



DOCKET

07-AAER-3

DATE 8/4/2009

RECD. 8/5/2009

Consumer Electronics Association
1919 South Eads Street
Arlington, VA
22202 USA
(866) 858-1555 toll free
(703) 907-7600 main
(703) 907-7601 fax
www.CE.org

August 4, 2009

Ms. Karen Douglas
Chairman

Mr. Arthur Rosenfeld
Commissioner

California Energy Commission
1516 Ninth Street, MS 25
Sacramento, CA 95814-5512

Subject: **Commission's recent letter to CEA**

Dear Ms. Douglas and Mr. Rosenfeld:

The Consumer Electronics Association (CEA) submits the following comments and information in response to the California Energy Commission's letter to CEA dated June 26, 2009, which relates to the Commission's proposal to impose energy consumption limits on televisions.

CEA is the preeminent trade association promoting growth in the \$172 billion U.S. consumer electronics industry. More than 2,200 companies enjoy the benefits of CEA membership, and almost one-third of CEA's members are located in California. CEA's members design, manufacture, distribute and sell a wide range of consumer electronics products, including televisions.

The Commission cannot provide reasonable assurance that its proposal is the best way to reach California's goals.

The Commission has drafted a regulatory proposal that would impose arbitrary energy use limits on all TVs sold in California. In the absence of any serious evaluation of alternatives to this proposal, and given the significant economic, technical and legal problems inherent in the Commission's proposal, the Commission cannot reasonably support its claim that the proposed regulatory approach "will best reach California's energy and environmental goals."

As CEA has repeatedly emphasized during its engagement with the Commission in this proceeding, the consumer electronics industry has contributed and will continue to contribute significantly to the broadly-shared goal of reducing greenhouse gas emissions. In recognition of the Commission's desire to develop one or more new requirements related to

TV power consumption, CEA outlined several alternative approaches that could be pursued by either the Commission or the State of California. Each of these proposals, as outlined below, can support California's greenhouse gas emissions reduction goals.

Program or Opportunity	Advantage
California promotion of the ENERGY STAR program for TVs	The rapid uptake of the Version 3.0 specification in the marketplace demonstrates the strong and broad commitment by manufacturers and retailers to produce and sell television models that meet or exceed the latest specification. With the next specification to be implemented in May 2010, there is every reason to believe that ENERGY STAR will continue to be successful in supporting and advancing energy efficiency in televisions in California and elsewhere without adverse economic or consumer impacts.
"California DTV Acceleration Program"	The idea of incentivizing the replacement of older tube and rear-projection televisions with the latest flat panel televisions using less energy is yet another approach that could support statewide emissions reduction goals with the added economic benefit of supporting local retail sales, improving state tax revenues, and keeping business in California. (This approach is similar to the current and extremely popular federal Car Allowance Rebate System, better known as the "Cash for Clunkers" program.)
Automatic Power-down	Automatic power-down is the capability to automatically switch from the "on" state to the "sleep" state or low power mode after a period of time without user input. This capability could be enabled at the factory as the default setting for all televisions.
Requirement for a default "Energy-saving Mode" or "Forced Menu" setting	All TVs could have, by default, a "forced menu" feature that enables television viewing in an energy-saving default setting with lower brightness and contrast levels.
Adjusting/Lowering the Contrast and Brightness Settings on the Existing Stock of Televisions	The existing stock of TVs in homes in California is an untapped energy-savings opportunity. Significant reductions in energy consumption could be achieved by adjusting the contrast and brightness screen settings for TVs currently in use.

CEA has already commissioned new research that will further analyze the alternatives outlined by industry.

This spring, CEA commissioned a study, which will be finalized and available shortly, that analyzes each of the several alternatives to the Commission's proposal which are outlined above. The analysis will help inform the Commission and other state policy makers about how these alternative policies and programs can meaningfully contribute to California's AB 32 greenhouse gas emissions reduction goals. Preliminary findings indicate, for example, that the estimated cumulative incremental energy savings from 2011 to 2022 for ENERGY STAR television specification Versions 3.0 and 4.0 would be 10,000 GWh and 27,000 GWh, respectively, and that estimated cumulative incremental CO₂ emissions avoided from 2011 to 2022 would be 5 million metric tons carbon dioxide equivalent (MTCO₂e) and 13 million MTCO₂e, respectively.

The Commission seems to acknowledge that energy use limits on televisions can impact innovation, but the Commission appears to fundamentally misunderstand this central issue and concern.

The Commission's June 26th letter asks for "help in designing a set of standards and exceptions that save energy and allow for video technology advancement." CEA appreciates this broad approach that suggests that the Commission is aware that its proposal for energy use limits can impact technological innovation.

As indicated earlier, CEA believes there is indeed an opportunity to put in place a mandatory requirement that all TVs have a default "forced menu" setting that enables television viewing in an energy-saving picture mode with lower brightness and contrast levels. In addition, CEA also believes there is an opportunity to put in place a mandatory requirement for automatic power-down in TVs, whereby all TVs would automatically switch from the "on" state to the "sleep" state or low power mode after a period of time without user input. CEA recognizes that industry and the Commission have found common ground on these two particular measures. Importantly, neither the proposed regulatory requirement for a forced menu default setting nor the proposed regulatory requirement for auto power-down would negatively impact technological innovation. Moreover, requirements for forced menu and auto power-down could be categorized as "off the shelf" solutions for energy efficiency as described by the California Air Resources Board in its *Climate Change Scoping Plan* pursuant to AB 32. These two TV-related energy-saving opportunities have been reflected in the Commission's draft regulatory proposal, but there has been no departure from the Commission's proposal to impose an arbitrary energy use limit on TVs.

However, as indicated in the June 26th letter, the Commission claims to have difficulty understanding how its proposed test procedure could not accommodate the addition of new features and product developments. This is a fundamental misunderstanding of CEA's concerns on the Commission's part. With regard to technological innovation and product

development, CEA has stated repeatedly that the Commission's proposal to establish mandatory energy use limits on televisions (or mandatory energy use limits on high tech products in general) is a central concern and a direct threat to future innovation. In other words, the issue is the impact of a *mandated energy use limit* (the regulation or standard) on innovation, *not* the impact of a *test procedure* on innovation.

Mandating artificial energy use limits for high tech products such as TVs (or components such as processors or systems such as data centers, etc.) impedes innovation because it establishes an artificial constraint on product design and evolution in a sector that is constantly changing and evolving in response to technological developments, consumer demand, competitiveness and cost pressures, and other drivers. The Commission's proposal for energy use limits on TVs could inhibit, or prohibit, future features and capabilities sought by consumers if those features and capabilities were to consume even a fraction of a watt more than the mandated limit. In fast-moving sectors such as consumer electronics, the Commission's proposed approach to energy efficiency in TVs is inappropriate and impractical, as manufacturers are already competing to produce energy-efficient TV models under existing and successful government programs and private sector initiatives.

CEA members have contributed a significant amount of data and information in support of energy efficiency.

In the June 26th letter, the Commission suggests that industry has contributed only a limited amount of data to its current proceeding. As the Commission must recognize, the U.S. EPA's ENERGY STAR specification for TVs is being revised at this time, and industry has contributed a significant amount of data and information related to TV energy use and performance to the EPA as part of this process. We presume the Commission is continuing to follow the ENERGY STAR specification development process and discussions that involve a wide range of stakeholders.

The Commission has not significantly amended or altered its problematic proposal.

In its letter, the Commission states that it "had hoped for [our] active participation" during the past three months. CEA, through its local representatives, had reached out to Commission staff several times to begin a dialogue on issues raised during the April 2009 meeting with the governor's staff that involved Commissioners Rosenfeld and Levine. We understood that there were a few staff position changes at the Commission during the past few months, and we presumed this accounted for the staff's delay in responding to our request to confirm a date for a follow-up conference call (which eventually took place on June 8th at our request).

During the past few months, and despite evidence and widespread concern about the economic and technological impacts of the Commission's draft proposal to mandate energy use limits for TVs, the Commission has not significantly amended or changed the focus of its proposal. Many local retailers have stated that the Commission's proposal, which would remove a significant share of TV models from the market, would have a devastating impact on their businesses in California.

In the June 26th letter, the Commission's suggests a de minimus volume exemption, although this is related again to the Commission's current proposal. How would the Commission see a such de minimus exemption working in the form of a regulation, and how would it be administered? In addition, the letter's mention of a de minimus exemption leads to another concept that was recently raised during at a meeting at the governor's office in July 2009 involving CEA's local representatives and Commissioners Douglas and Rosenfeld. During this meeting, a "fleet averaging" approach was mentioned and described by our representatives. However, during this meeting, the Commission seemed to dismiss the idea of fleet averaging because it "would be difficult to enforce."

The Commission has not defined what it means when it says "dogs of the market" or "bad performers."

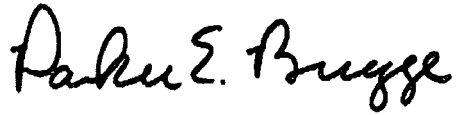
During discussions of the its proposal for TVs, the Commission has repeatedly said it would like to eliminate the "dogs of the market" or "bad performers" with regard to power consumption. CEA has asked the Commission but has not yet heard what exactly the Commission means by these statements. In other words, what exactly is a "bad performer" or "dog" in the market for TVs?

CEA appreciates the opportunity to work with the Commission to revamp its regulatory proposal.

In the June 26th letter, the Commission suggests that another workshop would be useful to further discuss recent issues and new information related to the Commission's current proposal. CEA agrees and could provide additional information related to our concerns as well as new information related to the alternatives outlined above. Also, material that has been provided to the Commission since the last workshop, including the recent report about power factor correction in TVs, should be discussed as part of such a workshop. Likewise, the concept of a fleet averaging approach mentioned above warrants further exploration during a workshop as well. As the next few weeks in August are planned vacation time for many in our industry, we would urge that such a workshop be scheduled in September after the Labor Day holiday to ensure the fullest participation from industry stakeholders.

Commissioners Douglas and Rosenfeld
August 4, 2009
Page 6

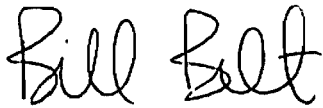
Sincerely,

Handwritten signature of Parker E. Brugge in black ink.

Parker Brugge
Vice President, Environmental Affairs & Industry Sustainability

Handwritten signature of Douglas Johnson in black ink.

Douglas Johnson
Senior Director, Technology Policy

Handwritten signature of Bill Belt in black ink.

Bill Belt
Senior Director, Technology & Standards

cc: Dan Pellissier
Office of the Governor