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August 6, 2012

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: Importation Limitations Codified in 47 C.F.R. § 2.1204 (ET Docket Nos. 10-236 and 06-155)

Dear Ms. Dortch:

The Telecommunications Industry Association ("TIA")[1] hereby submits further input to the Federal Communications Commission's ("Commission" or "FCC") Office of Engineering and Technology ("OET") under the above-captioned dockets[2] related to the restrictions on the number of products that can be imported for testing if the devices are not type approved.[3]

The Commission's rules allow for radio frequency devices to be imported "in limited quantities for testing and evaluation to determine compliance with the Commission rules and regulations or suitability for marketing."[4] The rules also allow devices to be imported when "in limited quantities for demonstration at industry trade

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[1] TIA represents the global information and communications technology ("ICT") industry through standards development, advocacy, tradeshows, business opportunities, market intelligence and world-wide environmental regulatory analysis. Its hundreds of member companies manufacture or supply the products and services used in the provision of broadband and broadband-enabled applications. Since 1924, TIA has enhanced the business environment for broadband, mobile wireless, information technology, networks, cable, satellite and unified communications. TIA's standards committees create consensus-based voluntary standards for numerous facets of the ICT industry.

[2] *Promoting Expanded Opportunities for Radio Experimentation and Market Trials under Part 5 of the Commission's Rules and Streamlining Other Related Rules*, ET Docket No. 10-236, *2006 Biennial Review of Telecommunications Regulations – Part 2, Administered by the Office of Engineering and Technology (OET)*, ET Docket No. 06-155, Notice of Proposed Rulemaking, FCC 10-197 (rel. November 30, 2010).

[3] *See* 47 CFR § 2.1204.

[4] 47 CFR § 2.1204(3).

shows and the device will not be offered for sale or marketed."[5] For both of these exceptions, 2000 or fewer units are allowed, "provided the product is designed solely for operation within one of the Commission's authorized radio services for which an operating license is required to be issued by the Commission,"[6] or 200 or fewer units are allowed "for all other products."[7]

In the dynamic ICT industry, products are increasingly multi-band enabled and multi-use. TIA companies make devices across the categories of end-users in the United States, from unlicensed devices to highly secure public safety radios. In some cases, TIA member companies can get the prototypes made in domestic facilities, but in others, due to cost or time factors, companies must get them from overseas. Units are imported to the United States to determine compliance with radio type approval and product safety regulations, among others – not only for the purposes of Commission regulations but for potentially hundreds of foreign markets that may have different compliance requirements. In addition, some of these tests are destructive to the devices.

Due to an increasing number of devices supporting multiple authorized radio services for which an operating license is required, a high number of imports are limited to 200 units. As a result, the importing company constantly finds itself required to seek a waiver and wait for approval. This waiver process demands resources from not only the importing company, but also the Commission's staff who must manage and process each waiver. Therefore, we believe that the import limitations employed by the Commission have resulted in an overly-burdensome process that is adversely affecting the development and testing phases of product design.

We have recently met with OET to discuss possible ways that the related burden on manufacturers and Commission staff could be lessened, and specifically urged that the

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5 47 CFR § 2.1204(4).

6 47 CFR § 2.1204(3)(i); 47 CFR § 2.1204(4)(i).

7 47 CFR § 2.1204(3)(ii); 47 CFR § 2.1204(4)(ii).

import limitation ceiling be increased to up to 8,000.[8] During this discussion, Commission staff raised the possibility of shifting its importation compliance process to a registration system, as opposed to the current system that requires companies to file waiver requests. TIA wishes to communicate its full support for this shift and we strongly urge the Commission to implement such a change. We believe that this change would help streamline the development and testing phases of product design, and allow for resources to be used more effectively by both companies and the Commission, as it would benefit from the tracking systems already in place by companies as well as the steps manufacturers already take to ensure that devices imported under the exceptions in 47 CFR § 2.1204(3) and (4) are not placed into the stream of commerce.[9] This registration system may require tiered applications for small- and medium-sized entities.

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[8] *See Ex Parte* Letter from Brian Scarpelli, TIA to Marlene H. Dortch, Secretary, FCC, ET Docket Nos. 10-236 and 06-155 (dated Jul. 20, 2012).

[9] For example, many manufacturers permanently and clearly mark devices imported under the 47 CFR § 2.1204(3) and (4) exceptions as "NOT FOR SALE."

We appreciate the Commission's efforts to improve the device approval process, and urge the adoption of policies consistent with the above.

Respectfully submitted,

TELECOMMUNICATIONS INDUSTRY ASSOCIATION

By: *<u>/s/ Brian Scarpelli</u>*

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