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Via Electronic Filing (http://apps.fcc.gov/ecfs/)

November 6, 2013

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

Re: *ET Docket No. 13-44; RM-11652; RM-11673*

Dear Ms. Dortch:

On Wednesday, December 4, 2013, the Telecommunications Industry Association ("TIA") met with Federal Communications Commission's ("Commission") Office of Engineering and Technology ("OET"). The purpose of this meeting was for TIA to discuss the importance of the FCC device approval process to the US marketplace and to express TIAs support for Chairman Wheeler's initiative to improve the efficiency of the Commission. The impact of this process was felt by the industry by the effect of the government shutdown on the Commission's device approval process, TIA discussed improvements to the process and several topics under the above-referenced dockets.

TIA recommended to Chairman Wheeler under the *Call for Input on Improving Governement Efficency* that steps be taken to provide a predictable and reliable device approval process. TIA strongly supports Chairman Wheelers drive to increase efficiency and believes the Commission's device approval process can be a prime focus point for this initiative as it directly impacts billions of dollars of products in the US marketplace.[1]

During the meeting the attendees discussed the recent government shutdown's effect on the Commission's device approval process, and possible short-term steps the Commission could take to prevent the closing down of this process. As a long-term solution, TIA urged the Commission to consider permitting Supplier Declarations of Conformity for non-Permit-But-Ask and non-exclusion list products as an alternative means by which an manufacturer may demonstrate compliance with Commission rules, including the possibility of designating a subset of product approvals as a pilot program.

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[1] TIA has also proposed this proposal in response to a Commission request on ways to on how best to address the challenge of reforming Commission processes and improving the efficiency of the Commission. *See* Letter from Danielle Coffey, Vice President, Government Affairs, TIA to FCC Chairman Tom Wheeler (December 2, 2013), available at http://apps.fcc.gov/ecfs/document/view?id=7520960340.

The meeting attendees also discussed the Commission's Notice of Proposed Rulemaking to improve the device approval process.[2] TIA, noting that it is generally supportive of the proposed steps to streamline the device approval process,[3] specifically discussed its support of the Commission's proposal to adopt of ANSI C63.4-2009 and ANSI C63.10-2009. TIA described how these new standards and test procedures were developed by industry experts from test labs, industry experts, government agencies and manufacturers, and account for changes in technology and allow for the use of up to date test equipment that provide more accurate measurements. Further detail is available in TIA's appended presentation slides.

Lastly, the meeting attendees discussed its pending petition requesting that the Commission commence the regulatory process to allow for the optional use of eLabeling for equipment manufacturers and vendors.[4] TIA urged the Commission to address physical labeling inefficiencies and to address TIA's pending petition in this matter as quickly as possible.

In attendance were: Danielle Coffey, TIA; Brian Scarpelli, TIA; Ben Botros, Panasonic; David Case, Cisco; Chuck Eger, Motorola Mobility; Robert Kubik, Samsung; Roy McClellan, Cassidian (via conference call); and Patrick Sullivan, Harris Corporation (via conference call). Attendees from the Commission were: Julius Knapp, OET Chief; Bruce Romano, OET Associate Chief (Legal); Ira Keltz, OET Deputy Chief; Mark Settle, OET Policy and Rules Division Chief; Ronald Repasi, OET Deputy Chief; Geraldine Matise, OET Associate Chief (Legal); Rashmi Doshi, OET Laboratory Division Chief (via conference call); William Hurst OET Laboratory Division Technical Research Branch Chief (via conference call); Mark Neumann OET Laboratory Division Equipment Authorization & Compliance Branch Chief (via conference call); and George Tannahill, OET Laboratory Division Technical Research Branch (via conference call).

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[2] *See* 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, ET Docket No. 13-44, RM-11652, (rel. Feb. 15, 2013).

[3] *See* Comments of TIA, ET Docket No. 13-44, RM-11652 (filed Jun. 17, 2013).

[4] TIA's Petition for Rulemaking requesting the optional allowance of electronic labeling for ICT equipment, along with supportive statements from other stakeholders, can be viewed on the Commission's webpage for the relevant open rulemaking docket. *See* http://apps.fcc.gov/ecfs/proceeding/view?name=RM-11673.

Pursuant to the Commission's rules,[5] this letter is being electronically filed via ECFS and a copy of this submission is being provided electronically to the meeting attendees.

Respectfully submitted,

TELECOMMUNICATIONS INDUSTRY ASSOCIATION

By: */s/ Danielle Coffey* _
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cc: Julius Knapp, OET Chief
Bruce Romano, OET Associate Chief (Legal)
Ira Keltz, OET Deputy Chief
Mark Settle, OET Policy and Rules Division Chief
Ronald Repasi, OET Deputy Chief
Geraldine Matise, OET Associate Chief (Legal)
Rashmi Doshi, OET Laboratory Division Chief
William Hurst OET Laboratory Division Technical Research Branch Chief
Mark Neumann OET Laboratory Division Equipment Authorization & Compliance Branch Chief
George Tannahill, OET Laboratory Division Technical Research Branch

[5] 47 C.F.R. § 1.1206.

TIA-OET Meeting

December 4, 2013

Topics

- Introductions
- Possible Approach to Resolve FCC Shutdown Device Approval Stoppage
- FCC NPRM: Rules for Authorization of RF, Terminal (Part 68) Equipment TCB Certifications (13-44, RM-11652)

Possible Approach to Resolve FCC Shutdown Device Approval Stoppage

- **Issue:** Due to the FCC's website being turned off during the recent government shutdown, TCBs were unable to submit granted equipment authorizations to the FCC's website, effectively preventing TCB approval of any new communications equipment requiring FCC approval from moving forward. There are ~40 approvals a day – another shutdown could very negatively impact the ICT industry generally.

Possible Approach to Resolve FCC Shutdown Device Approval Stoppage

- Short-term (Step #1): Per 47 C.F.R. §§ 1.3 and 1.925, in the event of a shutdown, 47 CFR 2.913 (online filing requirement) and 2.923 (the 30 day period that runs from authorization for challenge) should be waived until the government shutdown ends.
  - The FCC could find that these rules are merely procedural given that they are filing requirements, not a determination of certification on the merits, and that the substantive right to oppose any authorizations rests the FCC as a final arbiter as still available after a shutdown, and thereafter modify the rule without notice and comment under the APA.
  - KDB 641163 D01 ('TCB Program Roles and Responsibilities') should be updated to include a new section on the FCC and TCB role in the event of a government shutdown.

Possible Approach to Resolve FCC Shutdown Device Approval Stoppage

- Short-term (Step #1): Per 47 C.F.R. §§ 1.3 and 1.925, in the event of a shutdown, 47 CFR 2.913 (online filing requirement) and 2.923 (the 30 day period that runs from authorization for challenge) should be waived until the government shutdown ends.
  - If not procedural, the FCC may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest. The FCC has used the APA good cause provision to issue final rules or waive or suspend rules, or delete rules, issue interim rules before issuing final rules, etc.
  - ➢ The FCC could issue interim rules in the meantime if it decides it needs to go through the formal process, in which case it could issue interim rules as part of its next order and issue a FNPRM.
  - ➢ The FCC could use the APA good cause provision before future shutdowns to waive the rule during shutdown and then retroactively apply the rules.

Possible Approach to Resolve FCC Shutdown Device Approval Stoppage

- Long-term (Step #2): Either under the currently-open device approval reform docket (13-44) or a new docket, the FCC should consider appropriate changes to the CFR to address shutdowns consistent with the theme of self-certification.
  - The Commission should consider the allowance of self-certification for non-PBA and non-exclusion list equipment. Such an allowance would greatly alleviate the negative effects of a shutdown on approval for the vast majority of devices that need FCC approval and would streamline the approval process generally.

FCC NPRM: Rules for Authorization of RF, Terminal (Part 68) Equipment TCB Certifications (13-44, RM-11652)

- **Issue:** The FCC has proposed adoption of ANSI C63.4-2009 and ANSI C63.10-2009. One party, a maker of Part 15.247 Frequency Hopper devices, is arguing that the FCC to either not adopt C 63.10-2009 or not phase in until 2020.
  - This party states that it currently tests in accordance with ANSI C63.4-2003 and procedure allows using RBW greater than 5% of EBW when testing OBW.

FCC NPRM: Rules for Authorization of RF, Terminal (Part 68) Equipment TCB Certifications (13-44, RM-11652)

- ANSI C63.10-2009 requires use of RBW of 1 to 5% as specified in various FCC KDB's.
- FCC Guidance document DA 00-00705 allows use of ANSI C63.4-2003 test procedure.
- The only vendor objecting currently uses greater then 40% of EBW for their test. Using a narrower bandwidth would require them to use 50 hopping channels instead of the 25 they currently use. This party's concern is that using newer devices in legacy systems would not work.

FCC NPRM: Rules for Authorization of RF, Terminal (Part 68) Equipment TCB Certifications (13-44, RM-11652)

- The need for ANSI C63.4-2009 and ANSI C63.10-2009
  - ANSI C63.4-2009 addresses use of Hybrid receive antennas, test site configurations above 1GHz, removes all radio testing in 2003 version and instead requires use of C63.10-2009
  - ANSI C63.4-2003 does not address test site or testing issues above 1GHz.
  - As more unintentional devices use clocks above 1GHz or testing above 1GHz for spurious emissions is required as clock rates increase..
  - Too expensive for industry to keep converting back test sites between revisions of standards.
  - ANSI C63.10-2009 for needs ANSI C63.4-2009 for testing (because of test site configurations) to test radios that operate above 1GHz.

FCC NPRM: Rules for Authorization of RF, Terminal (Part 68) Equipment TCB Certifications (13-44, RM-11652)

- The need for ANSI C63.4-2009 and ANSI C63.10-2009 cont'd
  - ANSI C63.10-2009 was developed by industry experts from test labs, industry experts, government agencies and manufacturers.
  - ANSI C63.10-2009 test methodology has been reviewed by FCC lab or based on FCC KDB's for testing Part 15 radios such as RFID, Wi-Fi, Bluetooth, Zigbee, Wi-Gig , UWB, and licensed exempt smart grid radios.
  - These procedures are needed to allow a TCB to review these products as only products that have published test procedures can be reviewed.
  - The new procedures allow the use of up to date test equipment providing more accurate measurements.

FCC NPRM: Rules for Authorization of RF, Terminal (Part 68) Equipment TCB Certifications (13-44, RM-11652)

- Moving forward…
  - Delaying adoption of a test standard because one manufacturer product may fail one test in a series of test required does not make good engineering sense.
  - A delayed adoption of an industry developed consensus standard for over 10 years means an obsolete standard would finally be adopted as it is likely a revision would be developed in the same time frame. (*Note:* ANSI C63.10-2013 has just been published).
  - It should be noted that 47 CFR Part 15.31 allows the use of alternate test procedures other then those referenced in the rule. Given the test procedure for Frequency Hopping radios is addressed in FCC Guidance DA 00-00705 for testing FH radios, and that document's calling out the OBW procedure used in C 63.4 (03), a vendor can still test using an outdated procedure until DA 00 -00705 is withdrawn or the caveat is removed from Part 15.31 which is unlikely.