

February 4, 2021

Acting Chairwoman Jessica Rosenworcel
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: *Unlicensed Use of the 6 GHz Band, ET Docket No. 18-295; Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz, GN Docket No. 17-183.*

Dear Acting Chairwoman Rosenworcel,

The Consumer Technology Association (CTA)¹ writes to oppose the request by several parties that the FCC “immediately . . . pause any additional equipment certification approvals for 6 GHz unlicensed low-power indoor (“LPI”) devices” pending the outcome of “more testing and further review...” in order to “demonstrate that unlicensed devices can coexist with incumbent fixed-microwave licensees in the 6 GHz band.”² This misguided proposal threatens the important role the Commission’s equipment-certification process plays in advancing U.S. technological innovation, far beyond the context of this 6 GHz proceeding.

In April 2020, the FCC adopted rules making the 6 GHz band available for unlicensed operations, concluding that its rules would prevent any significant risk of harmful interference. Since then, several parties have availed themselves of opportunities to challenge that decision. Many parties filed appeals in the U.S. Court of Appeals for the D.C. Circuit, and others filed petitions for reconsideration at the Commission level. All of these challenges are currently pending. And in August 2020, the Commission also considered and denied requests from APCO and Edison Electric Institute to stay the effectiveness of its 6 GHz rules; the D.C. Circuit

¹ 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 produced CES® -- the most influential tech event in the world.

² See Letter to Marlene H. Dortch, Secretary, FCC, from Corry Marshall, Senior Government Relations Director, American Public Power Association, et al., FCC, ET Docket No. 18-295, GN Docket No. 17-183, at 1-2 (filed Jan. 26, 2021) (“January 26 Letter”).

also declined to stay the 6 GHz rules.³ As a result, the rules adopted in April 2020 remain in full force and effect, as are the equipment certification procedures subsequently announced by the FCC.⁴

CTA members and other equipment manufacturers of all kinds, using bands across the radiofrequency spectrum, depend on a predictable, reliable and timely FCC equipment certification process as a neutral venue for demonstrating compliance with Commission rules before marketing products. The FCC Laboratory is a model for equipment certification systems around the world and plays a central role in advancing U.S. competitiveness and supporting innovation.

The equipment certification process is not a venue to relitigate FCC decisions after parties have filed Petitions for Reconsideration, Stay Requests and appeals in federal court. Indeed, granting the relief requested would operate, in effect, as a stay of otherwise lawful and valid rules that manufacturers should be entitled to rely upon, without the procedural requirements associated with a stay proceeding. More, the report language relied upon in the January 26 letter does not direct the FCC to delay or withhold certifications in the 6 GHz band, but rather to report to the relevant congressional committees on its progress in testing for interference in that band.⁵

Undermining the certification process by allowing it to become another forum for challenging FCC rulemaking decisions would deter investment, increase costs to consumers and jeopardize the United States' position as a global leader in innovation and development of devices that improve the lives of Americans. This is not an invitation the Commission should accept, particularly now, as the COVID-19 pandemic has only increased Americans' reliance on wireless devices as a vital link for school, work and medical care.

We respectfully request that the Commission avoid creating a dangerous precedent by rejecting the request to block the equipment certification process and instead allow the FCC Laboratory to continue its important work.

Respectfully submitted,

/s/ Jamie Susskind

Jamie Susskind
Vice President, Policy & Regulatory Affairs

/s/ Michael Petricone

Michael Petricone
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³ See Order Denying Petitions for Stay, ET Docket No. 18-295, GN Docket No. 17-183 (rel. Aug. 13, 2020); Order, *AT&T Services, Inc. v. FCC*, Case No. 20-1190, Doc. No. 1864269 (D.C. Cir. Oct. 1, 2020) (per curiam).

⁴ Federal Communications Commission, Office of Engineering and Technology, Knowledge Database Publication 987594 (Dec. 16, 2020), <https://apps.fcc.gov/oetcf/kdb/forms/FTSearchResultPage.cfm?id=277034&switch=P>.

⁵ January 26 Letter at 2; Joint Explanatory Statement – Division E, at p. 32, available at <https://docs.house.gov/billsthisweek/20201221/BILLS-116RCP68-JES-DIVISION-E.pdf>.