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

In the Matter of	)	
	)	
	)	
SafeView, Inc. Request for Waiver of Sections 15.31 and 15.35	)	
of the Commission's Rules to Permit the Deployment of	)	ET Docket No. 04-373
Security Screening Portal Devices that Operate in the 24.25-30	)	
GHz Range	)	
	)	

REPLY OF THE FIXED WIRELESS COMMUNICATIONS COALITION

The Fixed Wireless Communications Coalition ("FWCC") hereby submits its reply comments in support of the Petition for Reconsideration ("Petition") filed by FiberTower Corporation with respect to the Commission's August 4, 2006 *Order* in the above-referenced proceeding, in which the Commission waived certain of its Part 15 rules to permit SafeView, Inc. ("SafeView") to market and deploy its SafeScout imaging device.[1]

As the Commission is aware, FWCC's members use licensed higher frequency or millimeter wave spectrum to deliver a variety of essential services via fixed wireless technology, including the airport environments where SafeScout devices will be deployed.[2] Hence, particularly as licensees in the upper frequency bands expand their service offerings in the arena of homeland security, it is absolutely critical that FWCC's members be fully protected from

---

[1] *See SafeView, Inc., Request for Waiver of Sections 15.31 and 15.35 of the Commission's Rules to Permit the Deployment of Security Screening Portal Devices that Operate in the 24-25-30 GHz Range*, Order, ET Docket No. 04-373, DA 06-1589 (rel. Aug. 4, 2006) ["*Order*"].

[2] *See, e.g.*, Petition for Reconsideration of FiberTower Corporation, ET Docket No. 04-373, at 1-2 (filed Sept. 5, 2006) (noting that FiberTower is the largest holder of licensed 24 GHz spectrum in the United States, and provides "mission and business critical transport solutions, including backhaul and premise access services, to major wireless carriers, enterprises and government agencies") ["Petition"]; Letter from Andrew Kreig, Co-Chair, Fixed Wireless Communications Coalition, ET Docket No. 04-373 (filed Nov. 8, 2004).

interference caused by unlicensed devices. Such protection has long been a cornerstone of Commission policy and must not be abandoned here.[3]

As discussed in FiberTower's Petition, the Commission's *Order* does not provide that protection. FWCC does not dispute that the SafeScout device may enhance security in airports and thereby provide a valuable service to the public. Likewise, FWCC does not dispute that the waiver conditions adopted in the *Order* are a step in the right direction. However, those conditions do not go far enough. The fact remains that SafeView will be free to deploy SafeScout devices in any airport or other indoor environment without any prior notice to or coordination with the 24 GHz and 28 GHz licensees whose operations are at greatest risk of interference. Indeed, the *Order* does not even assure that those licensees will have access to the database of deployed SafeScout devices required under the waiver.[4] This despite the absence of any significant "real world" testing of SafeScout devices and their potential for causing interference to licensed service providers operating in airports or elsewhere. Plainly, the public is disserved by *post hoc* resolution of interference to licensed wireless services that perform critical functions in and around airports and other locations, especially where it is possible to prevent such interference before the fact. The additional waiver conditions proposed in FiberTower's Petition will permit the affected parties to resolve such interference proactively,

---

[3] *See* 47 U.S.C. § 302; *Amendment of Part 15 of the Commission's Rules Regarding Spread Spectrum Devices*, 15 FCC Rcd 16244, 16252 (2000) ("[T]he most basic principle of Part 15 operation is the requirement to function in a non-interfering manner in the midst of licensed devices."); Carter *et al.*, "Unlicensed and Unshackled: A Joint OSP-OET White Paper on Unlicensed Devices and Their Regulatory Issues," OSP Working Paper Series No. 39, at 16 (May 2003) (emphasis added) ("In fixed applications, unlicensed radio equipment is a pure substitute for wires. . . Of course, the downside is that if the system causes interference, it must cease operation, and any interference must be tolerated. It has no status, and therefore no protection.").

[4] *See Order* at ¶ 27.

without imposing undue burdens on SafeView or its customers.[5] Safeview has provided no rational explanation as to why those conditions should not be adopted.

WHEREFORE, for the reasons set forth above, the FWCC requests that the Commission grant FiberTower's Petition for Reconsideration in its entirety.

Respectfully submitted,

FIXED WIRELESS COMMUNICATIONS COALITION

/s/ *Andrew Kreig*
Andrew Kreig
Co-Chair

1333 H Street, N.W.
Suite 700 West
Washington, D.C. 20005
(202) 452-7823

September 22, 2006

[5] It is absurd for SafeView to suggest that the Commission cannot impose conditions on the waiver that it does not already impose on unlicensed operations that comply with the Commission's rules. *See* Opposition to Petition for Reconsideration of SafeView, Inc., ET Docket No. 04-373, at 4 (filed Sept. 15, 2006). SafeView's proposed operation of SafeScout does *not* comply with the Commission's rules (hence the need for a waiver), and the Commission therefore may impose whatever conditions it deems necessary to prevent such non-compliant operation from causing harmful interference to licensed services.

CERTIFICATE OF SERVICE

I, Andrew Kreig, hereby certify that on this 22nd day of September, 2006, the foregoing "Comments of the Fixed Wireless Communications Coalition" were served via first-class U.S. mail, postage prepaid, to the following:

Mitchell Lazarus
Fletcher, Heald & Hildreth, P.L.C.
1300 North 17th Street, 11th Floor
Arlington, VA 22209

Joseph M. Sandri, Jr., Esq.
Senior Vice President, Regulatory and
Government Affairs
FiberTower Corporation
7925 Jones Branch Drive
Suite 3300
McLean, VA 22102

Russell H. Fox
Mintz, Levin, Cohn, Ferris, Glovsky and
Popeo, P.C.
701 Pennsylvania Ave. N.W.
Suite 900
Washington, D.C. 20004

/s/ *Andrew Kreig*
Andrew Kreig