

**Fletcher, Heald & Hildreth, P.L.C.**  
**1300 North 17<sup>th</sup> Street 11<sup>th</sup> floor**  
**Arlington VA 22209**  
**703-812-0400 (voice)**  
**703-812-0486 (fax)**

MITCHELL LAZARUS  
703-812-0440  
LAZARUS@FHHLAW.COM

January 13, 2006

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

**Re: ET Docket No. 04-373**  
**SafeView, Inc., Request for Waiver of Sections 15.31 and 15.35 of the**  
**Commission's Rules**  
***Ex Parte Communication***

Dear Ms. Dortch:

On behalf of SafeView, Inc., pursuant to Section 1.1206(b)(1) of the Commission's Rules, I am electronically filing this written *ex parte* communication.

This responds to the January 9, 2006, filing of First Avenue Networks, Inc.<sup>1</sup>

First Avenue, much like the 28 GHz interests that oppose SafeView's request for waiver, fundamentally misapprehends the nature of that request.

First Avenue says: "SafeView seeks to operate above permitted power levels . . . ." <sup>2</sup> This is incorrect. **SafeView proposes to operate within the Commission's limits for average power.** SafeView requests a waiver of the Commission's measurement procedures, not the average power limit. <sup>3</sup>

---

<sup>1</sup> Letter from Joseph M. Sandri, Jr. and Angela Parsons to Ms. Marlene H. Dortch, Secretary, FCC (filed Jan. 9, 2006) (First Avenue filing).

<sup>2</sup> First Avenue filing at 3.

<sup>3</sup> SafeView also requests a waiver of the peak power limit.

A waiver is appropriate because the Commission's measurement procedure exaggerates SafeView's interference potential. The SafeView signal sweeps through a very wide 5.75 GHz of bandwidth at an extremely fast sweep rate, faster than 1 MHz per nanosecond. The Commission's procedures call for measurement with the sweep stopped. If the SafeView device actually operated that way, with the signal parked in a user's passband, it would present a much higher interference potential than the real SafeView device does. The Commission's procedures inappropriately reflect that much higher (and unrealistic) interference potential.

First Avenue attempts to condemn the SafeView device by claiming it will operate at "extraordinary" power levels.<sup>4</sup> That ignores the fast sweep and the low duty cycle seen by a measuring instrument. Under the requested waiver, these factors yield compliance with the Commission's Part 15 average power limits, and a consequently low potential for interference.

First Avenue thinks SafeView should approach the licensees to initiate a dialog on the "myriad technical, planning, logistic, and economic issues that [SafeView's] proposal raises."<sup>5</sup> A non-interfering Part 15 user does not need the consent of co-frequency licensees. To be sure, the Part 15 user pays a high price -- an absolute requirement to prevent all harmful interference to all licensed users, and to fix any that occurs, at the peril of having to cease operation.<sup>6</sup> The licensed user, such as First Avenue, enjoys complete assurance of unimpeded operation. Any "technical, planning, logistic, and economic" burdens fall squarely on the Part 15 manufacturer and its customers. And indeed, SafeView has repeatedly reaffirmed its commitment to comply with the letter and spirit of the Part 15 rules by preventing harmful interference to licensed systems, including those of First Avenue, by any means necessary.

When the realities of SafeView's device and the Part 15 rules are taken into account, First Avenue has failed to make even a rudimentary case against SafeView's waiver request. To the contrary, the very high public interest in enhanced security, coupled with the extremely low likelihood of harmful interference, argue persuasively in favor of a grant.

---

<sup>4</sup> First Avenue filing at 5.

<sup>5</sup> First Avenue filing at 4.

<sup>6</sup> 47 C.F.R. Sec. 15.5(c).

Ms. Marlene H. Dortch  
January 13, 2006  
Page 3

Please do not hesitate to call with any questions.

Respectfully submitted

Mitchell Lazarus  
Counsel for SafeView, Inc.

cc: Courtesy service list

## COURTESY SERVICE LIST

Chairman Kevin J. Martin  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Commissioner Jonathan S. Adelstein  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Commissioner Michael J. Copps  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Commissioner Deborah Taylor Tate  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Bruce A. Franca, Acting Chief  
Office of Engineering  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Julius P. Knapp, Deputy Chief  
Office of Engineering  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Bruce A. Romano, Associate Chief  
Office of Engineering  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Alan Scrimme, Chief  
Policy and Rules Division  
Office of Engineering  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Geraldine Matise, Deputy Chief  
Policy and Rules Division  
Office of Engineering  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Karen Rackley, Chief  
Technical Rules Branch  
Office of Engineering  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

John Reed, Senior Electronics Engineer  
Technical Rules Branch  
Office of Engineering  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Anh Wride  
Technical Rules Branch  
Office of Engineering  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Joseph M. Sandri, Jr., Esq.  
Angela Parsons, Esq.  
First Avenue Networks, Inc.  
1730 Rhode Island Ave., Suite 317  
Washington DC 20036