Consumer Technology Association™

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December 1, 2022

Mr. Steven Kelly
Special Assistant to the President and Sr. Director for Cybersecurity and Emerging Technology
National Security Council
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

Mr. Jonah Hill
Director for Cybersecurity and Emerging Technology Policy
National Security Council
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

Re: **Response to questions regarding the national IoT cybersecurity labeling program**

Dear Messrs. Kelly and Hill:

Thank you for inviting the Consumer Technology Association® (CTA) to participate in the October 19, 2022, strategic discussion on IoT cybersecurity labeling for Internet-of-Things (IoT) devices.

CTA has shared the questions outlined in the White House "strawman" discussion paper, and those presented by NSC in subsequent communications, with members of industry, including many of the attendees of the October 19th workshop. The following is our response to these questions.

Question 1. ***How can the US Gov help foster the development and success of the private sector conformity assessment efforts?***

As we work together to develop and launch this program, CTA offers the following recommendations:

1. **Prioritize broad and active industry engagement when developing the government-sponsored portion of this program.**
    - Specific actions to promote industry involvement begin by engaging industry in the design of such a program. As the NSC-hosted

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workshop demonstrated, it is possible to establish a national label program quickly and at scale, provided existing ecosystem mechanisms are used. Efficiently using these processes requires taking advantage of industry expertise. Continued industry engagement as the program is scoped, planned, and executed will be critical to the program's success.

- For example, as was acknowledged at the October 19th workshop, to scale the program, self-attestation and 3rd party processes are both equally important. Establishing rules for these programs will require significant industry input.
- There is ongoing discussion among industry about the voluntary or mandatory nature of this program. At this time, there is general consensus that conformance to any specific set of requirements should be voluntary. Market incentives continue to grow, and we see increasing interest in this program.
- We believe the U.S. government has a key role to play, through NIST, in maintaining the Criteria expressed in NISTIR 8425 and in the February 4, 2022, white paper. Both documents cover technical and non-technical requirements; NISTIR 8425 is the up-to-date and maintainable set of these requirements while the white paper also includes some directional guidance on label design and conformity assessment.
- We also recommend ongoing industry engagement regarding the requirements that private sector conformity assessment programs must meet to become and remain compliant.

2. **Consider agency incentives to accelerate manufacturer adoption**

- Where agencies have enforcement authority, earned safe harbors for compliant label program participants will be important incentives for manufacturers.
- Also, where appropriate, we would urge the U.S. government agency tasked with overseeing the program, to engage in negotiations with counterparts in allied nations regarding equivalence or mutual recognition. As an example, CSA Singapore negotiated directly with their counterparts in Finland for a mutual recognition agreement in this space.
- Where applicable, promote coordinated agency efforts with regard to consumer education and awareness. Consumers need to be informed about the label, but where the messaging is part of agency resources (such as a website), or when it is part of broader outreach to the market (such as public service awareness campaigns), it is critical that the messaging be consistent.

3. **Support key legislative incentives to accelerate manufacturer adoption**

- Where possible, the Biden-Harris Administration should encourage Congressional support to deploy this program, including establishing incentives for manufacturers to participate.
- For example, we would urge Congress to support earned safe harbors for participants, as protection from civil actions that may occur despite good-faith efforts by compliant

industry participants. Industry participants should include manufacturers, standards bodies, conformity assessment and accreditation bodies, as well as any administrative entity (such as a trade association or other non-profit that plays a role in operating the program).

- Considering the emerging patchwork of state laws on IoT cybersecurity, preemption will be critical to encouraging industry participation.
- Finally, we anticipate the need for a broad, government-led consumer education & awareness campaign.

Q2. ***How does the private sector think a mechanism could work that would allow for voluntary standards to demonstrate that they meet the criteria and principles identified for a US national label?***

There is general agreement on using the NIST work product from Executive Order 14028 in this context. However, it should be made clear that there is still work to be done.

First, there are two important documents along with supporting documents.

- Primary documents
    - NISTIR 8425 (Consumer Profile)[1]
        - Technical requirements
        - Non-technical requirements
    - NIST Feb. 4th white paper[2]
        - Technical requirements *superseded by NISTIR 8425*
        - Non-technical requirements *superseded by NISTIR 8425*
        - Label requirements
        - Conformity assessment requirements
- Secondary documents (reference that clarify the above Primary documents)
    - NISTIR 8259 series[3]
    - Other NIST and industry documents
- Technical standards
    - This category includes "qualifying" technical standards such as ETSI EN 203 645, ANSI/CTA 2088-A, draft ISO/IEC 27402, IEC 62443 and potentially others.

This stack of documents is critical to the program, but requires an overriding structural element. For example, what are the final label requirements?

[1] NIST, *Profile of the IoT Core Baseline for Consumer IoT Products*, NIST Interagency Report 8425, Sep. 2022, https://nvlpubs.nist.gov/nistpubs/ir/2022/NIST.IR.8425.pdf.

[2] NIST, *Recommended Criteria for Cybersecurity Labeling for Consumer Internet of Things (IoT) Products*, white paper, Feb. 4, 2022, https://nvlpubs.nist.gov/nistpubs/CSWP/NIST.CSWP.02042022-2.pdf.

[3] NIST, *NISTIR 8259 Series,* https://www.nist.gov/itl/applied-cybersecurity/nist-cybersecurity-iot-program/nistir-8259-series.

A “Framework” is required to provide this structure. A Framework is also needed as a bridge between the *guidance* of the Criteria, and the *detailed requirements* of a label Scheme. Such a Framework would contain the transparent and objective means to evaluate the rules of a Scheme in the context of the NIST Criteria.

Example:
Criteria

NISTIR 8425, sec. 2.2, “Asset Identification”, item 1:
“The IoT product can be uniquely identified by the customer and other authorized entities (e.g., the IoT product developer).”

Framework:
Examples of statements of requirements in the Framework are expected to follow a form similar to the following:

- *Does the Scheme require that the Manufacturer document how the unique identifier is established for the product? and;*
- *Does the Scheme require that the Manufacturer demonstrate an identifier retrieval?*

There are 17 such technical line-items as well as non-technical items that will need to be broken down and addressed in this way. CTA is reviewing this Framework requirement and is convening stakeholders from the private and public sectors to develop such a document for use in the U.S. National IoT Cybersecurity Label project.

Thank you again for the opportunity to share our views. We look forward to working with this Administration to improve IoT cybersecurity for consumers and businesses and ensure the U.S. remains a leader on these critical issues.

Sincerely,

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