

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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

**COMMENTS OF THE  
TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

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June 17, 2013

## TABLE OF CONTENTS

EXECUTIVE SUMMARY .....	i
I. INTRODUCTION AND STATEMENT OF INTEREST .....	1
II. DISCUSSION.....	3
A. The Commission’s Equipment Regulations to Date Have Been Generally Successful .....	3
B. TIA Generally Supports the Commission’s Proposed Changes to the Equipment Certification Process .....	4
C. TIA Generally Supports the Commission’s Proposed Changes to Post-Market Surveillance Policies.....	8
D. TIA Urges Caution with Regard to Several Proposed Changes to Laboratory Accreditation Policies .....	11
E. TIA Views on Proposed Changes to Measurement Procedures .....	15
F. Flexibility in Transition Periods is Key to Successfully Improving the Commission’s Device Approval Process.....	18
G. The Commission Should Clarify that Widely-Accepted Practices under Supplement C to OET Bulletin 65 Will Remain Valid Policies Moving Forward.....	19
H. TIA Urges the Commission to Move Forward on TIA’s Pending Petition for Rulemaking on Electronic Labeling .....	21
III. CONCLUSION.....	23

## EXECUTIVE SUMMARY

The Telecommunications Industry Association (“TIA”) represents approximately 500 participating companies that manufacture or vend information and communications technology (“ICT”), the vast majority of which are directly impacted by the Federal Communications Commission’s (“Commission”) proposed revisions to its device approval process. We appreciate the Commission’s comprehensive examination in this area and are generally supportive of the changes proposed, given the changes in radio frequency (“RF”) devices, technologies, and manufacturing methods.

We believe that the Commission’s equipment approval process has been an overall success and have provided increased certainty to innovators of ICTs. Successful components of this system include the Commission’s Knowledge Database (“KDB”) portal on its website and the Telecommunications Certification Body (“TCB”) program.

TIA is generally supportive of many changes proposed by the commission to the current process.. These include (1) shifting all approvals to the TCBs; (2) allowing TCBs to dismiss their own applications for certification without prejudice if the Commission could do so under relevant rules or at the request of the applicant; (3) eliminating the Exclusion List and creating a new “Pre-Approval Guidance Procedure;” and (4) requiring TCBs to submit the complete Form 731 to the Commission. Regarding clarifications to TCB application processing procedures, however, we urge that the Commission prohibit TCBs from charging “expediting” fees.

TIA is also generally supportive of many changes proposed to post-market surveillance policies, though we specifically urge the Commission to clarify that in the event of failed post-market surveillance results, that the TCB be required to disclose to the grantee the equipment and method used for the certification test, and whether any different equipment or methods were used in the post-market surveillance testing. In addition, grantees should not bear the costs associated with one TCB checking the work of another, and rules on providing samples for post-market surveillance incorporate flexibility and feasibility. We support codifying that the National Institute of Standards and Technology (“NIST”) will designate TCBs with the Commission, have to recognize the TCB before it can operate, and use the tiered approach for assessing the performance of TCBs.

We are generally supportive of Commission proposals regarding proposed changes to laboratory accreditation bodies, but recommend several alterations. Specifically, we urge the Commission to pare down its proposal to expand the reach of ISO/IEC 17025; that the Commission refrain from codifying existing guidance on the selection of new accreditation bodies; and that application of ANSI C63.19-2009’s test site validation requirements not apply to all testing facilities used to make radiated emission requirements on authorized equipment.

The Commission has also proposed a number of changes to measurement procedures. Among other proposals, TIA supports the proposed incorporation of ANSI C63.10-2009 into the Commission’s rules. We also urge for the Commission to keep the door open for further consideration on the use of internationally-adopted standards on compliance for electromagnetic compatibility, including CISPR 22.

TIA also urges, for both accredited and unaccredited labs, that two years be allowed after the date of rule changes appearing in the Federal Register for the phasing in of new rules. This would allow for labs to account for burdensome changes associated with attaining accreditation and compliance with new standards (retrofitting of chambers, for example).

Furthermore, TIA urges the Commission to provide key certainty to manufacturers by clarifying that the accepted industry and agency practice of giving applicants and grantees the benefit of measurement uncertainty in post-market surveillance SAR testing measurements remain valid Commission policy.

Lastly, TIA urges the Commission to move as swiftly as possible and address TIA's pending petition for rulemaking on allowing electronic labeling as a non-exclusive option. We believe this to be tied into the Commission's examination in this matter, and that incorporating electronic labeling would facilitate increased ease of information sharing amongst stakeholders in the device approval process, while also benefitting consumers.

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**COMMENTS OF THE TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

**I. INTRODUCTION AND STATEMENT OF INTEREST**

The Telecommunications Industry Association (“TIA”)<sup>1</sup> hereby submits its comments in response to the Commission’s Notice of Proposed Rulemaking (“NPRM”) in this proceeding.<sup>2</sup> As the leading trade association for the information and communications technology (“ICT”) industry, TIA applauds the Commission for initiating this review and reform of its equipment authorization processes and rules. Among other things, TIA members manufacture Wi-Fi, 3G,

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<sup>1</sup> TIA is a Washington, DC-based trade association representing approximately 500 global information and communications technology (“ICT”) manufacturers, vendors, and suppliers. TIA represents the global ICT industry through standards development, advocacy, business opportunities, market intelligence and networking. TIA’s member companies manufacture or supply the products and services used in global communications across all technology platforms. Since 1924, TIA has been enhancing the business environment for broadband, mobile wireless, information technology, networks, cable, satellite and unified communications. Members’ products and services empower communications in every industry and market, including healthcare, education, security, public safety, transportation, government, the military, the environment and entertainment. TIA is accredited by the American National Standards Institute (“ANSI”). TIA represents its members on the full range of public policy issues affecting the ICT industry and forges consensus on industry standards. Please see TIA’s 2013 Policy Playbook, which provides an overview of the ICT market, technologies and policies that drive innovation and investment. See <http://www.tiaonline.org/policy/tia-2013-playbook>.

<sup>2</sup> 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) (“NPRM”).

4G, P25 intentional transmitters (small cell), and non-radio products such as routers and switches, as well as cable set-top boxes. As a result, TIA members are heavy users of the Commission's certification system.

We appreciate the Commission's focus and attention to the important issue of device certification, and its impact on manufacturers' and suppliers' ability to innovate. In addition, an increasingly compliant device approval process will help ensure that non-compliant manufacturers and vendors do not gain an unfair competitive advantage over law-abiding companies. TIA's existing efforts to streamline the approval of devices are led by our Technical Regulatory Policy Committee ("TRPC"),<sup>3</sup> which meets several times each year with Commission lab staff to address device approval issues and to share information among stakeholders.

TIA is also interested in this issue as an American National Standards Institute ("ANSI")-accredited standard developer for the telecommunications industry. For example, one of TIA's standards committees – TR-41<sup>4</sup> – develops the standards incorporated by reference into Part 68 of the FCC's rules which exist to ensure that terminal equipment attached to the public switched telephone network ("PSTN") does not harm the network. The administrative aspect of these rules

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<sup>3</sup> TIA's TRPC advocates public policy positions related to the streamlining clarifying the mechanisms of the FCC equipment certification processes and procedures through interaction with the Federal Communications Commission (FCC), its Office of Engineering and Technology (OET) and its Laboratory, and other governmental bodies, including but not limited to those issues which are affected by related TIA standardization activities. See <http://www.tiaonline.org/policy/tia-policy-committees-divisions>.

<sup>4</sup> TIA's TR-41 Engineering Committee (User Premises Telecommunications Requirements) develops voluntary standards for telecommunications TE and systems, specifically those used for voice services, integrated voice and data services, and Internet protocol ("IP") applications. Together with its three subcommittees and their working groups, the committee develops performance and interface criteria for equipment, systems and private networks, as well as the information necessary to ensure their proper interworking with each other, with public networks, with IP telephony infrastructures and with carrier-provided private-line services. In addition, TR-41 develops criteria for preventing harm to the telephone network, which becomes mandatory when adopted by the Administrative Council for Terminal. See <http://www.tiaonline.org/all-standards/committees/tr-41>.

is managed by a non-profit called the Administrative Council for Terminal Attachments, or the ACTA.<sup>5</sup>

TIA also notes its existing efforts to work directly with the Telecommunications Certification Bodies (“TCBs”). TIA members, representing manufacturers and vendors of ICT, constantly work with TCBs to ensure the quality of submissions to the Commission’s OET Labs. In addition, TIA is a liaison between the TCB Council<sup>6</sup> and the ICT manufacturer and vendor community, and presents to the TCB Council members on emerging trends and issues at the twice-annual TCB Council Workshops, which occur in April and October each year in Baltimore, MD.

## **II. DISCUSSION**

### **A. THE COMMISSION’S EQUIPMENT REGULATIONS TO DATE HAVE BEEN GENERALLY SUCCESSFUL**

Initially, TIA commends the Commission on the general success of the equipment authorization rules. The Commission’s equipment authorization rules have developed to provide a great deal of certainty, an important factor to encouraging investment and innovation by manufacturers, and we urge the Commission to continue to promote a process that is transparent and predictable in its outcomes. We note that the OET has taken significant efforts to effect these improvements over the years, such as its improvements to the Knowledge Database (“KDB”) portal on its website<sup>7</sup> to allow for keyword searches of KDBs.

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<sup>5</sup> See <http://www.part68.org/>.

<sup>6</sup> The TCB Council is a non-profit entity that provides a forum for periodic dialogue between the FCC and the TCB's and to facilitate on-going activities geared toward the improvement of TCB technical and administrative performance. See <http://www.tbccouncil.org/>.

<sup>7</sup> See <https://apps.fcc.gov/oetcf/kdb/index.cfm>.

We also generally commend the Commission's creation of the TCB program.<sup>8</sup> The program has succeeded in providing manufacturers with an alternative to obtaining certification from the Commission, and has facilitated the more rapid introduction of RF equipment into the market. For example, the TCB program has allowed for the FCC to oversee, most recently, approximately 13,000 radio applications in FY2012.

We also approve of the Commission's openness to revisiting the process in light of changes in RF devices, technologies, and manufacturing methods and the need for continuous improvement.<sup>9</sup> This approach is appropriate given the dynamic changes to the market for these devices, including the increased availability of software radios – radios, including the Commission-defined software-defined radios (“SDRs”),<sup>10</sup> that are software-controlled. In addition, many of the consumer devices that will be in use tomorrow, as well as in the near future, will use these radios to function.

## **B. TIA GENERALLY SUPPORTS THE COMMISSION'S PROPOSED CHANGES TO THE EQUIPMENT CERTIFICATION PROCESS**

Long delays in the approval process are a clear barrier to innovation. As we have noted above, TIA's TRPC membership has been working with the OET Labs over the years, and we are generally supportive of proposals which will result in the speeding of the approval process.

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<sup>8</sup> See 1998 Biennial Regulatory Review--Amendment of Parts 2, 25 and 68 of the Commission's Rules to Further Streamline the Equipment Authorization Process for Radio Frequency Equipment, Modify the Equipment Authorization Process for Telephone Terminal Equipment, Implement Mutual Recognition Agreements and Begin Implementation of the Global Mobile Personal Communications by Satellite (GMPCS) Arrangements, GEN Docket No. 98-68, *Report and Order*, 13 FCC Rcd 24687 (1998).

<sup>9</sup> See NPRM at ¶ 12.

<sup>10</sup> See 47 C.F.R. Section 2.1. The Commission has defined a SDR as:

“...a radio that includes a transmitter in which the operating parameters of frequency range, modulation type or maximum output power (either radiated or conducted), or the circumstances under which the transmitter operates in accordance with Commission rules, can be altered by making a change in software without making any changes to hardware components that affect the radio frequency emissions.”



We therefore support the generally progressive proposals in the NPRM regarding the equipment certification process.<sup>11</sup> If effected as proposed, and if our specific additional suggestions below are incorporated, the resulting effect on time-to-market will contribute to the general reduction of barriers to innovation in the ICT industry.

1. Shifting All Approvals to the TCBs

TIA supports the Commission's proposal to no longer directly issue any grants of equipment authorization, and instead allow TCBs to authorize all products subject to certification.<sup>12</sup> As the Commission notes, as of FY 2011, TCBs certified approximately 98% of the products submitted for approval under the Commission's RF equipment authorization program, with the remaining 2% representing very important specific categories of equipment that Commission rules or requirements do not exist or for which the application of the rules or requirements are unclear.<sup>13</sup> We believe that the TCBs can, under the proposed codified procedure that TCBs would use when they require guidance from the Commission to certify a product for which the rules, requirements or measurement procedures are not clear,<sup>14</sup> handle this remaining 2% of equipment, and that the system will be streamlined as a result. However, a critical factor in the success of this proposal will be an educated TCB community that will ensure competent reviews in regard to new technologies such as those deploying RLAN that use Dynamic Frequency Selection or require specific absorption rate ("SAR") tests with multiple transmitters.

2. Authority and Processes for Certification Application Dismissals

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<sup>11</sup> See NPRM at ¶¶ 18-27.

<sup>12</sup> See NPRM at ¶ 18.

<sup>13</sup> See 47 C.F.R. § 2.962(e)(5)(i).

<sup>14</sup> See NPRM at ¶ 19.

TIA supports the Commission’s proposal that would allow TCBs to dismiss their own applications for certification without prejudice if the Commission could do so under relevant rules or at the request of the applicant.<sup>15</sup> We concur with the Commission’s emphasis on the importance of TCB-initiated application dismissals being without prejudice as the Commission should retain the final authority to deny applications for certification. However, we agree with the proposal that TCBs have the ability to offer recommendations for denial of certification and that, as a result, the certification would be set aside for 30 days per the existing procedures.<sup>16</sup>

3. Eliminating the Exclusion List and Creating a New Pre-Approval Guidance Procedure

TIA supports the Commission’s proposal that an effective substitution for the exclusion list would be the proposed new pre-approval guidance procedure, where the Commission will identify the types of devices or types of testing for which a TCB will be required to consult with the Commission before granting certification.<sup>17</sup> Specifically, we support this proposal because it will allow for targeted oversight by the Commission only in areas it deems appropriate – in other words, the Commission will be able to leave routine portions of the TCB review process to the TCBs, while overseeing only the other necessary portions. The ICT manufacturer community welcomes this improvement to the approval process which we expect to significantly speed the approval process and reduce time-to-market for cutting-edge equipment.

TIA also supports the Commission’s proposal to replace what now is the permit-but-ask process with the new pre-approval guidance procedure, and to better integrate it into the Equipment Authorization System (“EAS”), in order to improve the ease and response times

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<sup>15</sup> See NPRM at ¶ 18.

<sup>16</sup> See *Id.*

<sup>17</sup> See NPRM at ¶ 19.

involved in providing answers to requests Commission guidance on processing an application.<sup>18</sup> The ICT manufacturer and vendor community endorses the proposed methodology that the Commission proposes in the NPRM.<sup>19</sup>

#### 4. Clarifying TCB Application Processing Procedures

TIA agrees with proposals in the NPRM to clarify the responsibilities of applicants for equipment authorization and of the TCBs that will process these applications through the Commission's electronic systems.<sup>20</sup> However, we request that, in regard to incorporating into Section 2.911 the requirement from Section 2.913 that applications must be accompanied by the appropriate fees since new applicants for certification must submit a fee to obtain a grantee code, and this function could be handled by a TCB if an applicant authorizes a TCB to do so, we strongly urge the Commission to prohibit TCBs from charging "expediting" fees. Because TCBs are providing equipment certifications under the delegated authority of the Commission,<sup>21</sup> we believe that TCBs should not allow for these payments to allow for certification applications to "cut in line," as it is not in accordance with long-held competition-neutrality principles,<sup>22</sup> and is not consistent with the processes of the OET Labs themselves. In addition, the National Institute of Standards and Technology's ("NIST") National Voluntary Laboratory Accreditation Program ("NVLAP") states in its Laboratory Accreditation Evaluation Criteria that "[u]njustified fees,

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<sup>18</sup> See NPRM at ¶¶ 20-22.

<sup>19</sup> See NPRM at ¶ 22.

<sup>20</sup> See NPRM at ¶ 24.

<sup>21</sup> See 47 U.S.C. § 302a(e)

<sup>22</sup> For example, as far back as 1997, the Commission has stated that "Technological neutrality will allow the marketplace to direct the advancement of technology and all citizens to benefit from such development. By following the principle of technological neutrality, we will avoid limiting providers... to modes of delivering that service that are obsolete or not cost effective. Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776 (1997), ¶ 49.

financial requirements, or other conditions for application, which restrict participation and are not relevant to the competence of the laboratory, should...be avoided.”<sup>23</sup>

4. Requiring TCBs to Submit the Complete Form 731 to the Commission

Finally, TIA supports the Commission’s proposal to amend Section 2.926(g)(1) of the rules to require that TCBs provide the Commission with a complete copy of each certification application that they process, including all exhibits required by the Commission’s rules, prior to issuance of a grant of certification or dismissal of the application.<sup>24</sup> As the Commission notes, these proposed changes will codify the current Commission practice of obtaining complete information for all equipment certified by TCBs prior to the issuance of a grant, and will provide notice to the Commission and other TCBs concerning which applications were dismissed. We also believe that, in this instance, codifying a practice very routinely used will increase compliance awareness and therefore contribute to heightened speed and transparency in the approval process.

**C. TIA GENERALLY SUPPORTS THE COMMISSION’S PROPOSED CHANGES TO POST-MARKET SURVEILLANCE POLICIES**

The ICT manufacturer and vendor community understands the importance of post-market surveillance in ensuring certifications of sample products submitted for certification reflect the quality of the products marketed and sold to end-user communities of all kinds in the American marketplace. As the Commission’s equipment approval process has evolved over the decades, so should post-market surveillance policies. TIA believes the changes proposed in the NPRM, if implemented in conjunction with the added proposals we include below, will have the effect of increasing the quality of post-market surveillance.

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<sup>23</sup> See NIST, *The ABC’s of the U.S. Conformity Assessment System* (April 1997) at 9, available at [http://gsi.nist.gov/global/docs/pubs/NISTIR\\_6014.pdf](http://gsi.nist.gov/global/docs/pubs/NISTIR_6014.pdf).

<sup>24</sup> See NPRM at 26.

1. Proposals to Generally Improve Post-Market Surveillance Policies

The Commission proposes to update its guidance documents on specific requirements of post-market surveillance, and to allow for TCBs to have the authority to demand post-certification samples from manufacturers they alone have certified.<sup>25</sup> In addition, the Commission will be able to demand sample products from manufacturers be sent to the certifying TCB for testing.<sup>26</sup> Finally, the NPRM proposes that, should a TCB determine a lack of compliance for a previously certified product, it must notify the grantee as well as the Commission, with the grantee then required to respond indicating corrective measures taken to the TCB, who must in turn inform the Commission of these corrective actions within 30 days.<sup>27</sup> TIA notes its support for these proposals, but requests that the Commission clarify that in the event of failed post-market surveillance result, the TCB should be required to disclose to the grantee the equipment and method used for the certification test, and whether any different equipment or methods were used in the post-market surveillance testing. We believe this assurance will ensure fairness in any review of post-market surveillance findings.

The Commission then addresses further details in these proposals, including whether there should be cross-checking among TCBs, so that a TCB would test some equipment that another TCB approved; if so, how it would be determined which sampled equipment is to be tested by which TCB; and, when a TCB is required to test a sample device approved by a different TCB, who should bear the cost of testing and reporting.<sup>28</sup> TIA's view is that the Commission may find it appropriate to use one TCB to check the work of another, but that

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<sup>25</sup> See NPRM at 30.

<sup>26</sup> See NPRM at 31.

<sup>27</sup> See NPRM at 32.

<sup>28</sup> See NPRM at 33.

because this is a circumstance where a component of the equation is being replaced to check the original's quality, no other components of the equation – in this case, the grantee – should bear a cost.

Finally, the Commission seeks comment on ways that it can obtain samples from the retail market for post-market surveillance purposes, and suggests that grantees could provide a voucher that the Commission could use in any retail outlet of its choosing; alternatively, the Commission suggests that grantees could arrange for the Commission to pick a sample at random from a distributor.<sup>29</sup> While both of these suggestions are workable for manufacturers, we urge for flexibility in how the Commission attains sample products for the purposes of post-market surveillance past these two suggestions as in some circumstances neither may be feasible.

## 2. Improving Assessments of TCBs

The Commission also rightly proposes ways to improve the ways that it assesses TCBs, and proposes to codify that NIST will designate TCBs, but that the Commission would then have to recognize – and maintain recognition of – the TCB before it could operate.<sup>30</sup> The Commission also proposes “less severe” measures than the complete withdrawal of a TCB's designation or recognition to punish subpar TCB performance.<sup>31</sup> We note our support for these proposed enhanced measures to ensure TCB accountability, and commend the Commission for proposing to apply the apply equally new procedures to both domestic and foreign TCBs – not only does this recognize the global nature of the ICT industry, but it also sets a pro-trade example for other countries.<sup>32</sup>

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<sup>29</sup> See NPRM at 33.

<sup>30</sup> See NPRM at 38.

<sup>31</sup> See NPRM at 39-40.

<sup>32</sup> Unfortunately, there are other parts of the globe where “foreign” input is disregarded, and the standardization and conformity assessment systems are effectively used as ways to give preference to

### 3. Updating Section 68.162 to Correct Outdated References

Lastly, the Commission proposes to modify Parts 2 and 68 rules to update references to Guide 58 and Guide 61 with references to ISO/IEC 17011, to replace the references to Guide 65 with references to ISO/IEC 17065, and to update Section 68.162 to correct the outdated references to ISO/IEC Guide 25 which is now designated ISO/IEC 17025.<sup>33</sup> We note our support of the Commission's proposal to update references in the rules to these updated and improved standards developed in open, voluntary, and consensus-based settings.

#### **D. TIA URGES CAUTION WITH REGARD TO SEVERAL PROPOSED CHANGES TO LABORATORY ACCREDITATION POLICIES**

As the Commission is well aware, the use of Part 15 and Part 18 devices is widely projected to increase.<sup>34</sup> Numerous members of TIA are invested in the future of these devices and/or components of them, and regularly rely on accredited testing labs to get their products to market as quickly as possible. We therefore appreciate and generally support the Commission's efforts to improve this aspect the device approval process. As detailed below, we have several suggestions on the Commission's proposals specific to (1) the effect on "all testing," (2) codifying requirements on accreditation body submissions, and (3) test site validation requirements.

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parties physically located within a country. We believe that the United States government and the Commission are in alignment with the ICT manufacturer and vendor community that such policies stifle innovation and investment.

<sup>33</sup> See NPRM at 45.

<sup>34</sup> For example, the Commission has separately launched a proposal seeking to significantly expand the availability of unlicensed use in the 5 GHz band, and recognizes the potential for unlicensed frequencies helping to accommodate the needs of businesses and consumers for fixed and mobile broadband communications. See Revision of Part 15 of the Commission's Rules to Permit Unlicensed National Information Infrastructure (U-NII) Devices in the 5 GHz Band, Notice of Proposed Rulemaking, 28 FCC Rcd 1769 (2013) at 1774.

1. The Commission Should Pare Down its Proposal to Expand the Reach of ISO/IEC 17025

In the NPRM, the Commission proposes to end the listing program, and that “all laboratories that test equipment subject to Certification and Declaration of Conformity (DoC) under any rule part be accredited to ISO/IEC 17025.”<sup>35</sup> In addition, the Commission proposes to retain the requirement in Section 2.948 that test laboratories compile a description of their measurement facilities, and propose that they supply this information to a laboratory accreditation body or to the Commission upon request.<sup>36</sup> Lastly, the Commission proposes to maintain a list of accredited laboratories (for those labs outside the United States, these would be limited to those which are recognized under a MRA or other arrangement) that are acceptable for testing equipment subject to its certification and DoC procedures.<sup>37</sup>

The accreditation of a laboratory outside the United States is considered acceptable only if it is located in a country that has an MRA with the United States or is accredited by an organization that has entered into an arrangement between accrediting organizations that is recognized by the Commission.<sup>38</sup> TIA seeks clarification to better assess the impact of this proposal on testing labs in countries currently without an MRA that are listed with the Commission under the current rules.

TIA expresses concern regarding the Commission’s proposal to require “all” labs to be accredited under ISO/IEC 17025. Currently, for many manufacturers, a significant percentage of the tests required are performed by engineers in engineering labs – meaning that it does not take

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<sup>35</sup> NPRM at 49.

<sup>36</sup> See NPRM at 50.

<sup>37</sup> See NPRM at 51.

<sup>38</sup> See 47 C.F.R. 948(e)(2).



place in an accredited testing facility. The practical effect of this rule going into effect would be to require engineering labs to become accredited testing labs at significant expense to manufacturers. While the Commission assumes that because “many of the testing laboratories that perform measurements on equipment operating under the licensed radio service requirements also test equipment subject to Parts 15 and 18, their test facilities are already accredited,”<sup>39</sup> we submit that many manufacturers that do not possess accredited testing labs do indeed perform tests in their engineering labs. TIA does not believe the added expense is justified when under the current system, engineering lab testing has a proven track record of contributing to Part 15 and Part 18 certifications in a streamlined and less expensive fashion. For this reason, we request that the Commission specifically alter its proposal to ensure that all RF Conducted and Radiated tests labs are not swept into the ISO/IEC 17025 accreditation requirements.

In addition, regarding reciprocity of recognition of accreditation bodies, any accreditation by the FCC should be met with a reciprocal recognition of U.S. accreditation bodies that are members of the ILAC or other equivalent lab accreditation agreements.

Past these concerns, we note our general support for the remaining proposals the Commission puts forward regarding improving the accreditation of testing labs.

2. The Commission Need Not Codify Existing Guidance on the Selection of New Accreditation Bodies

The Commission discusses the existing policy for selection of new accreditation bodies by moving past the currently-used system under which allows for OET evaluation based upon requirements established by ISO and IEC, which the Commission proposes to update elsewhere

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<sup>39</sup> See, e.g., NPRM at 48, 53.

in the NPRM.<sup>40</sup> The Commission then proposes to codify the guidance provided in a related 2010-released Public Notice.<sup>41</sup>

TIA does not believe that this guidance should be codified into the Code of Federal Regulations simply because it will remove the ability of OET to quickly and easily update the guidance through such means as a recurring, updated Public Notice under delegated authority, rather than a formal rule change. We believe in this circumstance OET should have “the flexibility to modify [a requirement] if necessary.”<sup>42</sup>

3. Application of ANSI C63.4-2009’s Test Site Validation Requirements Should Not Apply to All Testing Facilities Used to Make Radiated Emission Requirements on Authorized Equipment

In the NPRM, the Commission proposes to require testing facilities used to make radiated emission measurements on equipment authorized under any rule part meet the site validation requirements under Section 5.4.4-5.5 of ANSI C63.4-2009.<sup>43</sup> TIA believes that Section 5.4.4-5.5 of ANSI C63.4-2009 should be required for labs performing services under Parts 15 and 18 as well as those performing services using the proposed direct method of testing described in ANSI C63.26,<sup>44</sup> but not for those testing labs using TIA-603-D measurement and performance standards for Land Mobile FM or PM.<sup>45</sup>

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<sup>40</sup> See NPRM at 54.

<sup>41</sup> See NPRM at 55-56. See also Office of Engineering and Technology Provides Guidance on the Recognition of Laboratory Accreditation Bodies and Recognizes ACLASS as an Accreditation Body, Public Notice, 25 FCC Rcd 10830 (2010).

<sup>42</sup> See, e.g., NPRM at 32, 70.

<sup>43</sup> See NPRM at 59.

<sup>44</sup> Cite to ANSI C63.26.

<sup>45</sup> See TIA-603-D, Land Mobile FM or PM Communications Equipment Measurement and Performance Standards (2010), available at <http://www.tiaonline.org/standards/buy-tia-standards> (“TIA-608-D”).

TIA-603, as well as TIA-102.CAAA-D, Project 25 Digital C4FM/CQPSK Transceiver Measurement Methods,<sup>46</sup> as two examples, do not require an absorber on the ground plane for its standard test site. Test labs accredited to these standards for testing equipment authorized under Part 90/95 would not comply with the above 1 GHz requirements in ANSI C63.4 2009 or this proposal. TIA suggests that this requirement be limited to test sites accredited to ANSI C63.4 / C63.10 and any other standards that require absorbers on the ground plane for above 1 GHz testing. In addition, ANSI C63.4 2009 does provide two alternatives above 1GHz as the Commission has stated. Test sites meeting the option of covering the ground plane above 1 GHz with absorbers meeting a minimum footprint (*e.g.*, 2.4m \* 2.4m for a 3m site) do not have to demonstrate compliance with the validation requirements of CISPR 16. We do not agree with the proposal that test sites meet only the first alternative specified in Section 5.5 of the ANSI C63.4-2009 and request that the second alternative allowing a minimum area of the ground plane to be covered with absorbers without having to meet any additional validation requirements be permitted. It is suggested that the last sentence from this proposal, requiring compliance with CISPR 16 site validation requirements, be omitted to allow for the minimum footprint option to be exercised.

**E. TIA VIEWS ON PROPOSED CHANGES TO MEASUREMENT PROCEDURES**

The measurement procedures that the Commission incorporates by reference into its rules are developed in voluntary, open, and consensus-based processes, on which TIA's standardization processes are based as well. We are supportive of the Commission's efforts to engage with stakeholders in the ANSI C63.10 effort.

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<sup>46</sup> See TIA-102.CAAA-D: Project 25 Digital C4FM/CQPSK Transceiver Measurement Methods (2013), available at <http://www.tiaonline.org/standards/buy-tia-standards>.

First, we note our support for the Commission’s proposed to incorporate ANSI C63.10-2009 into the rules as the procedure the Commission will use for determining the compliance of intentional radiators.<sup>47</sup> The involvement of both industry and government stakeholders, participation by a number of affected TIA members, and the nature of the ANSI-accredited process lead us to agree that from the previous version of ANSI C63.4 will “advance the Commission’s objective of ensuring compliance with its technical requirements as well as decreas[e] the burden on equipment manufacturers, thus promoting the timely introduction of innovative new products.”<sup>48</sup>

Second, in addition to requiring compliance demonstrated based on ANSI C 63.4, the Commission states that under this NPRM, the discussion on the use of Comité International Spécial des Perturbations Radioélectriques (“CISPR”) 22<sup>49</sup> is not being addressed.<sup>50</sup> TIA understands that the adoption of CISPR as an alternate testing standard is a subject needing much additional discussion. Further, it is quite possible that Industry Canada will consider allowing demonstrating compliance using internationally adopted standard such as CISPR.

As CISPR standards have gone through numerous changes, TIA urges the Commission to keep open the door to allow further discussion on use of internationally adopted standard as to demonstrate compliance for electromagnetic compatibility (“EMC”), as to allow manufacturers the ability to streamline their test processes and reduce costs while still maintaining levels of compliance specified by the Commission.

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<sup>47</sup> See NPRM at 67.

<sup>48</sup> *Id.*

<sup>49</sup> CISPR 22, Information technology equipment-Radio disturbance characteristics-Limits and methods of measurement, Edition 6.0 (April 27, 2012).

<sup>50</sup> NPRM at 68.

Third, the Commission proposes to delegate to the Chief of OET the authority to update references to industry standards in Parts 2, 5, 15 and 18 of the rules, with the limitation that these updates only be allowed for versions of standards that are already referenced into the rules and that the updates be limited to the approval of changes to the technical standards that do not raise major compliance issues.<sup>51</sup> As described above, we find this approach appropriate and conducive to a streamlined approach that also respects the Administrative Procedure Act.<sup>52</sup> However, we note our support of the need for adequate transition periods when these updates are made under delegated authority. Typically, a period of two years is adequate for the phasing in of new standards. TIA believes that the Commission understands this need based on numerous previous rulemakings.<sup>53</sup>

Finally, the Commission proposes to amend Section 2.1033 to “require that applications for certification include photographs or diagrams of the test set-up for each of the required types of tests applicable to the device for which certification is requested.”<sup>54</sup> We support this proposal from the Commission, but request that the rules clearly allow for digital imaging to be submitted. Ideally, the Commission’s submission system will exist under flexible rules that will enable it to evolve to accept all forms of data being uploaded in a single submission. We respectfully suggest that adding the phrase “electronic or digital” to this description in Section 2.1033 will allow for easier acceptance of advanced digital imaging to be submitted.

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<sup>51</sup> NPRM at 70.

<sup>52</sup> *See* 5 U.S.C. § 553.

<sup>53</sup> *See, e.g.,* In the Matter of Amendment of the Commission’s Rules Governing Hearing Aid-Compatible Mobile Handsets, Report & Order (rel. Apr. 9, 2012).

<sup>54</sup> *See* NPRM at 71.

**F. FLEXIBILITY IN TRANSITION PERIODS IS KEY TO SUCCESSFULLY IMPROVING THE COMMISSION’S DEVICE APPROVAL PROCESS**

The Commission last addresses the time needed to phase-in the changes that will be made to the rules as a result of the NPRM. Specifically, it is proposed that the Commission (1) stop accepting applications for unaccredited laboratories under the Section 2.948 listing program as of the effective date of final rules; (2) that unaccredited laboratories that are listed as of the effective date of the rules be allowed to continue to perform testing in support of certification applications until one year after the publication of final rules in the Federal Register; and (3) that all laboratories listed with the Commission as of the effective date of the rules, both accredited and unaccredited, comply with the site validation criteria in ANSI C63.4-2009 no later than one year after publication of final rules in the Federal Register.<sup>55</sup>

While TIA has positions that precede the determination of effective dates as described elsewhere above, we do note for the Commission that both accredited and unaccredited labs will require more time due to the difficulty and expense associated with attaining accreditation which the Commission acknowledges in this NPRM.<sup>56</sup> The rules changes discussed in the NPRM will be burdensome for labs if they do not currently meet the CISPR requirements, and some labs could require retrofitting of chambers, etc., along with re-testing to ensure compliance. For these reasons, TIA suggests that the Commission allow two years after publication in the Federal Register for the phasing-in of new requirements pursuant to this NPRM.

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<sup>55</sup> See NPRM at 73.

<sup>56</sup> See, e.g., NPRM at 53.

**G. THE COMMISSION SHOULD CLARIFY THAT WIDELY-ACCEPTED PRACTICES UNDER SUPPLEMENT C TO OET BULLETIN 65 WILL REMAIN VALID POLICIES MOVING FORWARD**

A critical component of such testing is accounting for measurement uncertainty. Thus, TIA asks the Commission to provide certainty by clarifying that the accepted industry and agency practice of giving applicants and grantees the benefit of measurement uncertainty in post-market surveillance SAR testing measurements remains valid FCC policy.

Uncertainty, the “estimated amount by which the observed (measured) or calculated value of a quantity may depart from the true value,”<sup>57</sup> allows testing bodies “to produce valid and repeatable data.”<sup>58</sup> The National Institute of Standards and Technology (“NIST”) has stated that “[i]t is generally agreed that the usefulness of measurement results . . . is to a large extent determined by the quality of the statements of uncertainty that accompany them.”<sup>59</sup> Accordingly,

“[w]hen reporting the result of a measurement of a physical quantity, it is obligatory that some quantitative indication of the quality of the result be given so that those who use it can assess its reliability. Without such an indication, measurement results cannot be compared, either among themselves or with reference values given in a specification or standard.”<sup>60</sup>

A calculated uncertainty is unique for each set of test equipment and test lab, and it provides a method to compare results from different measurement systems and labs.

FCC OET Bulletin 65, Supplement C (“Supplement C”) established that “[w]hen pre-grant and post-grant samples are tested by the FCC, the Commission will give the applicant or

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<sup>57</sup> IEEE Standard 1528-2003, *IEEE Recommended Practice for Determining the Peak Spatial-Average Specific Absorption Rate (SAR) in the Human Head from Wireless Communications Devices: Measurement Techniques*, at 1 (Dec. 19, 2003) (“IEEE 1528-2003”).

<sup>58</sup> *Id.*, at 19.

<sup>59</sup> NIST Technical Note 1297 1994 Edition, *Guidelines for Evaluating and Expressing the Uncertainty of NIST Measurement Results*, at iv (Sept. 1994).

<sup>60</sup> Bureau International des Poids et Mesures, Joint Committee for Guides in Metrology, *Evaluation of Measurement Data – Guide to the Expression of Uncertainty in Measurement*, JCGM 100:2008, at viii (1st ed. Sept. 2008).

grantee the benefit of the uncertainty for its measurements to establish compliance.”<sup>61</sup> However, as part of the *RF Limits and Policies* proceeding, the Commission discontinued Supplement C because “OET has been able to provide more up-to-date information for [portable and mobile] devices in its KDB.”<sup>62</sup> Specifically, revised Rule 2.1093(d)(3) states that “[g]uidance regarding SAR measurement techniques can be found in the [OET KDB]. The staff guidance provided in the KDB does not necessarily represent the only acceptable methods for measuring RF exposure or emissions, and is not binding on the Commission or any interested party.”<sup>63</sup> KDB Publication No. 865664, *SAR Measurement Requirements for 100 MHz to 6 GHz*, states that “[t]he relevant information in Supplement C 01-01 has been either imported or duplicated into the *published RF KDB procedures*.”<sup>64</sup> Section 2.8.2 of KDB 865664 recognizes that measurement uncertainty analysis is required in certain SAR reports.<sup>65</sup> However, the KDB does not explicitly duplicate the established and necessary practice written in Supplement C of affording applicants the benefit of measurement uncertainty in post-market surveillance testing.<sup>66</sup>

Thus, though it is implied in KDB 865664 that applicants will receive the benefit of measurement uncertainty in post-surveillance testing, TIA seeks clarification that this vital element of Supplement C remains valid Commission policy. With the NPRM’s proposal to further decentralize the equipment authorization process and “allow TCBs to authorize all

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<sup>61</sup> FCC Office of Engineering & Technology, *Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields*, OET Bullet 65, Supplement C 01-01 (2001).

<sup>62</sup> *Reassessment of Federal Communications Commission Radiofrequency Exposure Limits and Policies*, First Report and Order, Further Notice of Proposed Rulemaking and Notice of Inquiry, 28 FCC Rcd 03498, ¶ 28 (2013).

<sup>63</sup> 47 C.F.R. § 2.1093(d)(3).

<sup>64</sup> KDB Publication No. 865664, *SAR Measurement Requirements for 100 MHz to 6 GHz*, FCC Office of Engineering and Technology, Laboratory Division (May 28, 2013).

<sup>65</sup> *See id.*, § 2.8.2.

<sup>66</sup> *Id.*



products subject to certification,”<sup>67</sup> accounting for measurement uncertainty among widely dispersed testing laboratories is more vital than ever to ensure that the Commission receives accurate, reliable results.

TIA commends the Commission for its proposals in the NPRM to increase the efficiency and effectiveness of the equipment authorization process. However, efficient and effective measurements in post-grant surveillance testing are not possible without accounting for uncertainty. Therefore, TIA asks that the Commission clarify that the widely-accepted Supplement C practice of giving the applicant or grantee the benefit of the uncertainty in post-grant surveillance measurements remains valid FCC policy.

**H. TIA URGES THE COMMISSION TO MOVE FORWARD ON TIA’S  
PENDING PETITION FOR RULEMAKING ON ELECTRONIC  
LABELING**

Related to the issues raised in the NPRM is a pending Petition for Rulemaking that TIA submitted to the Commission in 2012, asking the Commission to ease technical and logistical burdens on manufacturers while increasing end user access to useful information about their devices by allowing for the non-exclusive option of electronic labeling.<sup>68</sup> As we discuss at length in the TIA eLabeling Petition, electronic labeling is becoming a natural progression from hard copy labels which would help in streamlining and lowering costs in the manufacturing process, eliminating typographical errors which sometimes appear on hard copy labels, and – most relevant to this NPRM – improving the approval processes by providing ease of access to information for the various constituencies in the device approval process, including the Commission. Since being placed on Public Notice, the TIA eLabeling Petition has seen no

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<sup>67</sup> NPRM, ¶ 18.

<sup>68</sup> See Petition for Rulemaking, Telecommunications Industry Association, RM No. 11673, 1 (Aug. 6, 2012) (“TIA eLabeling Petition”).

opposing statements, and we look forward to the Commission taking further steps in the regulatory process, including further public input.

### **III. CONCLUSION**

We thank the Commission for its public consultation, and urge the careful consideration of the positions of the ICT manufacturer and vendor community as it proceeds in its efforts to improve the device approval process, consistent with the above.

Respectfully submitted,

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June 17, 2013