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Submitted via innovation@fcc.gov and ECFS (http://apps.fcc.gov/ecfs/)

December 2, 2013

The Honorable Thomas Wheeler
Chairman
Federal Communications Commission
445 Twelfth St., S.W.
Washington, DC 20554

Re: *Call for Input on Improving Government Efficiency at the FCC;* ET Docket No. 13-44; RM-11652; RM-11673

Dear Chairman Wheeler:

Congratulations on your confirmation as Chairman of the Federal Communications Commission ("Commission"). Your leadership arrives at a critical time for the information and communications technology ("ICT") industry vendors and suppliers.

On November 18, 2013, your Special Counsel, Diane Cornell, announced your office's intention to develop a plan within the next 60 days that includes recommendations on how best to address the challenge of reforming Commission processes, and soliciting public input on improving the efficiency of the Commission.[1] From the perspective of the ICT manufacturer, supplier, and vendor community, TIA has several existing concerns that we believe the Commission should move to address as quickly as possible, and that we strongly encourage you to include in your recommendations on improving Commission processes.

TIA urges you to include the following topics in your plan to improve Commission processes and eliminate inefficiencies:

Predictable and Reliable Device Approval Process: By law the Commission must approve radio-emitting equipment such as smartphones and tablets before manufacturers and vendors can legally market or sell the equipment. The Commission has delegated some of its authority to "accredited, private, third-party" reviewers known as Telecommunication Certification Bodies (TCBs) to certify most equipment.

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[1] *See* Diane Cornell, *A Call for Input: Improving Government Efficiency at the FCC*, Official FCC Blog, Nov. 18, 2013, http://www.fcc.gov/blog/author/Diane%20Cornell.

Under this delegation, the Commission has established a rudimentary process by which the Commission notifies the public of TCB approval. First, after a TCB approves a device the TCB must notify the Commission of certification. Second, after notification the Commission provides a 30-day period during which certifications may be challenged.[2]

That is, the device is considered approved, albeit conditionally, once the TCB notifies the Commission of certification. This largely privatized system has worked effectively for two decades to prevent agency backlogs from causing bottlenecks in the availability of new products to consumers, organizations, the public safety community, and other end users.

Recently, the Commission has been revisiting the approval process via a proceeding, and is seeking to further streamline it.[3] TIA has been actively engaged in this rulemaking, and is generally supportive of steps to streamline this important process.[4]

However, the Commission has not considered in the issues that arose out of the recent government shutdown, namely the delay of approval caused by pulling the plug on servers that hosted the Commission's approval database.

That is, while a TCB may have granted a certification, the equipment would not officially be considered "approved" until entered into the database, thus requiring manufacturers and vendors to wait while the approval database server hosts were offline, a purely rudimentary step that could easily be addressed by simply changing the procedural rules.

TIA proposes that a permanent solution to address this issue would be a procedural rule that permits self-declaration of conformity, or permits non-permit but ask ("PBA") certifications to be self-certified after a review conducted by a different TCB. Once a shutdown ends, the Commission could then deal with the substantive and procedural issues should a challenge arise under its authority. The database of course would remain of great import as a one-stop shop for stakeholders to determine and/or challenge certification under the Commission's authority, but would not be a burden to the marketplace in times of government shutdown. TIA is currently working with the Office of Engineering and Technology ("OET") to address this proposal.

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[2] For the remaining equipment requiring certification, either TCBs certify under the "permit-but-ask" procedure, or the Commission reserves the right to approve the equipment.

[3] *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).

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

We therefore strongly urge your office to include the consideration of such a proposal to the Commission's rules moving forward in order to remove this glaring procedural rule inefficiency, and explore other procedural rule processes that may similarly be impacted by government shutdown.

Supplier Declarations of Conformity ("SDoCs"): More broadly, TIA proposes that the Commission consider permitting Supplier Declarations of Conformity ("SDoCs") for non-PBA and non-exclusion list products as an alternative means by which an ICT manufacturer may demonstrate compliance with Commission rules to streamline the process ICT manufacturers must go through to get products to market. Alternatively, the Commission could designate a subset of product approvals as a pilot program. The benefits of such an allowance include flexibility and objective treatment for manufacturers in where to have their products tested, high compliance levels, and lower administrative costs. The appropriate allowance of SDoCs would also lend to the mutual recognition agreements ("MRAs") among trading partners and widespread recognition of another country's conformity assessments, further reducing associated costs. Based on a long-standing record of compliance, many classes of products have proven to hold very low risk exists for violating the Commission's rules primarily because they are built to meet consensus technical standards, allowing the Commission be assured that it can take this step to allow for more rapid availability of products into the marketplace at reduced cost to stakeholders, including consumers.

Electronic Labeling (eLabeling): Historically, the use of physical markings or labels has played a key role in providing consumers and other end users the ability to readily determine whether a device is certified, and to obtain additional information about a device as efficiently as possible. However, the continuing evolution of form factor design (*e.g.*, smaller smartphones) has complicated the need to provide end users with this important information. The issue is further compounded by the fact that multiple regulatory environments require different markings or labels, which increases the inefficiencies, costs, and difficulties for U.S. ICT equipment manufacturers and vendors who sell and distribute their goods around the world.

A logical and effective solution to this problem is the non-exclusive use of eLabeling, which allows consumers and other end users to access easily readable and prominently displayed information about each device. This information should include required regulatory markings and other important information including proper device care, electronic recycling programs, and warranties.

U.S. ICT equipment manufacturers and vendors are ready to implement eLabeling to resolve these complications. Because of this, the United States is in a position to take the lead in resolving this simple marking and labelling issue.

Over one year ago, in October of 2012, TIA petitioned the Commission to draft rules that would allow for the optional use of eLabeling for ICT equipment manufacturers and vendors.[5] Yet to date the Commission has not taken action.

Meanwhile, other parts of the globe are moving forward with eLabeling: in addition to other existing efforts in the allowance of eLabeling internationally,[6] 3GPP[7] has recently completed a revision of standard interfaces which provide a means of displaying eLabels;[8] in Europe, the EU Parliament is considering allowing eLabeling as it revises the Radio and Telecommunication Terminal Attachment Equipment ("R&TTE") Directive.

We therefore believe that your report should include the recommendation that the Commission address physical labeling inefficiencies and address TIA's pending petition in this matter as quickly as possible.

Ensure Timely Notice and Availability of Commission Releases and Filings to Stakeholders: In the vast majority of cases, the Commission properly takes steps to ensure notice of time-sensitive requests for input. We urge the Commission to ensure that future calls for input, such as the Commission blog post that this letter is in response to, be made more visible on the Commission's websites in a timely fashion to ensure that stakeholders are aware of policy statements and requests for input released in this way.

In addition, we urge the Commission to ensure that electronic submissions, particularly those submitted via its Electronic Comment Filing System ("ECFS"), publicly appear

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[5] 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 FCC's webpage for the relevant open rulemaking docket. *See* http://apps.fcc.gov/ecfs/proceeding/view?name=RM-11673.

[6] For example, the Australian Communications and Media Authority's four device and equipment labelling notices have been amended to allow suppliers the option of using electronic labelling as an alternative to the traditional labelling of the surface of the device. *See* http://www.acma.gov.au/Industry/Suppliers/Supplier-resources/Record-keeping/electronic-labelling-equipment-types-i-acma.

[7] 3GPP is an alliance of telecommunications standard development organizations that provides members with an environment to produce reports and specifications that define 3GPP technologies. *See* http://3gpp.org/About-3GPP.

[8] *See* Samsung, NEC, Nokia, RIM, Motorola Mobility, "Adding to the presentation of e-marking", S 1-122440, 3GPP TSG-SA WG I Meeting #59, Chicago, USA, 30 July-3 August 2012. 3GPP has specified the use of MMI Command *#07# within 3GPP TS 22.030 for the purposes of displaying this regulatory information.

within 24-48 hours of submission, to ensure adequate time to consider necessary responses in reply comments. This is particularly important in instances where a relatively short amount of time (*e.g.*, 15 days after comments are filed) is available to evaluate submissions.

Frequent Visitor Badges: Beginning in 1999, the Commission began issuing a frequent visitor badges to people who routinely visit the Commission's headquarter Portals building.[9] These badges allow entrance to the Portals without having to stop at the Guard's Desk to sign in. However, more recently, the Commission has refused to process any new requests for these passes. Re-opening the processing of new applications for frequent visitor passes would relieve security guards of unnecessarily processing frequent visitor entrances and Commission staff of unnecessarily having to escort these visitors, contributing to improved operations.

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We are encouraged by your office's solicitation of specific ways in which to improve the Commission's processes and urge your consideration of the above. Please contact the undersigned with any questions.

[9] *See* Public Notice, *FCC to Begin Issuing Frequent Visitor Pass for Portals Building* (rel. Feb. 2, 1999).

Respectfully submitted,

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