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**Title:**        *The Need for Tiered Access to TTE Database*

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**Abstract:**

Hewlett-Packard believes it is necessary for the telecom terminal equipment database to restrict access to all information about compliant products prior to their market introduction. Such restricted access would be provided only to U.S. Federal agencies, and most importantly the U.S. Customs Service, but would protect the confidentiality of the product from all others until the product's 'responsible party' formally introduces the product to the marketplace. Protecting the confidentiality of these products is essential and in the public interest because it maintains an environment that encourages manufacturers and suppliers of TTE to provide innovative products at the lowest possible cost.

## **The Need for Tiered Access to TTE Database**

22 June 2001

Scott Roleson

Hewlett-Packard Company

### **Introduction**

Hewlett-Packard (HP) respectfully recommends that the Administrative Council for Terminal Attachment provide tiered access to the telecom terminal equipment database (TTE-DB). Specifically, HP recommends that a facility be provided to designate product listings as "restricted" or "public" in the database. When the information is "restricted," only U.S. Federal agencies (most pointedly the U.S. Customs service) and the 'responsible party' who initiated the product listing in the database, will have access to the posted information. At some later date, but prior to market introduction, the responsible party will designate the posted information as "public."

This capability is necessary so that companies who manufacture TTE outside the U.S. can ship compliant product into the U.S. with full cognizance and cooperation of the U.S. Customs Service, while still protecting the product from public disclosure prior to the time when the product will actually be marketed and sold to consumers.

### **The Confidentiality Issue**

HP acknowledges the FCC's belief that to make the TTE database information readily available to itself, the U.S. Customs Service, service providers, and consumers is in the public interest. However, we are also very sensitive to the essential need for manufacturers and suppliers to protect new product information prior to public disclosure for the purposes of marketing and sale. HP believes it is vital that information about new products not become public prematurely. We believe this position is in line with the FCC rule Section 68.610(d) which says that the database shall "...Be created and maintained in an equitable and non-discriminatory manner, affording competitive advantage to no entity or industry segment."

The issue this proposal tries to address is the one where a TTE is manufactured outside of the U.S., and the 'responsible party' wishes to protect the confidentiality of this product from the marketplace while still bringing compliant product into the U.S. Foreign manufacturing is the norm today because U.S. consumers demand quality products at the lowest possible cost. If the only option were to either post the product to the database or not (thus making its existence public), then U.S. manufacturers and suppliers would be compelled to post the product information prior to any shipment of the product into the country so that the U.S. Customs Service would have the information it needs at the port of entry to verify that the product is compliant with FCC rules and can be released for intra-U.S. shipment. However, such a shipment may precede the intended market introduction of the product by weeks or months,

because the manufacturer or supplier may wish to insure that sufficient product is at hand to meet subsequent customer demand. Such pre-positioning of product in warehouses or other storage is common practice.

If a manufacturer or supplier is compelled to post the product information to a public database before it's ready to introduce the product to the marketplace, its entire product marketing strategy will be disrupted. Furthermore, this situation can cause marketplace disruptions that will result in fewer innovative products in the long run. For example, if consumers become aware that a new model of a product is about to become available, they may choose to wait instead of purchasing a currently available product. When this practice becomes widespread, sales of current products drop prematurely, causing excess inventories and price discounting. Additionally, if the competition for an innovative, new product learns of its impending introduction early, they may accelerate price erosion by discounting their inferior products so that they can sell inventory while their product still appears attractive to consumers. When it occurs, this situation develops very rapidly. When the new product is ready for introduction, it may then encounter a very different marketplace than the one for which it was designed, where consumers are conditioned to seeing excess inventories of existing product at discounted prices to which this new product is no longer price-competitive.

This scenario may sound like a great way to provide consumers with good products at a bargain, but it seldom works more than once. Stripped of their ability to protect the confidentiality of their new products, manufacturers and suppliers have no incentive to invest in new, innovative products, which will eventually result in consumers having less choice. U.S. consumers may even find that innovative products only become available to them after they have been long available in other countries where companies are allowed to protect their competitive information.

### **HP's Proposal**

Consequently, to strike an appropriate balance between these needs, HP is proposing that the new TTE database provide for the incorporation of new TTE product data first into protected or restricted space, accessible only to the 'responsible party' and U.S. Federal agencies, specifically the U.S. Customs Service. Transference of these data from restricted to public space must be entirely under the control and discretion of the 'responsible party,' and would only occur just prior to market introduction.

While providing this capability will undoubtedly add complexity to the database, HP believes it is essential to do this to protect the rights of manufacturers and suppliers against premature disclosure of their products to the marketplace, while still providing the U.S. Customs Service with the information it needs to do its job. Furthermore, HP believes it is in the public interest to protect this information because it will help maintain a stable marketplace that affords TTE suppliers and manufacturers with greater incentives for providing innovative products at the low cost demanded by consumers and provided by foreign manufacturing.

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