
*Via Electronic Filing*

October 21, 2021

Secretary Marlene H. Dortch
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: Notice of Proposed Rulemaking, *Assessment and Collection of Regulatory Fees for Fiscal Year 2021*, MD Docket 21-190

Dear Secretary Dortch:

ACT Online, American Lighting Association (ALA), American Public Gas Association (APGA), Association of Equipment Manufacturers (AEM), Association of Home Appliance Manufacturers (AHAM), Bluetooth SIG, Consumer Technology Association (CTA), Information Technology industry Council (ITI), National Electrical Manufacturers Association (NEMA), North American Association of Food Equipment Manufacturers (NAFEM), Outdoor Power Equipment Institute (OPEI), Plumbing Manufacturers International (PMI), Power Tool Institute (PTI), Telecommunications Industry Association (TIA), and Wi-SUN Alliance (collectively, the Joint Commenters) submit the following comments to the Federal Communications Commission (FCC or Commission) in response to its Notice of Proposed Rulemaking on Assessment and Collection of Regulatory Fees for Fiscal Year 2021.

As the Commission's specific proposal raises significant concerns, we are taking the opportunity to provide comments in response to the Commission's review of regulations pertaining to fees for spectrum use and product registration, given that much has changed since the laws governing licensing of the communications spectrum were initially passed by Congress. The steady proliferation of connected devices in our society and around the world drives a robust marketplace, focused on expanding the ability of consumers and commercial entities to manage operations, gather data, and communicate more thoroughly and affordably than ever before. The use of the industrial, scientific and medical (ISM) bands, along with other unlicensed bands, for applications such as Wi-Fi, Bluetooth, telemedicine, smart homes and cities, precision agriculture, and Internet connectivity, has spurred innovation and improved Americans' daily lives, along with helping to drive enormous gains in business and commerce. To impose fees on the use of unlicensed bands or devices that connect using these frequencies would slow this progress, ultimately harming consumers and weakening our members' global leadership.

The emergence and proliferation of Internet of Things (IoT) and Industrial Internet of Things (IIoT) devices have enabled unprecedented communications and data gathering. This phenomenon is driving innovation and improving the daily lives of countless Americans, whether through increased access to telehealth applications, remote education, or job opportunities, to name a few, and it has spurred greater innovation in industrial and advanced manufacturing processes. The economic growth propelled by the use of unlicensed spectrum has been widely reported and contributes billions of dollars to the economy every year.

All or most of the communications paths of the IoT and IIoT come from devices that use unlicensed spectrum bands built with the clear understanding that they cannot interfere with license holders' communications. Under the current FCC process, those products which have the "greatest potential to cause harmful interference to radio services" of licensed, fee-paying entities are certified[1] using rigorous testing protocols. Such certifications are costly and time-consuming, with expenses (including the FCC application filing fee) ultimately being passed down the chain to consumers. Conversely, devices with lesser chance of causing harmful interference can now use the Supplier's Declaration of Conformity (SDoC)[2] process to demonstrate compliance. While manufacturers of these devices no longer bear the steeper economic burdens of required testing by FCC-accredited laboratories, they remain responsible for complying with meticulous testing and recordkeeping protocols to ensure compliance.

The potential assessment of fees on these latter connected products would have a direct, dampening impact on innovation and perhaps even reverse the connectivity advantages that American consumers and businesses have gained over recent decades because of unlicensed spectrum use. Such an increased burden from these additional costs on consumer products would in turn slow adoption of and undercut investment in connected devices and their application within nearly every sector of our economy. The investment in ISM band and other unlicensed equipment, which has led to the proliferation of our digitized economy, was encouraged by the current FCC approach to unlicensed products. Indeed, because many devices use unlicensed spectrum precisely to keep costs low for business users and consumers, new fees would be especially disruptive to the market.

When it comes to users of unlicensed spectrum or manufacturers of unintentional radiators, the Office of Engineering and Technology's (OET) role in delineating rules for such devices exists in part to protect licensees from harmful interference, making regulated, fee-paying entities principal beneficiaries of OET work. Users of unlicensed spectrum today have no spectrum protection in the sense that they must accept all interference and cause none. There is no indication that currently licensed spectrum users would be willing to share their allocations with other fee-payers. Again, there is a clear benefit to spectrum licensees in exchange for their fees. There would be no corresponding benefit for unlicensed products' use of spectrum if registration fees were to be assessed.

As a practical matter, the widespread adoption of connected technology means that tens or hundreds of thousands of device categories, with annual production numbering in the millions, could now be subject to fees. We question whether the FCC can effectively identify equipment

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[1] FCC, *Equipment Authorization Procedures* at para. 1. (available at, https://www.fcc.gov/general/equipment-authorization-procedures) (last visited Oct. 5, 2021).
[2] *Id.* at para. 2. *Id.*

subject to potential new regulatory fees, let alone police a previously free, unregulated aspect of billions of existing devices. Were there widespread cases of interference reported, or an observed breakdown in the current effectiveness of existing processes, perhaps greater regulation could be justified. However, the Commission has offered no evidence at all that in-the-field interference mitigation tools are not working, despite the existence of billions of unlicensed devices in use.

Further, it is not clear whether fees would be paid by the manufacturers of the connectable devices or by the purchasers or users of those devices. A manufacturer of a handheld radio today does not pay a fee for the use of the radio. Rather, the owner/operator of the radio must conform to applicable statutes and associated fees. It is not practicable to license every single person for the use of their IoT devices. Given that the manufacturer-user relationship often ends at the point-of-sale because fees are not charged by the manufacturer for the use of devices, it follows that it is unfair to require manufacturers of connected devices to pay regulatory fees.

We are not aware of Congress having granted FCC jurisdiction over general categories of industrial and commercial equipment manufacturers, except that our devices must not interfere with licensed spectrum users (when our products are unlicensed).

Finally, the proposal to increase fees on consumers contradicts the Commission's strong efforts to increase connectivity, close the digital divide, and promote universal service through various programs and initiatives, such as through the Connect America Fund[3] program. Any measure that might restrict or discourage consumer access to connectivity would also directly contradict broader U.S. Government-wide digital inclusion priorities, which have had widespread, bipartisan support across multiple administrations and in Congress. To impose fees on consumer devices or industrial equipment which have increased access to the digital economy for consumers, expanded markets for small businesses, and improved safety and productivity outcomes for manufacturers would seem to ignore the incredible successes that have resulted from the current FCC approach and the stated priorities of policymakers.

## Closing Statement

The expansion of beneficial communications through the development and use of connected products must be allowed to continue to contribute to wide-spread, at times unforeseen, connectivity benefits and innovations that are emerging each year. To require fee assessments or licensing and additional scrutiny of these products would only hamper innovation and blunt the numerous benefits these devices enable. Our members support the Commission's current approach to unlicensed spectrum use and believe the processes in place are both appropriate and reasonable. As such, we urge the Commission not to require fees for currently unlicensed not-to-interfere equipment and to reject any proposals to do so.

**The Joint Commenters**

The App Association represents more than 5,000 app makers and connected device companies located across the United States and around the globe that power the global digital economy. App Association members build and leverage the connectivity of smart devices to create innovative solutions across consumer and enterprise use cases, driving the internet of things (IoT) forward. The $1.7 trillion app ecosystem is led by U.S. companies that employ more than 5.9 million Americans, with more than 80 percent located outside of Silicon Valley, often headquartered in rural areas, and all depend on strong broadband to grow and create new jobs.

The American Lighting Association (ALA) represents over 1,200 member companies in the residential lighting, ceiling fan and controls industries in the United States, Canada and the Caribbean. Member companies are manufacturers, manufacturers' representatives, retail showrooms and lighting designers that have the expertise to educate and serve their customers.

The American Public Gas Association ("APGA") is the trade association for approximately 1,000 communities across the U.S. that own and operate their retail natural gas distribution entities. They include municipal gas distribution systems, public utility districts, county districts, and other public agencies, all locally accountable to the citizens they serve. Public gas systems provide safe, reliable, and affordable energy to their customers and support their communities by delivering fuel to be used for cooking, clothes drying, and space and water heating, as well as for various commercial and industrial applications.

AEM is the U.S.-based international trade group representing off-road equipment manufacturers and suppliers, with more than 1,000 companies and more than 200 product lines across the agriculture, construction, forestry, mining, and utility-related industry sectors worldwide. Collectively, the equipment manufacturing industry in the United States supports 2.8 million jobs and contributes roughly $288 billion per year to the U.S. economy.

AHAM represents more than 150 member companies that manufacture 90% of the major, portable and floor care appliances shipped for sale in the U.S. Home appliances are the heart of the home, and AHAM members provide safe, innovative, sustainable and efficient products that enhance consumers' lives. The home appliance industry is a significant segment of the economy, measured by the contributions of home appliance manufacturers, wholesalers, and retailers to the U.S. economy. In all, the industry drives nearly $200 billion in economic output throughout the U.S. and manufactures products with a factory shipment value of more than $50 billion.

Formed in 1998, the Bluetooth SIG is the not-for-profit trade association that oversees Bluetooth® technology. In support of more than 37,000 member companies worldwide, the Bluetooth SIG facilitates the collaboration of its members to create new and enhanced specifications that expand the technology, drives global product interoperability via a world-class qualification program, and grows the brand by increasing the awareness, understanding, and adoption of Bluetooth technology. With over 4 billion Bluetooth® enabled products shipping each year, the technology is a proven global standard for simple, secure wireless device communications and positioning.

As North America's largest technology trade association, CTA® is the tech sector. Our members are the world's leading innovators – from startups to global brands – helping support more than 18 million American jobs. CTA owns and produces CES® – the most influential tech event in the world.

ITI is the premier global advocate for technology, representing the world's most innovative companies. Founded in 1916, ITI is an international trade association with a team of professionals on four continents. We promote public policies and industry standards that advance competition and innovation worldwide. Our diverse membership and expert staff provide policymakers the broadest perspective and thought leadership from technology, hardware, software, services, and related industries.

NEMA represents some 325 electrical equipment and medical imaging manufacturers that make safe, reliable, and efficient products and systems. Our combined industries account for 370,000 American jobs in more than 6,100 facilities covering every U.S. state. Our industry produces $130 billion shipments of electrical equipment and medical imaging technologies per year with $38 billion exports.

NAFEM is a trade association of more than 600 commercial foodservice equipment and supplies manufacturers – a $14.9 billion industry. These businesses, their employees, and the products they manufacture, support the food away from home market – which includes more than one million locations in the U.S. and countless more around the world.

OPEI is an international trade association representing the manufacturers and their suppliers of non-road gasoline powered engines, utility terrain vehicles / all-terrain vehicles / side by sides, golf cars, and, consumer and commercial lawn & garden equipment and outdoor power equipment ("OPE") (e.g., lawnmowers, garden tractors, trimmers, edgers, chain saws, snow throwers, tillers, leaf blowers, pressure washers, multi-purpose engines). The OPE industry currently contributes approximately $16 billion to U.S. GDP, domestically ships nearly 40 million products each year, and directly or indirectly employs 150,000 Americans.

PMI is the nation's leading trade association for plumbing product manufacturers. Its members produce 90 percent of the plumbing products sold in the United States and employ thousands of workers in over 70 locations in 25 states. Our member companies' plumbing products are found in the majority of homes, commercial buildings, schools, restaurants, manufacturing facilities, hospitals, and hotels across the nation. Examples of these products include, but are not limited to kitchen and bathroom faucets, toilets, showerheads, urinals, fixture fittings, sinks, whirlpools/tubs, water fountains, and waste disposal systems.

The PTI is a trade association of the leading power tool manufacturers in the Unites States. It has been very active in providing ongoing, responsible advocacy promoting meaningful rulemaking for battery charging systems in the United States and Canada.

TIA is the trusted industry association for the connected world. TIA represents over 400 global manufacturers and vendors of trusted ICT equipment and services that empower communications networks worldwide. In addition to representing our members on the full range of policy issues affecting the ICT industry, TIA is also a standards development organization that has led the development of thousands of telecom standards over the past century aimed at building trusted, reliable ICT networks to connect the world.

The Wi-SUN Alliance is a global non-profit member-based association made up of industry leading companies. Its mission is to drive the global proliferation of interoperable wireless solutions for use in smart cities, smart grids and other Internet of Things (IoT) applications using open global standards from organizations, such as IEEE802, IETF, TIA, TTC and ETSI. With more than 300 members worldwide, membership of the Wi-SUN Alliance is open to all industry

stakeholders and includes silicon vendors, product vendors, services providers, utilities, universities, enterprises and municipalities and local government organizations. For more information, please visit: www.wi-sun.org.

The Joint Commenters appreciate the opportunity to submit these comments. We and our Members rely on your careful consideration of these comments and an outcome that meets our expectations.

Respectfully Submitted,

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