

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Amendments of Parts 0, 1, 2 and 15)	
Of the Commission's Rules Regarding)	ET Docket No. 13-44
Authorization of Radiofrequency)	
Equipment)	RM-11652
)	
Amendment of Part 68 Regarding)	
Approval of Terminal Equipment)	
By Telecommunications Certification)	
Bodies)	

REPLY COMMENTS OF INOVONICS WIRELESS CORPORATION

Inovonics Wireless Corporation ("Inovonics"), by its attorneys, hereby replies to comments filed in response to the Federal Communications Commission's ("FCC" or "Commission") proposal to incorporate the American National Standards Institute, Inc. ("ANSI") C63.10-2009 measurement standard into its Part 15 rules.¹

Comments filed highlight serious concerns about the adoption of this standard, as doing so could require manufacturers to comply immediately with relevant changes to a standard made by a private standards group that operates outside of FCC's authority. Adoption of the standard also would be costly to consumers, test labs and manufacturers, with little commensurate benefit. Moreover, there has been no demonstration that continued use of the current standard would be detrimental. For these reasons, the FCC should maintain the

¹ *In the Matter of Amendments 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, Notice of Proposed Rulemaking, ET Docket No. 13-44, RM-11652 (rel. Feb. 15, 2013) ("NPRM").*

status quo under which application of ANSI C63.10-2009 would not be mandatory. If, however, the Commission chooses to make the new standard mandatory, it should provide an adequate transition period until December 31, 2020.

DISCUSSION

Inovonics filed comments in this proceeding solely with regard to the Commission's proposal to adopt the ANSI C63.10-2009 standard in its Part 15 rules.² As Inovonics explained, adoption of this proposal would be costly to consumers³ and would pose challenges for many equipment manufacturers.⁴ Moreover, Inovonics noted that there does not appear to be a strong public benefit in adopting the proposal, especially one that would justify these costs.⁵ Notwithstanding these views, Inovonics requested that, should the FCC adopt the ANSI C63.10-2009 standard, it provide a transition period until December 31, 2020, by which devices may be tested under the current 2003 standard.⁶

Inovonics' views are supported by a significant number of other parties.

² *In the Matter of Amendments 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*, Comments of Inovonics Wireless Corporation, ET Docket No. 13-44, RM-11652 (filed June 17, 2013) ("Inovonics Comments").

³ Inovonics Comments at 2 and 3-5.

⁴ Inovonics Comments at 5-6.

⁵ Inovonics Comments at 6.

⁶ Inovonics Comments at 5 and 7.

Incorporation into Commission Rules of an Undated Standard is Questionable.

A number of parties have voiced concern about ANSI C63.10-2009 because it encompasses other standards that are undated.⁷ The Information Technology Industry Council states that:

C63® has amended their written practice for approving guidance documents in a fashion that requires more input into the process, thus allowing for a wider group to review and approve such interpretations. Regardless, ITI remains opposed to the proposal to have C63® interpretations given the force of law by automatically being accepted by the FCC as part of their Rules. Unless public notice is given by the FCC that an interpretation has been issued and is now in effect this simply adds to the complexity of keeping up with potential changes to test procedures followed by laboratories around the world when testing products for compliance to the FCC Rules.⁸

Hewlett-Packard expresses similar concerns, chiefly that: “a standard referenced without a date has the appearance of being effective immediately This does not allow for a discussion of those who are subject to regulations with FCC regarding impact, appropriateness of the standard, cost benefit or any transition period to comply.”⁹

If ANSI C63.10-2009 could be changed without FCC review or without affected parties having an opportunity to comment on the changes, this could be an improper delegation of FCC authority to a private, unaccountable standards body. Given that Congress has delegated specific authority to the FCC to

⁷ See Comments of Hewlett-Packard at 8 and 10; Comments of the Information Technology Industry Council at 2; Comments of International Business Machines Corporation at 3.

⁸ Comments of the Information Technology Industry Council at 2.

⁹ Comments of Hewlett Packard at 10.

regulate radiofrequency equipment,¹⁰ sub-delegation of this authority to a private party would not be lawful.¹¹

It Would be Detrimental to the Public Interest to Replace ANSI C63.4-2003 with ANSI C63.10-2009.

The FCC has proposed replacing ANSI C63.4-2003 with ANSI C63.10-2009 because the Commission believes that doing so would “advance the Commission’s objective of ensuring compliance with its technical requirements as well as decreasing the burden on equipment manufacturers, thus promoting the timely introduction of innovative new products.”¹² However, the record in this proceeding does not support that conclusion.

As Inovonics demonstrated, compliance with this new standard would impose high costs on consumers who would need to upgrade entire systems in order to add additional devices or make other modifications.¹³ Other parties agree that adoption of ANSI C63.10-2009 would be costly and would not serve the public interest. The American Council of Independent Laboratories (“ACIL”) explains that requiring use of the standard would create a financial hardship for many test labs, as it would require them to replace equipment.¹⁴ IBM states that some of the 2009 standards are more burdensome to both manufacturers and test laboratories, and that the benefits do not outweigh the

¹⁰ 47 U.S.C. § 302.

¹¹ See e.g. *U.S. Telecom. Assoc’n v. FCC*, 359 F.3d 554, 565 (D.C. Cir. 2004) (“when an agency delegates power to outside parties, lines of accountability may blur, undermining an important democratic check on government decision-making.”).

¹² NPRM at ¶ 67.

¹³ Inovonics Comments at 3-5.

¹⁴ Comments of American Council of Independent Laboratories at 4-5. ACIL conducted a survey of its member test labs regarding the costs of changing to this new standard.

costs.¹⁵ Teradata and the Information Technology Industry Council also detail similar concerns regarding the increased cost of testing.¹⁶

Indeed, no party has demonstrated that adoption of the standard would result in measurable gains, such as a greater degree of interference protection or resolution of other technical issues, for example. As Teradata explains, “the benefit of these increased costs is difficult to justify when there is no demonstrated interference issue apparent in the real world to resolve.”¹⁷ ACIL additionally concludes that there is no showing that “the technical benefits outweigh the costs to industry to comply.”¹⁸

Among the parties supporting adoption of the new standard, none provides a reason that outweighs the concerns voiced by Inovonics and others.¹⁹ AFTRCC, for example, states that the standard “would provide a basis for test labs to document any special software used to exercise the equipment under test,” but does not provide any details as to why this would be beneficial.²⁰ And while Sirius/XM Radio states that it supports the rule change because it would “increase compliance” and “decrease the burdens of equipment manufacturers,” its comments focus only on FM modulators and do not detail how these benefits would be achieved.²¹

¹⁵ Comments of IBM Corp. at 3. IBM specifically details the use of the 2 dB rule and hybrid antennas as two requirements that would be burdensome and would not provide any measurable difference in test results. *Id.*

¹⁶ Comments of Teradata Corp. at 2; Comments of the Information Technology Industry Council at 5.

¹⁷ Comments of Teradata Corp. at 2-3.

¹⁸ Comments of American Council of Independent Laboratories at 5.

¹⁹ In fact, several parties supporting the standard do not give any reasons why. *See* Comments of Telecommunications Industry Association at 16 and Comments of the TCB Council at 9.

²⁰ Comments of the Aerospace and Flight Test Radio Coordinating Committee at 5.

²¹ Comments of Sirius/XM Radio at 1-2.

Nearly All Parties Support an Adequate Transition Period.

Nearly all parties, even those supporting the Commission's adoption of ANSI C63.10-2009, voice support for a transition period for manufacturers to meet the new standard. As TIA states, "*typically*, a period of two years is adequate for phasing in of new standards."²² In this instance, a longer transition is required for two reasons: 1) manufacturers are not adequately represented on the standards committee; and 2) the increased costs to consumers, as detailed in Inovonics comments.²³

Inovonics notes that few manufacturers are represented on the ANSI standards committees, due in part to the costs involved in participation on these committees. Most members are third parties, such as TCBs. Thus, standards can be developed and adopted without the input of the manufacturing sector, a situation that runs the risk of standards being adopted without an understanding of the effect on manufacturers.²⁴

For the reasons detailed above and in many of the comments in this proceeding, manufacturers require time to review, understand, and then implement new standards. Most parties have requested a minimum of two-three years to transition.²⁵ Inovonics, however, believes that such transition periods would not be adequate and that, to avoid the need for waivers or extensions, a transition period ending December 31, 2020 would serve the public interest.

²² Comments of the Telecommunications Industry Association at 17.

²³ Comments of Inovonics at 2 and 3-5.

²⁴ This is different from standards set by trade associations, which represent manufacturers.

²⁵ Comments at ACIL at 5; Comments of HP at 12-13; Comments of Cisco at 16.

CONCLUSION

For the foregoing reasons, as well as those set forth in Inovonics' Comments, it would not be in the public interest for the Commission to replace the 2003 ANSI measurement standard with the 2009 standard. However, if the Commission does eliminate ANSI C63.4-2003, it should provide for a grandfathering of its rules so that manufacturers may continue to obtain equipment authorization using the standard until December 31, 2020.

Respectfully submitted,

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