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April 2, 2019

California Energy Commission  
Docket Unit, MS-4  
Re: Docket No. 17-AAER-12  
1516 Ninth Street  
Sacramento, CA 95814-5512

**Re: Entertainment Software Association Comments Responding to the Request for Additional Public Comments on Low Power Mode Data Collection Procedure (17-AAER-12).**

The Entertainment Software Association (“ESA”) provides the following comments for consideration by the California Energy Commission (the “CEC”) in its Low Power Mode (“LPM”) Roadmap (Doc. No. 17-AAER-12).

ESA is the U.S. trade association representing the publishers of computer and video games played on consoles, personal computers, mobile devices, and the internet. In California, the video game industry is well represented with 889 video game businesses operating in the state.<sup>1</sup> The video game industry directly and indirectly employs more than 33,000 Californians, contributed \$32 billion to the California economy in 2016, and has facilitated the rise of seventy-seven college programs to train students for career opportunities with video game companies.<sup>2</sup>

ESA supports continued strides to improve energy efficiency for all appliances in California and globally. In these comments, ESA is providing the CEC with information on the low-power mode, standby mode, automatic power down function, and other energy efficiency measures already underway in the video game console industry. In support of both energy efficiency measures and continued growth of the video game industry in California, ESA encourages the CEC to harmonize its energy efficiency programs with international and federal standards, and to support the efficiency measures already implemented by the video game console industry.

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<sup>1</sup> Impact of the Video Game Industry: State by State, available at <https://www.arenweinyourstate.org/>.

<sup>2</sup> *Id.*

***1) The LPM Roadmap Should Focus on Data Collection, not the Establishment of New, California-Only Protocols or “Supplemental Instructions” for Established, Internationally Recognized Tests.***

The CEC’s February 12, 2019 “Request for Additional Public Comments on Low Power Mode Data Collection Procedure”<sup>3</sup> (the “Request”) is, as the title states, focused on “data collection.” However, the Request also includes a focus on active efforts to promulgate new, California-specific, supplemental set-up instructions before any significant data collection has occurred:

Although an international test procedure for standby power exists, supplemental instructions—especially those related to how the product is set up—are necessary for robust and repeatable testing.<sup>4</sup>

ESA is concerned that having the CEC promulgate California-only, specific “supplemental instructions” on how an international test should be implemented is a dramatic move away from data collection toward a rulemaking, a move to find a solution without the data to support the supposition of a problem.

Rather than creating a robust and repeatable testing environment, a California-only set of special “supplemental instructions” on set-up and testing may actually have the opposite effect. That is, the California-only protocols for this international testing method, which would not be applicable outside of California, may result in California-only test results that are not consistent with or repeatable with the experience of the international community.

Rather than beginning this process with the objective of establishing new supplemental instructions for an existing international test method, ESA encourages the CEC to instead redouble its efforts on data collection for low-power mode, standby mode, and automatic power down mode. Only through such data collection can the CEC know whether issues exist with the repeatability of testing.

Indeed, as set forth below, the international community has, consistent with established and repeatable international standards, provided a wealth of data that can be collected and used by the CEC. ESA encourages the CEC to focus its efforts in this stage of the roadmap proceeding on data collection, drawing on the wealth of available data and harmonizing California’s approach with that of the international community.

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<sup>3</sup> TN #: 226507.

<sup>4</sup> Request, p. 1.

**2) *The European Union’s Self-Regulatory Initiative for Energy Efficient Game Consoles Provides Valuable Guidance and Information for the CEC’s Consideration.***

Pursuant to European Union (“E.U.”) directive, companies in the game console industry developed and entered into a Self-Regulatory Initiative (“SRI”) in 2015.<sup>5</sup> The objective of the SRI is to reduce the environmental impacts of game consoles over their entire lifecycle, with a focus on efficient energy consumption by these devices. The SRI is updated periodically, with the latest version issued in November 2018,<sup>6</sup> and discussions are currently underway regarding future energy efficiency goals that could be incorporated into the next SRI update.

While becoming a signatory to the SRI is voluntary, those agreeing to the SRI’s terms include the makers of the Sony PlayStation, Xbox, and Nintendo video game systems. These signatories represented over 80 percent of game consoles sold in the E.U. market in 2017.

Of particular interest to the LPM Roadmap, the SRI sets an industry standard for “Auto-Power Down,” which is the automatic activation of a game console’s standby mode or other low power mode. Some of the SRI requirements of Auto-Power Down (“APD”) for game consoles include:

- Setting the APD function as the default setting for game consoles;
- Setting the periods of inactivity permitted before APD is triggered;
- For retail display, heavy game users, or where a video streaming function is being used, permitting users to change time settings or disable the APD function;
- Allowing temporary suspension of APD for system updates and maintenance or content downloads; and
- Imposing a five-minute reactivation of APD after an automatic wake event.<sup>7</sup>

Signatories to the SRI have agreed to APD verification testing and to annual reports on this subject.

As part of the SRI Product Compliance Report and pursuant to other E.U. ecodesign regulations, SRI signatories also publish energy efficiency facts for networked game console models. These include console power consumption in standby mode. In the LPM Roadmap’s data collection effort, ESA suggests that the CEC collect this publicly available information, rather than focusing on supplemental testing instructions.

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<sup>5</sup> For information on the European Union’s Efficient Gaming Organisation, please see <http://efficientgaming.eu/docs/>.

<sup>6</sup> Energy Efficiency of Games Consoles: Self-Regulatory Initiative to further improve the energy efficiency of Games Consoles, Version 2.6.3, Nov. 10, 2018 (hereinafter “SRI”), available at [http://efficientgaming.eu/fileadmin/user\\_upload/2018\\_SCM/Final\\_Games\\_Consoles\\_SRI\\_v2.6.3\\_20181115.pdf](http://efficientgaming.eu/fileadmin/user_upload/2018_SCM/Final_Games_Consoles_SRI_v2.6.3_20181115.pdf).

<sup>7</sup> SRI, pp. 9-10.

### **3) *European Union Regulations for Standby Power Consumption Merit Review in this Roadmap Proceeding.***

Standby power features for game consoles are governed by European Union regulations. In particular, the CEC should review E.U. regulations 1275/2008<sup>8</sup> and 801/2013,<sup>9</sup> which amends 1275/2008. The regulations contain ecodesign requirements for off-modes, standby modes, and networked standby electric power consumption.<sup>10</sup> These efforts provide substantial data meriting the CEC's focus.

Under these regulations, as of January 2019, the power consumption of electronics that have high network availability, or "HiNA equipment," in networked standby shall not exceed 8 watts, and other networked equipment shall not exceed 2 watts in networked standby.<sup>11</sup> The LPM Roadmap should review the E.U. standby power consumption regulations to ensure consistency with power consumption requirements and consumption measures applicable in the E.U.

Additionally, the CEC should review the European Commission's recent "Review study on Standby Regulation."<sup>12</sup> This study reviews the appropriateness and/or scope of E.U.'s 1275/2008 regulation, and the study includes data on the power consumption of different product categories, including game consoles, in standby/off mode and networked standby modes.

### **4) *In Defining Terms for the LPM Roadmap, the CEC Should Ensure Consistency with the Definitions and Concepts Set forth in the E.U.'s Regulations and the SRI.***

One important next step in this roadmap proceeding would be for the CEC to define key terms. The following terms are sometimes used interchangeably, both at the CEC and in other settings: "low-power mode," "standby mode," "automatic power down function," and other, more generically described "energy efficiency measures." It is unclear whether the CEC is using

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<sup>8</sup> COMMISSION REGULATION (EC) No 1275/2008 of 17 December 2008, implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for standby and off mode electric power consumption of electrical and electronic household and office equipment, available at <https://eur-lex.europa.eu/eli/reg/2008/1275/oj>.

<sup>9</sup> COMMISSION REGULATION (EU) No 801/2013 of 22 August 2013 amending Regulation (EC) No 1275/2008 with regard to ecodesign requirements for standby, off mode electric power consumption of electrical and electronic household and office equipment, and amending Regulation (EC) No 642/2009 with regard to ecodesign requirements for televisions, available at: <https://eur-lex.europa.eu/eli/reg/2013/801/oj>.

<sup>10</sup> E.U. Regulation 801/2013 defines "networked standby" as a "condition in which the equipment is able to resume a function by way of a remotely initiated trigger from a network connection."

<sup>11</sup> See E.U. Regulation 801/2013, para (7) amending 1275/2008 Annex II.

<sup>12</sup> Review study on Standby Regulation, Apr. 7, 2017, available at <https://www.ecostandbyreview.eu/index.html>.

some or all of these terms interchangeably. Accordingly, the Roadmap would benefit from clear definitions to draw distinctions between these terms.

When considering defined terms for the LPM Roadmap, ESA encourages the CEC to reference and employ the definitions set forth in the SRI and in the E.U. standby power regulations to ensure consistency between California and E.U. regulatory programs. In particular, definitions used in the LPM Roadmap should be consistent with the E.U.'s definitions for "standby" and "networked standby."

California and the rest of the world are significantly benefitting from the efforts to improve energy efficiency enacted by the European Union and agreed to by the leading game console makers. The game console industry has also taken steps to encourage customers to use the most energy efficient settings on their devices. To the extent the CEC establishes any LPM power consumption testing parameters or conducts related data collection, the CEC must ensure such efforts neither conflict with what is already required under applicable E.U. regulations and the SRI nor undermine the continued progress of these international energy efficiency efforts.

***5) The Roadmap Should Appropriately Acknowledge and Value the Customer's Role in Energy Efficient Operation of Game Consoles.***

The consumer's ability to operate electronic devices efficiently cannot be undervalued and should be further encouraged by the CEC. Due to the interactive nature of some electronics, like game consoles, the user controls much of the energy efficiency potential of these devices.

In recognition of this, game console makers both enable certain energy efficiency functions as the default settings for game consoles and provide customers with instructions on how to modify console settings to make their devices even more energy efficient, consistent with end-users own unique video gaming activities. Efficient operation by the end-user is addressed in the SRI, which calls on each signatory to provide energy efficiency information for consumers within the console operating instructions. These instructions must be neutrally worded so that users are not encouraged to disable power-saving features.<sup>13</sup>

The game console industry has also worked with the EPA's Energy Star to publish energy efficiency tips for specific consoles.<sup>14</sup> When considering the energy consumption of electronics in LPM, the CEC should collect data based on a device's setting in an energy efficient mode, acknowledging the customer's role in energy efficient operation of their electronic devices.

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<sup>13</sup> See SRI, p. 31.

<sup>14</sup> Due to the limited number of game console products and manufacturers, EPA does not have a traditional ENERGY STAR program for game consoles. See "Configuring Today's Game Consoles to Use Less Energy: Tips for Reducing Power Consumption," available at [https://www.energystar.gov/products/configuring\\_todays\\_game\\_consoles\\_use\\_less\\_energy\\_0#%22Energy-saving%22%20Power%20Mode](https://www.energystar.gov/products/configuring_todays_game_consoles_use_less_energy_0#%22Energy-saving%22%20Power%20Mode).

## **Conclusion**

ESA appreciates this opportunity to provide these comments for the CEC's LPM Roadmap proceedings. ESA encourages the CEC to focus on data collection rather than new, California-only "supplemental instructions" for international tests that have proven to be robust and effective, harmonizing with well-developed international standards.

Sincerely,

A handwritten signature in black ink that reads "Ben Golant". The signature is written in a cursive style and is positioned above a thin horizontal line.

Ben Golant  
Chief Counsel for Intellectual Property Policy  
Entertainment Software Association