test results, and does not believe there is a need for additional summaries or redacted versions of the exhibits for which short-term confidential treatment is sought should be required to be posted to the Commission’s website, as these additional paperwork burdens would only add regulatory compliance costs and are disconnected from any public benefit. We request that the Commission clarify this position.

⁴⁹ NPRM at ¶ 90.

⁵⁰ NPRM at ¶ 91.

The Commission also proposes a mechanism where by manufacturers could attain preliminary certification for purposes of importation, with final certification and publication still occurring prior to marketing/offering for sale.⁵¹ TIA strongly supports this proposal and agrees that the process would facilitate the complicated operation of global supply chains and logistics in a fast-paced, highly competitive U.S. commercial environment, while still preserving the public interest in publication and review of the final certification and documentation. In particular, the Commission's proposal would give companies greater flexibility to meet customer demand for product immediately after product launch by allowing them to stage new products close to the point of sale prior to a new product launch announcement. And the design of the Commission's proposal ensures that there would be no impact on the current period of public review that follows immediately upon the final certification of the product (still occurring prior to the marketing/offer to sell of the product). TIA members look forward to seeing this proposal implemented as quickly as possible.

C. TIA SUPPORTS THE COMMISSION'S PROPOSALS TO REALIZE THE BENEFITS OF ELECTRONIC LABELS

A long-held priority for TIA has been streamlining and globally harmonizing equipment authorizations because American consumers benefit greatly from the competitive nature of the global ICT equipment market. TIA aims to promote process improvements that will decrease both the cost and time-to-market for equipment manufacturers, ultimately benefiting the end-user with quicker access to devices at lower costs. Reduction in the amount of resources that need to be spent to get a product to market directly translates to improved competition in pricing of the

⁵¹ *NPRM* at ¶ 92.

ICT equipment that hundreds of millions of Americans use in their everyday lives, whether as consumers or through work.

As the Commission is aware, the ICT market presents unique challenges to ensuring that governments, consumers, and other stakeholders are readily able to determine whether a device has been properly certified, and for ensuring that consumers are able to obtain additional information about a device as efficiently as possible. Historically, the use of physical markings or labels have played a key role in providing this important information, but the continuous evolution of industrial design (*e.g.*, smaller smartphones) and multiple regulatory environments has led to increased costs and difficulty in ensuring all relevant markings or labels are affixed in an efficient and convenient manner for the user of the device. The consensus view of the ICT manufacturer community is that an effective solution to this problem is the non-exclusive use of electronic labeling for RF-emitting and terminal ICT equipment, which allows consumers and other users access to easily readable and prominently displayed information about each device. This is why TIA has been the champion for the allowance of electronic labeling globally.

In 2012, TIA submitted a petition for rulemaking to the Commission requesting the allowance of electronic labeling.⁵² Because TIA has long argued that the Commission has the ability to allow for eLabeling under its traditional statutory authority, we separately submitted a formal request that the Commission undertake that analysis.⁵³ TIA also urged the Commission to consider this allowance in light of Chairman Wheeler's process reform effort.⁵⁴ TIA also supported the Enhance Labeling, Accessing, and Branding of Electronic Licenses Act of 2014,

⁵² Petition for Rulemaking by the Telecommunications Industry Association, RM-11673 (Aug. 6, 2012).

⁵³ Letter from Brian Scarpelli, Director of Government Affairs, TIA to Dr. Rashmi Doshi, Chief, Laboratory Division, Office of Engineering and Technology, Federal Communications Commission (Mar. 19, 2014), *available at* <http://www.tiaonline.org/sites/default/files/pages/TIA%20KDB%20Request%20re%20eLabeling%20031914.pdf>.

⁵⁴ *See* Comments of TIA, GN Docket No. 14-25 (filed Mar. 31, 2014).

bipartisan legislation that clarified the Commission's ability to allow for eLabeling and required the Commission to enable an eLabeling allowance.⁵⁵

As a result of collaborative work with the OET Labs, on July 11, 2014, the FCC issued a guidance document allowing for eLabeling for all devices with integrated screens.⁵⁶ Combined with new efficiencies to the supply chain process, eLabeling translates to more competitive pricing options for hundreds of millions of consumers. We commend the Commission for its inclusive approach to working with the industry to advance the public interest through this guidance.

The issuance of this guidance also reinforces the FCC's role as a global leader in regulatory approaches which foster innovation and advance public policy goals. Indeed, since the Commission has made its KDB guidance on eLabeling final and public, in addition to the Canadian government,⁵⁷ eLabeling allowances consistent with the Commissions have been put into place in key markets, including China⁵⁸ and Malaysia,⁵⁹ while it is being seriously studied and considered in the European Union.⁶⁰

⁵⁵ Enhance Labeling, Accessing, and Branding of Electronic Licenses Act of 2014, Pub. L. No. 113-197 (Nov. 26, 2014).

⁵⁶ KDB Guidance 748748.

⁵⁷ Industry Canada, *Notice 2014-DRS1003* (Nov. 13, 2014), available at <http://www.ic.gc.ca/eic/site/ceb-bhst.nsf/eng/tt00099.html>.

⁵⁸ China's Ministry of Industry and Information Technology has issued a notice dated July 6, 2015 making the option to electronically label "radio transmission equipment having a display screen." See <http://www.miit.gov.cn/n11293472/n11293832/n12843926/n13917012/16693442.html>. Further, China's General Administration of Quality Supervision, Inspection and Quarantine and Certification and Accreditation Administration have since adopted a similar eLabeling allowance for the required "CCC" mark.

⁵⁹ The Malaysian Communications & Multimedia Commission ("MCMC") has issued its *Guideline on Certification Mark for Self-Labeling (SL) of Certified Communication Products in Malaysia (Version 2)*, which is in effect as of June 1, 2015. See http://www.puntofocal.gov.ar/notific_otros_miembros/mys56_t.pdf. TIA has supported this development in public comments to MCMC. See <http://www.tiaonline.org/sites/default/files/pages/TIA%20Comment%20to%20Malaysia%20%28MCMC%29%20re%20Electronic%20Labeling%20Policy%20042115.pdf>.

⁶⁰ See European Parliament and Council, *Radio Equipment Directive (2014/53/EU)* at 6, available at http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:JOL_2014_153_R_0002&from=EN.

Based on its investment in eLabeling, TIA supports the Commission’s proposed new labeling rules to generally allow a radiofrequency device with an integrated electronic display to electronically display any labels required by Commission rules.⁶¹ Further, TIA believes that the Commission should seriously consider an eLabeling option for “devices that rely on a wireless or remote connection and have no display have a physical label.”⁶²

TIA also notes that it strongly supports the Commission’s proposal to make electronic labeling optional.⁶³ We believe that in some circumstances, ICT manufacturers may wish to continue to use other options to label products, and applaud the Commission’s proposal to provide flexibility.

TIA urges the Commission to avoid overly-prescriptive requirements on electronic labels in its new CFR text. TIA believes that it would be appropriate to leave the details of electronic labeling (*e.g.*, the maximum number of steps to access regulatory and labeling information) to OET KDB guidance to ensure that new innovations are not constrained, which would avoid “locking in” any eLabeling implementations that may need to evolve with the marketplace (and the Commission’s) needs.

TIA also supports expanding the labeling options for small unauthorized devices in similar fashion. For example, we urge the Commission to allow eLabeling for remote terminals, and to consider expanding the options to place labeling information in the manual, on the packaging, or other methods consistent with those for authorized devices. Further, TIA supports the use of physical labels on distribution boxes or anti-static bags to sufficiently implement

⁶¹ *NPRM* at ¶ 94.

⁶² *NPRM* at ¶ 102.

⁶³ *See, e.g., NPRM* at ¶ 95.

device labeling requirements, especially for modules or subassemblies which might be too small to have a label on the actual device.

Finally, TIA notes its belief that the E-LABEL Act does allow the Commission to extend the eLabeling option to safety-of-life information or warnings about illegal use of equipment because the E-Label Act of 2015 contains no text that would prevent the Commission from extending its eLabeling allowance to such information and warnings.⁶⁴ TIA therefore contends that the same rationale underlying eLabeling applies to such labels.

D. TIA SUPPORTS THE COMMISSION'S PROPOSED CHANGES TO MEASUREMENT PROCEDURES

In the NPRM, the Commission proposes to modify Section 2.947(a)(3) to specifically include a reference to the advisory information available in the Commission's online KDB publications in order to assist manufacturers and the public by providing a clear reference to an existing resource that provides technical guidance.⁶⁵ TIA supports the Commission's proposal to adopt industry-developed test standards for its measurement procedures. TIA agrees that these changes are needed to reflect industry consensus and the Commission's adoption is consistent with OMB Circular A-119⁶⁶ and the NTTA.⁶⁷

In regard to removing the requirement for frequency range tested and adopting the frequency range in ANSI C63.10(13),⁶⁸ TIA notes that the frequency range in ANSI C63.10 was derived from the Commission's Part 15 rules. Further, as the Commission allows for the use of

⁶⁴ NPRM at ¶ 103.

⁶⁵ NPRM at ¶ 107-112.

⁶⁶ Office of Mgmt. & Budget, Exec. Office of the President, OMB Circular A-119, *Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities* (1998).

⁶⁷ National Technology Transfer and Advancement Act of 1995, Pub. L. No. 104-113 (1996).

⁶⁸ NPRM at ¶ 109.

alternate standards, it is possible that a laboratory testing to a laboratory procedure (or even a Commission KDB) would not have access to the information in the ANSI C63.10(13). By keeping these requirements in a rule, in this context, the Commission appropriately assures that there is no ambiguity in regard to what frequency range must be tested. TIA notes that it is possible that, in a future revision, ANSI C63.10 could remove this section and simply rely on Commission rules, and TIA expects that ANSI C63.10 may indeed take this approach; therefore, TIA recommends that the Commission leave the frequency range in its regulations

Finally, in regard to adoption of ANSI C63.26, TIA notes that ANSI C63.26 was developed along with ANSI C63.10, but geared for transmitters operating in the licensed services. However, as ANSI C63.26 does not cover all licensed transmitters such as some location monitoring services (“LMS”), fixed services, satellite systems, television Broadcast, etc., TIA cautions the Commission against making a blanket change to Part 2 test procedures or removing other test standards such as TIA-603⁶⁹ or TSB-10.⁷⁰ Furthermore, we concur with the recommendations of ANSI C63.26 in regard to the radiated measurement using the field strength method versus the substitution method.

⁶⁹ See TIA-603 Revision D, *Land Mobile FM or PM Communications Equipment Measurement and Performance Standards* (Jun. 24, 2010), available at https://global.ihs.com/doc_detail.cfm?&rid=TIA&item_s_key=00144319&item_key_date=890631&input_doc_number=&input_doc_title=&origin=HISC. This TIA standard provides definition, methods of measurement and performance standards for radio equipment used in the Private (Dispatch) Land Mobile Services that employ FM or PM modulation, for transmission of voice or data using analog or digital techniques, with a frequency of 1 GHz or less.

⁷⁰ See TIA TSB-10 Revision F (Jun. 1, 1994), available at https://global.ihs.com/doc_detail.cfm?&rid=TIA&item_s_key=00032862&item_key_date=051231&input_doc_number=TSB-10&input_doc_title=&org_code=TIA. This Bulletin provides methodology and criteria for properly coordinating microwave radio systems in the merged (under FCC ET Docket 92-9) Domestic Public Fixed Radio Services and Private Operational- Fixed Microwave Service (POFMS) bands. These interference criteria are based on levels of interference established in Parts 21 and 94 of the FCC Rules and Regulations.

E. TIA GENERALLY SUPPORTS THE COMMISSION’S PROPOSED REFORMS TO IMPORTATION RULES

1. TIA SUPPORTS THE COMMISSION’S PROPOSALS TO ELIMINATE FORM 740, BUT BELIEVES ADDITIONAL STEPS ARE NEEDED TO ACHIEVE A MEANINGFUL REDUCTION IN OVERALL ADMINISTRATIVE BURDENS

TIA supports the Commission’s proposal to eliminate the requirement to submit Form 740 at the time of importation. It also agrees that the information otherwise collected by CBP provides sufficient enforcement tools absent Form 740, including if it were to issue provisional certification grants for the purpose of importation as anticipated elsewhere in the NPRM. That said, TIA observes that simply eliminating Form 740 will not achieve the FCC’s goal “to reduce substantial administrative burdens” if the proposal simply shifts the obligation to importers to provide the same data elements to CBP.⁷¹

In general, TIA is of the view that compliance at the point of entry into the United States should be a self-regulating activity. To this end, the Commission should simply remove § 2.1203 in its entirety as the current rule results in duplicative data collection at “point of import” and at “point of sale,” and places a significant burden on imported products that is not similarly borne by products that are manufactured domestically.

Moreover, the current regime assigns the administrative burden to importers, which are often not the responsible party for compliance with Commission requirements. Elsewhere in the NPRM, the Commission itself recognizes that the importer of a certified device is not always the

⁷¹ NPRM at ¶¶ 117 – 124.

party responsible for the compliance of the certified device under current rules.⁷² Likewise, the importer of a noncompliant device is not always the party responsible for obtaining the compliance certification. We recommend that Commission clarify that importer status alone is not sufficient to result in a “responsible party” status under the Commission’s requirements, but rather that responsibility is triggered only when the importer is the manufacturer.

Specifically, we urge the Commission to revise its proposed text for § 2.1203 to eliminate (a)-(c), to be replaced by “(a) The Importer or ultimate consignee, or their designated customs broker must provide, upon request made within one year of the date of entry, documentation on how an imported radio frequency device was determined to be in compliance with Commission requirements.” In this way, the FCC could enable importers to maintain and manage Commission compliance and meet the Commission’s equipment authorization and importation requirements without impacting the flow of trade, while minimizing administrative burdens for both parties. And to further assist industry in complying with Commission requirements, TIA recommends that the Commission maintain and make available a database by manufacturer and model number to allow for importers, consumers and the U.S. CBP to evaluate compliance to the Commission’s requirements.

Even if, however, the Commission is not prepared to eliminate 2.1203 at this time, TIA recommends a further reduction in the elements of the proposed §2.1203 that could substantially reduce the administrative burden. For example, the Commission currently requires importers to report the condition of the RF device, regardless if the device requires Commission certification or self-certification at the time of import declaration. Additionally, TIA requests that the

⁷² NPRM at ¶ 75.

Commission consider moving away from transactional reporting requirements and instead collect from industry upon Commission request.

Finally, the Commission states in its proposed rule that “compliance with our importation rules is implicitly addressed by the information already required by CBP.” However, companies are receiving conflicting information regarding exactly which data elements CBP would collect once Form 740 is eliminated. TIA requests that the Commission provide the list of elements that importers would be required to submit to CBP to comply with FCC requirements under the proposed rule, so that industry can provide informed feedback regarding how this new rule would, in effect, impact Industry’s administrative burden. TIA members also request that industry have an opportunity to participate in any dialogue between FCC and CBP to determine the parameters and implementation of any changes to the current data collection regime, as industry has significant information and experience to contribute, including with respect to the construction of trusted trader programs that can greatly facilitate trade by rationalizing data collection. And TIA cautions that any change to the current process and forms required at the border should be undertaken with sufficient consultation, coordination and testing to ensure that there will be no glitches in shipment processing.⁷³

Finally, TIA urges for the Commission to consider changes to circular language in its proposal for 2.1204(a)(1), which references ‘marketing’ as described in 2.803(a), as 2.803(a) has importation in its definition of marketing.⁷⁴ TIA suggests that the Commission remove the

⁷³ For example, prior to the effective date of any rule change, CBP will need to deactivate the “Other Government Authority” flag in its Automated Commercial Environment (“ACE”) and Automated Broker Interface (“ABI”) systems for Harmonized Tariff Schedule (“HTS”) classifications that currently require an importer to file the additional Form 740 paperwork at time of importation.

⁷⁴ See *NPRM* Appendix A, proposed 47 C.F.R. 2.1204(a)(1).

reference to 2.803(a) and replace it with: “Marketing includes sale or lease, or offering for sale or lease, including advertising for sale or lease”.

**2. TIA VIEWS ON THE COMMISSION’S PROPOSED
MODIFICATION OF CUSTOMS BONDED WAREHOUSE
REQUIREMENTS**

With regard to the Commission’s discussion of the possibility of providing provisional grants of certification applications, which would allow the importation of RF devices that have been provisionally granted prior to the final issuance of the certification,⁷⁵ TIA endorses the use of a foreign trade zone or bonded facility for devices prior to the issuance of provisional grants of certification, and urges the Commission to retain § 2.1201(c). In addition, to help reduce importer’s operating cost of a bonded facility, the Commission should consider allowing importers the option to manage the importation of such unauthorized devices in the importer’s facility. Enforcement of the Commission rules should be similar to the record keeping requirements enforced today with foreign trade zones or bonded facilities.

TIA also urges the Commission to add the following to its proposed § 2.1201: “(c) Nothing in this section prevents importers from shipping goods into foreign trade zones or Customs bonded warehouses. Radio frequency devices capable of causing harmful interference, however, cannot be withdrawn from these areas except in accordance with the provisions of this section.”

⁷⁵ NPRM at ¶ 122.

3. TIA VIEWS ON THE COMMISSION’S EXCLUDED DEVICES PROPOSALS

Specific to the Commission’s proposed CFR text regarding excluded devices in § 2.1202,⁷⁶ TIA urges the Commission to replace the proposed text in this section with: “provisions of this section do not apply to the importation of (a) Unintentional radiators which are exempted from technical standards and other requirements as specified in § 15.103 of this chapter; (b) Radio frequency devices manufactured and assembled in the U.S.A. that meet applicable FCC technical standards and which have not been modified or received further assembly; (c) Radio frequency devices previously properly imported that have been exported for repair and re-imported for use; (d) Subassemblies, parts, or components of radio frequency devices unless they constitute an essentially completed device which requires only the addition of cabinets, knobs, speakers, or similar minor attachments before marketing or use. This exclusion does not apply to computer circuit boards that are actually peripheral devices as defined in § 15.3(r) of this chapter and all devices that, by themselves, are subject to Commission marketing rules.”

4. TIA VIEWS ON THE COMMISSION’S PROPOSALS TO INCREASE THE NUMBER OF IMPORTED TRADE SHOW DEVICES

TIA supports the Commission in allowing changes to the number of devices imported for trade shows⁷⁷ as most production is overseas for many manufacturers and thus it allows these manufacturers to bring in proper quantities of devices for demos and engineering development without having to file additional paperwork with customs. With regards to the Commission

⁷⁶ NPRM at ¶ 124.

⁷⁷ NPRM at ¶ 123.

proposal to increase the importation limits to 400 units for products which are designed solely for operation within a radio service for which an authorized operating license is provided,⁷⁸. TIA agrees with this proposal, but notes that many devices also operate in unlicensed bands that do not require an operating license. Not only is there is discrepancy between the Commission's discussion of this topic in the NPRM and the existing CFR text,⁷⁹ but in practice importers commonly have difficulty determining which category of device (licensed or unlicensed) may be being imported.

Based on the above, TIA urges the Commission to raise the import limit to 400 devices, licensed or unlicensed, for all tradeshow and demonstration purposes, and to combine §2.1204(a)(4)(i) and §2.1204(a)(4)(ii) onto a single section to help reduce the importer's administrative burden to determine if the imported tradeshow device is under a licensed spectrum or other band.

5. TIA VIEWS ON THE COMMISSION'S PROPOSALS REGARDING DEVICES IMPORTED FOR PERSONAL USE

With regard to the Commission's proposals on devices imported for personal use,⁸⁰ TIA notes its support for the Commission's proposal to expand the scope of the exception to cover both devices used in licensed services and unlicensed devices. However, TIA requests for the Commission to raise the allowable number of personal devices to 10 devices as a result of the increasing number of linked or interconnected devices (*e.g.*, smartphone, tablet, laptop,

⁷⁸ *Id.*

⁷⁹ While the Commission's discussion in the NPRM's explanatory text appears to contemplate permitting up to 400 devices, licensed or unlicensed, to be imported, the Commission's proposed CFR text in Annex A would have the 400 device import limit apply only to licensed devices.

⁸⁰ *NPRM* at ¶ 125.

smartwatch, smart bracelet and other wearables) consistent with rapid technological growth. Further, TIA believes that the Commission should amend its relevant CFR text to allow for individual use to include any activity undertaken by an individual or corporation that where the device(s) is/are not intended for transfer or sale. Thus TIA recommends further expanding the language of 47 CFR Section 2.1204(a)(7) to read as follows:

Ten or fewer devices used both in licensed and unlicensed frequencies as defined in part 15 of this chapter, are being imported for individual's personal use, which includes hand carry performed by an individual on behalf of a corporation, and are not intended for sale.

Specific to the Commission's proposed language change § 2.1204(a)(1),⁸¹ TIA agrees with the Commission's proposal to modify existing language under § 2.1204(a)(1). However, due to the proposed change to allow import prior to the issuance of a grant of certification, TIA proposes to modify language under § 2.803(a) and add § 2.803(a)(3) as described above.⁸² We also urge the Commission to clarify that, in the case of device that has been issued a provisional grant of certification, such devices may be imported prior to the issuance of a grant of certification.

⁸¹ See *NPRM* Appendix A, proposed 47 C.F.R. 2.1204(a)(1).

⁸² See *infra* at 30.

II. CONCLUSION

We thank the Commission for its public consultation, and urge the careful consideration of the positions of the ICT manufacturer and vendor community as it proceeds in its efforts to improve the device approval process, consistent with the above.

Respectfully submitted,

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