

**Before the
UNITED STATES
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

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In the Matter of:)	GN Docket No. 14-166
)	
Promoting Spectrum Access for)	
Wireless Microphone Operations)	
)	
Amendment of Part 15 of the Commission’s)	ET Docket No. 14-165
Rules for Unlicensed Operations in the)	
Television Bands, Repurposed 600 MHz)	
Band, 600 MHz Guard Bands and Duplex)	
Gap, and Channel 37, and)	
)	
Amendment of Part 74 of the Commission’s)	
Rules for Low Power Auxiliary Stations in)	
the Repurposed 600 MHz Band and 600)	
MHz Duplex Gap)	
)	
Expanding the Economic and Innovation)	GN Docket No. 12-268
Opportunities of Spectrum Through)	
Incentive Auctions)	
_____)	Submitted October 16, 2017

REPLY COMMENTS OF THE RECORDING ACADEMY

I. Introduction

The Recording Academy is pleased to submit the following reply comments in response to the Federal Communications Commission’s Further Notice of Proposed Rule Making, “Promoting Spectrum Access for Wireless Microphone Operations.” The Recording Academy represents more than 17,000 individual music creators and professionals—songwriters, performers, studio professionals, and others creatively involved in making music. The membership also includes a Producers & Engineers Wing that advises the Academy on technical

matters related to the art and craft of recorded music and other matters of concern to producers, engineers, mixers, manufacturers, technologists, and related professionals.

The Recording Academy reaffirms the comments in its filing submitted October 2, 2017 in support of the Commission's FNPRM. The Recording Academy also supports the general consensus of the filings submitted by The Performing Arts Group, CP Communications, LLC, Shure Incorporated, and Sennheiser Electronic Corporation. The Commission should adopt the FNPRM, and expand Part 74 licenses to qualified and professional applicants that use fewer than 50 wireless microphones. In further support of the proposed rulemaking, these reply comments will focus on three areas of discussion that merit further clarification: spectrum accessibility outside of the TV bands and 600 MHz band; licensee eligibility; and reducing the Commission's administrative burdens.

II. Spectrum Availability for Wireless Microphones

Wireless microphone users continue to face an ever-changing regulatory landscape. As discussed in the initial submission, within the last decade wireless microphone users have already been forced to cease operations in the 700 MHz band and invest in new equipment, while the incentive auction and subsequent repack has created yet another uncertainty. And while the Commission has made spectrum space available for wireless microphones to operate outside of the TV Bands, this availability is not adequate for present conditions—as noted by Sennheiser, the 1.4 GHz band has numerous restrictions and limitations, and the 7 GHz band is not an adequate substitute for UHF.¹

¹ See, “Comments of Sennheiser Electronic Corporation.” GN Docket Nos. 14-166, 12-268; ET Docket No. 14-165. (filed Sept. 29, 2017) p. 16.

In addition, the marketplace has not developed sufficient products that can reliably operate in spectrum outside the TV bands. For example, Sennheiser discussed how accessing the 1.4 GHz band would require “the use of highly-specialized and more costly equipment that employs an electronic key.”² And despite Microsoft Corporation’s alternative product suggestions,³ costs cannot be ignored. Many performing arts organizations, venues, and production companies do not have the operating budgets to accommodate frequent and forced inventory changes. The innovative new technologies cited by Microsoft would require a venue to spend thousands of dollars on new equipment. While that might be a small and justifiable expense for a company like Microsoft, it is untenable for the not-for-profit performing arts organizations and small businesses that would benefit most from expanded Part 74 licenses. Based on the current spectrum landscape and underlying market conditions, the TV bands remain the most viable option for wireless microphone operations.

III. Expanded Part 74 License Eligibility

The Recording Academy supports the Commission’s proposal to expand Part 74 licenses to qualified performing arts applicants and other organizations demonstrating the need for professional quality audio in their productions. In the initial comment period, many filers proposed criteria to help the Commission define performing arts and other qualified professional users—in many cases, the comments echoed the Recording Academy’s proposal.⁴ However, the

² See, “Comments of Sennheiser Electronic Corporation.” GN Docket Nos. 14-166, 12-268; ET Docket No. 14-165. (filed Sept. 29, 2017) p. 16.

³ See, “Comments of Microsoft Corporation.” GN Docket Nos. 14-166, 12-268; ET Docket No. 14-165. (filed October 2, 2017) § III.

⁴ See, “Comments of Sennheiser Electronic Corporation.” GN Docket Nos. 14-166, 12-268; ET Docket No. 14-165. (filed Sept. 29, 2017) p. 13. “Comments of The Performing Arts Wireless Microphone Working Group.” GN Docket Nos. 14-166, 12-268; ET Docket No. 14-165. (filed October 2 2017).

Recording Academy disagrees with Microsoft’s proposed requirements that an applicant submit an exhibit demonstrating that a performance meets the National Endowment for the Arts (NEA) grant eligibility threshold to qualify for a license.⁵ First, requiring an applicant to submit an exhibit is far too burdensome. Not only does it bring in to question issues with logistics and processing—shipping and handling costs, administrative resources, processing times—but it also is far too subjective and potentially restrictive. The Commission should not be put in a position where it must judge the merits of performance art; nor should the Commission be asked to weigh whether a symphonic performance is eligible but a hip-hop group is not. Second, while the NEA is a worthy institution, its grants are not universally available to all performing arts entities, primarily relegated to not for profit institutions and organizations. In other words, not all potential applicants for a Part 74 license will be NEA grant eligible organizations. If the Commission is looking for a clear definition of *performing arts* it should adopt its own definition, or use the definition already utilized by other government institutions, such as the U.S. Copyright Office.⁶ The Recording Academy would be willing to work with the Commission to establish a clear and consistent definition.

The Recording Academy also wants to reaffirm that expanding Part 74 eligibility does not grant wireless microphone users an “extraordinary right,”⁷ but rather is a limited expansion only applicable to a finite set of users. Any qualified applicant will be restricted to the performance itself: a pre-defined, and temporary, basis (the duration of the performance), with a

⁵ See, “Comments of Microsoft Corporation.” GN Docket Nos. 14-166, 12-268; ET Docket No. 14-165. (filed October 2, 2017) p. 28.

⁶ U.S. Copyright Office, *Performing Arts* (2017), <https://www.copyright.gov/registration/performing-arts/index.html>

⁷ See, “Comments of Microsoft Corporation.” GN Docket Nos. 14-166, 12-268; ET Docket No. 14-165. (filed October 2, 2017) p. 21.

pre-defined, and limited, geophysical location (the location of the performance). With clearly defined parameters, licensed performing arts users will improve spectrum efficiency, ensure that spectrum is effectively shared between users, and give greater operability certainty to other spectrum users. Ultimately, having more licensed professional microphone users will benefit existing, emerging and/or yet-to-be developed unlicensed white space devices.

IV. Reducing Administrative Burdens

The Recording Academy understands the need to minimize the administrative burdens that could be associated with expansion of Part 74 licenses. The proposed rule should not result in unnecessary and unintended processing delays, clerical work, or misallocation of Commission resources. To reduce potential administrative burdens the Commission should adopt the recommendation of the Recording Academy, Shure Incorporated, Microsoft Corporation and the Performing Arts Group to establish a self-certification requirement for applicants.⁸ If a venue or sound company certifies that a performance meets the Commission's two-test requirement for a Part 74 license, and pledges to adhere to spectrally efficient operations, then it should be granted the license without any additional burdens of proof or unnecessary investigative practices. Only the venues and sound companies with performances that are truly in need of high-quality audio, and that also possess the professional capabilities, would go through such a process. The Recording Academy disagrees with Microsoft's additional proposal to subject certification under

⁸ See, "Comments of the Recording Academy." GN Docket Nos. 14-166, 12-268; ET Docket No. 14-165. (filed October 2, 2017) p. 28; "Comments of Shure Incorporated." GN Docket Nos. 14-166, 12-268; ET Docket No. 14-165. (filed October 2, 2017) § III.B; "Comments of Microsoft Corporation." GN Docket Nos. 14-166, 12-268; ET Docket No. 14-165. (filed October 2, 2017) p. 28; "Comments of The Performing Arts Wireless Microphone Working Group." GN Docket Nos. 14-166, 12-268; ET Docket No. 14-165. (filed October 2, 2017).

penalty of perjury,⁹ but the Recording Academy would be willing to work with the Commission to establish guidelines for appropriate civil or administrative penalties.

A self-certification requirement would also increase the barrier of submission for potential applicants, resulting in an overall reduction of the total number of applications to process. This will ensure the Commission does not overly broaden the eligibility class, and helps the Commission achieve its goal to limit expansion to the professional performing arts. A self-certification process would also discourage non-professional applicants from applying—assuaging Microsoft’s concern that expansion would include “virtually any type of microphone user...such as yoga studios and corporate meeting spaces.”¹⁰

V. Conclusion

The Recording Academy reaffirms its support of the Commission’s proposal to expand part 74 LPAS rules to accommodate venues and professional sound companies that use less than 50 wireless microphones. Professional and high-quality audio is an essential component of a live performance; the risk of interference jeopardizes the production, while endangering the health and safety of the performers and backstage personnel. The Recording Academy joins with the Performing Arts Group, CP Communications, LLC, Shure Incorporated, and Sennheiser Electronic Corporation in endorsing this much-needed solution that will benefit not only the music and arts communities, but also provide greater operability certainty for other unlicensed

⁹ See, “Comments of Microsoft Corporation.” GN Docket Nos. 14-166, 12-268; ET Docket No. 14-165. (filed October 2, 2017) p. 28.

¹⁰ *Id.* p. 26.

white space devices. The performing arts community stands ready to work with the Commission on implementing the finalized rule.

Respectfully Submitted,

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