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make even inexpensive amplifiers with inaudible levels of harmonic distortion. Consequently, in 2000 the Commission exempted certain advertising from the Rule's Total Harmonic Distortion (THD) disclosure requirement. 65 FR 81232 (Dec. 22, 2000). Additionally, to address the development of self-powered subwoofer-satellite combination speaker systems, the Commission clarified the manner in which the Rule's testing procedures apply to these systems.

The introduction of multichannel "home theater" equipment with five or more channels also has dramatically improved consumer amplification choices. This improvement, however, raises questions regarding which of the new channels are "associated" under the Rule. Consequently, in 2000 the Commission issued a Supplemental Notice of Proposed Rulemaking ("SNPR") soliciting comment on Commission proposals to amend the definition of "associated channels" when measuring the power ratings of multichannel home theater amplifiers. 65 FR 80798 (Dec. 22, 2000). The SNPR elicited only one comment from the Consumer Electronics Association ("CEA"). CEA noted that there was no industry consensus regarding measuring power output of multichannel amplifiers.

On January 15, 2002, at the request of CEA, the Commission deferred action to allow industry to form a consensus on procedures for testing multichannel amplifiers. 67 FR 1915 (Jan. 15, 2002). Although CEA subsequently issued a standard, designated EIA/CEA-490-A, "Test Methods of Measurement for Audio Amplifiers," the Commission's review did not find widespread adoption of this standard.

On March 20, 2007, the Commission determined that industry had not agreed on a power rating standard for multichannel amplifiers. 72 FR 13052 (March 20, 2007). With no industry standard in place, and with only CEA's comment on the rulemaking record, the Commission concluded it would not be in the public interest to amend the Rule, and terminated its rulemaking. The Commission stated that until it provided further guidance regarding which channels need to be associated for purposes of rating multichannel amplifiers, it would not enforce the association requirements of Section 432.2 of the Rule as the Rule relates to the continuous power output per channel ratings for multichannel amplifiers.¹

III. Regulatory Review

On February 27, 2008, the Commission published a Federal Register notice ("FRN") seeking comment on the Amplifier Rule as part of the Commission's periodic review of the Rule to determine its current effectiveness and impact. 73 FR 10403 (Feb. 27, 2008). As noted above, the FRN sought comment on the continuing need for the Rule; the costs and benefits of the Rule; and what effects, if any, technological or economic changes have had on the Rule. In addition, the FRN specifically requested comments regarding whether the Rule should be revised to include additional power ratings guidance for multichannel amplifiers, and requested comments about the potential benefits and costs of amendments to the Rule to address power ratings for multichannel amplifiers.

The Commission received two comments in response, one from Richard Myslinski and one from Sony Electronics Inc. ("Sony"); these comments are available at (<http://www.ftc.gov/os/comments/amplifier/index.shtm>). Mr. Myslinski's sole comment was "I think the FTC should let the free market reign and avoid further burdensome regulation." Mr. Myslinski did not submit any further evidence with his comment.

Sony commented that the Amplifier Rule serves a useful purpose, noting that "the Rule gives manufacturers a 'bright-line' standard against which to measure themselves and the claims of their competitors." Sony further stated that "although [power output of amplifiers] can be objectively measured, the measurements can be done in different ways, thus making the claims susceptible to manipulation," and that "[t]his combination of factors makes the Rule an important element in the manufacturer-customer relationship, and it should remain as such." Moreover, Sony stated that "[w]ithout a clear rule, such as the current Rule . . . , Sony believes that there is a great deal of risk that, at best, consumers would not receive information useful to their purchasing decision, or, at worst, could be deceived by certain power output claims."

More specifically, Sony suggested that the Commission amend the Rule to permit manufacturers to disclose power ratings measured according to the procedures set forth in 16 C.F.R. § 432, according to the procedures specified in EIA/CEA-490-A, or according to both procedures. Sony claimed that "[t]esting according to [EIA/CEA-490-A] would

protect and inform consumers at least as much as the test procedures and disclosures currently in the Rule," that "[t]he greater specificity and scope of [EIA/CEA-490-A] would encourage manufacturers to differentiate products based on a number of technical characteristics," and that disclosing power ratings under both testing methodologies would give consumers a more complete picture of the power of the system.

Sony also stated that the Amplifier Rule should not be amended to define all channels of a multi-channel home theater system as "associated." Sony contended that "this approach . . . would fail to acknowledge the changes in home audio systems over the past 34 years, would prove unworkable in light of ongoing developments in audio technologies, and could stifle innovation."

The Commission concludes that there is a continuing need for the Amplifier Rule. Sony's comment provides evidence that the Amplifier Rule serves a useful purpose, while imposing minimal costs on the industry, and the Commission has no evidence to the contrary.

The Commission has determined that it will not seek to amend the Rule to permit manufacturers to use the EIA/C to the discretion of the TD (protect an/F6 1 Tf 4.998s c

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² For example, the EIA/CEA-490-A standard specifies that power measurements be made at one percent THD and at a 1000 Hz, whereas the FTC protocol leaves the level of THD and the power bandwidth to the discretion of the tester. In addition, the EIA/CEA-490-A standard only requires that one channel be driven to full rated power, with all remaining channels driven to one-eighth power simultaneously. As set forth in this notice, the Amplifier Rule requires that at least the left and right front channels of multichannel amplifiers be driven to full rated power simultaneously.

³ Indeed, when the Commission promulgated the Rule in 1974, it noted that at the time there were "no less than seven commonly used methods of determining amplifier wattage ratings, all of which will yield substantially different results." 39 FR 15387, 15388.

¹ 72 FR 13052, 13053.

simultaneously for measuring power output. Sony commented that "the additional channels in today's 5.1 and 7.1 home theater systems are designed to carry vastly different sounds at vastly different levels,"⁴ Sony commented further that "to maintain the same power ratings if it were necessary to drive all channels simultaneously, different home theater systems are designed

⁴ Other sources support this contention. See, e.g., What is Surround Sound, (<http://www.customhomeaudio.net/customhomeaudio/surroundsound.html>) (Stating that in multichannel systems "[t]here is a pair of surround sound speakers that is placed to the side of (and slightly above) the audience to provide the surround sound and ambient effects"); Mike Sokol, Surround Sound Mixing Techniques, (2005), (<http://www.digifreq.com/digifreq/article.asp?ID=23>) ("[M]ovie soundtracks [mix]... surround [sic] effects in the rear.").

⁵ See, e.g., Tomlinson Holman, Surround Sound, 197 (Focal Press 2007) (discussing the soundtrack for the beach landing scenes of the film Saving Private Ryan, and noting the importance of a pure stereo mix in the left front and right front channels); What is Surround Sound, (<http://www.customhomeaudio.net/customhomeaudio/>

[surroundsound.html](http://www.customhomeaudio.net/customhomeaudio/surroundsound.html)) ("There is one center speaker which carries most of the dialog... and part of the soundtrack. There are left and right front speakers that carry most of the soundtrack (music and sound effects)."); What is Surround Sound?, (<http://www.tech-faq.com/surround-sound.shtml>) ("[The front right and front left speakers] are usually the most important speakers in your surround sound set up. Most of the music or sound will come from these two speakers.").

⁶ This procedure also will promote consistency between the per channel power output ratings for stereo amplifiers and multichannel amplifiers.