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February 11, 2021

COMMENTS

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

RE: Allowing Earlier Equipment Marketing and Importation Opportunities (No. 20-382)

Dear Ms. Dortch:

The U.S. Chamber of Commerce Technology Engagement Center (“C_TEC”) welcomes the opportunity to comment on the Federal Communications Commission’s (“FCC” or “Commission”) Notice of Proposed Rulemaking (“NPRM” or “Proposed Rules”) that would allow earlier equipment marketing and importation opportunities for radiofrequency devices (“RFDs”).¹ C_TEC supports the Commission’s decision to advance the Consumer Technology Association’s petition for rulemaking to change outdated marketing and importation rules.²

Technologies like 5G wireless and Wi-Fi 6 will be gamechangers that enable people to quickly connect, manufacture more efficiently, access healthcare remotely, and travel more safely in automated vehicles. Furthermore, wireless technology will place the nation on a faster pace to post-COVID 19 economic recovery. Prior to the pandemic, one report estimated that as a result of 5G, “\$13.2 trillion in global economic value will be made possible by 2035, generating 22.3 million jobs in the 5G global value chain alone.”³ At the national level, a newly released study projected that “5G deployment will contribute \$1.4 trillion to \$1.7 trillion to US DGP, and create 3.8 million to 4.6 million jobs.”⁴

Congress tasked the Commission with the important duty of establishing rules to govern potential harmful interference from radiofrequency devices (“RFDs”) applicable to the

¹ 82 Fed. Reg. 2337 (Jan. 12, 2021).

² See Consumer Technology Association Petition for Rulemaking (June 2, 2020) *available at* [CTA Petition to Expand Marketing Opportunities for Innovative Technologies.pdf \(fcc.gov\)](#).

³ See “The Impact of 5G: Creating New Value across Industries and Society,” World Economic Forum at 5 (Jan. 2020) *available at* <https://www.pwc.com/gx/en/about-pwc/contribution-to-debate/wef-the-impact-of-fiveg-report.pdf>.

⁴ See “5G Promises Massive Job and GDP Growth in the US” Boston Consulting Group at 3 (Feb. 2021) *available at* [5G-Promises-Massive-Job-and-GDP-Growth-in-the-US_Feb-2021.pdf \(ctia.org\)](#).

“manufacture, import, sale, offer for sale, or shipment of such devices...”⁵ Under the FCC’s rules, generally, RFDs may not be marketed unless they have either been authorized by a Telecommunications Certification Body (“TCB”) or a responsible party makes a Supplier’s Declaration of Conformity (“SDoC”).⁶ The Commission also generally bans importation of such devices subject to authorization or other exceptions.⁷ The NPRM proposes changes to Commission rules enabling importation and marketing of RFDs before the required certifications and authorizations are completed.

I. Marketing

In terms of marketing, the Proposed Rules would enable conditional sales contracts and marketing for RFDs between manufacturers and potential customers. Prospective buyers would need to be notified that the equipment is subject to FCC rules and that delivery of the equipment is conditioned upon receipt of required regulatory authorizations.⁸ Suppliers would still be prohibited from delivering RFDs that have not received regulatory certifications to consumers.⁹

The Chamber supports updating the Commission’s rules pertaining the pre-authorization marketing. Consumer expectations and the market for RFDs have evolved since the Commission first established its equipment marketing rules. The rules should be modified to allow for conditional sales, but not delivery, of RFDs to consumers prior to authorization.

Direct-to-consumer sales conducted over the Internet are increasingly a common way for consumers to obtain innovative devices. Updating the marketing rules to permit conditional sales will allow manufacturers to gather more accurate information about consumers’ intent to purchase, will lead to better supply-chain management, and could help to avoid manufacturing waste. These results are positive both for consumers, who can obtain new technologies as soon as they are authorized, as well as for manufacturers looking to increase efficiencies.

II. Importation

The Commission’s Proposed Rules would also allow 4,000 or fewer of a specific RFD to be imported for packaging, delivery to retail locations, and loading of specific software for retail demonstration purposes.¹⁰ The NPRM would bar such imported RFDs from being displayed, operated, marketed, or sold until the equipment is authorized.¹¹

C_TEC supports the expansion of importation rules under Section 2.1204(a) to allow a limited number of devices to be imported into the United States for the purposes of pre-sales

⁵ 47 U.S.C. § 302(a).

⁶ 47 C.F.R. § 2.803(b).

⁷ *Id.* § 2.1204(a).

⁸ 86 Fed. Reg. 2344.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

Ms. Dortch
February 11, 2021
Page 3 of 3

activities. This will allow manufacturers to better prepare for new product launches. The expansion of the importation rules would assist in mitigating challenges manufacturers have operating in today's marketplace that is characterized by out-of-country production of many RFDs and abbreviated product cycles.

In particular, C_TEC supports proposals to allow importation of a larger number of devices (i.e., at least 12,000 units) for pre-sale activities. While even this increased number would not allow for a single unit of a new device, such as a smartphone, to be sent to every big box store or carrier storefront in the United States, it would provide a useful step forward.

From a consumer viewpoint, the Proposed Rules would allow consumers to see and examine devices more quickly to allow them to make more timely purchase decisions. It also would assist sales associates who need to become familiar with the features associated with mobile 5G devices and Internet of Things devices once those RFDs are certified and allowed to be operated. Facilitating an accelerated rollout of such devices is an important way the FCC can maintain the United States' global leadership in wireless technology.

The Chamber applauds the Commission's efforts to rethink its rules to be consistent with today's market realities and to promote technological leadership. The Proposed Rules strike an appropriate balance between speeding up the pace to bring that 5G and other wireless technology to the market while continuing to prevent harmful interference.

Thank you for the opportunity to participate in this proceeding and if you have any follow up questions, I may be reached at (202) 463-5632 or by e-mail at jcrenshaw@uschamber.com.

Sincerely,



Jordan Crenshaw
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Chamber Technology Engagement Center