

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 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
)	

**OPPOSITION OF APCO
TO PETITIONS FOR RECONSIDERATION
OF MOTOROLA, INC. AND OF
DELL, INC. AND MICROSOFT CORP.**

The Association of Public-Safety Communications Officials-International, Inc. (“APCO”) hereby submits the following Opposition to the Petition for Reconsideration of Motorola, Inc. and the Petition for Reconsideration of Dell, Inc. and Microsoft Corp. (“Petitioners”) to the extent they seek reconsideration of the Commission’s decision in the above-captioned proceedings to prohibit unlicensed portable/personal devices from operating in TV channels 14-20 (470-512 MHz).

APCO is the nation’s oldest and largest public safety communications organization. Founded in 1935, APCO has nearly 16,000 members, most of whom are state or local government employees who design, manage, and operate public safety communications systems for police, fire, emergency medical, forestry conservation, highway maintenance, disaster relief, and other public safety agencies. APCO is the largest FCC-certified coordinator for Part 90, Public Safety Pool radio frequencies, and

regularly appears before the Commission on a wide range of issues regarding public safety communications.

The Commission's rules allocate a portion of the 470-512 MHz band for public safety and other private land mobile radio communications in eleven major metropolitan areas: New York, San Francisco, Los Angeles, Philadelphia, Boston, Washington, Chicago, Miami, Pittsburgh, Dallas, and Houston.¹ The Commission has also granted numerous waivers allowing additional public safety use of specific 470-512 MHz frequencies or, in some cases, the entire TV channel.² Some waivers also allow use of allocated channels beyond the relevant metropolitan areas.

In New York, Los Angeles and other areas, the 470-512 MHz band has become a principal source of radio spectrum for interoperable public safety communications systems. Some of the nation's largest public safety agencies use the band for virtually all of their mobile and portable radio communications.³ As a result, the Commission has properly enacted and maintained rules to protect these critical public safety communications operations from interference, such as preventing co-channel and adjacent-channel television stations from being located within specified distances of land mobile operations.⁴ Similarly, the Commission determined in the *First Report and Order*, FCC 06-156 (October 18, 2006), ¶21, and reaffirmed in the *Second Report and Order*, FCC 08-260 (November 14, 2008), that unlicensed mobile/portable devices using

¹ 47 C.F.R. §90.303

² *E.g.*, *County of Los Angeles, California*, DA 08-2823, released December 30, 2008; *Nassau County Police Department*, DA 02-1771, 17 FCC Rcd 14252 (2002).

³ *E.g.*, New York City Police Department and Los Angeles County Sheriff's Department.

⁴ 47 C.F.R. §73.623(e).

TV “white space” should not be allowed to operate in TV channels 14-20 (470-512 MHz). As the Commission explained in the *Second Report and Order* at ¶152:

We also remain concerned about possible interference from unlicensed TVBDs to public safety and other important communications operations in the PLMRS. While the geo-location/database and client operation provisions of the rules we are adopting herein will serve to provide a high degree of assurance that PLMRS/CMRS, Offshore Radiotelephone Service and other authorized services on channels 14-20 are protected, we continue to believe that the nomadic nature and expected high numbers of personal/portable devices poses some potential for interference to those services. Given that parties who are expected to manufacture TVBDs anticipate that channels 21-51 will provide adequate spectrum resources for their products, we choose to be conservative in protecting the PLMRS/CMRS services and will prohibit personal/portable devices from channels 14-20

Petitioners claim that various interference avoidance techniques are sufficient to protect land mobile operations in the 470-512 MHz band. Yet, these techniques are largely untested for use with unlicensed mobile/portable devices that might venture into geographic areas in which sensitive public safety land mobile systems operate. The Petitioners’ “confidence”⁵ that interference would not occur is insufficient to justify a reconsideration of the Commission’s rules. Especially with unlicensed devices, the Commission must exercise extreme caution when public safety services are at risk. Once unlicensed devices are in the marketplace and deployed in large numbers, it is virtually impossible to reverse direction in the event interference problems occur. APCO also questions how such devices, even with geolocation capability, could keep track of the numerous waivers that allow public safety use of 470-512 MHz channels in areas beyond that which is specified in the Commission’s rules.

⁵ Motorola Petition for Consideration at 11.

CONCLUSION

Therefore, for the reasons set forth above and in the record,⁶ APCO urges the Commission to retain its rules that prohibit portable/mobile unlicensed devices from operating in TV channels 14-20.

Respectfully submitted,

/s/

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⁶ *See also* Comments of Land Mobile Communications Council in Response to Petitions for Reconsideration.