Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

In the Matter of	)	
	)	
2000 Biennial Regulatory Review of Part 68 of	)	CC Docket No. 99-216
the Commission's Rules and Regulations	)	

COMMENTS

OF THE

TELECOMMUNICATIONS INDUSTRY ASSOCIATION

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I. Summary

In this document, the Telecommunication Industry Association ("TIA")[1] provides comments on the Federal Communication Commission's ("FCC" or "Commission") proposals for the review of the Part 68 Certification process. TIA, having examined the three options proposed by the Commission for relying on private industry development of technical criteria for network harms requirements, recommends that Option A be implemented. However, in order to guarantee complete openness and impartiality, TIA proposes that, rather than having a single gatekeeper Standards Development Organization ('SDO"), the gatekeeper be structured as a Terminal Attachment Council ("TAC") of representatives from all interested stakeholders. The major responsibilities that would be assigned to the TAC are outlined herein.

TIA also supports the adoption of a Declaration of Conformity ("DoC") option for equipment approval. TIA believes that this DoC option does not impact the Telecommunications Certification Body ("TCB") program currently in effect. Additionally, TIA believes that the FCC should establish a schedule for terminating its direct involvement in the equipment approval process in a timely manner.

TIA is proposing that the existing marking and labeling requirements would remain unchanged until an industry position is finalized. TIA believes that industry

[1] The Telecommunications Industry Association is a full-service national organization with membership of over 1000 large and small companies which provide communications and information technology products, materials, systems, distribution services, and professional services in the United States and countries abroad. TIA represents the telecommunications industry with its subsidiary, the MultiMedia Telecommunications Association, in association with the Electronic

committees rather than the FCC are best positioned to determine the future need for labeling and database requirements and to develop any such requirements.

TIA also provides Comments on many of the Commission's other concerns.

II. Introduction

TIA hereby submits these Comments in response to the Commission's Notice of Proposed Rulemaking ("NPRM") in the matter of 2000 Biennial Regulatory Review of Part 68 of the Commission's Rules and Regulations, FCC 00-171, released May 22, 2000. TIA's comments generally track the organizational scheme employed by the Commission and address the issues raised in the below-referenced paragraphs of the NPRM.

TIA supports and applauds the FCC for its efforts to privatize and streamline the process by which technical criteria are established for customer premises equipment ("CPE" or terminal equipment).[2] TIA supports all efforts that would reduce time to market for new and enhanced products while preserving essential network protection. TIA believes that TCB certification of products for compliance with the requirements of 47 Code of Federal Regulation ("47 CFR"), Part 68 can coexist with a manufacturer's Declaration of Conformity ("DoC"). TIA also believes that responsibility for the development and approval of technical requirements can be transferred to the competent bodies in the private sector, and

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Industries Alliance.

[2] "Customer premises equipment" is defined as equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications. 47 U.S.C. § 153(14).

that privatization of this process will result in an improvement in speed of revisions to the technical requirements to reflect rapid changes in technology.

TIA also supports the Commission's decision to streamline the telecom terminal equipment authorization process. TIA believes that any new process should add no more time or expense than is necessary to meet the Commission's statutory mandate.

III. Proposals For Part 68

A. Ongoing Need For Technical Criteria

In paragraph 16 of the NPRM, the Commission tentatively concludes that the four types of network harm currently embodied in the Part 68 rules continue to represent the types of harm against which the Public Switched Telephone Network ("PSTN") must be protected. TIA has supported, and continues to support this position.[3]

B. Industry Balance

In paragraph 20 of the NPRM, the Commission tentatively concludes that in the current private sector technical standards-development environment, it does not appear that one segment of the industry will dominate the development of technical criteria to the detriment of another segment of the industry. TIA agrees with the Commission and believes that industry representation in the private sector standards development process occurring in TIA's Engineering Committees and in other

[3] *See* TIA Comments filed July 2, 1999, at pp. 1-2 on Forum #1.

similar fora is balanced. Balance of interest groups and lack of dominance are two of the accreditation criteria by the American National Standards Institute ("ANSI") for accreditation of SDO operating under the Organizational method and the Accredited Standards Committee method. Thus, ANSI accredited SDOs ("ASDOs") are obliged, as a requirement of their accreditation, to have balanced participation of all materially interested groups (*e.g.*, service providers, manufacturers, testing laboratories, consumers, and government representatives) with all permitted to attend and participate in the standards formulation process on an equal and non-discriminatory basis.

C. Force of Law

In paragraph 22 of the NPRM, the Commission tentatively concludes that it is necessary for the government to continue to provide the force of law to technical criteria designed to protect the network from harm. TIA agrees with the FCC that the technical criteria designed to protect the network from harm should continue to have the force of federal regulation. TIA believes that without such treatment at the federal level, various jurisdictions could impose criteria of their own, resulting in a fractured system for demonstrating compliance and protecting the network from harm.[4] Manufacturers would then be required to meet several sets of criteria before being able to market their products on a nationwide basis. This would be counter-productive to the FCC and industry goal of reducing time to market for new product

[4]In fact, in the early days of terminal equipment attachment, at least two states adopted state requirements, California and New York. Both state systems were terminated after the federal program, with enforcement, was up and running.

introduction for the benefit of consumers. Further, the development and deployment of new technology and features would likewise be delayed.

D. Three Options for Technical Criteria Development.

In paragraph 23 of the NPRM, the Commission proposes three options for relying on private sector development of technical criteria to ensure that CPE connected to the PSTN does not cause harm. The three proposals are:

(A) Commission identification of a "gatekeeper" SDO that will establish and publish binding technical criteria for CPE developed pursuant to ANSI procedures for consensus bodies ("Option A");

(B) Adoption of a presumption that CPE that complies with technical specifications established by any national standards-setting organization will not cause harm and that local exchange carriers must permit its connection to the PSTN ("Option B"); and

(C) Incorporation into the Commission's rules by reference, through the rulemaking process, of specific standards developed by national standards organizations ("Option C").

As mentioned in TIA's Comments[5], it supports Option A as is now presented in further detail in paragraph IV) B), infra. Since Option B would permit service providers to select from the multiple standards the one that might best conform to their network, a manufacturer could be required to meet more than one

[5] *Id.* at pp. 3-5 on Forum #2.

standard to be able to bring a new product to the marketplace. Avoiding conflicts among standards is very important to equipment manufacturers and their customers, because the presence of conflicting, multiple standards adds complexity, confusion, and cost to the design and development of products. Conflicting standards may also cause problems for service providers by adding complication to the introduction of new services because deciding which standards are most appropriate for their network will cause delays. Therefore, Option B is not acceptable and is not supported by TIA. Further, TIA believes that Option C is really no better than what the industry and consumers presently have today, since Option C still requires a full rulemaking process and it does not provide a much needed rapid response to revisions in requirements to keep up with rapid technology changes. Option C is not desirable and is also not supported by TIA.

E. Deregulated Paradigm

In paragraph 24 of the NPRM, the Commission tentatively concludes that it is preferable to pursue a deregulatory paradigm that allows the FCC to give the force of law to voluntarily adopted consensus technical criteria without specifically referencing these criteria in its rules. TIA agrees that such a procedure is desirable and will enable vendors to market CPE more expeditiously, thereby providing greater benefits to consumers.

F. The SDO and FCC Policy

In paragraph 25 of the NPRM, the Commission tentatively concludes the private standards-setting organization would not be performing a Commission policymaking function. TIA agrees that the SDO would not be making FCC policy. The Commission also states that it expects any disputes over the technical criteria to be resolved through established industry processes, and any unresolved disputes ultimately could be brought to the Commission for *de novo* review or enforcement, if necessary, giving the Commission the final say in the establishment of technical criteria. TIA believes that dispute resolution would and should occur, where necessary, just as the FCC has proposed.[6] ANSI-accredited SDOs already have rules and procedures to deal openly and fairly with any disputes that may arise, including appeals processes. If a resolution could not be reached through the ANSI processes, TIA's proposal in paragraph IV) B) provides for an additional attempt for resolution by the Terminal Attachment Council. If that also fails, then TIA believes that disputes could then proceed to the FCC for resolution. However, TIA believes that escalation of disputes to the FCC should be an extremely rare occurrence, since appeals themselves are rare occurrences.[7]

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[6] *Id.* at pp.4-5 on Forum #2.

[7] In this regard, TIA notes that since being ANSI-accredited in its own name in 1992, it has only had one appeal where an appeals panel needed to be convened. This appeal did not even involve an American National Standard. TIA believes experiences in other telecom ASDOs are similar.

G. Section 256

In paragraph 26 of the NPRM, the Commission seeks Comment on whether the proposed standards options, particularly the Commission's role relative to standards organizations under each of the proposed options, are subject to, and consistent with, Section 256 of the Telecommunications Act of 1996.[8] TIA believes that given the FCC's court approved oversight of standards for interconnection of CPE to the network,[9] which pre-dates enactment of the Telecommunications Act of 1996, Section 256 does not alter the Commission's authority to adopt the proposals supported by TIA herein.[10]

H. SDO and APA

In paragraph 27 of the NPRM, the Commission states that it does not believe that the requirements of the Administrative Procedures Act ("APA")[11] would be applicable to the development of technical criteria by a non-governmental entity as proposed in Options A and B. TIA agrees that the activities of the SDO

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[8] 47 U.S.C. § 256. This statutory provision addresses the interconnectivity of public telecommunications networks and states in subsection (b)(2) that the Commission "may participate, in a manner consistent with its authority and practice prior to the date of enactment of this section, in the development by appropriate industry standards-setting organizations of public telecommunications network interconnectivity standards." 47 U.S.C. § 256(b)(2).

[9] *See* North Carolina Utilities Commission v. FCC, 537 F.2d 787 (4th Cir. 1976).

[10] In this regard, Section 256(c) explicitly provides that "[n]othing in this section shall be construed as expanding or limiting any authority that the Commission may have under law in effect before the date of enactment of the Telecommunications Act of 1996." 47 U.S.C. § 256(c).

[11] 5 U.S.C. § 553 (b).

are not subject to the APA. TIA also agrees with the Commission that final interpretation with respect to compliance would remain with the Commission through a *de novo* review and enforcement procedure. This would occur after the process of the SDO responsible for the requirement in question has been followed, with broad input from the entire industry as described in TIA's proposal for a Terminal Attachment Council at paragraph IV) B), and has been unsuccessful in coming to a satisfactory resolution on an interpretation question. TIA believes that implementation of TIA's preferred option, Option A as described below, is likely to have a positive impact on the ability of small entities to participate in the development of technical criteria for the connection of CPE to the network. A comparison of the attendance records of TIA's TR-41.9, Technical Regulatory Considerations Engineering Committee, and the record for the proceedings relating to this open docket demonstrate a much more diverse community of interest in the TIA Engineering Committee than those providing comments in the docket. In addition, ANSI requires notice to interested parties of standards actions, thus, allowing more active participation in various phases of standards development or revision. Most standards groups are also using electronic working methods that make the process more accessible to small and medium-sized organizations.

I. Other Statutory Provisions

In paragraph 28 of the NPRM, the Commission tentatively concludes that there are other statutory provisions that are not applicable to this action. TIA

believes statutory provisions such as the Regulatory Flexibility Act ("RFA"),[12] the Paperwork Reduction Act ("PRA"),[13] and the Congressional review procedures enacted in the Contract with America Advancement Act ("CWAAA")[14] do not apply to privatized development of technical criteria, pursuant to Option A as described herein.

J. Criteria Retained by the FCC

In paragraph 29 of the NPRM, the Commission identified a list of definitions it proposes to keep in Part 68 as well as items for which it will maintain direct oversight. TIA agrees with all of the items that the FCC proposes to retain in its rules. However, TIA believes that periodic review of these items needs to occur. It is possible that at some point in the future, because of changes in technology or culture, that some or all of these items may no longer require FCC oversight or additional items may need to be added. TIA also has concern regarding the requirements to be retained by the FCC that currently include referenced standards (*e.g.*, § 68.316). These requirements reference specific versions of industry

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12 5 U.S.C. §§ 601 *et seq.* For example, the RFA requires an agency to prepare and make available an initial regulatory flexibility analysis whenever it proposes a rule of general applicability that must be published in a notice of proposed rulemaking under § 553 of the APA. 5 U.S.C. § 603.

13 44 U.S.C. §§ 3501 *et seq.* For example, the PRA states that an agency shall not conduct or sponsor certain collections of information unless it provides sixty days notice in the Federal Register and obtains approval from the Office of Management and Budget. 44 U.S.C. §§ 3506 (c)(2)(A), 3507.

14 5 U.S.C. §§ 801 *et seq.* These provisions of the CWAAA require, for example, that before an agency rule can go into effect, the agency must submit a report to each house of Congress and the General Accounting Office.

standards that are significantly out of date. TIA believes that the FCC needs to find an efficient way to refer to updated versions of industry standards in the portion of Part 68 for which it retains oversight.[15]

K. Goals Of The Technical Criteria

In paragraph 30 of the NPRM, the Commission sets forth some explicit goals for industry development of technical criteria. TIA believes that these are all good goals and strongly supports them.

L. Federal Advisory Committee

In paragraph 33 of the NPRM, the Commission asks whether the entities involved in technical criteria development should be treated as a Federal Advisory Committee ("FAC") under the Federal Advisory Committee Act ("FACA").[16] The FACA requires FACs to be balanced, fair, and open to the public. These requirements are addressed in the ANSI process. TIA also believes that requiring these entities to operate as FACs would defeat the purpose of the NPRM, which is to streamline the equipment authorization process. In practice, the FACA process may be too slow and cumbersome and, therefore, would not meet the objectives of the Commission in this NPRM.

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[15] In this regard the FCC may wish to follow the ITU, a governmental body which also references standards from other organizations. In the recently adopted ITU-R Recommendation for the air interface for International Mobile Telecommunications 2000 ("IMT-2000") the ITU uses a reference form that allows the detailed standards of the supporting SDOs to evolve and be modified over time. The ITU Recommendation refers ITU members to the SDO web page for the latest information.

IV. Discussion of Option A

A. Timing of Transition of Rules

In paragraph 38 of the NPRM, the Commission requests Comment on the proposal for transitioning the development of technical criteria from the FCC to industry. TIA agrees with the Commission's proposal.

B. Gatekeeper Structure and Composition

In paragraphs 34, 36, 37, 40, 41, 42, 43, 44 and 50 of the NPRM, the Commission requests industry input on the best structure and composition for the gatekeeper SDO. Rather than a gatekeeper SDO, TIA is proposing that the SDO gatekeeper function be fulfilled by a Terminal Attachment Council ("TAC" or "Council"). This Council would consist of representatives of existing stakeholder entities [*e.g.*, TIA; Alliance for Telecommunications Industry Solutions ("ATIS") sponsored Committee T1; United States Telecom Association ("USTA"); the Information Technology Industry Council ("ITI"); Telecommunication Certification Body ("TCB") Council; American Council of Independent Laboratories ("ACIL"); and FCC]. The TAC concept is modeled on the Canadian Terminal Attachment Program Advisory Committee ("TAPAC") which has worked successfully for at least 20 years. Probably the main difference between TAPAC and the proposed TAC is that it is not envisioned that the FCC will chair TAC, whereas TAPAC is chaired by Industry Canada. Although the TAC concept may seem complicated, the Canadian experience has shown that such a process can work and will result in

[16] 5 U.S.C. App. 2; 41 C.F.R. §§ 101-6.1001 to 101.6-1035 (GSA Federal Advisory

much more rapid updating of the network harm rules than what is now achieved by the FCC. Some characteristics of this Council should be:

- It would be open to all.
- It would not be an SDO.
- It would not ratify work of an SDO.
- It would not be a FAC[17].
- It would focus only on the standards addressing the network harms described in Part 68.
- It would achieve balance in a manageable size group consisting of all stakeholder entities.
- It would be proactive in ensuring that all stakeholders for network harm issues are involved (*e.g.*, carriers, manufacturers, testing laboratories and consumers).
- It would have provisions in its charter to add or remove members, if and when needed.
- It would operate only at the level of cost recovery, with fee waivers where it would be a significant financial burden to a participant.

TIA proposes that the functions of this Council would be to:

[17] 5 U.S.C. App. 2; 41 C.F.R. §§ 101-6.1001 to 101.6-1035 (GSA Federal Advisory Committee Management Regulations).

- Serve as a facilitator for standards development, not another layer of approval.
- Review scope of standards proposals from individual SDOs to ensure no duplication of effort. In the event of a proposed duplication of effort, decide which SDO should write the standard or facilitate a joint effort by the interested SDOs. This would include proposals for new standards, proposals for changes to mature standards and proposals for interim or trial use standards.
- Determine which standard best addresses network harm concerns if multiple standards do exist for any given requirement (possibly because of pre-existing standards).
- Provide an intermediate dispute resolution function that would be utilized only if the individual SDO's dispute resolution process fails, in order to reduce the need for direct appealing to the FCC.
- Act as a limited secretariat for the development by SDOs of technical requirements to prevent harm to the network. Some examples of secretariat activity, include, but are not limited to:
  - Establishing a TAC website and publishing a list of all relevant network harms standards with information on where to obtain copies of them.
  - Developing and publishing a roadmap to identify relevant standards documents for specific product categories.

Committee Management Regulations).

- Notifying all stakeholders: when an SDO undertakes development of new or modified requirements related to network harms; when a document is to be balloted; and when a standard is made effective. This notification process would be detailed, broad, and public.

- Provide a mechanism to respond quickly to new technologies using the expedited interim or trial use standards process of SDOs.
- Provide a process to handle questions it receives with respect to particular technical requirements.

TIA believes that the role of the FCC in this proposal should be to:

- Participate on the Council as a monitor.
- Participate as a monitor in those SDOs developing network harm criteria, as may be appropriate, and following the guidance of the National Technology Transfer and Advancement Act ("NTTAA") which specifically directs National Institute of Standards and Technology (“NIST”) with coordinating with state and local agencies on standards matters. In addition, NTTAA gives NIST a central role in coordinating conformity assessment with government agencies and the private sector.

TIA believes this proposal has several advantages. They include the following:

- This proposal resolves the disadvantages discussed in paragraphs 40 and 44 of the NPRM. Specifically: No single SDO would have excessive authority over the standards setting process for network harms and work would be confined to areas of an SDO's known expertise.
- The Council would not delay standards developed by an SDO because no additional ratification would be required.
- The overall turnaround time, for the development of standards to address needed changes, will be significantly less than the turnaround times historically experienced by similar changes to Part 68 using the current rulemaking process.

In paragraph 44 of the NPRM, the Commission requests input regarding the need for SDO term limits. TIA believes that there is no need for term limits with this TAC approach. This is because all stakeholders would have an equal voice on the Council and the makeup of the Council could be revised as the situations warrant. Term limits are to address any possible bias that may be perceived. The stakeholder makeup proposed for the TAC greatly reduces the possibility of bias in its activities.

Since the TAC will be making extensive use of electronic working methods, it will be easier for all interested parties to keep abreast of its activities, thus taking into account the more limited resources of small and medium-sized organizations.

TIA has identified one potential concern relating to TAC funding. However, TIA believes that funding concerns can be eliminated if the "secretariat" function is fulfilled by an existing entity. TIA is willing to act as such a "secretariat" to the TAC. TIA has in the past and is currently providing secretariat services to other groups such as the Consultative Committee Telecommunications ("CCT") under the North American Free Trade Agreement ("NAFTA") (which also focused on attachment and harmonization issues); the Third Generation Partnership Project 2 ("3GPP2"); the International Forum for ANSI-41 Standards Technology ("IFAST"); the United States ITU Association ("USITUA"); the World Electronics Forum ("WEF"); and the Global Telecommunications Action Committee ("GTAC").

C. Is ANSI Sufficient?

In paragraph 45 of the NPRM, the Commission requests Comment on whether requiring an SDO to be ANSI-accredited is sufficient to ensure fairness in the establishment of technical criteria. TIA believes that all interested parties should be allowed to participate throughout the development of a harms standard, regardless of whether or not they are a voting member of the SDO. TIA believes that the ANSI procedures are sufficient to ensure fairness in the establishment of technical criteria provided the SDOs have been accredited to either A) the Organizational Method of ANSI procedures[18] or B) the Accredited Standards Committee Method.[19]

18 These procedures are available from the World Wide Web site for American National Standards Institute (URL http://www.ansi.org). They are titled "Procedures for the

Additionally, TIA recommends that participating SDOs should implement procedures to ensure openness and impartiality equivalent to the current FCC process.[20]

D. Is ANSI Open Enough?

In paragraph 47 of the NPRM, the Commission questions whether it is necessary for the FCC to impose additional requirements on the SDO other than the normal ANSI requirements to ensure its processes would be open enough to such entities as consumer groups, government agencies, or small businesses. TIA believes that ANSI–accredited SDO processes are open to all affected entities,[21] including consumer groups, government agencies, and small businesses. ANSI also has a Government Member Council and Consumer Interest Council as part of its governance to ensure an active voice for these important participants in the ANSI federation.[22] TIA further believes that participating SDOs should be required to

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Development and Coordination of American National Standards." Reference Section 2.1.1.

19 Same as footnote above except Section 2.1.2.

[20] SDOs developing standards under the ANSI Canvass Method would not satisfy this requirement in that all interested parties are not allowed to participate in the actual development of the standard. Under the ANSI Canvass Method, only members of the "consensus body" (i.e. the Canvass List) may comment and vote on the final draft of the standard. (Same as footnote above except Section 2.1.3.)

[21] Except for possible exclusions that may occur with the ANSI Canvass Method.

[22] Information on the ANSI Member Councils is available from the World Wide Web site for American National Standards Institute (URL http://web.ansi.org/public/str_man/mcouncil.html)

implement procedures to ensure openness equivalent to the current FCC process, if they currently are not similarly that open. For example, TIA TR-41, User Premises Telecommunications Requirements Engineering Committee, currently makes its entire set of working documents publicly available, without password, via the Internet to all interested parties without restrictions. Any entity is able to comment on any open activity of TIA TR-41, and those comments are fully considered. Consequently, TIA believes any SDO that works on network harm standards should be capable of placing its working documents on a public web site or equivalent access. Efforts, of the sort TIA has undertaken, are a logical additional step under the ANSI requirements to ensure openness of SDO processes.

D. SDO Financing

In paragraph 48 of the NPRM, the Commission tentatively concludes that no additional proposals for SDO financing are required. As stated above, TIA agrees, that the only cost to non-member participants should be an amount necessary to cover the administrative overhead.[23]

E. SDO Response To Requests For Change (Waiver Equivalent)

In paragraph 49 of the NPRM, the Commission inquired about processes that may be needed for dealing with exceptions to the technical criteria or interim or trial use standards and whether the alternative dispute resolution requirements established in §64.1703 of the Commission's rules, 47 C.F.R. § 64.1703 should be applied to the gatekeeper SDO for interim or trial use standards. The TAC, as

proposed by TIA, would always process such exceptions as quickly as possible. The goal is that this would result in processing such changes in less than 60 days for the majority of issues. New complex technology may require more than the recommended 60 days but the time required should be much shorter than the current Part 68 waiver process.

TIA believes that the Alternative Dispute Resolution ("ADR") process set forth in §64.1703 is not applicable to disputes involving interim or trial use standards. This is because the SDO that produced the interim or trial use standard will have been ANSI-accredited and as such will follow the ANSI processes for dispute resolution. In addition, the TAC will provide an unbiased forum for dispute resolution if the ANSI process fails to provide the desired resolution.

V. Proposal For A New Equipment Approval Paradigm

A. Which Method(s)?

In paragraph 64 of the NPRM, the Commission discusses three methods of securing proof of equipment compliance with technical criteria, each of which would reduce or eliminate the Commission's role in the equipment approval and registration process. As TIA previously stated in its Supplemental Comments to the FCC of July 29, 1999, [24] TIA supports the current TCB program as it is currently implemented. TIA also believes that DoC, as defined in Part 2 of the Commissions

[23] *See* TIA Comments filed July 2, 1999, at pp. 1-2 on Forum #1.
[24] *See* TIA Supplemental Comments filed July 29, 1999, at pp.1-2.

rules,[25] also should be permitted. TIA further believes that the FCC should commit to terminating its own product certification activities by a certain date (December 31, 2001 or earlier is recommended) and redirect these Commission resources toward FCC enforcement.

B. Combining Part 15 and 68 Marks

In paragraphs 65, 76, 83, 84 and 85 of the NPRM, the Commission proposes to combine the registration marks and equipment numbering systems for Part 15 and Part 68 equipment, discusses central database issues, and requests input on exact labeling format. TIA believes that even though there is merit in combining Part 15 and Part 68 marks and equipment numbering systems, there are still many administrative issues and concerns that need to be addressed by stakeholder entities. The work currently occurring on this issue by TIA TR-41 Engineering Subcommittee TR-41.11, FCC Administration Group, has made it very apparent that there is a direct link between the existence of a centralized certification database and the amount of information available on the product. TIA proposes that marking and labeling requirements be produced by a SDO such as Engineering Subcommittee TR-41.11 and that existing FCC marking and labeling requirements would remain unchanged until this industry position is published by the SDO and promulgated by the TAC. TIA believes that industry committees rather than the FCC are better positioned to assess the future need for labeling and database requirements and to develop such requirements.

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[25] 47 C.F.R. § 2.906.

C. Declaration Of Conformity

In paragraph 70 of the NPRM, the Commission seeks Comment on the extent to which DoC would reduce the burden on the manufacturer or importer, allow new products to enter the market more quickly than would the TCB approval option, and the extent to which it may increase the risk of harm to the PSTN. TIA's Comments on this issue are unchanged.[26] Annex A of those Comments also highlights the differences between the FCC's definition of DoC and the international definition of SDoC. For convenience this Annex has been attached to these Comments.[27]

D. Hierarchy-Based Approval Process

In paragraphs, 74 and 75 of the NPRM, the Commission discusses the possible creation of a hierarchy-based approval process. TIA does not support a hierarchy approval process approach. Such an approach would result in a patchwork of approvals that would complicate the process. Whatever approach is chosen should be equally applicable to all types of equipment.

E. Form 730

In paragraph 77 of the NPRM, the Commission discusses the continued use of Form 730. TIA sees no need for the continued use of Form 730 for any

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[26] *See* TIA Supplemental Comments filed July 29, 1999, at pp. 7-10.

[27] Id. at pg. 17.

equipment compliance approach, since the primary application for this form was to gather information for the present FCC centralized database.

F. Registration Numbering and Labeling

In paragraph 81 and 82 of the NPRM, the Commission seeks Comment on the continued need for registration numbers and how they would be assigned. As previously mentioned TIA TR-41 Engineering Subcommittee TR-41.11 has been working on this issue. It will be producing an industry proposal that includes input from manufacturers, service providers, testing laboratories, and TCB's. TIA believes that industry committees rather than the FCC are better positioned to determine the future need for labeling and database requirements.

G. Impact To HAC/VC Rules

In paragraph 86 and 87 of the NPRM, the Commission questions how these proposed changes might impact the current consumer protection or Part 68 Hearing Aid Compatibility/Volume Control ("HAC/VC") rules. TIA believes that there will be no impact to compliance of products to the HAC/VC rules currently in Part 68 under the compliance approaches proposed by TIA. TIA believes the complaint procedures for HAC/VC rules do not need to be replaced or augmented.

H. Customs and Part 68 Compliant Product

In paragraph 88 of the NPRM, the Commission tentatively concludes that any changes to Part 68 should not affect the ability of the U.S. Customs Service to enforce the provisions of 19 U.S.C. § 3109 dealing with the importation of

equipment not labeled as compliant with Part 68.[28] The marking and labeling scheme being worked on by TIA Engineering Subcommittee TR-41.11 will still permit U.S. Customs to verify product labeling compliance to Part 68 requirements.

VI. Conclusion

TIA strongly believes that the Option A implementation proposal described herein presents the best approach for the maintenance of network harms requirements. It will ensure quick turnaround of standards and revisions, openness to all participants and interested stakeholders, while still addressing network harm concerns of the PSTN and will relieve manufacturers and the FCC from the substantial burdens imposed under the current Part 68 regime.

TIA further believes that Declaration of Conformity is the approach that best addresses the streamlining of the equipment approval process in a manner that allows manufacturers to develop and bring to market products incorporating new features and technology in an expeditious manner.

Accordingly, TIA urges the Commission to take immediate action to streamline and privatize the process for developing and implementing technical criteria for connection of CPE to the network, pursuant to the above-described recommendations.

Respectfully submitted,

28 19 U.S.C. § 3109.

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VII. ANNEX A – CLARIFICATION OF CONFORMITY ASSESSMENT TERMINOLOGY

It is important to understand the Commission's use of the terms "DoC" and "Verification" and what is incumbent in those terms about laboratory accreditation. The terms "SDoC" and "DoC" are too close for them to be used with impunity in this situation. They must be clearly understood in the context of this filing. In some fora, the issue of laboratory accreditation is contentious. Consequently, clarity of understanding of the terminology used is essential to understanding this filing.

ISO/IEC Guide 2:1996 provides the following relevant definitions:

> "Requirement - provision that conveys criteria to be fulfilled" (Paragraph 7.5)

> "Conformity - Fulfillment by a product, process, or service of specified requirements" (paragraph 12.1)

> "Supplier's Declaration - Supplier gives written assurance that a product, process or service conforms to specified requirements" (paragraph 15.1.1)

And this note also appears with paragraph 15.1.1: "NOTE - In order to avoid any confusion, the expression "self-certification" should not be used."

At no time do any of these definitions specify, infer, imply, or suggest that an accredited laboratory is necessary or required to demonstrate conformity or that lab accreditation is an integral part of conformity or a supplier's declaration of conformity.

In 47 CFR Part 2, the following definitions appear:

> "2.902 Verification . . . is a procedure where the manufacturer makes measurements or takes the necessary steps to insure that the equipment complies with the appropriate technical standards."

> "2.906 Declaration of Conformity . . . is a procedure where the responsible party ... makes measurements or takes other necessary steps to ensure that the equipment complies with the appropriate technical standards."

Taken alone, these definitions would seem to be nearly identical. However, the relevant differentiation comes in Section 2.948, where lab accreditation for the DoC process is required:

> "2.948 Description of measurement facilities . . . (d) If the equipment is to be authorized under a Declaration of Conformity, the party performing the measurements shall be accredited for performing such measurements by an authorized accreditation body based on the . . . ISO/IEC Guide 25....".

The Commission’s Verification equipment authorization program most closely resembles the more internationally recognized Supplier's Declaration of

Conformity (SDoC) process that does not require laboratory accreditation. Consequently, it is vital that any interested reader, not just the intended audience of this request, the FCC, understands these terms with clarity.