

Reply Comments of James Edwin Whedbee regarding February 14, 2006 submission by Octatron, et al. ...

To the Commission:

I have read and reviewed the reply comment submission of Octatron and Chang filed through Alston & Byrd, LLP. In addition to their Reply Comments, I have also personally reviewed the website of Octatron and Chang, and it would appear they've already begun marketing these "Dragon Egg" devices despite the fact that no waiver has yet been granted, and presumably, since a waiver is being sought to operate under Part 15, no equipment authorization has been issued.

[<http://octatron.com/Products/CED-K01.html#desc>] Doing so seems to violate Subparts I and J of Part 2 of the Commission's Rules and Regulations. [47 CFR Section 2.803, et seq.] This would suggest that rather than a waiver, the Petitioners need amnesty - something the Commission lacks jurisdiction to grant in the form of a waiver.

According to the Reply Comments filed by Petitioners, I restate my objections and further suggest the Commission may lack jurisdiction to grant this waiver for other reasons. Petitioner's own statements verifying Police and Government Anti-Terror Agency use of the 902-928 MHz frequencies for the Petitioner's "Dragon Egg" equipment seems to be a national security function, and as such, I am not sure the Commission has jurisdiction to grant such a waiver without input from NTIA through the Assistant Secretary of Commerce. [47 USC Section 902] Despite this, since directional antennas are not proposed for use with this "Dragon Egg," then the alternative seems to be spread spectrum transmitters that will limit transmission lengths on any particular frequency to milliseconds. I think using spread spectrum technology in conjunction with this equipment would give transmissions from the device the requisite signal security that a law enforcement or anti-terror agency requires; after all, given these very public proceedings regarding the technical issues surrounding these "Dragon Egg" devices, what's to stop an intelligent terrorist or criminal from simply monitoring the 902-928 MHz spectrum for just these very transmissions? Amateur radio TV receivers for these frequencies are readily available on E-Bay for next to nothing. Without some form of signal security, these device serve the opponents of law enforcement as much as they do the law enforcement agencies themselves. On this basis alone, I would think (and hope) NTIA has an objection to granting a waiver for these devices in their presently contemplated form. The ability of the terrorists and criminal elements to use (or at least monitor transmissions from) these devices militate against granting a waiver without either directional antennas (on a much higher frequency where antenna size can be reduced to comport with the design of these devices) or without employing some form of spread spectrum emission. (N.B.: I'd also suggest some form of compartmentalized encryption in addition to the spread spectrum emissions, but that simply goes beyond the scope of these reply comments.)

Furthermore, despite what the Petitioners state in their Reply Comments, while the single exhibit (I'd like to see more, but let's for a moment take the Petitioners at their word) appended to Petitioner's Reply Comments can be construed as verification that police and government agencies will use this equipment, it is by no means guarantees that the use - and particularly, aftermarket and secondary use of this equipment - shall be limited to just police and anti-terror agency usage; consequently, the ARRL's very real concerns weren't really fully addressed by the Reply Comments filed by Petitioners. Petitioners' Waiver Request and Reply Comments raise very genuine concerns about the privacy rights of citizens if secondary and aftermarket use of these devices is contemplated or foreseeable, and frankly, I could see these devices landing in the hands of terrorists and foreign governments and being used against us - all of which does not thrill me with these Petitioners' current website marketing this unapproved device.

For these and a variety of other reasons (including interference) already more than amply expressed by the other Commenting Parties, I suggest the Commission lacks jurisdiction to grant the waiver and that, if jurisdiction is found, that any grant of this waiver is actually contrary to the public interest, convenience, and necessity, and therefore, ought to be denied as that is cast in its present form.

Respectfully Submitted:

/s./ James Edwin Whedbee, M.Ed.

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