

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Promoting the Integrity and Security of	)	ET Docket No. 24-136
Telecommunications Certification Bodies,	)	
Measurement Facilities, and the Equipment	)	
Authorization Program	)	

**COMMENTS OF THE  
TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

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## **I. Introduction and Summary**

The Telecommunications Industry Association (“TIA”) appreciates the opportunity to provide input regarding the Notice of Proposed Rulemaking (“NPRM”) issued by the Federal Communications Commission (“Commission” or “FCC”) in the above-captioned proceeding.<sup>1</sup>

TIA is a U.S.-based trade association representing more than 400 trusted global telecommunications equipment and services manufacturers. From fiber optic systems on the ground to wireless in the air to satellites in orbit – TIA members design, produce, market, and manage the information communications technology (“ICT”) equipment and services that connect Americans nationwide with high-speed broadband networks. TIA is also a standards-developing organization with a long history of developing technical standards that allow ICT equipment and networks to operate efficiently and effectively. As such, TIA and our members have deep institutional knowledge of the testing and certification requirements necessary to bring connected devices to the market.

As always, TIA applauds the Commission’s interest in securing the nation’s ICT networks. As the trusted industry association for the connected world, TIA has been heavily engaged with the Commission’s efforts to promote trusted, resilient networks in the U.S., including through past revisions to the Commission’s equipment authorization program. As it exists today, the Commission’s equipment authorization program is highly effective at bringing non-interfering radiofrequency devices to market in the United States. This is not the Commission’s first effort to promote national security concerns through the FCC equipment

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<sup>1</sup> *Promoting the Integrity and Security of Telecommunications Certification Bodies, Measurement Facilities, and the Equipment Authorization Program*, Notice of Proposed Rulemaking, ET Docket No. 24-126, FCC 24-58 (rel. May 24, 2024) (“NPRM”).

authorization program, and we again urge the Commission to construe any rules adopted in this proceeding in a narrowly targeted way to mitigate clear and present security concerns in a manner that preserves the existing system's efficiency.<sup>2</sup> The Commission has already taken extensive steps forward to ensure that the equipment within the U.S. ICT supply chain comes from trusted sources. This includes the Commission's recent Report and Order that revised the traditional interference-focused role of the equipment authorization program to include national security concerns as well, after Congress provided clear direction.<sup>3</sup>

TIA supports the Commission's stalwart focus on promoting trusted vendors and providers in U.S. communications networks. We understand the Commission's concerns with Telecommunication Certification Bodies ("TCB") and test labs operating with FCC authority that are potentially owned or operated by vendors on the Commission's Covered List or that have a significant ownership stake from foreign adversaries.<sup>4</sup> That said, the NPRM raises issues that could have far broader impacts on the ICT supply chain, and we urge the Commission to act in a restrained and targeted matter when it comes to some of the proposals within the NPRM. Consistent with past filings, TIA again cautions the FCC against disrupting the existing equipment authorization program, which was created to prevent radiofrequency interference, by introducing too many security-focused issues.

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<sup>2</sup> See, e.g., Comments of the Telecommunications Industry Association, ET Docket No. 21-232, EA Docket No. 21-233 (Sept. 20, 2021); Reply Comments of the Telecommunications Industry Association, ET Docket No. 21-232, EA Docket No. 21-233 (Oct. 18, 2021).

<sup>3</sup> *Protecting Against National Security Threats to the Communications Supply Chain through the Equipment Authorization Program; Protecting Against National Security Threats to the Communications Supply Chain through the Competitive Bidding Program*, Report and Order and Further Notice of Proposed Rulemaking, 37 FCC Rcd 13493 (2022).

<sup>4</sup> 15 C.F.R. § 7.4 Determination of Foreign Adversaries.

## **II. Targeted Reforms Can Address the Commission’s National Security Concerns.**

As a threshold matter, TIA urges the Commission to act cautiously and proceed incrementally to address the security concerns articulated in the NPRM without creating adverse, unintended consequences to the broader global ICT supply chain. As the Commission reviews comments in this docket and evaluates the proposals within the NPRM, TIA urges the FCC to implement only narrowly targeted changes to address significant and known security risks. TIA understands the Commission’s primary concern relates to TCBs or test labs operating with FCC approval that are owned or operated by entities that could pose a national security risk. This would include entities on the Commission’s Covered List and designated foreign adversaries.

TIA believes that the most precise and articulable threat in the Commission’s equipment authorization program is TCBs and test labs wholly owned by entities on the Commission’s Covered List that have already been designated as a known security risk, as opposed to TCBs or test labs with only a minor ownership stake.<sup>5</sup> However, TIA and our members lack sufficient information about the number of such TCBs or test labs and how prevalent they might be, making it difficult to quantify the threat the Commission aims to solve. At this time, we urge the FCC first to target TCBs and test labs wholly owned by entities on the Covered List, which present the clearest risk, while releasing more information and evidence to the ICT industry about adversarial ownership in TCBs and test labs and the extent of their threat to national security.

The Commission can then continue to evaluate how TCBs and test labs operate to see if banning entities owned outright by entities on the Covered List or the governments of foreign

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<sup>5</sup> See NRPM ¶ 25 (“Further, in the interest of national security, and out of an abundance of caution, we find that it is imperative that we not allow entities identified on our Covered List to use test labs they own or control to circumvent or otherwise undermine our prohibition on authorization of equipment identified on the Covered List or undermine the integrity of our supply chain.”).

adversary countries sufficiently mitigates the national security concerns this proceeding raises or if additional transparency and further regulations are required. The Commission can additionally work through public-private partnerships with industry to address this risk further. At this juncture, we urge the Commission to take this targeted step instead of implementing proposals that could significantly raise the burden on ICT manufacturers and disrupt how the global testing and certification industry currently operates, as set forth below.

### **III. The NPRM Could Add Significant Burdens to the Equipment Authorization Program Without Corresponding National Security Benefits.**

TIA and our members have significant concerns that the proposals in the NPRM would increase the cost and uncertainty of the FCC's equipment authorization program without addressing a significant, clearly articulated national security interest. TIA addresses two of the proposals below in detail, but reiterates that the Commission should only adopt tailored rules to address clear national security interests.

- a. Prior to Revoking Authority from a TCB or Test Lab, Commission Procedures Should Offer Sufficient Detail and be Characterized by Notice and Due Process.*

As the FCC contemplates rules that would allow for the revocation of authority for existing TCBs and test labs, ICT industry should be accorded as much regulatory certainty as possible.<sup>6</sup> Importantly, should the Commission adopt such revocation procedures, it must do so in a manner that preserves the ongoing usage of existing TCBs and test labs and avoids an undue burden on the ICT industry.

The global availability of TCBs and test labs is a critical factor in the thriving and successful ICT market in the United States. The ability of thousands of device manufacturers to contract with existing TCBs and test labs in good faith based on existing authorizations from the

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<sup>6</sup> *Id.* ¶¶ 49-50.

FCC provides multiple paths to certifying equipment authorization compliance, which in turn speeds innovation and reduces costs for U.S. businesses and consumers.

Concerns may be posed if a TCB or test lab is owned or operated by an entity that has proven to be a national security threat. TIA understands the Commission's rationale for wanting to revoke authority from such entities. However, the Commission must balance potential risks with costs and disruptions in the current ICT supply chain and the tangible adverse competitive impact that could occur to U.S. leadership in ICT globally. TIA members are concerned about how such a revocation would work and the potential to disrupt ongoing contracts for testing ICT devices. According to TIA members, global vendors currently utilize TCBs and test labs geographically close to their R&D and manufacturing facilities to streamline logistics and reduce costs. Some members also contract with TCBs and test labs based on coverage in specific time zones in order to ensure continuous global coverage for authorizations. The sudden revocation of Commission authority from a TCB or a test lab that a vendor contracted with in good faith could disrupt a vendor's operations, resulting in possible delays and increased costs to deliver products to the U.S. Such delays would likely result in greater lead times due to vendors having to export and import test samples and related test equipment and increased backlogs for existing TCBs and test labs. Vendors and manufacturers could also face disruption to ongoing contracts and long-standing relationships with TCBs and test labs, which could produce marked difficulties in gaining timely approvals as new testing arrangements cannot always be contracted overnight.

To the extent the Commission determines to revoke the authorization of certain TCBs and test labs, the FCC should mitigate these disruptions and burdens on ICT manufacturers and vendors by establishing unambiguous guidelines and procedures for revoking TCB and test lab accreditation. First and foremost, TIA urges that any revocation of existing authority must be

solely prospective in nature. If a manufacturer has engaged in testing and certifications with an authorized entity, the Commission should not punish the manufacturer at a future date by revoking past certifications from a TCB or test lab that were granted based on an existing authority.<sup>7</sup> The Commission should avoid such unnecessary uncertainty by adopting rules that will not result in the revocation of past certifications from TCBs or test labs.

Additionally, the Commission should establish unambiguous regulations for what the industry can expect if an ongoing authority is revoked from a TCB or test lab. The Commission must address what public notice will be provided, establish timelines for TCBs and test labs to continue to certify based on existing contracts before such authority is terminated and identify how and when this information will be publicly available. The Commission must also clearly identify how and when TCBs and test labs are accredited and reassessed. By providing notice and timelines for accreditation, reassessments, and potential revocation of TCB and test lab accreditation, the Commission can ensure that manufacturers and vendors have ample lead time after public notice is given to contract for alternate testing arrangements.

TIA urges the Commission to engage with the ICT and accreditation communities to ensure any effects of a TCB or test lab losing its operating authority will be spelled out through procedures adopted in this rulemaking. By addressing these uncertainties and creating clear procedures, the Commission can mitigate potential costs and burdens for entities that have invested time and money in good faith contracting with TCBs and test labs based on an existing FCC authorization.

*b. The Commission Should Not Abandon Recent SDOC Reforms in Favor of Third-Party Certification.*

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<sup>7</sup> Manufacturers, after all, present their equipment to test labs for evaluation and then lab reports to TCBs for certification. The FCC has already prohibited manufacturers that pose a national security risk from obtaining authorization for their equipment. *See generally EA Security R&O.*

TIA and its members are also concerned by discussion within the NPRM that could result in rolling back the successful Suppliers Declaration of Conformity (“SDoC”) program, which the FCC established in 2017.<sup>8</sup> Currently, the Commission’s equipment authorization program rules allow manufacturers to authorize certain low-risk equipment through a self-approved SDoC instead of certification through an accredited lab/third-party TCB process. In 2017, the FCC determined that the Commission, the general public, and manufacturers had sufficient experience with many low-risk devices, such as unintentional radiators and devices that use the ISM bands, that it could implement a self-approval equipment authorization process for such devices.<sup>9</sup> These reforms have been a resounding success. TIA members have found this change has added efficiency to the equipment authorization process without adversely affecting the integrity of the Commission’s equipment authorization program. Since the 2017 reforms, TIA’s members have brought countless products to market without raising either interference or national security concerns. Further, the Commission has taken few enforcement actions related to SDoC devices, showing that the current reforms have not led to broad misuse of the self-approval process for such devices.

In the NPRM, however, the Commission posits that reverting to a process that utilizes an FCC-recognized and accredited lab rather than the current self-attestation SDoC process could “further promote the integrity of the program.”<sup>10</sup> However, the NPRM does not offer any evidence to support this claim.<sup>11</sup> Further, TIA and our members are unaware of any evidence of existing concerns with the integrity of the equipment authorization program related to the self-

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<sup>8</sup> NPRM ¶ 62.

<sup>9</sup> *Amendments to Parts 0, 1, 2, 15, and 18 of the Commission’s Rules regarding Authorization of Radiofrequency Equipment*, First Report and Order, 32 FCC Rcd 8746, 8749 ¶¶ 4-5 (2017).

<sup>10</sup> NPRM ¶ 62.

<sup>11</sup> *Id.*

approval of SDoC. Instead, the 2017 revision to the SDoC process has been supported by industry and the testing community alike and is operating effectively and efficiently, as the Commission intended. It is unclear what national security benefits the Commission would gain from this revision, while the burden on manufacturers would be significant. Indeed, potential security concerns have already been addressed in the Secure Equipment Act Report and Order prohibiting entities on the Covered List from using SDoC to authorize their equipment.<sup>12</sup> Absent any specific evidence of misuse from the Commission, further action on SDoC is both unwarranted and unnecessary.

We urge the Commission not to undo its good work on SDoC reform, especially given the lack of evidence of any national security benefit such a change would bring.

#### **IV. Language in the NPRM Would Frustrate Longstanding Practices of the Global ICT Market.**

As the FCC addresses the proposals within the NPRM to serve national security interests in a way that does not upend the existing equipment authorization program, it is crucial to recognize the inherently global nature of the ICT industry that the Commission believes necessitates these rules. Revising testing requirements in a market as robust as the U.S. naturally would have global implications, and TIA fears that the NPRM includes language that could negatively impact the global nature of the ICT manufacturing and testing market. In the NPRM, the Commission asks for comment on existing rules that allow test labs to operate in countries that do not have an existing Mutual Recognition Agreement (“MRA”) with the U.S.<sup>13</sup> While TIA understands the national security concern the Commission is trying to address in this

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<sup>12</sup> See generally *EA Security R&O*.

<sup>13</sup> NPRM ¶ 57.

proceeding., any FCC action will not operate in an U.S.-only vacuum; the Commission must face the reality that such changes would have ramifications on the global ICT market.

As the Commission addresses concerns raised by test labs and TCBs operated by entities determined to pose a national security risk, it should also refrain from adopting requirements that unfairly target friendly or allied governments. For example, disallowing authorizations for non-MRA partners could limit the ability of labs in countries like India to provide test results to the FCC. Such a move would negatively affect the global market treatment of manufacturing in India, a country with which the U.S. is seeking to deepen trade, technology, and supply chain linkages.<sup>14</sup> More broadly, the Commission’s decision based on a country’s MRA status could potentially interfere with ongoing trade negotiations with India, including the outcome in future United States Trade Representative (“USTR”) Trade Policy Forum with India in which ICT industry expects in-country testing to be discussed. Such a decision could also harm U.S. efforts to diversify ICT supply chains because products manufactured in markets lacking an MRA would need to be re-exported and certified in other jurisdictions that could certify to U.S. requirements.

More broadly, not accepting results from test labs based in non-MRA countries goes against USTR’s long-standing goals to reduce technical barriers to trade and to promote global testing and accreditation frameworks, such as the International Laboratory Accreditation Cooperation framework.<sup>15</sup> Again, TIA appreciates the national security concerns at the core of this docket. Still, we urge the Commission to consider the broader impact of some of the

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<sup>14</sup> See eg. “JOINT FACT SHEET: The United States and India Continue to Chart an Ambitious Course for the Initiative on Critical and Emerging Technology,” White House Fact Sheet, (Jun. 12, 2024) (available at <https://www.whitehouse.gov/briefing-room/statements-releases/2024/06/17/joint-fact-sheet-the-united-states-and-india-continue-to-chart-an-ambitious-course-for-the-initiative-on-critical-and-emerging-technology/>).

<sup>15</sup> International Laboratory Accreditation Cooperation website (available at <https://ilac.org/about-ilac/>).

proposals within the NPRM and seek consultation with both industry and government trade experts before taking any action. As such, TIA recommends that the FCC consult with both USTR as well as industry representatives to assess whether a broader action to revoke testing and certification authorizations from non-MRA countries would violate U.S. commitments under international trade agreements and whether this might lead to retaliation from trading partners.

Finally, given the potential risk to the global ICT market such a change would pose, the Commission must clearly articulate what the benefits to the equipment authorization program's integrity would be. As the NPRM points out, test labs do not have any role or responsibility for making any certification decision on whether the equipment would be in compliance, nor do they have any role with respect to any other certification determination, meaning any security threat from a test lab in a non-MRA country would likely be de minimis.<sup>16</sup> In addition, the FCC only allows testing by a test lab accredited by an FCC-recognized accreditation body, and the lab itself is recognized by the Commission.<sup>17</sup> Applicable FCC rules require that test labs be accredited based on ISO/IEC 17025 and must be reassessed at least every two years. These requirements certainly provide a sufficient level of integrity for labs located in non-MRA regions or countries. Given these existing protections and the potential risks that could result from a determination against accrediting TCBs and test labs in non-MRA countries, we believe the Commission should refrain from imposing any such rules.

## **V. Conclusion**

TIA thanks the Commission for its steadfast focus on national security and its commitment to ensuring Americans have access to trusted, resilient ICT devices and networks.

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<sup>16</sup> NPRM ¶ 11.

<sup>17</sup> NPRM ¶ 12.

TIA and its members appreciate the Commission's exploration and invitation to comment on ways to ensure ongoing certifications at TCBs and testing at test labs remain trustworthy. At the same time, TIA urges the Commission to avoid disrupting the existing efficient global certification system that is beneficial to U.S. businesses and competitiveness. TIA looks forward to working with the Commission as it determines whether and how to enact rules that serve critical national security interests without imposing overly burdening ongoing certifications on the many trustworthy manufacturers, test labs, and TCBs.

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