

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054**

In the Matter of)	
)	
Amendment of Parts 0, 1, 2, and 15)	
of the Commission's Rules regarding)	
Authorization of Radiofrequency)	
Equipment)	ET Docket No. 13-44
)	RM-11652
Amendment of Part 68 regarding Approval)	
of Terminal Equipment by)	
Telecommunications Certification Bodies)	

**COMMENTS OF
THE NATIONAL ASSOCIATION OF BROADCASTERS**

The National Association of Broadcasters (NAB)¹ hereby responds to the Notice of Proposed Rulemaking in the above-captioned proceeding regarding the Commission's equipment authorization program.² NAB agrees that a comprehensive review of this highly successful program is timely, particularly given that the last comprehensive review occurred more than ten years ago. As technology advances at a rapid pace and the uses of spectrum continue to increase, the Commission's processes should be reviewed to ensure that manufacturers of radiofrequency RF equipment may

¹ NAB is a nonprofit trade association that advocates on behalf of local radio and television stations and broadcast networks before Congress, the FCC and other federal agencies, and the courts.

² Notice of Proposed Rulemaking, *Amendment of Parts 0, 1, 2 and 15 of the Commission's Rules regarding Authorization of Radiofrequency Equipment, Amendment of Part 68 regarding Approval of Terminal Equipment by Telecommunications Certification Bodies*, ET Docket No. 13-44, RM-11652 (*rel.* Feb. 15, 2013) (Notice).

continue to innovate and introduce new products to American consumers, while at the same time providing certainty that new devices do not cause interference to valued services.

The equipment authorization program is essential to ensuring that new products operate properly and in accordance with applicable rules, and do not cause interference to other services. In this way, equipment authorization is an important part of the Commission's enforcement programs.³ While NAB supports this review of the equipment authorization process, we remain concerned with the proposal to eliminate all equipment authorization by the Commission and rely entirely on independent third parties, Telecommunication Certification Bodies (TCBs), for this critical function. NAB believes that the Commission should retain an active equipment approval capability, at least for a limited subset of equipment approvals, such as the current "exclusion list" of RF devices. In addition, NAB urges, as part of this review, that the Commission consider changes and investigate ways to make the equipment oversight and approval process more transparent and open.

**NAB Cautions against Adopting Proposals that the FCC
No Longer Approve "Exclusion List" RF Devices and that
TCBs Authorize All Products Subject to Certification**

The Notice states that the TCB program is now well-established and accordingly proposes that the Commission no longer directly issue any equipment authorization

³ The Communications Act permits the Commission to enact rules governing the interference potential of devices that are capable of emitting RF energy, and prohibits the manufacture, import, sale, offer for sale, shipment or use of devices which fail to comply with such regulations. 47 U.S.C. §§ 302a(a) and (b).

grants, instead allowing TCBs to authorize all products subject to certification.⁴ The Notice further proposes that the Commission will no longer conduct evaluations for initially approving RF equipment requiring certification and that TCBs will approve all such equipment in the first instance, including equipment on the exclusion list that only the Commission can currently approve.⁵

The current exclusion list of equipment that TCBs are excluded from issuing certification grants include:

- Unlicensed National Information Infrastructure (UNII) devices with dynamic frequency selection (DFS) capability, including client devices operating in bands that have radar detection capability;
- Ultra-wideband (UWB) devices;
- Split modular transmitters;
- Certain implanted transmitters;
- 700 MHz band transmitters;
- Television Band Devices (TVBDs);
- MedRadio transmitters;
- Signal boosters.

In addition to the above list, TCBs are excluded from issuing equipment certifications for transmitters subject to certain RF exposure conditions and configurations, such as when RF exposure limits are not fully established; evaluations using numerical simulations or computational modeling techniques; or where portable transmitters exceed the specific absorption rate (SAR) exclusion threshold for RF exposure or when SAR data is not provided to support compliance.⁶

⁴ Notice at ¶18.

⁵ Notice at ¶13.

⁶ See exclusion list in KDB Publication No. 628591, at <https://apps.fcc.gov/oetcf/kdb/forms/FTSSearchResultPage.cfm?switch=P&id=20247>.

In eliminating this exclusion list, the Commission instead intends to codify a “pre-approval guidance” procedure that TCBs would use for guidance to certify a product for which the rules, requirements or measurement procedures are not clear.⁷ The Commission would identify the types of devices or types of testing for which a TCB would be required to consult with the Commission before granting certification. Under this procedure, the Commission would have to give its concurrence before a TCB could grant an application.

NAB has serious concerns with this proposal. As an initial matter, there is minimal indication in the Notice as to which equipment currently on the exclusion list would be covered by these new pre-approval procedures and which equipment would become subject to “routine” TCB processing. Nor is there any indication of how such determinations would be made. NAB strongly favors retention of Commission processing of all exclusion list equipment. At the very least, all current exclusion list equipment should be subject to the “pre-approval guidance” process where there is some continued direct oversight by the Commission.

In general, the current exclusion list represents devices that have a significant potential to cause interference to other licensed operations; new and novel devices for which the Commission does not have sufficient knowledge or experience or for which testing procedures are not well developed; and devices that raise higher than average RF safety concerns. While NAB understands the Commission’s desire to conserve its laboratory resources, we believe that the Commission’s direct oversight and approval of this narrow range of devices is warranted and should continue.

⁷ Notice at ¶19.

NAB is also skeptical that the proposals will save significant Commission resources or substantially speed processing of equipment applications. The Notice contemplates no changes for more than 98 percent of all equipment authorizations. The only change proposed is for equipment currently on the Commission’s exclusion list and for which a new “pre-approval guidance” process will apply. This new process will require the TCBs to perform all routine review and require the Commission to review only those portions of an application that require additional oversight. It is, however, those portions of the process requiring additional oversight that involve the most time and effort. The proposed new pre-approval procedure will require significant Commission staff resources to identify and provide initial guidance on equipment subject to the new process; review exhibits submitted with the device; e-mail and correspond with TCBs to provide guidance on testing; in some instances, conduct pre-grant sample testing; and finally, give its concurrence for the TCB to grant the application.⁸ The actual staff resource savings (as well as any increase in the speed of equipment approvals) therefore will be small, and do not outweigh either the potential risks of turning such equipment approval over to the TCB community or the burdens associated with a new and more complicated pre-approval procedure.

The Commission Should Consider Ways to Make the TCB Oversight and Equipment Approval Process More Transparent and Open

NAB recognizes that the equipment authorization program is different from other Commission licensing activities. Manufacturers and developers of radio equipment need a certain degree of confidentiality in the development and approval of new

⁸ See Notice at ¶¶20-22.

equipment. NAB has no interest in changing that part of the equipment authorization process. We do, however, believe there should be more transparency in the equipment authorization process and in the Commission's oversight of TCBs.

The Notice states that the Commission performs audits of TCB approvals to ensure that the TCBs operate in accordance with the rules.⁹ If audits reveal concerns, the Commission may initiate action to verify the TCB's technical competence. NAB believes that the results of Commission audits of TCBs and TCB performance should be made public.¹⁰

In addition, the Notice explains that the Commission holds mandatory monthly conference calls and semi-annual workshops with TCBs to discuss recent interpretations, policy changes and other issues and concerns with regard to the TCB program.¹¹ It would be in all parties' interests to make such information more widely available and accessible. If rules are unclear or there are new interpretations or requirements, the public should be aware of these facts and have an opportunity to comment on such rule interpretations before equipment is approved and placed in the field.

Conclusion

NAB commends the Commission for undertaking a comprehensive review of its equipment authorization program. NAB recognizes that the Laboratory Division of the

⁹ Notice at ¶7.

¹⁰ TCBs may be located in the United States, where they must be accredited by the National Institute for Standards and Technology (NIST), or in foreign countries under the terms of a Mutual Recognition Agreement. Revocation of a TCB can therefore be a lengthy and complex process during which a TCB can continue to approve devices.

¹¹ Notice at ¶7.

Office of Engineering and Technology and the TCBs have done an excellent job of ensuring radio devices comply with Commission rules. The transfer of equipment approval to TCBs generally has been very successful. Nevertheless, there have been instances where additional Commission oversight of TCB activities would have been useful. For example, under Part 74 of the rules, TCBs granted certifications to a number of wireless microphones that clearly were not intended to be used for professional applications or restricted to eligible parties, as required under Part 74.¹² Such outcomes are not unexpected. As commercial enterprises in the current environment, TCBs have financial incentives to compete with other TCBs in the speed of their testing and product certification.

NAB strongly favors retention of some Commission equipment approval capability, including the processing of all exclusion list equipment. As recognized in the Notice, the equipment authorization program will become even more important in controlling interference as the radio spectrum becomes more crowded.¹³ Retention of the capability to approve equipment at the Commission is essential to ensuring that this program remains in the Commission's interference prevention arsenal.

In addition, NAB supports a more transparent and open TCB oversight and equipment approval process. TCB performance and the results of Commission audits of TCBs should be made public. If rules are unclear or there are new interpretations or requirements for TCBs, the public should be aware of these facts and have the

¹² Part 74 equipment approvals by TCBs include grants for certain devices that clearly are not eligible for Part 74 licenses, such as wireless microphones intended for use in inexpensive, at-home Karaoke machines.

¹³ Notice at ¶11.

opportunity for input on such rule interpretations and requirements before equipment is approved and placed in the field.

Respectfully submitted,



Jane E. Mago
Jerianne Timmerman
Larry Walke

Bruce Franca
NAB Strategic Planning

**NATIONAL ASSOCIATION OF
BROADCASTERS**

1771 N Street N.W.
Washington, DC 20036
(202) 429-5430

June 17, 2013