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## **FCC Attaches Strings To Wireless Mics**

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The FCC has bitten the bullet and taken steps to clear the 700 MHz band of wireless microphones in order to make room for new uses. At the same time, it has legalized these devices in the hands of formerly unlawful users.

Wireless microphones are ubiquitous. We see them on live and televised music shows and in TV news reporting. They are just as important, although less visible, when hidden under clothing in movies and TV drama and in live theater; they are equally indispensable to sports arenas, houses of worship, community centers, universities – anywhere that one person speaks to many. Even the FCC's own meeting room has a few.

Most professional wireless microphones use unoccupied channels in the TV bands. These do not cause interference to TV reception because the large users, and the companies that sell to small users, are careful about avoiding TV channels in use. Even the organizations devoted to protecting broadcast spectrum have accepted wireless microphones.

Until now, the use of wireless microphones required an FCC license. Eligibility was strictly limited to broadcasters and radio, TV, cable, and movie production, and a few other groups. All other users – music venues, Broadway shows, churches, garage bands – have been operating illegally. These folks are supposed to use non-TV frequencies, but the TV-band microphones work better, and so are by far the most popular. Even so, the unlicensed use of wireless microphones caused no trouble, so the FCC left things alone.

Then came the digital TV transition, in the course of which the FCC repacked the channels to free up the 700 MHz band (the channels formerly known as TV Channels 52-69) for other uses. But some wireless microphones left over from before the transition still operate in that part of the band. These may cause problems for the new users of 700 MHz, primarily public safety and commercial applications.

The FCC has now issued a 101-page Report and Order and Further Notice of Proposed Rulemaking that attempts both to clear the 700 MHz band and to legitimize the non-licensed users.

The bottom line: starting when the new rules are published in the Federal Register (likely within the next few weeks), wireless microphones and other low power auxiliary devices on Channels 52-69 may no longer be imported, manufactured, sold, or leased in the United States. Use of any such devices now in operation must cease by **June 12, 2010**, *with no exceptions*. They must clear out earlier on 60-days notice from a 700 MHz operator who plans to start operations, and immediately if they cause actual interference at any time.

None of this is a surprise. The FCC has been saying for over a decade that Channels 52-69 must be vacated. But it has waited unto now, six months after the DTV transition, to take definitive action.

The widespread use of non-licensed microphones puts the FCC in a bit of a predicament. The Commission would take far too much heat if it started confiscating unauthorized devices and shutting down Broadway and Sunday Mass, to say nothing of your kid's school play. Rather than investigate and prosecute ineligible users, the FCC decided instead to find a way for everyone to get most of what they want.

For now, both old and new users who are currently ineligible for licenses may nonetheless operate legally on an unlicensed basis, at up to 50 milliwatts power, until the FCC decides on permanent rules. In the "Notice of Proposed Rulemaking" portion of its document, the Commission has invited comments on who should be eligible for licenses in the future, how licensed and unlicensed operation should be permitted, and what technical standards should apply. The FCC must figure out power limits, whether new units must be digital to minimize interference potential, which TV channels should be available, and the interference implications to and from "white space" devices, including the details of database registration for wireless microphones. The rules are likely to forbid data transmission, interconnection with the telephone network, wireless telephone headsets, and after-market RF amplifiers. (Comments on these questions will be due 30 days after the order is published in the *Federal Register*; reply comments will be due 51 days after Fed Reg publication.)

And enough, says the FCC, of selling wireless microphones to customers who do not understand the license requirements. Effective **February 28, 2010**, conspicuous disclosure will be required throughout the distribution chain – on websites, in catalogs, in displays, and even on the boxes in which microphones are sold – to warn buyers about which frequencies are legal and who needs a license. (We have posted a link at [www.CommLawBlog.com](http://www.CommLawBlog.com) to the actual verbiage the FCC wants to see in such disclosures.) The FCC is even considering making customers sign an acknowledgment that they understand the rules (which might work as well as their requirement, given up

some decades back, that made everyone with a CB radio get a license).

Retailers must pull 700 MHz-capable units off their shelves immediately. Those units may now be manufactured only for export, and starting April 15, 2010 (the Office of Management and Budget willing, that is), must be labeled in all cases with a clear advisory that the units cannot be used in the U.S. Manufacturers are encouraged to continue trade-in and rebate programs that replace noncompliant devices and are expected to notify users who have filed warranty registrations.

Current licenses that authorize 700 MHz band operation will automatically be modified to delete those frequencies effective June 12, 2010, but will remain valid for lower frequencies. A few licenses which are for only the 700 MHz band will be void.

So your clergy will not be forced to shout from the pulpit, Broadway will not shut down, and rock bands will still split your ears, thanks to a better organized and more realistic regulatory scheme. And the FCC can keep on using the wireless microphones in its meeting room.