

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)

Petition for Reconsideration
on Behalf of
Cohen, Dippell and Everist, P.C.

The following Petition for Reconsideration (“Petition”) by the firm of Cohen, Dippell and Everist, P.C. (“CDE”) is with reference to the Final Rule adopted by the Federal Communications Commission (“FCC”) in ET Docket No. 04-186 and ET Docket No. 02-380.

CDE and its predecessors have practiced before the FCC for over 70 years in broadcast and telecommunications matters. The following addresses certain aspects of these comprehensive documents. Briefly, the Petition addresses concerns of off-the-air DTV service and the potential for inadvertent disruption by unlicensed devices operating under these rules as adopted on November 4, 2008 and published in the Federal Register on February 17, 2009.

The FCC is to be commended on the task of performing extensive measurements both in the laboratory and in the field to attempt to derive a base line of information from which to establish a set of rules.

In reviewing the final rule and seeing an FCC overview presentation at the Association of Federal Communications Consulting Engineers,¹ there is an area in which there may be a possible lapse of information.

This office represents several TV clients that operate in the bands in which these unlicensed devices could operate. The undersigned has over the years participated in hundreds of TV receiver installations in consumer's homes and is very familiar with the difficulties of off-the-air reception. However, there does not appear to be an adequate focus on what the average off-the-air consumer might use for their antenna. As seen with the delay imposed by Congress in changing the post-transition date to June 12, 2009, there still appears to be an uncertainty of how well the off-the-air consumers are fairing with the transition. This uncertainty remains in spite of the recent public announcements to help explain to the off-the-air consumer what is transpiring. Additionally, in many markets, off-the-air consumers will again need to rescan² the spectrum to find the final DTV channels available to them as the final transition is completed and analog channels cease to exist.

Therefore for the foreseeable future, the reception capabilities of off-the-air consumers are going to be unsettled.

¹February 20, 2009

²It is uncertain how consumer converter boxes and DTV receivers will react if an unlicensed device is active during the off-the-air consumer rescanning process.

A visit to Best Buy and Walmart find that a significant number of indoor antennas are being displayed with amplifiers claiming to yield from 0-20, 0-40 and 0 to 52 dB of amplification to VHF and UHF signals, desired or undesired. It is presumed that these indoor antennas with these amplifiers are broadband in nature.

The deployment and activation of an unlicensed device in reasonable proximity is expected to be indiscriminantly amplified by off-the-air consumers' indoor antennas and amplification systems to the TV set whether through digital-to-analog converter box or a DTV receiver.

This unrestrained unlicensed operation while within the recently adopted rules could have a devastating effect on off-the-air consumers' receiver. This effect is expected to begin due to the adoption of these rules at a crucial time when consumers' reception capabilities are unsettled during the transition of channels.

If this scenario does occur, the off-the-air consumer will not be able to recognize let alone discern the nature of the interference.³ A good portion of the off-the-air viewing public is not overjoyed with the transition.

In an era of severe economic circumstance, the off-the-air consumer should not be forced to pay for cable or satellite TV when off-the-air service is available. The FCC with limited

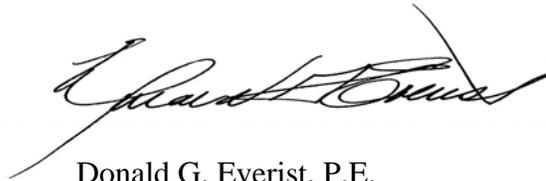
³Examples of interference that may result due to the introduction of unlicensed devices along with the use of a broadband receive antenna include intermodulation in the receiver due to unexpected channel relationships, overall noise-floor increase from either a solitary or aggregate unlicensed devices operating in proximity, or receiver saturation due to a combination of amplified television signals and unlicensed signals received.

resources and time will not likely be able to handle the prospect of widespread consumer complaints.

Therefore, the FCC is urged to revisit this fundamental problem that can and will originate when an off-the-air consumer uses or tries to use an indoor antenna with amplification and unlicensed devices as envisioned by the rules operate in the vicinity.

Respectfully submitted,

COHEN, DIPPELL AND EVERIST, P.C.



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