

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

In the Matter of	)	
	)	
Amendment of Parts 1, 2, 22, 24, 27, 90	)	WT Docket No. 10-4
and 95 of the Commission's Rules to	)	
Improve Wireless Coverage Through the	)	
Use of Signal Boosters	)	
	)	

**COMMENTS OF CELLPHONE-MATE, INC.  
ON ClearRF REQUEST FOR WAIVER**

Cellphone-Mate, Inc. (“Cellphone-Mate”), by its attorneys, submits these comments in support of the ClearRF request for waiver<sup>1</sup> of the March 1, 2014 signal booster compliance deadline established in the February 20, 2013 Report and Order.<sup>2</sup> ClearRF has identified real, substantial, and unavoidable delays in the development of the relevant standards that have thus far prevented the certification of a single compliant device to date. Even if backlogged applications are rapidly certified from this point forward, many manufacturers will not have enough time to purchase parts, assemble, package, and distribute a sufficient range of new devices to make them available to consumers by the March 1, 2014 deadline. As a result, the rule would inadvertently reduce the competitiveness of the signal booster market during a critical period for the industry. Cellphone-Mate agrees that a brief extension of six to ten months will help to ensure that consumers have access to a wide range of signal boosters and will help preserve competition in this important and growing industry, and urges the Commission to apply this waiver request to all booster manufacturers.

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<sup>1</sup> Request for Waiver of ClearRF, WT Docket No. 10-4 (Dec. 9, 2013) (“*ClearRF Waiver Request*”).

<sup>2</sup> *Amendment of Parts 1, 2, 22, 24, 27, 90 and 95 of the Commission's Rules to Improve Wireless Coverage Through the Use of Signal Boosters, WT Docket No. 10-4*, Report and Order, FCC 13-21 (rel. Feb. 20, 2013) (“*Order*”).

## **I. THE DEVELOPMENT OF BOOSTER TEST PROCEDURES HAS BEEN COMPLEX AND TIME-CONSUMING**

Following the release of the Report and Order, the Telecommunications Certification Body Council (“TCBC”) began developing laboratory test procedures necessary to test signal boosters for compliance with the newly-adopted Section 20.21 requirements. An initial draft was released in April, against which several booster devices were tested and comments were sought. After multiple drafts were prepared to respond to comments and refine the procedures, a final draft of test procedures was released on August 7, 2013.<sup>3</sup>

Even after lab test procedures were finalized and testing could begin on the backlog of boosters submitted for certification, however, laboratories, TCBs, and manufacturers required further time-consuming discussions to determine standardized presentations for test results and what showings or documentation were sufficient to demonstrate satisfaction of the test procedures. In the months that followed release of the test procedures, OET released explanatory materials to provide additional guidance.<sup>4</sup> As OET acknowledged, the “significant changes from the old rules” necessitated extensive use of the KDB process by manufacturers, test labs, and TCBs to request clarification and guidance during the compliance testing and application process.

In addition, it appears that an insufficient number of labs have been adequately involved in the test procedure development process to be prepared to immediately apply these procedures

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<sup>3</sup> Wideband Consumer Signal Booster Measurement Guidance, Publication 935210 D03, Office of Engineering and Technology (Aug. 7, 2013).

<sup>4</sup> See, e.g., Signal Boosters – Basic Definitions and Concepts For Equipment Authorization Applications, Office of Engineering and Technology (Oct. 31, 2013); Signal Boosters Certification Requirements, Office of Engineering and Technology, 935210 D02 (Oct. 31, 2013);

to the pending applications. Consequently, many manufacturers are seeking to process booster applications through a few labs, producing additional delays.

Compounding these complications, the federal government shut down for much of October, which meant that although the test procedures had been finalized, Commission staff was unavailable to answer questions from TCBs regarding the newly developed procedures, nor were any of the Commission's online resources such as the Knowledge Database ("KDB") available for reference.

As a result, there remains a significant backlog of boosters to be processed by the testing labs and TCB's. Cellphone-Mate alone has more than 10 models pending for certification, and other manufacturers may have multiple models as well. At the current rate, the certification process alone may require most if not all of the time remaining before the deadline, leaving little to no time for manufacturing and distribution.

Thus, despite the diligence of the OET, the TCBs, and manufacturers in developing and applying comprehensive new procedures, a waiver and brief extension is appropriate and necessary to ensure that newly certified devices are available to customers at the deadline.

## **II. THE SHORT TIME REMAINING BEFORE THE DEADLINE IS INSUFFICIENT TO MANUFACTURE AND DISTRIBUTE BOOSTERS CERTIFIED UNDER THE NEW RULES**

As the Commission is aware, the design, manufacture, and distribution of consumer electronic devices such as boosters require significant time as well as capital investment. Some larger manufacturers may be able to absorb the risk of producing and distributing large quantities of devices prior to certification. Many other providers, however, cannot afford to commence large-scale manufacturing until certification is complete and the marketability of new devices is

certain.<sup>5</sup> As a result, many booster companies are only now commencing manufacturing and will be unable to complete production and distribution of a sufficient range of compliant devices before the March 1, 2014 deadline to cease sales of non-compliant devices.

ClearRF is one such company, but the circumstances prompting ClearRF's waiver request are far from unique. Like Cellphone-Mate, ClearRF notes that the fine-tuning of the testing procedures have required time-consuming correspondence with resulting in retesting and additional delays, compounded by the Federal government shutdown and the corresponding unavailability of Commission personnel.<sup>6</sup>

As the ClearRF waiver request notes, ClearRF devices use different technology than Cellphone-Mate and many other booster manufacturers.<sup>7</sup> This has caused potentially even greater delays for ClearRF, but the general pattern is the same for all affected companies: a necessarily complex and lengthy standards development process, exacerbated by the government shutdown, means that devices are only now beginning to be certified, less than two months before the deadline. This period is insufficient to permit most, if not all, manufacturers of new

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<sup>5</sup> Cellphone-Mate has attempted to employ a measured approach to addressing this risk. Cellphone-Mate, at its own risk, has initiated manufacturing on four of its smaller dual-band and tri-band consumer booster devices in advance of FCC certification approval for those devices, while refraining from initiating manufacturing on its more expensive (and historically more popular) wide band booster devices that are capable of operating on all cellular frequencies until FCC approval has been received. *See* News Release, SureCall by Cellphone-Mate, "Four Cellphone-Mate Products Pass New FCC Certification Tests for Agency Approval" (Dec. 2, 2013), available at <http://www.surecall.com/UploadFiles/20131202/2013120211250090.pdf>.

<sup>6</sup> Supplement to Petition for Waiver of ClearRF, at 1, WT Docket No. 10-4 (Dec. 202013) ("*ClearRF Supplement*") (explaining that "testing procedures have been evolving as evident from the October 2013 TCB presentation" and that "the new Part 20 rules did not become effective until 9/11/2013").

<sup>7</sup> *Id.* at 1-2.

devices adequate time to produce and distribute a significant range of the new devices.<sup>8</sup> As ClearRF notes, a six month timeline from certification to distribution assumes a best case scenario, and could be significantly longer.<sup>9</sup> As a result, a six to ten month extension is warranted for all providers.

### **III. WAIVER IS APPROPRIATE TO PERMIT A RANGE OF PROVIDERS TO REACH THE MARKET WITH COMPLIANT DEVICES AND PRESERVE THE COMPETITION IN THE SIGNAL BOOSTER MARKET**

Waiver is appropriate when unusual factual circumstances make application of the rule inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.<sup>10</sup> In this case, strict application of the rule would be inequitable and unduly burdensome because the Commission has not yet begun certifying boosters for sale, and many manufacturers cannot afford to undertake the financial risk associated with building large quantities of inventory prior to certification. Many small manufacturers, such as ClearRF and Cellphone-Mate, have no reasonable alternative but to wait until the certification process is complete to begin producing a full range of new boosters, even if this means that most of its booster models they will be unavailable to consumers until well after the deadline.

Strict adherence to the deadline is also contrary to the public interest because it could harm competitiveness in the booster market over the long term by significantly contracting the number of booster manufacturers with salable products during a critical period in which major

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<sup>8</sup> *ClearRF Petition* at 2 (explaining that “the manufacturing and restocking with our resellers wouldn’t fully occur until mid-2014 at best case”).

<sup>9</sup> *ClearRF Supplement* at 3.

<sup>10</sup> 47 C.F.R. § 1.925.

booster manufacturers expect to “aggressively market new devices to consumers, hastening the migration to new booster technologies.”<sup>11</sup>

Moreover, a brief extension will not harm the interests of wireless services operators or users, as many modern boosters already incorporate a variety of measures to protect against interference with wireless service.<sup>12</sup> The brief extension will also permit consumers greater access to a range of boosters with different features and price points, potentially making them more likely to replace old boosters with newer models rather than continuing to use them under the Order’s grandfathering provisions.

#### **IV. CONCLUSION**

The Report and Order sought to broaden the availability of signal boosters to consumers while also ensuring a “robust, competitive market for booster technology.”<sup>13</sup> A waiver and brief extension of six to ten months for the marketing and sale of existing non-compliant boosters from all manufacturers will help ensure that consumers have access to adequate boosters from a variety of suppliers. Importantly, an extension will not have any adverse effect on wireless networks because even non-compliant devices contain many interference mitigation technologies, and the brief delay would help to maintain a greater selection of boosters on the market, encouraging competitive pricing and incentivizing consumers to switch to more

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<sup>11</sup> *Order*, ¶ 128 n.285 (citing Wilson Comments at 9; Wireless Extenders Reply Comments at 9-10).

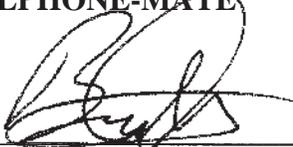
<sup>12</sup> *See, e.g. ClearRF Waiver Request* at 1.

<sup>13</sup> *Id.*, ¶ 2.

advanced models. Cellphone-Mate supports the waiver request of ClearRF and requests that the waiver be applied to all manufacturers.

Respectfully submitted,

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