



Federal Communications Commission  
Washington, D.C. 20554

September 11, 2020

Mr. Timothy J. Cooney  
Wilkinson Barker Knauer LLP  
1800 M Street NW  
Suite 800N  
Washington, DC 20036

DA 20-1070

Re: CommScope, Inc., Request for Waiver of Section 90.219(e)(5) Regarding Part 90  
Signal Booster Labeling Requirements

Dear Mr. Cooney:

*Introduction.* In this letter, we grant CommScope, Inc. (CommScope), a waiver of section 90.219(e) of the Commission's rules to permit it to use a single label to designate its PSR 700/800 signal booster (Device) as a Class A and Class B Industrial Signal Booster.<sup>1</sup> This waiver will allow CommScope to seek equipment authorization for its Device as both a Class A and Class B Part 90 Industrial Signal Booster.<sup>2</sup> Granting this request will advance the Commission's goals of ensuring that providers have access to a wide array of signal boosters necessary to address coverage issues, while maximizing proper operation of these devices. We therefore find that granting the waiver request is in the public interest.

*Signal Booster Framework.* Section 90.219 of the Commission's rules provides the technical and operational requirements for use of signal boosters in the Private Land Mobile Radio Services.<sup>3</sup> Part 90 classifies two types of signal boosters: Class A narrowband, which employs a narrow passband that amplifies only those discrete frequencies intended to be transmitted, and Class B wideband, which amplifies all signals within a wider passband of the booster.<sup>4</sup> Class B signal boosters are required to be registered online at <http://www.fcc.gov/signal-boosters/registration>.<sup>5</sup>

*Part 90 Signal Booster Operation.* Section 90.219(d)(7) requires that signal booster passbands be limited to the service band(s) for which the operator is authorized. Specifically, the passband of a Class B booster should not encompass both commercial services (such as ESMR and Cellular Radiotelephone) and Part 90 Land Mobile and Public Safety Radio Services (PLMR and PSRS), unless the device is a distributed antenna system (DAS) installed in a building.<sup>6</sup>

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<sup>1</sup> See CommScope, Inc. Request for Waiver of Section 90.219(e)(5) (filed March 5, 2020) (Waiver Request); CommScope, Inc. Supplement to Waiver Request (filed July 24, 2020) (Supplement).

<sup>2</sup> See Waiver Request; Supplement at 1 (CommScope seeks a waiver so it can file a Class II Permissive Change application for its currently certified PSR 700/800 Part 90 Class A signal booster).

<sup>3</sup> 47 CFR § 90.219.

<sup>4</sup> *Id.* § 90.219(a); see also *In the Matter of Amendment of Parts 1, 2, 22, 24, 27, 90 & 95 of the Commission's Rules to Improve Wireless Coverage Through the Use of Signal Boosters*, WT Docket No. 10-4, Report and Order, 28 FCC Rcd 1663, 1715, para. 147 (2013) (*Report and Order*).

<sup>5</sup> 47 CFR § 90.219(e)(5).

<sup>6</sup> *Id.* § 90.219(d)(7); see also *Report and Order*, 28 FCC Rcd at 1726, para. 177.

*Signal Booster Labeling Requirement.* Section 90.219(e)(5) requires that all signal boosters contain a label indicating whether the booster is a Class A or Class B device.<sup>7</sup> The label must also contain the following disclosure: “WARNING. This is NOT a CONSUMER device. It is designed for installation by FCC LICENSEES and QUALIFIED INSTALLERS. You MUST have an FCC LICENSE or express consent of an FCC Licensee to operate this device. You MUST register Class B signal boosters (as defined in 47 CFR 90.219) online at [www.fcc.gov/signal-boosters/registration](http://www.fcc.gov/signal-boosters/registration). Unauthorized use may result in significant forfeiture penalties, including penalties in excess of \$100,000 for each continuing violation.”<sup>8</sup>

*CommScope PSR 700/800 Signal Booster.* CommScope explains that it has developed an Industrial Signal Booster capable of operating as either a Class A or Class B booster depending on the configuration chosen by the end-user.<sup>9</sup> A user may select the Class A mode, which employs a narrowband filter with high selectivity (75 kHz or less), or the Class B mode, which provides a wideband filter (greater than 75 kHz).<sup>10</sup> CommScope states that the device contains programmable filters from 12.5 kHz to 18 MHz.<sup>11</sup> In addition, it states that the Device supports base station frequencies of 758-768 MHz, 769-775 MHz, and 851-869 MHz, and mobile frequencies of 788-798 MHz, 799-805 MHz, and 806-824 MHz, which include both ESMR frequencies and Part 90 public safety frequencies.<sup>12</sup> CommScope explains that this technology offers users flexibility so that a single signal booster can be used a variety of environments by configuring it as needed to address each unique installation.<sup>13</sup>

*CommScope Waiver Request.* CommScope seeks a waiver of section 90.219(e)(5) of the Commission’s rules to permit a single label indicating that the Device may be used as either a Class A or Class B Part 90 signal booster and to certify the Device as both a Class A and Class B booster.<sup>14</sup> It asserts that grant of its waiver request is in the public interest because it preserves the intent of the Commission’s rules, which is to increase rule compliance and provide operation instructions, while providing Part 90 licensees increased choice in signal booster options and flexibility to deploy a single model in a variety of environments.<sup>15</sup> CommScope explains that these purposes would be frustrated by requiring it to obtain two separate labels and two separate certifications for Class A and Class B operations since the Device is capable of operating in both modes.<sup>16</sup> It states that grant of the waiver would promote the Commission’s goals of ensuring that Part 90 licensees have access to boosters that best suit their needs while increasing rule compliance.<sup>17</sup>

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<sup>7</sup> 47 CFR § 90.219(e)(5).

<sup>8</sup> *Id.*

<sup>9</sup> Waiver Request at 2.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Supplement at 1. The Device operates on Part 20 ESMR frequencies at 862-869 MHz and 817-824 MHz and Part 90 public safety frequencies at 851-860 MHz and 806-815 MHz.

<sup>13</sup> Waiver Request at 2.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 1. See also *Report and Order*, 28 FCC Rcd at 1730, para. 188.

<sup>16</sup> Waiver Request at 3-4.

<sup>17</sup> *Id.* at 4.

CommScope asserts that grant would further the Commission’s goals because it proposes to incorporate certain safeguards into its User Interface (UI), which it believes will increase rule compliance by end users. CommScope explains that the device will include a warning to inform users who select a filter with a bandwidth greater than 75 kHz that the device is operating as a Class B booster and must be registered with the Commission. It further explains that the Class B filter may not be selected and the device cannot be deployed until the end user selects OK to acknowledge its responsibility for registering the device with the Commission.<sup>18</sup> CommScope also proposes to include the following label on each device:

“WARNING. This is NOT a CONSUMER device. It is designed for installation by FCC LICENSEES and QUALIFIED INSTALLERS. You MUST have an FCC LICENSE or express consent of an FCC Licensee to operate this device. This booster can be configured as a Class A or Class B signal booster. If configured as Class B signal Booster (as defined in 47 CFR 90.219), you MUST register this signal booster online at [www.fcc.gov/signal-boosters/registration](http://www.fcc.gov/signal-boosters/registration). Unauthorized use may result in significant forfeiture penalties, including penalties in excess of \$100,000 for each continuing violation.”<sup>19</sup>

CommScope acknowledges that its Device supports both ESMR frequencies and Part 90 public safety frequencies.<sup>20</sup> In accordance with section 90.219(d)(7), which prohibits the passband of a Class B booster from encompassing both commercial services and Part 90 PLMRS and PSRS except for DAS installed in buildings, CommScope proposes to include the following statement in the Class II Permissive Change application user manual exhibit:

“Note: Class B broadband operations that include the ESMR frequency bands 817-824 MHz and 862-869 MHz are permitted only when installed indoors due to section 90.219(d)(7) of the FCC rules, which says: ‘Except for distributed antenna systems (DAS) installed in buildings, the passband of a [part 90] Class B booster should not encompass both commercial services (such as ESMR and Cellular Radiotelephone) and part 90 Land Mobile and Public Safety Services.’”<sup>21</sup>

*Waiver Standard.* Pursuant to section 1.925 of the Commission’s rules, waivers may be granted if the petitioner establishes that: (1) the underlying purpose of the rule would not be served or would be frustrated by application to the instant case, and that grant of the waiver would be in the public interest; or (2) where the petitioner establishes unique or unusual factual circumstances, that application of the rule would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.<sup>22</sup> The Commission may also waive any provision of the rules if good cause is shown.<sup>23</sup>

*Discussion.* Based on the factual circumstances described by CommScope, we find that grant of the requested waiver is warranted. When the Commission adopted the signal booster

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<sup>18</sup> *Id.* at 3.

<sup>19</sup> *Id.* at 2.

<sup>20</sup> *See* Supplement at 1.

<sup>21</sup> *Id.* at 2.

<sup>22</sup> 47 CFR § 1.925.

<sup>23</sup> *Id.* § 1.3.

requirements in 2013, it stated that the public interest would be best served if consumers have a variety of choices to meet their individual communications needs and it aimed to “empower consumers with these choices.”<sup>24</sup> CommScope’s Device provides the capabilities of both Class A and Class B signal boosters, thereby providing consumers a single device to address a variety of communications needs. A waiver to allow for a single label would be in the public interest because it would address the unique characteristics of CommScope’s device, which contains Class A and Class B capabilities, while preserving the original intent of the labeling requirement.

The labeling requirement for Part 90 signal boosters was adopted to increase rule compliance and remind signal booster operators about proper implementation of the device.<sup>25</sup> CommScope proposes to include the required Part 90 label on each device, but to include a single label indicating that the Device may operate as a Class A or Class B Part 90 signal booster.<sup>26</sup> Further, it proposes to include safeguards into its UI that prevent users from operating the Device in Class B mode until the user selects OK to acknowledge responsibility for registering the Device with the Commission as a Class B Device.<sup>27</sup> Grant of CommScope’s waiver request therefore would not frustrate the underlying purpose of the labeling requirement because the Device will include the important use and registration information that facilitates rule compliance. CommScope’s proposed UI safeguards also increase rule compliance ensuring that users are aware of the Class B registration requirement.

Strict application of the rule would frustrate the purpose of the labeling requirement, which is to increase rule compliance and remind signal booster operators about proper implementation of the device. Absent a waiver, CommScope would be required to obtain two separate labels and two separate certifications for Class A and Class B operations. Requiring this information on two separate labels is redundant and may lead to confusion. Strict application of the rule would unnecessarily complicate the Device’s operational instructions and frustrate rule compliance.

This waiver is specifically conditioned on the following:

- (1) Each PSR 700/800 Signal Booster must have a label affixed to it with the advisory: “WARNING. This is NOT a CONSUMER device. It is designed for installation by FCC LICENSEES and QUALIFIED INSTALLERS. You MUST have an FCC LICENSE or express consent of an FCC Licensee to operate this device. This booster can be configured as a Class A or Class B signal booster. If configured as a Class B signal booster (as defined in 47 CFR 90.219), you MUST register this signal booster online at [www.fcc.gov/signal-boosters/registration](http://www.fcc.gov/signal-boosters/registration). Unauthorized use may result in significant forfeiture penalties, including penalties in excess of \$100,000 for each continuing violation.”;<sup>28</sup>

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<sup>24</sup> See *Report and Order*, 28 FCC Rcd at 1681, para. 48.

<sup>25</sup> See *id.* at 1730, para. 188.

<sup>26</sup> Waiver Request at 2.

<sup>27</sup> *Id.* at 3.

<sup>28</sup> 47 CFR § 90.219(e)(5). The label must also be placed (1) in on-line point-of-sale marketing materials, (2) in any print or on-line owner’s manual and installation instructions, (3) on the outside packaging of the device, and (4) on a label affixed to the device. See *id.*

- (2) Each PSR 700/800 Signal Booster must include the safeguards incorporated into the user interface substantially as described above;
- (3) The user manual for the Class II Permissive Change and the Device's user interface must contain the advisory: "Note: Class B broadband operations that include ESMR frequency bands are permitted only for distributed antenna systems installed indoors due to section 90.219(d)(7) of the FCC rules, which says: "Except for distributed antenna systems (DAS) installed in buildings, the passband of a [Part 90] Class B booster should not encompass both commercial services (such as ESMR and Cellular Radiotelephone) and part 90 Land Mobile and Public Safety Services."";
- (4) This waiver applies only to the CommScope PSR 700/800 Signal Booster; and
- (5) A copy of this waiver must be included in the Class II Permissive Change application for the PSR 700/800 Signal Booster.

In conclusion, for the reasons discussed above, we find that CommScope has met the standard for section 1.925 of the Commission's rules and grant a limited waiver of the Part 90 signal booster labeling requirements.

Accordingly, pursuant to the delegated authority in sections 0.331 and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.331, 1.3, we waive the requirements of section 90.219(e)(5) of our rules to allow CommScope to place an alternate label to obtain equipment certification for its Device as both a Class A and Class B signal booster, to the extent described above.

Sincerely,

Roger S. Noel  
Chief, Mobility Division  
Wireless Telecommunications Bureau  
Federal Communications Commission