

COHEN, DIPPELL AND EVERIST, P.C.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Unlicensed Operation in the TV Broadcast Bands)	ET Docket No. 04-186
)	
Additional Spectrum for Unlicensed Devices)	ET Docket No. 02-380
Below 900 MHz and in the 3 GHz Band)	

REPLY COMMENTS BY
COHEN, DIPPELL AND EVERIST, P.C.

The following reply comments are submitted on behalf of Cohen, Dippell and Everist, P.C. (“CDE”). CDE or its predecessors located in Washington, D.C. have been providing consulting engineering services to the communications industry for over 60 years.

The Federal Communications Commission (“Commission”) in the Public Notice dated July 31, 2007 entitled, “The Office of Engineering and Technology Announces the Release of Reports of Initial Measurements on TV White Space Devices” in ET Docket No. 04-186 indicated the availability of certain reports from the office of Engineering and Technology.

This Public Notice released two technical reports entitled, “Initial Evaluation of the Performance of Prototype TV-Band White Space Devices,” OET Report FCC/OET 07-TR-1006 (Prototype Devices Report) and “Direct-Pickup Interference Tests of Three Consumer Digital Cable Television Receivers Available in 2005,” OET Report FCC/OET 07-TR-1005 (Direct Pickup Report).

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Further, the Commission on August 10, 2007 released a Public Notice entitled, “The Office of Engineering and Technology Announces Meeting on Reports of Initial Measurements on TV White Space Devices” in ET Docket No. 04-186 which indicated that on August 16, 2007 the Commission invited interested parties to attend a presentation on the general test setup at the FCC Laboratory.

History

CDE filed comments on its behalf in the Notice of Proposed Rulemaking (“NPRM”) in ET Docket No. 04-186 and ET Docket No. 02-380 on November 30, 2004.¹ These comments noted a concern regarding the ability by the then current FCC prediction methodology to predict the absence of service and interference.²

On August 16, 2007, this firm³ on its behalf attended the meeting at the FCC Laboratory in Columbia, Maryland.

This firm has reviewed briefly those abbreviated comments by Microsoft⁴ and the comments by MSTV and NAB.⁵

¹Comments by Cohen, Dippell and Everist, P.C. in the Notice of Proposed Rulemaking dated November 30, 2004.

²See Page 3.

³Martin R. Doczkat and Donald G. Everist.

⁴See letter dated August 17, 2007 by S. Roberts Carter.

⁵See Comments of MSTV and NAB to the OET Report on the Performance of Prototype TV-Band White Space Devices.

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On August 15, 2007 this firm on its behalf filed comments in the Third Periodic Review in MB Docket No. 07-91,⁶ and on Pages 7 and 8 indicated the number of Rules that the Commission needs to review in order to complete the DTV transition. As noted in November 30, 2004 submission in ET Docket No. 04-186, the current Section 73.683(a) of the FCC Rules indicates,

“Under actual conditions, the true coverage may vary from these estimates because the terrain over any specific path is expected to be different from the average terrain on which the field strength charts were based.”

Currently the Commission in determining the equivalent DTV service indicated the following in Appendix B of the Seventh Further Notice of Proposed Rulemaking.⁷

Appendix B states in part that,

“Where a station’s ERP was determined by the Commission, it was calculated using the following methodology. First, the distance to the station’s noise-limited DTV contour (or Grade B contour for stations that do not have a DTV channel) was determined in each of 360 uniformly spaced compass directions starting from True North. This determination was made using information in the engineering database, including directional antenna data, and using terrain elevation data at points separated by 3 arc-seconds of longitude and latitude.”

⁶Comments of Cohen, Dippell and Everist, “In the Matter of Third Periodic Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television”, MB Docket No. 07-91, dated August 15, 2007.

⁷Seventh Further Notice of Proposed Rulemaking, MB Docket No. 87-268, released October 20, 2006.

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The purpose is not to revisit this issue but to note that MB Docket No. 87-268 in the Seventh Report and Order and Eighth Further Notice of Proposed Rule Making was released in August 6, 2007 and has yet to be published in the Federal Register. Therefore, there are still issues in flux concerning the correct methodology and final DTV transition allotment plan.

Further, the Commission's two reports from the Public Notice dated July 31, 2007 document that the listed devices did not meet objectives or were incomplete as to functionality.

In addition, the Commission has yet to establish when the final transition will be complete for stations authorized under Part 74, Subpart G, entitled, "Low Power TV, TV Translator, and TV Booster Stations" facilities.

Therefore, the DTV transition still remains with many unresolved issues and the one unlicensed device that was tested did not meet any minimum criteria. The Commission should hold in abeyance any further consideration in this matter until such time that two conditions are met:

- first--the FCC has finalized all of its Rules governing the transition mandated by law.⁸

⁸See Digital Television and Public Safety Act of 2005 ("DTV Act"), which is Title III of the Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4(2006) ("DRA") (codified at 47 U.S.C. §§309(j)(14) and 337(e)).

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- second--the proponents of the unlicensed devices have tested and can effectively and conclusively demonstrate that their devices can meet without failure the objectives for unlicensed operation.

Respectfully submitted,



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August 27, 2007