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Via E-mail and U.S. Mail
Julius.Knapp@fcc.gov

Julius P. Knapp, Chief
Office of Engineering and Technology
Federal Communications Commission
445-12th Street, S.W.- 7th Floor
Washington, D.C. 20554

Re: File No. 0209-EX-ST-2008; Call Sign **WD9XHY**

Dear Mr. Knapp:

The undersigned serves as General Counsel for the Society of Broadcast Engineers (SBE). The purpose of this letter is to express the extreme disappointment of SBE in the recent action of the Experimental Licensing Division relative to the above-referenced Special Temporary Authority (STA). Specifically, and inexplicably, the Experimental Licensing Division granted this STA to **Philips** Research NA, a division of **Philips** Electronics North America Corp. on or about May 1, 2008 for the purpose of conducting TV white space device testing in Washington, D.C., and then, a week later, on May 7, 2008, and with no apparent further submissions by **Philips**, the Division *re-issued* that STA. The only changes in the re-issued STA were (1) an extension of the term of the STA **from** one month to two months, and (2) the **deletion** of the condition attached to the originally issued STA that operation pursuant to the STA is subject to prior coordination with the Society of Broadcast Engineers, Inc. It is the unexplained and arguably politically motivated deletion of this prior coordination condition that triggers this **letter**.

As you well know, SBE has long conducted a **frequency** coordination program that is premised on licensee-to-licensor contact and accurate database management. It has worked exceptionally well and facilitates much higher density loading of spectrum used for broadcast **auxiliary** operations than would otherwise be possible, and extensive **frequency** re-use. OET, several years ago, agreed to attach coordination conditions to experimental licenses and **STAs**. The benefits of those conditions are the avoidance of interference and the ability to quickly determine the source of any interference that results to or **from** the experimental operations or operations pursuant to STA, to facilitate cooperative, informal remedies on a rapid basis. The program is operated by volunteers and costs the public, and licensees, **nothing at all**. It is beneficial not only to the broadcast

and LTTS licensees, but also to other users of Broadcast Auxiliary (BAS) spectrum, including STA holders and Experimental licensees operating on a non-interference basis in the same allocations.

As Ira Keltz of your **staff** put it earlier this week during a telephone conversation about a different TV "white spaces" STA, the Experimental Licensing Division puts the coordination condition on "99.9 **percent**" of all STAs and experimental licenses issued. While **SBE's** experience would indicate that estimate to be a bit high (as some of the processing engineers at OET omit the condition occasionally, presumably through oversight) the condition is attached to the majority of STAs and experimental licenses. While as Mr. Keltz reminded me this week, OET is not obligated to put that condition on such authorizations, it is nevertheless presumably done as standard procedure because it is beneficial for all concerned. The SBE frequency coordinators provide these useful services as volunteers, and SBE policy is that the coordinators must accommodate all RF users. No one is told that they cannot operate.

SBE was made aware that **Philips** had obtained the referenced STA when it was initially issued. No one **from Philips** ever contacted SBE headquarters pursuant to the condition when the STA was initially issued, or to date. It was a surprise, however, to find out recently that the STA was mysteriously re-issued without the coordination condition. This week, during the above-referenced telephone call from Mr. Bruce Romano and Mr. Keltz about a different STA, I was told that OET had granted the STA to **Adaptrum** (See, **WD9XIC**) for TV "white spaces" testing in California. That STA does contain the coordination requirement. **Adaptrum** has contacted SBE pursuant to the STA coordination condition, and coordination is completed to the satisfaction of **Adaptrum** and SBE. However, when **Adaptrum** discovered that **Philips** had managed somehow to have the SBE coordination condition removed from its **STA**, **Adaptrum** (prior to completion of coordination with SBE) asked for the same relief, but was (in SBE's view, quite properly) denied.

The question is what makes **Philips** so special as to be able to bypass the coordination condition attached to "99.9 **percent**" (Mr. Keltz' representation) of all STAs and experimental authorizations? I asked that question during the telephone call and was told that the **Philips** STA was "for a short term" and that a determination had been made at OET (by some unnamed members of the staff, apparently) that the **Philips** operation was "not likely to cause interference." This explanation is untenable and unsupported by any information that has been provided to SBE, or to anyone else as far as I can tell. The **Philips** demonstrations of TV "white spaces" transmitters will occur over a two-month period, during May and June, 2008. This is **not** in SBE's view, nor by any comparison to other granted STAs, a "**short**" period of time. It will occur in Washington, D.C., an extremely congested market for TV pickup and wireless microphone operation by BAS and **LTTS** licensees. Interference **from** these devices is extremely likely (notwithstanding indoor operation at 50 **mW** of power) to BAS operations, and uncoordinated use of the devices is even more likely to result in interference. Because the vague justification offered to the undersigned for the precipitous, about-face deletion of the coordination condition is in our view based on a mistake of technical fact, we would request any and

all technical evaluations that OET has made with respect to this STA in particular in order for the staff to **determine** that the STA will not cause interference to any Broadcast Auxiliary operations in Washington, D.C. If it is necessary to do so, SBE will file a Freedom of Information Act request for this information. If the information does not exist, which SBE believes is likely, then we would request that the coordination condition be reinstated on this STA immediately.

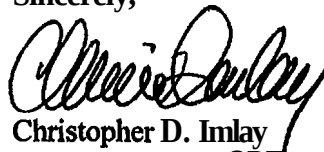
A much more likely explanation than that offered to the undersigned is found in the single application filed by **Philips** on April 22, 2008. The contact person for Commission inquiries for this application is (former OET Chief) **Edmond** Thomas. SBE would like to know what effect Mr. Thomas' prior relationship with the Commission had on the decision to remove the coordination condition attached to the originally issued STA a week before the re-issued STA was released. The application also notes that the STA is in part for the purpose of demonstrating TV "white spaces" devices to senior Commission **staff**. The removal of the coordination condition on this STA means that the broadcast community will not have any idea when or where specifically these devices will be operating. If such operation causes interference to BAS operations, it will be difficult or impossible to isolate the source, absent an accurate database. So, the deletion of the coordination condition makes it a sure bet that no **harmful** interference, if any there is from this operation, will be reported to the Commission. Since an interference complaint would spoil the demonstration to the "**senior** Commission personnel" or having any effect on the ongoing ET Docket 04-186, it is apparent that the deletion of the coordination condition will insure that no bad news is discovered about the white space devices under "test".

SBE, which has attempted to be as cooperative as possible in any and all prior BAS spectrum sharing initiatives of the Commission, frankly finds the action of OET in this instance to be surprising and misdirected, and its motivations suspicious. It is completely inconsistent with the highly touted effort to conduct "**white** space" testing in an open and transparent manner. The United States Court of Appeals for the District of Columbia Circuit has just last month admonished the Commission not to "**play** hide the peanut with technical information; hiding or disguising the information that it employs." *American Radio Relay League, Incorporated v. FCC and USA*, No 06-1343, Slip Op. April 25, 2008. It would seem to SBE that demonstrations of these devices to "senior Commission personnel" ought to be even more transparent than normal device testing, not less.

We look forward to receiving any technical investigations or reports that the Commission has concerning the determination that the **Philips** devices will not cause interference to BAS operations in the spectrum listed on the STA. If, as suspected, there

are none, we would insist on the reissuance of this STA with a prior coordination condition, as was done in the normal course at the outset.

Sincerely,



Christopher D. Imlay
General Counsel, SBE

Cc: **Ira Keltz, FCC**
Bruce Romano, FCC
David Donovan, MSTV
Barry Thomas, SBE
Ralph Beaver, SBE
Inspector General, FCC