Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Los Angeles Sheriff's Department,	)	
Request for Waiver of Section 15.231	)	ET Docket No. 07-27
of the Commission's Rules with Regard	)	
to Certain Garage Door Opener	)	RM-11359
Transmissions for Law Enforcement	)	
Purposes	)	

To: Chief, Office of Engineering and Technology

COMMENTS BY THE SAFE AND SECURE ACCESS COALITION

The Safe and Secure Access Coalition (the "Coalition"), by its attorneys, hereby submits these comments with respect to the above-captioned waiver request filed by the Los Angeles Sheriff's Department ("LASD") on February 2, 2007 (the "Waiver Request"). LASD seeks to manufacture and use an "overmaster" device that would be capable of remotely opening garage doors. LASD seeks a waiver of the five second limit in Section 15.231(a)(1) of the Commission's rules[1] because the device apparently must be operated well in excess of five seconds.[2] Although the Coalition respects that LASD hopes such a device will provide a layer of protection for its officers, the Coalition believes that the device, if technically feasible, could cause serious safety and security problems, as well as undermine public confidence in secure access systems. Accordingly, the Coalition respectfully requests that the Commission dismiss or deny the Waiver Request.

[1] 47 C.F.R. § 15.231(a).

[2] See Waiver Request at 2, fn. 2.

The Coalition was formed by the major manufacturers of garage door openers and keyless entry systems. Two of the members, Johnson Controls, Inc. ("JCI") and Chamberlain Group Inc. ("Chamberlain"), are particularly concerned with the consequences of permitting LASD to deploy the proposed overmaster device.[3] JCI produces and sells the HomeLink wireless control system, a one-touch RF system that is integrated into vehicle interiors. The HomeLink system allows drivers to operate garage door openers, gates, entry door locks, and security systems from the safety and convenience of their vehicles. HomeLink has been installed in over 25 million vehicles worldwide and is now available in more than 150 different vehicle models. Chamberlain is the world's largest manufacturer of residential and commercial door operators, access control products and gate operators. Both companies' products are designed to provide customers with increased security and safety over their persons and property.

I. The Waiver Request Does Not Provide Sufficient Information and May not Accurately Describe the Device

The Waiver Request does not provide sufficient information to allow the Commission to determine whether the device justifies a waiver of the Commission's rules. There is no technical or engineering data submitted with the Waiver Request, and there is only a minimal description of the device itself. It is difficult for the Coalition to ascertain the exact nature of the device or analyze its effects. For example, it is unclear how the device would be capable of interacting with the range of door opener technologies on the market -- from fixed code to "billion code" to rolling code designs -- and how long each would take to open using the device. There is no discussion as to how the transmissions from the device will be contained so as not to activate other radio-controlled door entry systems in the vicinity.

[3] The Genie Company, a garage door manufacturer, was originally a member of the Coalition, but could not be contacted in time to determine its participation in these Comments.

Furthermore, a member of the Coalition spoke with the commander at LASD responsible for this project.[4] The commander described the proposed device much differently than the Waiver Request. He stated the device would include a receiver, possibly combined with or separate from the transmitter, that would be placed at a suspect's location and used to capture and store ("code grab") the door opener code when the suspect opened the garage door. The same or different unit would then be used to transmit the code and open the garage door.[5] While it may be that LASD is currently in the development process and has not yet determined the exact nature of the device,[6] the Waiver Request should be dismissed now for failure to "articulate a specific pleading, and adduce concrete support, preferably documentary."[7] A grant of the Waiver Request, based on its vague and perhaps inaccurate description of what the device even is, would allow LASD too much latitude to use a device that the Commission might not have otherwise approved.[8]

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[4] See attached Affidavit of James Fitzgibbon.

[5] If the garage door opener operates by rolling codes, the unit is apparently supposed to determine the next code in sequence – although it is unclear how this is technically feasible.

[6] Although the Coalition recognizes that these Comments are not the proper forum to debate intellectual property matters, the Coalition notes that either form of the device may, in order to operate, infringe upon intellectual property rights held by members of the Coalition.

[7] *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969) ("*Wait Radio*") (Also note, "The agency is not bound to process in depth what are only generalized pleadings, a requirement that would condemn it to divert resources of time and personnel to hollow claims.")

[8] It seems unlikely that the Commission could certify the equipment for the device as described by the LASD commander, even if a waiver of Section 15.231 is not required, and meet its public interest standard. Indeed, the Coalition would strongly urge the Commission to decline certification for any equipment that could be used to record garage door opener codes based on the fact that such devices contravene the public's reliance on and interest in the safety and security features of garage door and keyless entry systems.

II. The Proposed Device is Technically and Practically Infeasible

The Coalition believes that the device as described in the Waiver Request will be technically infeasible or at least highly impractical. The Waiver Request notes that LASD currently does not know how long the device must be operated in order to open a garage door. A footnote in the Waiver Request states that LASD currently estimates a typical median operation of 35 minutes but such "estimate is subject to revision" as development of the device proceeds.[9] LASD provides no technical data in the Waiver Request, so it is impossible for the Coalition to analyze how LASD reached this 35 minute estimate. However, the Coalition has calculated a drastically different time for operation. Namely, it could take up to **309.4 years of continuous transmission** to open current garage door systems by an overmaster device.[10] These systems use sophisticated rolling code designs created for the express purpose of defeating devices that would-be thieves have attempted to use to open garage doors and other entry systems. Rather than spend resources analyzing a request for a device that, as proposed, will not work, the Commission should dismiss or deny the Waiver Request.

III. The Proposed Device may Cause Serious Security and Safety Problems

The Coalition is concerned that the device, if it operates as described in the Waiver Request, will cause serious security and safety problems in the vicinity where the device is used. As noted above, LASD provides no technical information that would permit the Commission or the Coalition to determine how the proposed device operates and what effect it would have on

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[9] Waiver Request at 2, fn. 2.

[10] Even some of the older garage door systems produced by Chamberlain in the late 1980s to early 1990s could require up to 3.8 hours to open using the overmaster, and the next generation of garage door systems could take up to 77.3 years. These calculations are based on the assumption that the overmaster would operate as described in the Waiver Request, not as described in subsequent conversations with LASD. *See* attached Affidavit of James Fitzgibbon.

other RF systems. The device, as it is cycling through to find the correct code (for up to 35 minutes even by LASD's count), is likely to activate or interfere with other garage doors in the area.[11] Furthermore, because the Coalition's products operate devices other than garage doors, the overmaster device could activate or deactivate entry doors, gates, and alarms which consumers and businesses depend on for safety and security. LASD does not address how it would handle systems that are unintentionally activated. Furthermore, LASD may not even be able to identify systems (e.g., entry doors) that have been unintentionally activated.

It is obvious that garage doors and other systems that are unintentionally opened will expose surrounding residences and businesses to a host of safety and security issues, including theft, trespass, home invasion etc.[12] These systems are designed to prevent bodily harm and property damage or theft. If a garage is opened and left unattended, or an entry door is unknowingly locked, then the systems are rendered ineffective.

IV. The Proposed Device Would Undermine Public Confidence In Safety and Security Systems

The garage door and associated industries are premised on the safety and security that their products provide. Their customers go to sleep at night knowing that their garage door is secure and their home is safe. Surely it would become publicly known that police officers can override those safety and security measures. Knowing that at least the police have an overmaster device, consumers will query who else has an overmaster, whether it could fall into the wrong hands, be sold in a "black market" or be used for unauthorized purposes. The loss of public confidence could have a material effect, not only on the market for garage door openers and

[11] *See* Section VI and fn. 22, *infra*.

[12] Note that LASD itself advises homeowners to make sure garage doors are secure. *See* http://www.lasd.org/lasd_services/public_safetytips/personal_safety.html#home.

related devices, but on the public's willingness to purchase such devices and better protect themselves and their property.

As a consequence of such loss of public confidence, the industry itself may be forced, as it has been before, to create a more sophisticated system that is immune to overmasters. In the late 1990s, the garage door industry began modifying its products as a result of "code grabbers," devices that were used by thieves and other criminal elements to record transmissions from garage door openers and keyless entry devices and play them back with an associated transmitter, either then or at a later time when the criminal returned to the premises, in an attempt to gain unauthorized access to homes or vehicles.[13] With the understanding that LASD's proposed use of the device is well-intentioned, it would be contrary to the public's overall interest in safety and security for the Commission to allow an overmaster or other similar code grabbing devices to make their way onto the market.

V. The Purported Limitations on the Use of the Proposed Device Fail to Justify the Waiver

LASD is apparently aware of the serious consequences this device could have and the potential for misuse and theft of the device.[14] LASD attempts to mitigate those effects by proposing limitations on marketing and use.[15] Those limitations, as well-meaning as they may be, will not prevent the device from undermining the safety and security of garage door openers and related systems.

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[13] Although difficult to tell based on a lack of information, it appears that the device described by the LASD commander may resemble these code grabbers and associated transmitters. *See* Affidavit of James Fitzgibbon.

[14] *See* Waiver Request at 3.

[15] *Id*.

LASD proposes to limit the device to 200 units and make it available only to law enforcement organizations. However, it is clear that an overmaster device (if it works at all) would have great value on the black market, similar to the code grabbers developed in the 1990s. The device would allow any thief or other party with criminal intent *unlimited access* to homes and businesses secured by garage door openers, entry gates and the like. The technology used to make the device will be difficult to contain.[16] According to LASD, the device will be designed and manufactured by a third party contractor.[17] LASD cannot assure the Commission that it has control over all of the employees of the contractor in face of the huge monetary value of the technology and the device. Moreover, despite careful efforts by LASD, the device could be stolen and used to perpetrate crimes.

Other proposed limitations, including that the device will be operated only by trained law enforcement officers and only by manual control,[18] frankly do not mitigate the negative effects of the device as discussed in Sections III and IV, *supra*. LASD also promises that the device would be used only with a warrant, which is a matter of law, and when the officer judges there is no other way to approach the structure without substantial risk. This is a slippery slope. An officer that has the option of opening a garage door from a remote distance may very well always

[16] The Waiver Request states that the 200 units will be used "nationwide" by law enforcement organizations under the authority of a local or state government. *See* Waiver Request at 4. LASD can not guarantee that those organizations and their employees would adhere to the same limitations and standards of care with respect to the device as LASD promises.

[17] *See* Affidavit of James Fitzgibbon.

[18] This limitation seems to conflict with the alternative description of the device provided by LASD, as explained in the attached Affidavit. That description contemplates the device could be hidden and left at the premises of a suspect.

determine that it is the best way to approach the structure.[19] Finally, LASD pledges to operate the device for the minimum time needed. As discussed above, under LASD's calculations, that could amount to at least 35 minutes – during which time, other garage doors in the area could open. Under the Coalition's calculations, it could take hours to open older garage door systems, and years for the current system designs.

VI. LASD Fails to Meet the Waiver Threshold

A waiver request must propose a "new service that will not undermine the policy, served by the rule, that has been adjudged in the public interest."[20] The Waiver Request here must show how it will not subvert the purposes of Section 15.231(a), designed to prevent interference to other applications. LASD claims that the waiver is justified by the public interest in terms of benefits to officers and the public and the "absence of any *likely* increase in harmful interference."[21] This is certainly not an affirmative statement that there will be no interference, nor does the Waiver Request provide any technical data or other discussion showing that there will be no interference.[22] Moreover, the analogy LASD draws to Section 15.231(a)(4) is inapposite. That section exempts intentional radiators employed for radio control purposes from the five second rule during (1) an emergency involving fire, security and safety of life, (2) when

[19] The Coalition does not wish to second-guess the law enforcement strategy of LASD, but it seems as though the noise of an opening garage door will alert the suspect that the residence is about to be entered. Furthermore, the officers would most likely need to break through at least one entry door between the garage and the home, just as they would need to break through a front or back door to capture an uncooperative suspect.

[20] *Wait Radio*, 418 F.2d at 1159.

[21] Waiver Request at 6.

[22] Indeed, the Waiver Request states that a directional antenna *may* be used to focus RF energy at the target door. Waiver Request at 3. It further states that, given the limited number of units and limitations on use, the "risk of harmful interference to other users will be very small." Waiver Request at 4. This assertion is specious – it seems to indicate that harmful interference is acceptable if it does not occur on a continuous basis.

activated to signal an alarm and (3) during the pendency of the alarm condition.[23] Thus, it permits transmissions only under a limited set of circumstances in order to permit the alarm to serve its purpose during a limited period of time, which should be much shorter than the time it would take for the proposed overmaster device to work.[24]

Although the device may have a limited benefit to officers in situations where the circumstances are right, the overall public interest in the safety and security that garage door openers and related systems provide on a wide-scale basis would be undermined by a grant of the Waiver Request. The Commission should not "tolerate evisceration of a rule by waivers."[25]

VII. CONCLUSION

For the reasons set forth above, the Coalition requests that the Commission dismiss or deny the Waiver Request.

Respectfully submitted,

SAFE AND SECURE ACCESS COALITION

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[23] 47 C.F.R. § 15.231(a)(4).

[24] *See* Section II, *supra*.

[25] *Wait Radio*, 418 F.2d at 1159 (Also note, "The agency may not act out of unbridled discretion or whim in granting waivers…").

AFFIDAVIT

I, James Fitzgibbon, do hereby attest to the following:

My name is James Fitzgibbon and I am the Director of Intellectual Capital of the Chamberlain Group Inc. ("Chamberlain"). I am closely familiar with the design and technology of Chamberlain's garage door opener models. I calculated the maximum time it could take for the device proposed by the Los Angeles Sheriff's Department ("LASD") in its Request for Waiver (ET Docket No. 07-27) to open Chamberlain's garage door systems, as discussed in the foregoing Comments by the Safe and Secure Access Coalition.

On March 14, 2007, I spoke with Commander Charles "Sid" Heal of LASD, whom the Sheriff of LASD designated as the person managing the development of the device for LASD. Commander Heal informed me that the device being developed would work as follows: Following the issuance of a warrant, LASD will deposit a "box" at the suspect's location. That box will capture and record the code of the garage door system when it is opened by the suspect. LASD will then retrieve the box or access it by remote operation. Based on the recorded code, the box will produce the next code in sequence, which will be transmitted (either by the same box or by a different unit) to open the garage door. The technology and equipment is being developed for LASD by a third party vendor.

These statements are true and correct to the best of my knowledge and belief.

By: _____
James Fitzgibbon
Chamberlain Group Inc.

Date: 3/15/07

Tina Benakovich
DuPage County

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