

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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| In the Matter of |) | |
| |) | |
| Cyren Call Communications Corporation |) | RM No. 11348 |
| Petition for Rulemaking, Reallocation of 30 |) | |
| MHz of 700 MHz Spectrum (747-762/777-792 |) | |
| MHz) from Commercial Use, Assignment of |) | |
| 30 MHz of 700 MHz Spectrum (747-762/777- |) | |
| 792 MHz) to the Public Safety Broadband |) | |
| Trust for Deployments of a Shared Public |) | |
| Safety/Commercial Next Generation Wireless |) | |
| Network |) | |

To: The Public Safety and Homeland Security Bureau

OPPOSITION TO PETITION FOR RECONSIDERATION

The Consumer Electronics Association (“CEA”)¹ hereby opposes Cyren Call Communications Corporation’s (“Cyren Call”) Petition for Reconsideration² in opposition to the Public Safety and Homeland Security Bureau’s (“Bureau”) decision to dismiss its Petition for Rulemaking.³ CEA previously submitted comments in opposition to Cyren Call’s proposal because it threatens to disrupt the delicate balance struck in the Digital Television Transition and

¹ CEA is the principal trade association promoting growth in the consumer technology industry through technology policy, events, research, promotion and the fostering of business and strategic relationships. CEA represents more than 2,100 corporate members involved in the design, development, manufacturing, distribution and integration of audio, video, mobile electronics, wireless and landline communications, information technology, home networking, multimedia and accessory products, as well as related services that are sold through consumer channels. Combined, CEA's members account for more than \$140 billion in annual sales.

² Cyren Call Communications Corporation, *Reallocation of 30 MHz of 700 MHz Spectrum (747-762/777-792 MHz) from Commercial Use; Assignment of 30 MHz of 700 MHz Spectrum (747-762/777-792 MHz) to the Public Safety Broadband Trust for Deployment of a Shared Public Safety/Commercial Next Generation Wireless Network*, RM-11348, Petition for Reconsideration (filed Dec. 4, 2006) (“Petition for Reconsideration”).

³ *Reallocation of 30 MHz of 700 MHz Spectrum (747-762/777-792 MHz) from Commercial Use; Assignment of 30 MHz of 700 MHz Spectrum (747-762/777-792 MHz) to the Public Safety Broadband Trust for Deployment of a Shared Public Safety/Commercial Next Generation Wireless Network*, RM-11348, Order, at 2, DA 06-2278 (PS&HSB Nov. 3, 2006) (“Order”).

Public Safety Act of 2005 (“DTV and Public Safety Act”).⁴ As the Bureau found in its *Order*, Cyren Call’s proposal contravenes the Communications Act, and the Commission has no authority to act on the petition. Furthermore, it is at odds with the Commission’s ongoing rulemaking to consider a nationwide, interoperable, broadband public safety communications network within public safety’s existing 24 MHz allocation in the 700 MHz band.⁵ For these reasons, the Bureau should deny Cyren Call’s Petition for Reconsideration.

As CEA noted previously, after years of negotiation, Congress struck a delicate balance in setting a February 17, 2009 hard deadline to complete the national transition to digital television.⁶ In addition to fulfilling the DTV transition, the law will ensure that public safety is given the 24 MHz of additional spectrum that the 9/11 Commission recommended for interoperability. Further, Congress directed the Commission to auction for commercial use 60 MHz of recovered spectrum in the 700 MHz band no later than January 28, 2008.⁷ The Congressional Budget Office estimated that the auction will garner “between \$10 billion and \$15 billion”⁸ and Congress has already committed auction proceeds to several important public policy initiatives including \$1 billion in grants to help public safety deploy interoperable communications in the 700 MHz band. Additional proceeds will fund implementation of the National Alert and Tsunami Warning System, the ENHANCE 911 Act of 2004, and the Warning, Alert, and Response Network Act (“WARN Act”), not to mention the digital-to-analog

⁴ Comments of the Consumer Electronics Association, RM-11348, at 1-2, citing Deficit Reduction Act of 2005, Pub. L. No. 109-171, 120 Stat. 4, tit. III (2006) (“CEA Comments”).

⁵ *Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band*, Ninth Notice of Proposed Rulemaking, 21 FCC Rcd 14837 (2006) (“*Ninth NPRM*”).

⁶ CEA Comments at 2, citing Deficit Reduction Act, § 3002(b).

⁷ Deficit Reduction Act at § 3003(a)(2).

⁸ Congressional Budget Office, Cost Estimate: Digital Transition and Public Safety Act of 2005, at 3-4 (Oct. 24, 2005), available at <http://www.cbo.gov/ftpdocs/68xx/doc6810/SenCommRec.pdf>.

converter box program.⁹ Cyren Call's proposal to reallocate of 30 MHz to public safety in addition to the 24 MHz already allocated threatens the balance that Congress has struck.

The Bureau should confirm its finding that the Commission does not have the legal authority to take further action on the Rulemaking Petition. In the *Order*, the Bureau concluded that Cyren Call's Petition is inconsistent with Section 337(a) of the Communications Act, which governs the allocation of spectrum in the 700 MHz band for use by public safety, and Section 309(j)(15)(C)(v)'s auction requirement.¹⁰ Cyren Call has itself conceded that Congressional action would be needed before its proposal could be implemented.¹¹ Given that there is no legal basis for adopting Cyren Call's proposal, the Petition for Reconsideration should be denied.

Cyren Call's Petition for Rulemaking not only contravenes the Communications Act – it serves at cross-purposes to the ongoing rulemaking the Commission is considering to establish a nationwide, interoperable, broadband public safety network. CEA submitted comments in support of the objectives identified in the *Ninth NPRM*. It provides a readily achievable approach to providing nationwide, interoperable broadband to public safety without disrupting the DTV transition.

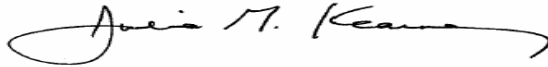
Cyren Call's proposal is contrary to law and threatens to undermine the important achievements established in the DTV and Public Safety Act. For these reasons, CEA urges the Bureau to deny the Petition for Reconsideration of its *Order* dismissing Cyren Call's Petition for Rulemaking.

⁹ Congress committed proceeds of the auction to these initiatives through the DTV and Public Safety Act, Deficit Reduction Act of 2005 at tit. III, with the exception of the implementation provision of the WARN Act, which Congress enacted as part of the Security and Accountability for Every Port Act of 2006, Pub. L. No. 109-347, tit. VI (enacted Oct. 13, 2006).

¹⁰ *Order* at 4.

¹¹ Petition for Reconsideration at 2.

Respectfully submitted,



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March 16, 2007

CERTIFICATE OF SERVICE

I, Paula Lewis, hereby certify that the foregoing Opposition to Petition for Reconsideration was served this 16th day of March, 2007 by depositing a true copy thereof with the United States Postal Service, first class postage prepaid, addressed to the following:

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/s/ Paula Lewis

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