

**DOCKET****07-AAER-3**DATE JAN 19 2009RECD. JAN 20 2009

January 19, 2009

Mr. Arthur H. Rosenfeld  
Chairman and Presiding Member, Efficiency Committee  
CALIFORNIA ENERGY COMMISSION  
1516 Ninth Street  
Sacramento, CA 95814

RE: Docket # 07-AAER-3C: 2008 Rulemaking Proceeding on Appliance Efficiency Regulations

Dear Chairman Rosenfeld:

Thank you for the opportunity to allow Best Buy to express our concerns and offer important suggestions regarding the California Energy Commission's 2008 Rulemaking Proceeding on Appliance Efficiency Regulations, specifically Draft Efficiency Standards for Televisions report. Best Buy serves on the Board of the California Retail Association and we were pleased that Heidi DeJong Barsuglia, the Director of Government Affairs for the California Retail Association, was able to participate in the CEC's December 15<sup>th</sup> stakeholder's workshop.

With operations in the United States, Canada, Europe, China and Mexico, Best Buy is a multinational retailer of technology and entertainment products and services with a commitment to growth and innovation. The Best Buy family of brands and partnerships collectively generates more than \$40 billion annual revenue and includes brands such as Best Buy, Audiovisions, The Carphone Warehouse, Future Shop, Geek Squad, Jiangsu Five Star, Magnolia Audio Video, Napster, Pacific Sales Kitchen, Bath and Electronic Centers, The Phone House and Speakeasy.

Best Buy Co. Inc. currently operates 114 Best Buy retail stores, 28 Pacific Sales Kitchen, Bath and Electronic Centers, 8 Magnolia Audio Video retail stores, 3 Audiovisions retail stores, 1 Service Center, 1 Distribution Center, and 1 District Appliance Warehouse and employs approximately 20,000 employees in California.

Best Buy respectfully urges the CEC to turn its attention from a punitive and unnecessary regulatory approach to a more positive incentive-based approach which not only advances energy efficiency but helps stimulate the economy as well. Best Buy asks that the CEC recognize the ongoing success of market-based and consumer-oriented programs that are already in place which support energy efficiency in televisions. Best Buy also asks that the CEC carefully consider the negative economic impact, including impacts on price, choice, local businesses, revenue and jobs, of state-specific regulations that attempt to mandate an artificial energy use limit on products with the objective of removing a significant number of products from store shelves.

**Best Buy feels that consumer incentives offer a positive approach to achieving the outcomes that CEC is seeking.**

- Best Buy is currently pursuing new energy efficiency programs in conjunction with several California utility companies and we are hopeful to unveil numerous opportunities for our customers in the near future, thus making much of the regulatory action the CEC is seeking unnecessary.
- Best Buy is pleased to participate with the PG&E-led rebate program to offer customers choices for energy efficient consumer electronics, including televisions, by promoting a new “upstream” incentive program for energy efficient consumer electronics.
- We believe this new rebate program, in conjunction with the successful ENERGY STAR program already in place for televisions, will vigorously address the energy savings and carbon emissions reduction goals of the CEC and State of California. Together, these market-based and consumer-oriented programs will drive further energy efficiency in the consumer electronics space without the negative economic impacts of the CEC’s draft proposal for energy use limits.

**In the technology and entertainment products sector, mandating such artificial and unnecessary state energy use limits for businesses and customers on a state by state basis limits consumer choice, increases product costs significantly, drives consumers to out-of-state retailers and on-line sellers, and leads to unfair competition in the marketplace.**

- The CEC’s proposal to set an energy use limit, remove a significant portion of televisions from the assortment available in California and will only add additional pressures to the supply chain and suppliers, limiting consumer choice and adding to retail prices.
- As a retailer that competes with on-line sellers that have no nexus, Best Buy has real concerns with any added regulations that increase costs for brick-and-mortar retailers in the State of California. There are already fees on televisions at point of sale for recycling that increased significantly as of January 1, 2009. The CEC’s draft proposal would add additional costs to televisions and could drive consumers to on-line sellers or out-of-state sellers that do not contribute to the sales tax or job base in California.
- The CEC’s draft proposal for an energy use limit on televisions would result in a much more limited product scope offered by Best Buy in the State of California as compared to other states. Prices of televisions would be expected to rise as a result of the unnecessary limitations on television energy use, which would likely lead California consumers to obtain their desired television models out of state or from strictly on-line sellers, thereby circumventing the proposed regulation and

leading to losses for both the State and for businesses in California. This leads to unfair competition in the marketplace.

**Best Buy is concerned that the CEC's proposal will increase the price customers already pay for energy efficient televisions.**

- The CEC's 2008 Appliance Efficiency Rulemaking staff report issued in December 2008 uses the following language in the Legislative Criteria section on page 1: "New and upgraded standards must be feasible and attainable and must not result in any added total costs to the consumer over the designed life of the appliances concerned."
  - Best Buy tracks the average selling price for the televisions we sell, including those models that comply with the ENERGY STAR program and models that are non-compliant. For the time period of July 2008 through and including September 2008, we know that ENERGY STAR qualified televisions sold had an average selling price (ASP) that was \$895.26 while the ASP of non-ENERGY STAR-qualified TVs was \$796.50. Therefore, prior to the new ENERGY STAR television specification released on November 1<sup>st</sup>, 2008, customers were already paying an average premium price of \$98.76 for energy-efficient TVs. This premium price variance increased to +\$167.05 based on the new ENERGY STAR Version 3.0 specification for November and December 2008 television sales. Any unnecessary intervention in the market's natural drive towards more energy efficient products, such as the CEC's proposed regulation, will result in a greater increase in the premium price a consumer will pay for an energy efficient television.

**Best Buy is concerned that the CEC's proposed regulation will undermine the effectiveness of the ENERGY STAR program.**

- According to U.S. Environmental Protection Agency (EPA) sources, Best Buy is the only national retailer reporting unit sales data for ENERGY STAR Home Theater and Home Office product categories. We are also proud to have been awarded the 2008 ENERGY STAR Excellence in Appliance Retailing Award. Our employees are knowledgeable about the program, thanks to Best Buy-developed training programs that both the U.S. Department of Energy and EPA have since recommended to other ENERGY STAR partners. Additionally, our customers recognize the program, and we are proud to offer a wide assortment of product in numerous categories – including televisions. We are also proud to manufacture an ENERGY STAR V 3.0 qualified Insignia television. In fact, our entire line of Insignia televisions is ENERGY STAR V 3.0 qualified.
- As most parties are aware, the ENERGY STAR program announced on December 12<sup>th</sup> that they will escalate the development of their "Tier 2" television specification to start in early 2009. Indeed, the consumer electronics industry took the lead in urging EPA to accelerate the next ENERGY STAR specification

for televisions in light of the rapid marketplace adoption of the current Version 3.0 specification. Through recent conversations with EPA representatives, Best Buy believes that the new specification will be significantly more stringent and therefore meet the television energy efficiency and market transformation goals of the CEC and other stakeholders.

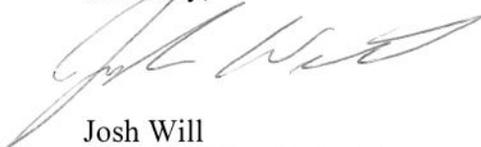
- The CEC's proposed energy use limit for televisions undermines the value of the ENERGY STAR program. Customers purchasing appliances and home office products in California may not see the same value in the ENERGY STAR program, thus undermining a currently successful program in place at the national and international levels.

As our 20,000 California employees interact with millions of customers that pass through our doors every week, we know that we can play a large role in helping to educate customers about their options to choose, use and reuse products. Key to this is how they are helping the environment through energy conservation. In these tough economic times, this is top of mind for many of our customers, and we want to be a key resource. Product purchases through on-line sellers miss this face-to-face interaction and the ability for California retailers to work with the CEC on consumer education opportunities. Finally, regulations that inflate the cost of products and limit availability favor on-line sellers and unfairly penalize retailers with investments in California stores and employees. In this economic environment, we cannot afford to have government regulation interfering with an already very competitive and difficult retail environment.

Best Buy wants to work with the CEC and other stakeholders on a consumer education plan that helps put together our knowledgeable employees, our wide product selection, and the key partnerships with the California utility companies to help reach a wide base of California consumers. Best Buy is already providing California consumers with energy efficient options for televisions as well as numerous other products. These products continue to improve, and customers continue to look for ways to assist in making these products more affordable. The approach that CEC is considering, which would mandate artificial energy use limits for televisions, is an unnecessary and punitive approach that would distort the marketplace, undermine programs that are currently in place, and increase costs that are untenable for consumers, retailers and our suppliers.

Thank you for your consideration of our views.

Sincerely,



Josh Will  
Vice President, Televisions  
Best Buy Co., Inc.