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March 14, 2008

VIA ELECTRONIC FILING

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

Re: Notice of Ex Parte Presentation, MB Docket No. 07-148

Dear Ms. Dortch:

On March 13, 2008, the undersigned, on behalf of the Consumer Electronics Retailers Coalition (CERC), accompanied by Jennifer Blum of Drinker, Biddle & Reath, counsel to CERC member RadioShack Corporation, met with Mary Beth Murphy, Chief of the Policy Division, Media Bureau, and Evan Baranoff of that Division; and Alan Stillwell and Julius Knapp of the Office of Engineering and Technology. The main purpose of the meeting was to support the proposal made in the March 6, 2008 *ex parte* letter of Julie Kearney of the Consumer Electronics Association, as amplified and elaborated upon in the March 10 *ex parte* letter of the undersigned.

On behalf of CERC and its members we represented that as written it would appear impossible to determine, for any given product, what constitutes “compliance” with the new regulation, irrespective of whether the regulation was to be effective immediately, in 30 days, or even after a much longer period. Thus we recommended the approach of requiring responsible parties to accomplish compliance at the time the product is shipped from the factory, as advocated in the referenced *ex parte* letters, as the only workable solution. Equally important, a more clearly defined and limited product scope, as urged by CEA, will facilitate compliance and enforcement.

Accordingly, we urged that new Section 15.124(c), purporting to pertain to any “shipment” by any party, needed to be eliminated or revised to reflect an approach limited to tasks within the proximate control of the party responsible as the “manufacturer.” An approach that would apply instead to all interstate shipments, whether or not from the factory, would be unworkable as applied to a new regulation made immediately effective – or even to one made effective in 30 days or even six or nine months – because identical products will have been in various stages of preparation, shipment, and storage when the regulation becomes effective.

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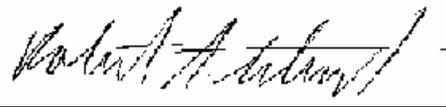
Moreover, such a broad application to product distribution, after manufacture, would go well beyond affixing responsibility on, and impacting the business of, the party responsible as the “manufacturer.” Thus it would go well beyond the relevant subject matter noticed for public comment in this docket.

As to product scope, we adhered to the CEA and CERC position that scope should most appropriately be limited to “TV receivers.” However, if “related devices” are to be included, we suggested that the only products that “depend” on TV receivers are (1) recording products marketed specifically for use with TVs (that are not themselves covered as TV receivers), and (2) display products that are marketed specifically as “televisions” but lack any tuner so are not covered as “TV receivers.” These products might in some cases depend on a TV receiver for acquisition of an over the air signal via antenna. By contrast a pure “player” product (DVD player, game player, *etc.*) does not, by definition, depend on a TV tuner for content; and any content sent *to* a TV tuner would be sent to the analog tuner (“channel 3”), which remains in all televisions that also have digital tuners. Similarly, a “home theater receiver” is essentially a switching and amplification device that does not tune, record, or display video content, so does not itself depend on a TV tuner for its operation.

We stressed that CERC members want to work with the Commission to achieve implementation that is workable, understandable, and, most of all, helpful to consumers. There is significant urgency to resolving these matters and we look forward to working with the Commission and, as CERC has done in the past, to joining with the Commission to promulgate and explain the Commission’s action to retailers at large, whether or not they are CERC members. Toward this end, we indicated that CERC would be glad to co-brand explanatory material with the Commission.

This letter is submitted pursuant to Section 1.1206(b)(2) of the Commission’s rules to provide notice of an oral *ex-parte* presentation in the above referenced matter. Copies of the letter and the attachments are being sent by electronic mail to the meeting participants identified above.

Respectfully submitted,



Robert S. Schwartz
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CERC Counsel

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cc: Chairman Martin
Commissioner Copps
Commissioner Adelstein
Commissioner Tate
Commissioner McDowell
Mary Beth Murphy
Evan Baranoff
Alan Stillwell
Julius Knapp
Monica Desai