



## Phillips Lytle LLP

Ms. Marlene H. Dortch  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

July 6, 2020

Re: *In the Matter of Petition to Expand Marketing Opportunities for Innovative Technologies, CG RM-11857*

Dear Ms. Dortch:

Lincoln Network (“Lincoln”) writes to the Federal Communications Commission (“FCC” or “Commission”) to provide its letter of support for the Consumer Technology Association’s (“CTA’s”) Petition for Rulemaking Or, In The Alternative, Waiver To Expand Marketing Opportunities For Innovative Technologies (the “CTA Petition”).<sup>1</sup> Lincoln<sup>2</sup> is a non-profit organization that seeks to bridge the often siloed discussions between policy makers in Washington, D.C. and technologists in Silicon Valley so as to advance smart policy that encourages innovation. The CTA Petition presents a policy position in line with Lincoln’s stated mission.

Since the declaration of the COVID-19 pandemic on March 11, 2020, the average daily broadband usage has gone up an estimated 47%.<sup>3</sup> Conversely, an ancillary effect of the pandemic is a potential overall 18% drop in the development of new Internet of things (“IoT”) devices.<sup>4</sup> This a concerning statistic as some of the most important IoT use cases

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<sup>1</sup> CTA Petition for Rulemaking, CG RM-11857 (filed Jun. 2, 2020). Available at [https://ecfsapi.fcc.gov/file/1060263543654/CTA\\_Petition\\_to\\_Expand\\_Marketing\\_Opportunities\\_for\\_Innovative\\_Technologies.pdf](https://ecfsapi.fcc.gov/file/1060263543654/CTA_Petition_to_Expand_Marketing_Opportunities_for_Innovative_Technologies.pdf).

<sup>2</sup> Lincoln Policy, <https://lincolnpolicy.org/> (last visited June 30 2020).

<sup>3</sup> Advanced Television, *Report: Pandemic Drives Broadband Usage Up 47%* (May 5, 2020). Available at <https://advanced-television.com/2020/05/05/report-covid-19-drives-broadband-usage-up-47/>.

<sup>4</sup> Deborah Petrara, *COVID-19 Pandemic Hits the IoT: 18% Drop In Net New IoT Devices in 2020*, PR Newswire (May 27, 2020, 4:30 PM). Available at <https://www.prnewswire.com/news-releases/covid-19-pandemic-hits-the-iot-18-drop-in-net-new-iot-devices-in-2020-301065298.html>

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come from connected health and connected education enterprises which are critical in these difficult times. Consumers will become ever more reliant on these technologies for the foreseeable future. It follows that we need smart, efficient policies to bring these innovative technologies to market and ones that allow innovators to respond to this ever-changing economic landscape.

The United States' success in the race to 5G is critical and enabling the IoT ecosystem should be part of the Commission's strategy in promoting 5G. This FCC in particular has made considerable efforts to expedite the deployment of 5G networks, either through reducing barriers to building infrastructure or through opening up key spectrum bands.<sup>5</sup> Safely and responsibly developing IoT equipment and devices is also key to a robust 5G ecosystem. The requests made in the CTA Petition provide the Commission with an effective roadmap to accomplish just that.

At its core, the CTA Petition asks the Commission to carefully evaluate the effect its marketing and importation rules have on, among other industries, emerging-IoT technologies so as to ensure the Commission is not placing an unnecessary barrier to entry on new and innovative devices. The concern with the Commission's rules as they currently stand is that they are overly strict and often require a lengthy and, at times, an unnecessary approval process.<sup>6</sup> Such delays can be fatal to nascent technologies, as CTA

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<sup>5</sup> E.g., *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, Second Report and Order, 33 FCC Rcd 3102 (2018); *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, WC Docket No. 17-84, Declaratory Ruling and Third Report & Order, 33 FCC Rcd 9088, 9096-100, paras. 23-28, 32 (2018); *Implementation of State and Local Governments' Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012*, WT Docket No. 19-250, RM-11849, Declaratory Ruling and Notice of Proposed Rulemaking, FCC 20-75 (rel. Jun. 10, 2020); *Auctions of Upper Microwave Flexible Use License for Next Generation Wireless Services; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auctions 101 (28 GHz) and 102 (24 GHz)*, AU Docket No. 18-85, Public Notice, 33 FCC Rcd 7575 (2018); and *Expanding Flexible Use in the 3.7-4.2 GHz Band*, GN Docket No. 18-122, Report and Order and Order of Proposed Modification, 35 FCC Rcd 2343 (2020).

<sup>6</sup> 47 C.F.R Part 2.803 & 2.1204.



points out in its petition.<sup>7</sup> CTA's data demonstrate that these barriers to approval have significantly slowed many companies from bringing their innovative IoT products to market, which, in turn, slows adoption for these technologies that would otherwise enhance a consumer's 5G experience.

The policy behind the current Commission's rules on pre-approval marketing and importation is sound but the rules need to be updated to current business practices. The Commission's rules rightfully seek to ensure that various consumer products will not generate harmful interference, cause safety risks, or defraud consumers before companies can market them to consumers. However, as CTA notes in the Petition,<sup>8</sup> the market and the way these companies prepare their products for distribution have drastically changed, even compared to last time the Commission modified these very rules a mere 7 years ago.<sup>9</sup> Moreover, we contend that other agencies, such as the FTC, already provide adequate checks on these devices for consumer protections, which make aspects of the FCC's review that CTA points out in its petition superfluous in many regards, in Lincoln's view. Also, the suggested Commission positions articulated in the CTA Petition can both protect consumers and enable the emerging IoT revolution.

Due to these considerations, Lincoln applauds CTA for offering these meaningful solutions and respectfully request that the Commission grant the Petition.

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<sup>7</sup> CTA Petition, at p. 6-8.

<sup>8</sup> CTA Petition, at p. 2 (writing "the current restrictions on importing radiofrequency devices prior to FCC authorization impedes manufacturers' ability to structure their supply chains flexibly, display devices immediately upon authorization, and bring emerging technologies to market in the fastest and most efficient manner.").

<sup>9</sup> *Promoting Expanded Opportunities for Radio Experimentation and Market Trials under Part 5 of the Commission's Rules and Streamlining Other Related Rules; 2006 Biennial Review of Telecommunications Regulations – Part 2 Administered by the Office of Engineering and Technology (OET)*, Report and Order, 28 FCC Rcd. 758, 804 ¶ 127 (2013).



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Lincoln thanks the Commission, in advance, for its time and consideration of our views.

Very truly yours,

Phillips Lytle, LLP

By

Joel L. Thayer

*Outside Counsel for Lincoln Network*  
JLT

cc: Chairman Ajit Pai  
Commissioner Mike O'Rielly  
Commissioner Brendan Carr  
Commissioner Jessica Rosenworcel  
Commissioner Geoffrey Starks