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June 4, 2010

Ms. Kathleen Vokes
US Environmental Protection Agency
ENERGY STAR for Set-top Boxes
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Re: Conditions and Criteria for Recognition of Laboratories for the ENERGY STAR® Program

Dear Ms. Vokes:

On behalf of the National Cable & Telecommunications Association (“NCTA”),¹ I am responding to the request by the Environmental Protection Agency (“EPA”) for comments from industry stakeholders on proposed Conditions and Criteria for Recognition of Laboratories for the ENERGY STAR® Program.² NCTA and its members have supported and continue to support the voluntary ENERGY STAR federal program designed to promote the manufacture and use of more energy-efficient set-top boxes. We welcome this opportunity to submit comments and recommendations on this latest proposal in an effort to assist the EPA in the ongoing development of the ENERGY STAR® Program.

NCTA recognizes that testing of ENERGY STAR® products, including set-top boxes, should be done by manufacturers with laboratories, or access to laboratories, accredited to the ISO/IEC 17025 standard.³ However, we do not support EPA’s proposal to impose supplemental requirements on “in-house” laboratories beyond those required in ISO/IEC 17025.

¹ NCTA is the principal trade association for the U.S. cable television industry, representing cable operators serving more than 90 percent of the nation’s cable television households, more than 200 cable program networks, and suppliers of equipment (including set-top boxes) and services to the cable industry.

² See Attachment accompanying Letter from Kathleen Vokes, US Environmental Protection Agency, ENERGY STAR®, to ENERGY STAR® Partner or Interested Stakeholder (May 17, 2010).

³ ISO/IEC 17025:2005: General requirements for the competence of testing and calibration laboratories.

The EPA proposes to require “documentation demonstrating the impartiality and freedom of laboratory management and personnel from any undue internal or external commercial, financial or other pressures and influences that may adversely affect the quality of their work.” It also proposes supplemental requirements for managing compensation and career advancement for laboratory personnel. These requirements are unnecessary and burdensome.

First, leading set-top box manufacturers operating internal laboratories should, and do, have the appropriate policies and sufficient controls in place today to ensure the impartiality of their testing practices and results.⁴ Moreover, the ISO/IEC 17025 standard already includes normative requirements that accomplish the goal of ensuring that testing at in-house laboratories remains independent.⁵ Therefore any additional required documentation would be unnecessary. Second, the proposed supplemental requirements for managing compensation and career advancement for laboratory personnel are also untenable. Without career advancement opportunities and appropriate compensation packages, it would be difficult, if not impossible, for set-top box manufacturers to retain skilled laboratory employees, placing in jeopardy the EPA’s goal of enhancing the qualification and verification requirements in order to strengthen the ENERGY STAR[®] program.

NCTA is also concerned about the proposed requirement that a manufacturer disclose detailed information to the EPA concerning its laboratory assessment schedule, copies of assessment documentation including corrective action plans, deficiency resolutions, etc. This additional reporting to the EPA strikes us as redundant considering that any laboratory performing tests to verify set-top box compliance with ENERGY STAR specifications must already make these disclosures available to its EPA-recognized Accreditation Body. Moreover, EPA has not proposed how it plans to protect the confidentiality of such disclosures, which are vital to the accreditation process and contain highly confidential and proprietary company business information.

In summary, NCTA urges the EPA not to adopt the proposed supplemental requirements on in-house laboratories beyond those required in ISO/IEC 17025, which we believe includes adequate safeguards to ensure the integrity of the ENERGY STAR[®] qualification and verification process. Such requirements would likely make in-house laboratory testing infeasible, and force manufacturers to retain the services of prohibitively expensive third-party laboratories to perform ENERGY STAR[®] set-top box

⁴ For example, Motorola, a leading provider of set-top boxes to the cable industry, ensures that their product compliance organizations are completely independent in reporting structure from the engineering, manufacturing, and marketing & sales organizations.

⁵ Section 4.1.5 of ISO/IEC 17025 requires that accredited laboratories “have arrangements to ensure that its management and personnel are free from any undue internal and external commercial, financial and other pressures and influences that may adversely affect the quality of their work.”

testing,⁶ an approach that would likely discourage manufacturers from participating in the ENERGY STAR[®] Program for Set-top Boxes.

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NCTA looks forward to working with the EPA and other stakeholders in developing the ENERGY STAR[®] Program Requirements for Set-top Boxes. Should you have any questions or seek additional information, please do not hesitate to contact me.

Sincerely,



Andy Scott
Vice President of Engineering

cc: Stephen Pantano, ICF International

⁶ Third-party testing for set-top boxes will be prohibitively expensive due to unique product characteristics of the set-top box. A set-top box provided by a cable operator is part of a network and cannot be measured on a stand-alone basis. Each independent laboratory would need a headend configured for the software employed by each specific cable operator.