

health and welfare departments or agencies, Internal Revenue Service, and intra-agency memoranda.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Federal Communications Commission.

Bulah P. Wheeler,

Deputy Manager, Office of the Secretary, Office of Managing Director.

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FEDERAL COMMUNICATIONS COMMISSION

[ET Docket No. 04-186 and 02-380; DA 11-1291]

Unlicensed Operation in the TV Broadcast Bands

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document the Office of Engineering and Technology conditionally designates Microsoft Corporation as TV bands device database administrators. The TV bands databases will be used by fixed and personal portable unlicensed devices to identify unused channels in the spectrum used principally by the broadcast television service that are available at their geographic locations. Microsoft is the tenth entity designated to develop a database that will enable the introduction of this new class of unlicensed broadband wireless devices in the TV spectrum.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order*, ET Docket No. 04-186 and 02-380, DA 11-1291, adopted July 28, 2011 and released July 29, 2011. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554. The full text may also be downloaded at: <http://www.fcc.gov>.

Summary of Order

1. In this *Order*, the Office of Engineering and Technology designates

Microsoft Corporation as a TV bands database administrator pursuant to § 15.715 of its rules, subject to conditions described. The TV bands databases will be used by fixed and personal portable unlicensed devices to identify unused channels in the spectrum used principally by the broadcast television service that are available at their geographic locations. Microsoft is the tenth entity designated to develop a database that will enable the introduction of this new class of unlicensed broadband wireless devices in the TV spectrum.

2. On September 23, 2010, the Commission adopted a *Second Memorandum Opinion and Order* (*Second MO&O*) in ET Docket No. 04-186, 75 FR 75814, December 6, 2010, that updated the rules for unlicensed wireless devices that can operate in broadcast television spectrum at locations where that spectrum is unused by licensed services. This unused TV spectrum is commonly referred to as television "white spaces." The rules allow for the use of unlicensed TV bands devices in the unused spectrum to provide broadband data and other services for consumers and businesses.

3. To prevent interference to authorized users of the TV bands, TV bands devices must include a geo-location capability and the capability to access a database that identifies incumbent users entitled to interference protection, including, for example, full power and low power TV stations, broadcast auxiliary point-to-point facilities, PLMRS/CMRS operations on channels 14-20, and the Offshore Radiotelephone Service. The database will calculate and communicate to a TV bands device which TV channels are vacant and can be used at the device's location. The database will also register the locations of fixed TV bands devices and protected locations and channels of certain incumbent services that are not recorded in Commission databases. The rules state that the Commission will designate one or more entities to administer a TV bands database.

4. The Office of Engineering and Technology (OET) released a public notice on November 25, 2009, inviting entities interested in being designated as a TV bands database administrator to file proposals with the Commission and inviting comments on the proposals. The notice requested that entities address how the basic components of a TV band database as required by the Commission's rules would be satisfied—*i.e.*, a data repository, a data registration process, and a query process—and whether the entity sought to provide all or only some of these functions. Entities

were also required to affirm that the database service would comply with all of the applicable rules. Nine parties filed proposals in response to this public notice.

5. On January 26, 2011, OET issued an *Order* designating all nine parties that filed proposals as TV bands database administrators, subject to certain conditions. Specifically, the administrators were required to: (1) Supplement their initial filings to show how they will comply with the rule changes adopted in the *Second MO&O*; (2) attend workshops conducted by OET to address the operation of the databases to ensure consistency and compliance with the rules; (3) cooperate with any steps OET deems necessary to ensure compliance with the rules; and (4) agree that they will not use their capacity as a database manager to engage in any discriminatory or anti-competitive practices or any practices that may compromise the privacy of users. In addition, each administrator's database will be subject to a trial period of not less than 45 days before it is allowed to be made available for actual use by TV bands devices to allow interested parties an opportunity to check that the database is providing accurate results. OET conducted three workshops after the release of the January 26, 2011 order.

6. On April 18, 2011, Microsoft Corporation filed a proposal with OET seeking designation as a TV bands database administrator. Microsoft's proposal addressed the questions in the November 25, 2009, public notice that invited proposals from parties seeking to be designated as database administrators. In addition, Microsoft provided information to show that it will comply with the rule changes adopted in the *Second MO&O* and stated that it will comply with the other three conditions in the January 26, 2011, order that conditionally designated the nine database administrators. Microsoft representatives attended all three of OET's database administrator workshops. On April 29, 2011, OET issued a public notice seeking comment on Microsoft's proposal. Two parties filed comments, and Microsoft filed reply comments.

Discussion

7. Based upon our review of its proposal and the record before us, OET is designating Microsoft Corporation as a TV bands database administrator, subject to the conditions described. OET finds that Microsoft has shown that it has the technical expertise to develop and operate a TV bands database. Moreover, none of the concerns raised

by any of the commenters in the record before us causes us to conclude that Microsoft is not capable of meeting all the requirements placed on database administrators by the Commission's rules in the *Second Report and Order* and as modified in the *Second MO&O* or that it should otherwise not be designated as a database administrator.

8. OET is not persuaded that the factors cited by the Engineers for the Integrity of Broadcast Auxiliary Services Spectrum (EIBASS) demonstrate that Microsoft is not qualified to administer a TV bands database. With regard to the issue of the timeliness of Microsoft's proposal, the rules do not prohibit additional parties from requesting designation as a TV bands database administrator after other parties have already been designated. In fact, the rules were designed with the expectation that there could be changes in database administrators over time, e.g., administrators are designated for a five-year term, subject to renewal at the Commission's discretion, and an administrator that ceases operation must transfer its database to another designated entity that takes its place. The original filing deadline was established by OET to allow orderly processing of the initial prospective database administrators as a group. However, this deadline was not intended to preclude other parties from requesting designation as a database administrator at a later date.

9. With regard to the issue of the protection of authorized services, the Commission's November 25, 2009 public notice did not request that prospective database administrators submit a complete list of every licensed service that is eligible for protection from TV bands devices. The Commission's rules and procedures for database testing and approval will ensure that all TV bands databases protect all eligible facilities. We note that Microsoft's proposal and response states that it will obtain information about protected services from several different sources, including the Commission's databases, which contains information on the services that EIBASS referenced in its comments.

10. The Commission authorized the channel range for the Microsoft STA that EIBASS contends is overly large and contains operating TV stations. The Commission specified the large channel range requested by Microsoft to simplify processing of the STA. Rather than determining in advance which channels within that range were vacant at the STA's location, the Commission made operation subject to the condition that Microsoft coordinate with the Society of

Broadcast Engineers (SBE) to ensure that operation would occur only on vacant TV channels. The Commission has taken this same approach with other experimental authorizations for operations in the TV bands. While EIBASS is correct that the Microsoft STA does not name the precise location of operation within Las Vegas, one can easily determine that the geographic coordinates specified in the STA correspond to the Las Vegas Convention Center. As for EIBASS's contention that Microsoft initially failed to contact SBE, the parties do not dispute the fact that coordination did occur before Microsoft began operations. Microsoft states that it did coordinate with SBE and EIBASS prior to operating, and EIBASS states that the Las Vegas area frequency coordinator was made aware of the STA prior to operation. Furthermore, the Commission received no complaints of interference resulting from Microsoft's operation under this STA. We find no basis here to reject Microsoft as a TV bands database administrator.

11. Cohen, Dippell and Everist, P.C. ("CDE") filed brief comments on the Microsoft proposal. CDE recommends that the database be updated at 12-hour intervals, seven days a week to provide the most accurate and timely information to white spaces users. However, making this change mandatory for database administrators would require modifications to our rules, which currently require synchronization of TV bands databases with the Commission databases once a week and synchronization between TV bands databases once every 24 hours. Such rule changes are outside the scope of this Order.

12. OET is designating Microsoft as a TV bands database administrator subject to the same conditions it required of the nine previously designated administrators. Microsoft has already satisfied several of these conditions. Specifically, it included in its request to be designated as a database administrator information to show that it complies with the rule changes adopted in the *Second MO&O* and stated that it would not use its capacity as a database manager to engage in any discriminatory or anti-competitive practices or practices that may compromise the privacy of users. Microsoft also participated in all three database administrator workshops held by OET thus far. Microsoft will also be required to take part in any future workshops that may be held by OET that address database implementation details and provide guidance on the requirements to the database administrators. In addition, Microsoft

must cooperate with any steps OET deems necessary to ensure that the TV bands databases provide accurate and consistent lists of protected services and available channels. Further, it must support capabilities that OET deems necessary to ensure that any changes in registration of protected facilities in one database are rapidly reflected in all others.

13. Consistent with our previous action designating database administrators, Microsoft's database will be subject to a trial period of not less than 45 days before it is allowed to be made available for actual use by TV bands devices to allow interested parties an opportunity to check that the database is providing accurate results. A longer trial period may be required if we determine that its database is not in compliance with the Commission's rules. OET will determine the details of the trial, balancing the need to ensure that the database is working properly with the need to avoid an unnecessarily cumbersome and burdensome process.

14. If Microsoft successfully satisfies all of the conditions herein, it will be allowed to make its database available for actual use for the five year term specified in our rules. In such case, OET will announce the public availability of the database, at which time the five year term for that database will commence.

15. In summary, OET has considered Microsoft's proposal and all the comments and replies filed in response to the April 29, 2011 Public Notice. We conclude that Microsoft is capable of meeting the Commission's regulatory requirements for serving as a database administrator, as set forth in the Commission's rules, including the rule revisions adopted in the *Second MO&O*. Accordingly, we are designating Microsoft Corporation as a TV bands database administrator subject to the conditions described.

Ordering Clause

16. Pursuant to the authority contained in sections 4(i), 302, 303(e), 303(f), and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, 303(c), 303(f), and 307, and §§ 0.31 and 0.241 of the Commission's rules, 47 CFR 0.31, 0.241, Microsoft Corporation *is designated* as a TV bands database administrator as set forth in Section 15.715 of the Commission's rules, 47 CFR 15.715, subject to the conditions specified.

Federal Communications Commission
Julius P. Knapp,
Chief, Office of Engineering and Technology.
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