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August 12, 2002

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington DC 20554

Re: ET Docket No. 01-278, Review of Part 15
Ex Parte Communication

Dear Ms. Dortch:

Pursuant to Section 1.1206(a)(1) of the Commission's Rules, on behalf of RADAR, I am electronically filing this written *ex parte* communication in the above-referenced proceeding.

The information below is provided in response to inquiries from Commission staff at an *ex parte* meeting on August 8, 2002. This information supports RADAR's request to extend the manufacturing compliance date for radar detectors from August 28 to December 31, 2002, and to refrain from regulating elsewhere in the distribution chain.

1. Radar Detectors: Units in Service; Sales

The following table is derived by consolidating estimates from several manufacturers.

UNITS IN SERVICE	Total units	15 million
	Units over 11.7 GHz	9 million
	Units over 11.9 GHz	2.5 million
CURRENT SALES (ANNUAL)	Total sales	1.5 million (down in recent years)
	Sales that are upgrades	1.2 million (80% per industry estimates)
SALES 8/28/02 THROUGH 12/31/02	Total sales	500,000 units
	Sales over 11.7 GHz	under 100,000 units
	Sales over 11.9 GHz	<i>Zero</i>

The third block of rows represents projected sales by manufacturers between the current manufacturing compliance date of August 28, 2002, and the requested date of December 31, 2002.

2. Units Above 11.9 GHz

Historically, complaints of interference from radar detectors into VSAT receivers did not arise until radar detectors began emitting above 11.9 GHz.

Radar detectors manufacturers have already ceased shipping units that emit above 11.9 GHz. Under the requested extension, *no additional units above 11.9 GHz will reach the marketplace.*

3. Effect of Continuing Sales on Overall Compliance

RADAR has indicated that most current sales are upgrades that take a noncompliant unit out of service and replace it with a compliant unit. For that reason it serves the public interest to keep retail distribution channels open.

Commission staff asked whether permitting sales to continue might have the undesirable effect of replacing compliant units with noncompliant units.

Based on the estimates above that 60% of units in service are noncompliant, and 20% (at most) of units sold are noncompliant, we derive the following table:

		UNITS REMOVED		
		Compliant	Non-Compliant	TOTAL
UNITS INSTALLED	Compliant	32%	48%	80%
	Non-Compliant	8%	12%	20%
	TOTAL	40%	60%	100%

The table shows that 48% of sales take a noncompliant unit out of service and replace it with a compliant unit, while only 8% have the opposite effect – a 6:1 favorable ratio. These numbers will continue to improve as manufacturers complete their conversions to compliant production over the next few months.

4. Effects of Marketing Through the Christmas Selling Season

Commission staff expressed particular concern about permitting unregulated marketing to continue through the Christmas selling season. Others have accused the radar detector industry of seeking to “dump” noncompliant units between now and the end of 2002.

The industry is converting to compliant production as quickly as possible, selling as it goes. It has no large stock of noncompliant inventory to dump.

To the contrary, the data above show that extending the manufacturing compliance date from August 28 to December 31, 2002, and leaving retail sales unregulated, will result in a *net removal of at least 140,000 noncompliant units from service.*

(Details: Of 500,000 units sold, 400,000 [80%] will be upgrades. Of those, 192,000 [48%] will replace non-compliant with compliant units, while no more than 32,000 [8%] will replace compliant with non-compliant. Among the 100,000 sales that are not upgrades, 80,000 will comply, while 20,000 at most may not. This yields a net improvement of at least 140,000 non-compliant units removed from the roadways. [192,000 - 32,000 - 20,000 = 140,000])

5. Statements from Retailers

Commission staff asked RADAR to request retailers’ statements supporting RADAR’s contention that retailers will be unable or unwilling to separate complying and non-complying products, and instead are likely to return all inventory to their distributors.

RADAR members have contacted all leading retailers of radar detectors. None will make a statement on the public record, possibly out of concern for competitive consequences. Some, however, have agreed to telephone Mr. Knapp and/or Mr. Scime to convey their concerns orally. (We will also be glad to provide the Commission with names and telephone numbers of retailers’ representatives.) In addition, the record shows that Radio Shack representatives visited the Commission to discuss these issues on August 7.

6. Infeasibility of Recalling Non-Compliant Product

Commission staff asked whether the manufacturers could help retailers resolve the problem of identifying non-compliant product by recalling those units before the marketing deadline.

The retailers’ problem is not in identifying which makes, models, and serial numbers fail to comply, but in sorting through inventory to identify and isolate those units. The proposed recall would not ease that task.

Marlene H. Dortch, Secretary
August 12, 2002
Page 4

7. Attachments

Attached is additional data requested by Commission staff: (1) U.S. jobs at risk in the radar detector industry; and (2) retailers outlets that stand to be affected by loss of radar detector sales.

Please do not hesitate to request any additional information.

Respectfully submitted,

Mitchell Lazarus

cc: Service list (by email)

10

RTA
BUS

R	#	RTA
Best Buy 7075 Flying Cloud Drive Eden Prairie, MN 55344	1,909	
Wal-Mart Stores, Inc. 702 SW 8 th Street Bentonville, AR 72716	2,918	
Circuit City Stores 9950 Maryland Drive Richmond, VA 23233	631	
Kmart Corp. 3100 W. Big Beaver Road Troy, MI 48084	2,114	
Target Corp. 777 Nicollet Mall Minneapolis, MN 55402	1,052	
RadioShack 100 Throckmorton Street Fort Worth, TX 76012	7,252	
Sears, Roebuck & Co. 3333 Beverly Road Hoffman Estates, IL 60179	982	
Staples 500 Staples Drive Framingham, MA 01702	1,280	
Office Depot 2200 Old Germantown Road DelRay Beach, FL 33445	859	
Sam's Club 702 SW 8 th Street Bentonville, AR 72716	485	

■ # (800)	
OfficeMax 3605 Warrensville Center Road Shaker Heights, OH 44122	963
Costco Wholesale Corp. 999 Lake Drive Issaquah, WA 98027	344
Fry's Electronics 600 E. Brokaw Road San Jose, CA 95112	18
Amazon.com 1200 12 th Avenue South Suite 1200 Seattle, WA 98144	N/A
Future Shop 880 Glenlyon Parkway Burnaby, British Columbia V5J KK3	95
Good Guys, Inc. 1600 Harbor Bay Parkway Alameda, CA 94502	79
Army/Air Force Exchange Service 3911 S. Walton Walker Boulevard Dallas, TX 75236	160
The Wiz 2045 Lincoln Highway Edison, NJ 08817	42
Tweeter Home Entertainment Group 40 Pequot Way Canton, MA 02021	155
Ultimate Electronics 321 W. 84 th Avenue, Suite A Thornton, CO 80260	45
QVC 1200 Wilson Drive West Chester, PA 19380	N/A

█ # (00)	
P.C. Richard & Son 150 Price Parkway Farmingdale, NY 11735	44
BrandsMart U.S.A. 3200 SW 42 nd Street Hollywood, FL 33312	5
H.H. Gregg 4151 E. 96 th Street Indianapolis, IN 46240	42
Buy.com 85 Enterprise Aliso Viejo, CA 92656	N/A
TOTAL	21,474

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