

Congress of the United States
Washington, DC 20515

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October 19, 2020

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Pai,

We write to ask that you consider adjusting Federal Communications Commission (FCC) rules related to presale of radiofrequency devices to consumers. Innovation is moving at a record pace. In the current environment brought upon by the COVID-19 pandemic, Americans have been forced to adapt to the rapid adoption of remote work, distance education, and digital health. This shift has relied on ready access to new devices - and our nation's innovators and startups are striving to keep up with consumer demand. According to the Consumer Technology Association's U.S. Consumer Technology One-Year Industry Forecast, "consumer use continues to rise in the current pandemic and demand is likely to continue past the current health crisis." By modernizing its equipment authorization and importation rules, the FCC can allow for greater innovation and access to these essential devices.

The current FCC rules prohibit conditional sales of radiofrequency devices to consumers. While well-intentioned when these were put into place in the 1970s, today these outdated rules do not reflect the current development cycles seeking to meet consumer interest and demand. Indeed, given the rise of new trends like crowdfunding, pre-ordering products occurs with increasingly regularity. However, American technology entrepreneurs cannot take advantage of these developments which plays an essential part in understanding consumer interest and demand. We believe that modifying, while not removing, these rules will allow device manufacturers to better gauge the market. For startups in particular, an adjustment in the rules would be valuable in demonstrating demand to potential funders. We therefore suggest common sense modifications to the rules that will allow consumers to make pre-orders, as long as would-be buyers are informed that the equipment is under FCC review and that any sale is conditioned upon FCC approval.

FCC rules also severely limit the importation of devices even for the express purpose of display in retail stores until after FCC approval. These strict importation rules inhibit adequate preparation and limit speed to market as companies prepare for global launches of devices. By permitting the importation of a limited number of devices for "pre-market activity," the FCC will provide device manufacturers with greater flexibility in structuring supply chains and enable devices to be on display for consumers upon authorization. Such importation should be limited to devices for which the manufacturer have a reasonable belief that FCC authorization is likely. In addition, any imported devices must be subject to strict controls, including restrictions on display

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and advertising, as well as requiring the manufacturer to have the ability to retrieve the equipment from retailers if FCC authorization is denied.

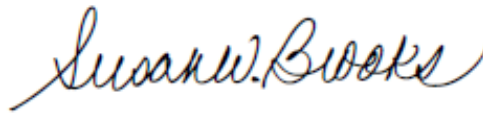
Modernization and consumer protection are not mutually exclusive. The modernization of these FCC rules can facilitate greater innovation, while still safeguarding against risks to consumers.

These suggested changes to the FCC's rules are especially important in light of the current pandemic and the ongoing U.S. deployment of next-generation 5G networks. We urge you to move swiftly to update these rules to ensure that American technology can continue to be at the forefront of satisfying consumer needs and demands.

Signed,

Handwritten signature of Yvette D. Clarke M.C. in black ink.

Yvette D. Clarke
Member of Congress

Handwritten signature of Susan W. Brooks in black ink.

Susan W. Brooks
Member of Congress