

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Requests for Waiver of Certain TV Tuner)
Requirements in Order To Import and) MB Docket No. 10-111
Distribute Mobile DTV Receivers Without)
Analog Tuners)

REPLY COMMENTS OF ELGATO SYSTEMS, LLC

Elgato Systems, LLC (“Elgato”), by its attorneys, hereby submits these reply comments in the above-referenced proceeding.¹

The initial comments demonstrate that the Commission’s historical NTSC tuner requirement is no longer necessary to ensure that television viewers receive the new and innovative services they need and desire. As a consequence, the Commission should not require mobile DTV receivers to include NTSC tuners. Requiring mobile DTV receivers to tune analog signals would increase consumer costs and delay introduction of new services and devices that promise enhanced service to the public. And, few viewers would ever choose to use mobile devices to view over-the-air analog signals. Elgato supports grant of the Petitions on an expedited basis so that mobile devices can reach the market by Christmas without disturbing

¹ See Media Bureau Action: Expedited Comment Dates Established for Requests for Waiver of Certain TV Tuner Requirements in Order To Import and Distribute Mobile DTV Receivers Without Analog Tuners, MB Docket No. 10-111, DA 10-873 (rel. May 20, 2010) (the “*Public Notice*”). See also Request for Waiver of Section 15.117 of the Commission’s Rules to Permit the Manufacture, Importation, Marketing, Distribution and Sale of Digital Only Television Receivers for Mobile Devices, Hauppauge Computer Works, Inc., filed May 20, 2010, and Request for Limited Waiver of Section 15.117 of the Commission’s Rules To Permit the Marketing of Digital-Only Television Receivers Designed to Provide Mobile Television Reception, Dell, Inc. and LG Electronics USA, Inc. (collectively, the “Petitions”).

manufacturers' production schedules, which were based on an understanding that the Commission's rules did not require NTSC tuners in these devices.

The same arguments that justify grant of the Petitions also support Elgato's request that the Commission permit computer peripheral DTV receivers to be marketed without NTSC reception capability. Requiring NTSC tuners in computer peripherals will significantly increase costs for both manufacturers and consumers and will delay the availability of exciting products to American consumers. The most attractive feature of computer peripherals is that they allow customers to view and record HDTV programming on their computer screens – since NTSC signals are not broadcast in HD, customers will not purchase these products expecting to watch analog signals.

Moreover, requiring NTSC functionality at this point makes customers pay for undesired temporary functionality. Only Class A and low-power stations continue to broadcast in analog. The National Broadband Plan sets 2015 as the latest target date for termination of NTSC broadcasts by low-power and Class A stations.² Recent press accounts indicate the Commission is considering a date of 2012 for final conversion of Class A and low-power stations to DTV.³ Regardless of whether analog broadcasts terminate in 2012 or 2015, it is clear that NTSC tuners will be useful to consumers for much less than the useful life of the computer peripheral DTV receivers that Elgato and other manufacturers market. Enforcing an NTSC reception requirement for DTV peripherals would therefore decrease customer choice and force consumers to buy soon-to-be obsolete technology without providing any countervailing public benefits.

² See Connecting America: The National Broadband Plan at 84.

³ See Jonathan Make, *FCC Draft Rulemaking Eyes 2012 Low-Power Switch to DTV*, CONSUMER ELECTRONICS DAILY, June 10, 2010, at 5.

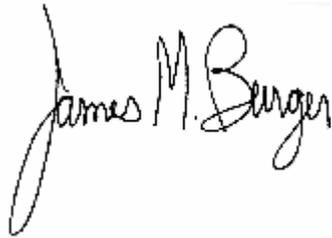
Computer peripheral DTV receivers have been sold for several years without analog reception capability and without consumer complaint or Commission action. Indeed, Elgato and other manufacturers have relied on Commission statements and actions indicating that such devices did not require NTSC tuners. That same analysis led mobile DTV manufacturers like Dell, LG, and Hauppauge to conclude that their devices also would not be required to tune analog signals, which is why those devices were designed without NTSC tuners. If the Commission approves these relatively recent design decisions made by mobile DTV manufacturers, equity requires the same treatment for ATSC-only computer peripherals that were designed years ago in an effort to further the transition to DTV. Just as the Commission should not disrupt the future marketing plans of mobile DTV manufacturers, it should not impair the market for ATSC-only computer peripheral DTV receivers that has developed over the years.

The Commission need not delay this proceeding to grant both the relief requested in the Petitions and that sought in Elgato's comments. The Petitions by their nature require the Commission to determine the scope of any ongoing NTSC reception requirement included in Section 15.117 of the Commission's rules. It follows that Elgato's request for an interpretation of that rule as excluding an NTSC reception requirement for computer peripherals is a logical outgrowth of the action contemplated in the *Public Notice*. In addition, the same important Commission policies of completing the DTV transition and helping consumers realize the full benefits of over-the-air DTV overwhelmingly support excusing both mobile DTV devices and computer peripherals from any ongoing NTSC reception requirement. Thus, the Commission has the authority to grant both the Petitions and the request for relief included in Elgato's

comments on the same expedited schedule. As demonstrated by Elgato's comments, the record amply supports that result.

Respectfully submitted,

ELGATO SYSTEMS, LLC

A handwritten signature in black ink that reads "James M. Burger". The signature is written in a cursive style with a large, looping initial "J".

James M. Burger
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