

**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 Below 900 MHz and in the 3 GHz Band)	ET Docket No. 02-380
)	

COMMENTS OF AUDIO-TECHNICA U.S., INC.

Audio-Technica U.S., Inc. (“A-T”) submits these comments in support of the Emergency Request filed on October 17, 2008 by The Association for Maximum Service Television, Inc. (“MSTV”), the National Association of Broadcasters (“NAB”), the ABC, NBC, CBS, and Fox Television Networks, and Open Mobile Video Coalition (“OMVC”) in the above-captioned proceeding.¹ The Emergency Request asks that the Commission refrain from adopting rules in this proceeding prior to the time that the Commission receives and considers public comment on the 400-page report released on October 15, 2008 by the Office of Engineering and Technology (“OET”) that will purportedly serve as the basis for those new rules. A-T fully supports Emergency Request and believes that any attempt by the Commission to ram through rules allowing unlicensed devices to operate in the television white spaces without giving the public and interested parties an opportunity to comment on the OET report and to consider such comments would be both irresponsible and reckless.

¹ *In the Matter of Unlicensed Operation in the TV Broadcast Bands; Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band*, ET Docket Nos. 04-186, 02-380, First Report and Order and Further Notice of Proposed Rulemaking, 21 FCC Rcd 12266 (2006) (“*First Report and Further Notice*”).

A-T has participated in this proceeding from its inception and does not oppose allowing unlicensed devices to operate in the TV white spaces. However, given the public's continued reliance on over-the-air television, the need to protect television reception from interference by unlicensed devices ("UDs"), and the need to ensure that critical Broadcast Auxiliary Services, such as wireless microphones are adequately protected from interference by UD's, A-T has repeatedly urged the Commission to proceed cautiously and deliberately to craft a regulatory policy to balance these interests that is based on empirically rigorous testing and scientifically sound principles. Based on a cursory review of the OET report, it does appear to support the conclusion that detect and avoid technologies are sufficiently mature and reliable to ensure that UD's can operate in the TV white spaces without causing interference to existing users. Clearly additional work is needed to develop this technology to a point where all interested parties can be reasonably certain that UD's can occupy the TV white spaces without jeopardizing existing services.

It would be reckless and irresponsible for the Commission to authorize UD's in the white spaces without even allowing or considering public comment to the OET report. Notwithstanding the fact that the OET report itself disclosed some significant deficiencies with respect to the ability of the tested equipment to function properly and reliably, the fact of the matter is that once the Commission authorizes UD's in the white spaces, there will be no way to undo the effects this decision if it turns out that the technology does not function as it should.

The responsible approach followed by the Commission in these prior proceedings stands in stark contrast to its haste to adopt rules in this proceeding without giving the public or interested parties an opportunity to review and comment on the technical report which serves as the basis for these new rules. There is absolutely no justification for the Commission's rush to adopt rules that may not even be supported by its own technical report. Nor is there any need for the Commission to act immediately without putting its report out for scrutiny and comment.

Based on the foregoing, A-T respectfully requests that the Commission refrain from hastily adopting rules based on an OET report that has not been placed out for public comment.

The Emergency Petition filed by MSTV *et al.* should be granted.

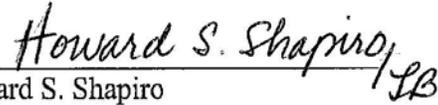
Respectfully submitted,

AUDIO-TECHNICA U.S., INC.

By:


Jacquelyn A. Green
V.P. R&D/Engineering
Audio-Technica U.S., Inc.
1221 Commerce Dr.
Stow, OH 44224
(330) 686-2600

By:


Howard S. Shapiro
Bennet & Bennet, PLLC
4350 East West Highway, Suite 201
Bethesda, MD 20814
202-371-1500
Its Attorneys

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Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, Report and Order and Further Notice of Proposed Rulemaking, WT Docket No. 03-66, (rel. July 29, 2004).