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April 25, 2014

U.S. Environmental Protection Agency
Office of Pollution Prevention and Toxics (OPPT)
Document Control Office
1200 Pennsylvania Avenue, NW
Washington, DC 20460-0001

Re: TIA Comments on Draft Guidelines for Product Environmental Performance Standards and Ecolabels for Voluntary Use in Federal Procurement

I. INTRODUCTION

The Telecommunications Industry Association (TIA) appreciates the opportunity to provide comments in response to the Draft Guidelines for Product Environmental Performance Standards and Ecolabels for Voluntary Use in Federal Procurement (“Draft Guidelines”).¹ TIA represents hundreds of information and communications technology (ICT) manufacturer, vendor, and supplier companies in standards, government affairs and market intelligence. TIA’s member companies’ products and services empower communications in every industry and market, including healthcare, education, security, public safety, transportation, energy, government, the military, and entertainment. TIA’s members produce the equipment and solutions that make up our Nation’s rapidly evolving communications networks and are affected by a number of issues in the Draft Guidelines.

A major function of TIA is the writing and maintenance of voluntary industry standards and specifications, as well as the formulation of technical positions for presentation on behalf of

¹ See Environmental Protection Agency, Draft Guidelines: Product Environmental Performance Standards and Ecolabels for Voluntary Use in Federal Procurement, 78 Fed. Reg. 70938-70941 (November 27, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-11-27/html/2013-28507.htm>.

the United States in certain international standards fora. TIA is accredited by the American National Standards Institute (ANSI) to develop voluntary industry standards for a wide variety of telecommunications products and sponsors more than 70 standards formulating committees. These committees are made up of over 1,000 volunteer participants, including representatives from manufacturers of telecommunications equipment, service providers and end-users, including the government. The member companies and other stakeholders participating in the efforts of these committees and sub-groups have produced more than 3,000 standards and technical papers that are used by companies and governments to produce interoperable products around the world. From this experience, TIA continues to witness firsthand the both the technological innovation in the ICT sector enabled by the use of voluntary industry standards. The flexibility provided by voluntary standards is of particular importance in the ICT sector as technologies in the sector continue to rapidly evolve and transfer and consolidate functionalities in different parts of the network. TIA appreciates EPA's effort to develop Draft Guidelines to provide greater clarity in the marketplace regarding voluntary standards and ecolabels and offers the following input.

TIA strongly encourages EPA and other interested federal agencies to defer to and participate in industry environmental technical standards-setting activities. As outlined in the Draft Guidelines request for comment, the National Technology Transfer and Advancement Act (NTAA) of 1995 requires that Federal agencies "use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities."² Additionally, the Office of Management and Budget (OMB) Circular A-119 further reinforces and recognizes the role of voluntary consensus

² See National Technology Transfer and Advancement Act of 1995, Pub. L. 104-113.

standards for federal procurement.³ Voluntary consensus standards are of particular importance to the ICT industry because the sector is rapidly evolving and remains immature both in terms of technology and architecture. Reliance on voluntary consensus standards as required by the NTAA and OMB Circular A-110, rather than regulatory approaches is critical to maintain an innovative and competitive ICT marketplace. In the absence of standards, TIA strongly recommends that EPA and other federal agencies use, participate in, and rely on consensus voluntary industry standard-setting rather than attempt to develop unique government standards.

II. DISCUSSION

1. The Draft Guidelines Section II: Guidelines for the Environmental Effectiveness of the Standards discuss complex topics that will require significant stakeholder consultation based on industry sector.

Section II: Guidelines for the Environmental Effectiveness of the Standards, Items 11-13 of the Draft Guidelines addresses the categories of intrinsic hazards, ingredient disclosure, and impact assessment disclosure. TIA urges EPA to acknowledge that each of these items represent an intricate topic that will vary widely across industries. Addressing each topic will require extensive stakeholder consultation. The global supply chain for many goods is complex, multi-tiered, and multi-faceted moving from foundational raw materials to finished system components for final assembly and installation. The complexity of supply chains and legitimate need to protect proprietary information, makes it difficult for downstream companies to assess the chemical content of all products. Additionally, changes in design and/or chemical composition nearly always require substantial lead time for significant analysis, validation and performance testing to determine the suitability of substitutes. Such analyses can range from failure-mode analysis to actual field testing to application of specific test methodologies mandated by various

³ See Office of Management & Budget, OMB Circular A-119, Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities.

regulatory bodies. Additionally, end-users often require specific testing to insure conformance with a customer's specific use case. Products must perform and function reliably to meet the specific needs of the customer. Performance requirements of some end-users may require the use of certain chemicals that would not be appropriate in other end-use or exposure scenarios. In short, analysis regarding intrinsic hazards, ingredient disclosure, and impact assessment disclosure contemplated in the Draft Guidelines is extremely complex and will require significant stakeholder input to match the guidelines with the economic realities of each industry. Requirements that would ask manufacturers to disclose every ingredient in every item of the supply chain are not feasible.

2. The Draft Guidelines Section II will need to clarify the roles regarding use of the guidelines.

The Draft Guidelines do not clearly allocate responsibility for application of the guidelines between the government, government contractors, system integrators and manufacturers. Specifically, Section II Item 2 states standards for green products should align with relevant existing standards, but does not make clear whether the government or a government contractor should determine which relevant standards should be measured against. Determination of which standards should be aligned with could in many cases be outcome determinative, so responsibility for this item will need to be clarified. Also, adherence to Section II Items 6-9, 13 would require significant aggregation and population of data. If these items are finalized, the Draft Guidelines will need to be clarified as to whether government procurement teams or government contractors have the responsibility to provide this information to government buyers. Section II Item 12 on ingredient disclosure raises significant concerns regarding intellectual property considerations for ICT equipment and services. This item will also need to be

significantly clarified to provide necessary IP exemptions and protections as it contemplates the disclosure of information that systems integrators would be unable to provide.

III. CONCLUSION

TIA appreciates the opportunity to provide input to the EPA regarding the Draft Guidelines and looks forward to continuing to work with the EPA and other stakeholders moving forward.

Respectfully submitted,

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