

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Amendment of Section 15.119)
of the Commission's Rules)
Relating to Closed Captioning)
Decoders)

RM - 8533

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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REPLY

The Consumer Electronics Group of the Electronic Industries Association ("EIA/CEG") hereby replies to the comments that were filed in response to the above-captioned petition for rulemaking, in which EIA/CEG asked the Commission to amend Section 15.119(l) of its rules relating to closed captioning decoders.

As EIA/CEG explained in its petition, Section 15.119(l) of the Commission's rules requires television receivers to include closed captioning decoders that are compatible with cable security systems designed and marketed before April 5, 1991.¹ This rule, which will go into full force and effect on January 1, 1995, will require television receiver manufacturers to support the copy protection technology developed by Eidak Corporation. The difficulty presented by this requirement is that Eidak's technology is not now, and is never likely to be, in use. Accordingly, EIA/CEG asked that the Commission to institute a rulemaking proceeding to exclude Eidak technology from the ambit of Section 15.119(l).

¹ 47 C.F.R. § 15.119(l) (1993).

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Four parties filed comments in response to EIA/CEG's petition.² Three of these parties endorsed the relief requested by EIA/CEG. Like EIA/CEG, Thomson argued that requiring manufacturers to support Eidak's copy protection system "will only serve to burden the manufacturer, and ultimately the consumer, with added costs that provide no added benefit."³ EEG likewise noted that because Eidak is no longer a viable entity, it is unnecessary to mandate compatibility with Eidak's unique copy protection system.⁴ Nielsen also supported elimination of the Eidak compatibility requirement, noting that the current rules might "impede the deployment of enhanced captioning features" such as Extended Data Services.⁵ The fourth commenting party, HBO, stated that it was not in possession of any information regarding the current or future use of Eidak technology.⁶ HBO, however, also stated that it "would support elimination of the Eidak compatibility requirement" if the Commission concurred in EIA/CEG's assessment that Eidak's technology is not now in use and is not likely to be used in the future.⁷ None of the commenting parties suggested that the public interest would be served by retaining the requirement that closed captioning decoders support Eidak's technology.

² Comments were filed on November 14, 1994 by EEG Enterprises, Inc. ("EEG"), Home Box Office ("HBO"), and Thomson Consumer Electronics, Inc. ("Thomson") and, on November 15, 1994, by Nielsen Media Research ("Nielsen").

³ Thomson Comments at 3.

⁴ EEG Comments at 3.

⁵ Nielsen Comments at 1.

⁶ HBO Comments at 3. No party has offered any evidence that Eidak's technology is now in use or will ever be used. In this regard, it is worth noting that EIA/CEG received many requests for copies of its petition, yet no one has filed in opposition.

⁷ *Id.*

Although HBO expressed conditional support for the relief requested by EIA/CEG, it suggested that such relief be provided by a waiver, rather than through rulemaking.⁸ HBO apparently fears that a rulemaking could be used to reopen old issues and make additional -- and presumably undesirable -- changes in the Commission's rules.⁹ As EIA/CEG made clear in its rulemaking petition, it has no interest in changing any of the Commission's closed captioning rules other than to eliminate the unnecessary and burdensome requirement that manufacturers support Eidak's copy protection system.

Concurrent with the filing of its petition for rulemaking, EIA/CEG requested a limited waiver of Section 15.119(l) as it relates to Eidak's technology until such time as the Commission could complete the rulemaking requested by EIA/CEG.¹⁰ No one opposed that waiver request. Although EIA/CEG believes that it would be appropriate to address this issue in a rulemaking proceeding, EIA/CEG would not oppose solving the problem through a waiver of the Commission's rules, as proposed by HBO.¹¹

Regardless of how the Commission decides to proceed, EIA/CEG urges the Commission to act quickly. The requirement that television receiver manufacturers support Eidak's copy protection system will become effective on January 1, 1995.¹² If the waiver

⁸ *Id.* at 3-6.

⁹ *Id.* at 4.

¹⁰ *See* Petition for Partial Waiver of Section 15.119(l) of the Commission's Rules Relating to Closed Captioning Decoders (filed Sep. 29, 1994).

¹¹ HBO Comments at 4-6.

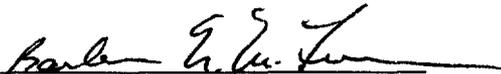
¹² *See Amendment of Part 15 of the Commission's Rules to Implement the Provisions of the Television Decoder Circuitry Act of 1990*, 7 FCC Rcd 2279, 2281 (1992).

requested by EIA/CEG is not granted by that date, television receiver manufacturers will be forced to incur the expense of providing compatibility with an unused technology. The public interest would not be served by such a result. The Commission should therefore grant the requested waiver and institute the rulemaking proceeding requested by EIA/CEG's petition.

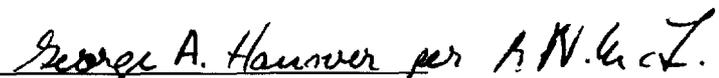
In conclusion, for all of the reasons set forth above and in EIA/CEG's petition for rulemaking, EIA/CEG urges the Commission to initiate a rulemaking proceeding as promptly as possible to amend Section 15.119(l) of its rules. EIA/CEG also urges the Commission to grant its pending request for waiver before January 1, 1995.

Respectfully submitted,

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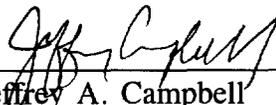
I, Jeffrey A. Campbell, hereby certify that the foregoing Reply of the Consumer Electronics Group of the Electronic Industries Association was sent by first-class United States mail, postage prepaid on this 29th day of November 1994 to the following:

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