

**Before The
Federal Communications Commission
Washington DC 20554**

_____)	
In The Matter Of)	
)	
Petitions Regarding the Use of Signal Boosters and)	WT Docket No. 10-4
Other Signal Amplification Techniques Used)	
With Wireless Services)	
_____)	

REPLY COMMENTS OF QUALCOMM INCORPORATED

Dean R. Brenner
Vice President, Government Affairs
QUALCOMM Incorporated
1730 Pennsylvania Ave., N.W.
Suite 850
Washington, D.C. 20006
(202) 263-0020

Dated: March 8, 2010

TABLE OF CONTENTS

I. Introduction 1

II. The Commission Should Expeditiously Reaffirm That It is Unlawful to Use, Sell, or Market an Unauthorized Signal Booster 2

III. The Record Shows Overwhelmingly That Unauthorized Signal Boosters Are Causing Rampant Interference Problems 4

IV. The Commission Should Maintain & Enhance Its Enforcement Procedures to Resolve the Problems Identified in This Proceeding 5

V. Conclusion 6

**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In The Matter Of)
)
Petitions Regarding the Use of Signal Boosters and) WT Docket No. 10-4
Other Signal Amplification Techniques Used)
With Wireless Services)
_____)

REPLY COMMENTS OF QUALCOMM INCORPORATED

QUALCOMM Incorporated (“Qualcomm”), by its attorneys and pursuant to the Commission’s Public Notice, DA 10-266, released February 18, 2010, hereby submits its Reply Comments in this proceeding.

I. Introduction

The record in this proceeding shows overwhelmingly that the Commission should expeditiously reaffirm that it is unlawful to use, sell, or market a signal booster absent the consent of the Commission licensee on whose spectrum the booster will be used. There is simply no basis for any conclusion to the contrary. The record shows equally overwhelmingly that unauthorized boosters are causing rampant interference to licensed wireless networks, thereby harming consumers and endangering vitally important public safety communications. Finally, in light of the widespread interference problems, the Commission should maintain its existing enforcement procedures against end users, but adopt an accelerated docket to resolve complaints against manufacturers of unauthorized boosters on an expedited basis. The record is replete with examples of false and misleading statements by booster manufacturers to dupe unwitting consumers into buying and using these boosters in an unlawful manner. The Commission should put an end to this misconduct once and for all.

As mobile broadband continues to become increasingly important in American life, it is critical to extend the coverage of wireless networks, but to do so lawfully and in a manner that does not cause interference. The usage of wireless devices by Americans is increasing at exponential rates, and, as a result, Americans want wireless coverage everywhere, including indoors. To their credit, the carriers are spending billions of dollars each year to improve coverage all over the country, and repeaters can help improve coverage, but only if they are installed and operated lawfully and in an interference-free manner.¹ The lawful, interference-free way to enhance the coverage of wireless networks is for the Commission to reaffirm that licensee consent is required to manufacture, sell, market, or use a booster so that the each carrier can fully coordinate any booster with the rest of its network and ensure that each booster is operating in a manner that will not cause interference.

For all of these reasons, the Commission should reaffirm that it is unlawful to use, market, or sell a booster absent the consent of the Commission licensee on whose spectrum the booster will be used.

II. The Commission Should Expediently Reaffirm That It is Unlawful to Use, Sell, or Market an Unauthorized Signal Booster

Several commenters showed that it is unlawful for an end user to operate a signal booster without a license or carrier authorization because Section 301 prevents the operation of any RF transmitting device in the United States “except under and in accordance with a license,” and the Commission’s regulations give each CMRS licensee exclusive use of its frequencies, the licensee of all transmitting devices on its spectrum, and require a CMRS licensee to maintain control of

¹ Similarly, femtocells will both improve coverage and expand the capacity of wireless networks to meet this burgeoning growth in usage. Again, a femtocell must be installed and operated with the consent of the carrier whose network the femtocell will be installed and operated on both to comply with the law and to prevent interference.

all transmitting devices operating on its network on its licensed spectrum. See, e.g., AT&T Comments at Pgs. 3-4; Comments of Sprint Nextel at Pg. 2; Comments at Verizon Wireless at Pgs. 9-10; Comments of CTIA at Pgs. 12-13. The Commission itself has consistently enforced this prohibition, whether the booster or repeater is fixed or mobile.² See Comments of AT&T at Pg. 6 (citing identical six FCC Enforcement Bureau warning letters); Comments of Verizon Wireless at Pgs. 11-12 (citing three notices from FCC Enforcement Bureau).

There is no serious argument to the contrary. Wilson Electronics claimed that a “mobile amplifier” is somehow different legally, but as commenters showed, the Commission itself has never distinguished between mobile and fixed boosters; there would be no legal basis for such a distinction; and, it would be impossible for a carrier to comply with the Commission’s own rules if the law were as Wilson hopes it would be. See Comments of Verizon Wireless at Pgs. 11-13; Comments of AT&T at Pgs. 8-13.

It is equally clear that it is unlawful to market or sell a booster that may not be lawfully operated, i.e., a booster for which the end user lacks the consent of the carrier on whose network the booster will be used and which holds the license for the underlying spectrum on which the network operates. See Comments of AT&T at Pgs. 14-16; Comments of Verizon Wireless at Pgs. 19-20; Comments of CTIA at Pgs. 17-21. Section 302 (b) of the Communications Act prohibits the sale or marketing of devices which do not comply with the Commission’s rules to govern the interference potential of devices, and as already shown, unauthorized boosters do not comply with Commission rules, which, at their very core, were adopted to prevent interference. See id. As Verizon Wireless points out, the Commission’s own Spectrum Enforcement Division

² In this pleading, the terms “booster,” “amplifier,” and “repeater” are used interchangeably, and there is no basis to distinguish one from the other.

in the Enforcement Bureau has found one manufacturer apparently liable for a fine for marketing unauthorized boosters. See Comments of Verizon Wireless at Pg. 21, n.54.

It is especially important that the Commission promptly reaffirm the prohibition on marketing and selling unauthorized boosters in light of the substantial evidence in the record that the booster manufacturers misrepresent the Commission's rules to end users, wrongly telling unwitting consumers that there is no need to obtain carrier consent before installing a booster. See, e.g., Comments of AT&T at Pgs. 20-24 (cataloging false and misleading statements by booster manufacturers); Comments of CTIA at Pgs. 20-21 (same); Comments of Verizon Wireless at Pgs. 21-22 (same). The FCC should act expeditiously to protect consumers from these deceptive practices by publicly announcing that these statements are false and reaffirming that it is unlawful to use a booster absent the consent of the carrier on whose network the booster will operate.

Accordingly, the Commission should promptly reaffirm that it is unlawful to use, market, or sell a signal booster unless the consent of the carrier on whose network the booster will be used and which holds the license for the underlying spectrum on which the network operates.

III. The Record Shows Overwhelmingly That Unauthorized Signal Boosters Are Causing Rampant Interference Problems

The record of this proceeding contains substantial evidence of the serious interference problems that are occurring around the country as the result of unauthorized boosters. In fact, it is likely that even the wireless industry itself is unaware of the full extent of the interference problems caused by unauthorized boosters. AT&T has had 83 separate reported incidents involving booster interference in South Florida alone since July 2007. Comments of AT&T at Pg. 30. Verizon Wireless has had 71 reported incidents from January 2006 through July 2009 in its Pacific Northwest region; 53 such incidents in its Mountain region from August 2005 through

December 2009, and 9 incidents in its Georgia/Alabama region between December 2006 and July 2007. Comments of Verizon Wireless at Pg. 7. Verizon has also had incidents in New York City, Honolulu, Arizona, and California. Id. at Pgs. 7-8. US Cellular has had 11 interference incidents in Oregon, Iowa, Wisconsin, California, and Illinois. Comments of US Cellular at Pgs. 6-7.

But, these incidents are apparently just the tip of the iceberg. Public safety organizations, including APCO, NENA, Cobb County, Georgia, and King County, Washington discussed similar interference incidents from unauthorized boosters that public safety agencies have experienced. See Comments of APCO at Pg. 2; Comments of NENA at Pgs. 3-4; Comments of Cobb County at Pg. 1; Comments of King County, Washington at Pgs. 1-2. As the Commission well knows, interference reports such as these do not often reflect the full extent of the actual interference that is occurring. The problems caused by unauthorized boosters are undoubtedly more widespread.

IV. The Commission Should Maintain & Enhance Its Enforcement Procedures to Resolve the Problems Identified in This Proceeding

The record of this proceeding shows that the Commission's Enforcement Bureau, through its Field Offices, is taking action against end users for unlawfully operating boosters. See Comments of AT&T at Pg. 10 (citing six identical warning letters issued, dating back to 2008). See also Comments of Verizon Wireless at 11-12 (citing enforcement actions against users of unauthorized boosters); Comments of US Cellular at Pg. 5 (FCC regional offices have assisted in shutting down unlawful boosters). The Enforcement Bureau has even created an online reporting system for carriers to notify the Bureau of interference events. See Comments of AT&T at Pg.

33, n.86. The Enforcement Bureau, particularly its Field Offices, should continue their current efforts and procedures against end users.

But, the Commission should also take action against the manufacturers of these boosters, particularly given the many false and misleading statements made by these manufacturers to deceive consumers which are in the record of this proceeding. AT&T has documented 45 incidents of interference in one market alone from boosters all made by one manufacturer. See Comments of AT&T at Pg. 35. The Commission should create an accelerated docket procedure with tight time deadlines, similar to the Section 208 complaint process, to resolve complaints against booster manufacturers on an expedited basis, as AT&T has proposed. Comments of AT&T at Pgs. 32-36. The time has come to end this misconduct once and for all.

V. Conclusion

Wherefore, Qualcomm respectfully requests that the Commission expeditiously reaffirm that it is unlawful to use, sell, or market a signal booster absent the consent of the Commission licensee on whose spectrum the booster will be used, and the Commission should create an accelerated docket to resolve complaints against manufacturers of unauthorized boosters on an expedited basis.

Respectfully submitted,

By: /s/Dean R. Brenner
Dean R. Brenner
Vice President, Government Affairs
QUALCOMM Incorporated
1730 Pennsylvania Ave., N.W.
Suite 850
Washington, D.C. 20006
(202) 263-0020
Attorney for QUALCOMM Incorporated

Dated: March 8, 2010