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Via Electronic Filing

Mr. Donald S. Clark, Secretary
Room H-135 (Annex E)
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Amplifier Rule Regulatory Review, 16 CFR Part 432,
Comment, Project No. P974222

Dear Mr. Clark:

Sony Electronics Inc. (“Sony”) herein responds to the Request for Public Comment issued by the Federal Trade Commission (“FTC” or “Commission”) on its Trade Regulation Rule Relating to Power Output Claims for Amplifiers Utilized in Home Entertainment Products (“Amplifier Rule” or “Rule”), codified at 16 C.F.R. § 432.

These Comments address three particular issues that the Commission has raised in this proceeding, as follows. First, the Commission should retain the Rule because it continues to provide necessary consumer protections, while imposing only minimal costs and burdens on home-entertainment product manufacturers. Second, the Commission could enhance the benefits of the Rule, at no cost to consumers, if it modified the Rule to permit compliance though either the test procedures set forth in 16 C.F.R. § 432, or the test procedures set forth in EIA/CEA-490-A, Testing and Measurement Methods for Audio Amplifiers. Third, the Commission should not impose further testing burdens on multichannel “home theater” amplifiers on the theory that testing of these products must somehow be reconciled with the Rule’s reference to “associated channels.”

I. The Commission Should Retain The Amplifier Rule

The Commission should retain the Amplifier Rule because, despite the Rule’s age and the dramatic advances in home audio technology since it was introduced, the Rule gives manufacturers a “bright-line” standard against which to measure themselves and the claims of their competitors. Though not as important to consumers as it once was, power output remains one of a handful of key purchasing considerations when a consumer is choosing among the variety of audio equipment available today. It is also unique, however, among those criteria in that although it can be objectively measured, the measurements can be done in different ways, thus making the claims susceptible to manipulation. Consumers must rely entirely on the representations of the manufacturer. This combination of factors makes the

Rule an important element in the manufacturer-customer relationship, and it should remain as such.

The Amplifier Rule has secured widespread compliance and continues to produce substantial consumer benefit. The Rule has worked, and continues to work, because the Commission has followed the best possible regulatory approach in a competitive market – it has set a standard, served as a forum for complaints, but has left most of the policing up to market participants. Manufacturers understand that each competitor in the home audio market monitors the compliance of every other. With this high level of private policing, there is little chance that a manufacturer could violate the Rule without drawing the attention of its competitors and, thus, of the Commission. Sony believes that this successful regulatory structure is the key reason why the “wattage wars” of the past have not returned.

Further, power output remains unique among the various purchasing criteria in that it is objective and measurable, but almost impossible for an average consumer (or even most above-average consumers) to measure. Moreover, since the power output claims may be subject to manipulation through the testing methodology, consumers are forced to trust the representations and disclosures of the manufacturer. Consumers can easily discern whether a given product meets other, more objective purchasing criteria. For these criteria, such as brand name, number and variety of inputs, number and variety of outputs, available speaker configurations, interoperability, and remote control availability, consumers can trust their eyes, or can learn from product literature or salespersons. Other criteria, such as ease of use, word-of-mouth, or prior experience with the product type, are subjective and thus specific to the individual consumer. Thus, power output occupies a unique place among consumer decision criteria, in that it can be an objective measure but one that requires standardization for fair and effective representations to be made to consumers.

Without a clear rule, such as the current Rule or EIA/CEA-490-A, Testing & Measurement Methods for Audio Amplifiers, 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. Since power output can be measured many different ways, having a standard is critical to ensure that the information regarding power ratings disclosed by manufacturers can be assessed and compared by consumers against a common backdrop. Without a standard and common disclosures, the consumer is more likely to receive information that may not fairly convey the useful output and quality of the home theater system.

II. The Commission Should Allow Manufacturers To Use EIA/CEA-490-A As An Alternative To The Test Procedures Specified In The Rule

Allowing manufacturers to satisfy the Rule by testing under *one or both of* the existing procedures in 16 C.F.R. § 432 *and* the procedures specified in EIA/CEA-490-A, Testing & Measurement Methods for Audio Amplifiers (“CEA-490”), would benefit both consumers and manufacturers, and would achieve the Commission’s goal of establishing a methodology for rating the multi-channel “home-theater” amplifiers. In the Federal Register

notice announcing this proceeding, the Commission recounts the history of the development of CEA-490, noting that it suspended a previous investigation into the Rule for over five years while awaiting the development and adoption of the new standard. The Commission notes with some obvious disappointment, however, that at the end of this process, it “did not find widespread adoption of [CEA-490] in advertisements or product specifications.” Sony submits that one certain way to encourage the use of CEA-490 would be for the FTC to take explicit action to allow CEA-490 to satisfy the obligations of the Rule.

Testing according to CEA-490 would protect and inform consumers at least as much as the test procedures and disclosures currently in the Rule. The two test methods share similar standard test conditions, and both specify power output, frequency response, and total harmonic distortion as primary disclosures. CEA-490 also tests and specifies disclosure for input impedance, as well as disclosures for 24 additional, secondary ratings. Further, to address a point of substantial concern by the Commission, CEA-490 describes methods for disclosing multi-channel ratings, allowing for both equal and unequal power to each channel. The greater specificity and scope of CEA-490 would encourage manufacturers to differentiate products based on a number of technical characteristics. As in the past, the threat of Commission involvement would ensure that manufacturers report these characteristics truthfully and accurately. The adoption of CEA-490 as an alternative to the existing testing requirements in 16 C.F.R. 432, would produce benefits for all parties involved.

Additionally, as the testing methodology under CEA-490 is similar to the current testing scheme under 16 C.F.R. 432, adoption of an additional or alternative standard would not impose significant burdens on product manufacturers. The prior hesitancy in adopting the standard, rather than cost concerns, has caused many manufacturers to avoid utilizing it. Sony currently discloses power ratings for its products under both testing methodologies as it believes that this approach provides the best information to its customers while not creating unnecessary cost. Each method provides a different perspective on the power output which gives the consumer a more complete picture of the power of the system. In the end, if consumers begin to expect more complete information regarding power output, manufacturers are likely to respond with this information in order to remain competitive.

III. The Commission Should Not Amend The Definition of “Associated Channels” In Connection With The Power Rating Testing of Multichannel “Home Theater” Amplifiers

Given the prospective benefits of adopting the testing standards in CEA-490, Sony respectfully requests that the Commission reject its consideration of defining all channels of a multi-channel home theater system as “associated” channels which would have to all be driven to the full rated power simultaneously to achieve its power output rating. Sony believes that this approach, if ultimately adopted, 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 phrase “all associated channels fully driven to rated per channel power” has been a part of 16 C.F.R. 432 since the Rule’s inception in 1974, and as such, should be understood in the technological and product context in which it was written. In 1974, home entertainment products had either one or two channels (mono or stereo) and had typically two outputs (left and right). In this context, each channel served the same purpose (playing recorded music in either mono or stereo), and likely were intended to have similar if not the same power output. Thus, it made sense for the Commission to mandate the test procedure that it did.

In 1974, consumer multi-channel audio/video applications did not exist. As the Commission is well aware, 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, and are in fact marketed to consumers for this very purpose. For example, a center channel output in a home theater system exists primarily to amplify and clarify dialogue in a motion picture. There is no need for the power output from this channel to match those of the primary, left and right speakers, nor do consumers expect it to do so. Perhaps more importantly, the rear and side channels in a multi-channel system exist to create ambient sound to produce an immersive experience. They function best when they are noticed the least, and are almost certainly not designed nor expected by consumers to be driven at full power simultaneously. In short, the “all associated channels fully driven to rated per channel power” paradigm, created in 1974, simply does not fit the design or consumer expectations of audio/video systems in 2008, and the Commission should not stretch the Rule to address technologies that it was never meant to cover.

Most importantly, in order to maintain the same power ratings if it were necessary to drive all channels simultaneously during testing, virtually all manufacturers would have to change the sound platform of their amplifiers and receivers to be able to sustain such output. This would drive up the costs of production considerably, which would in turn drive up the ultimate cost to consumers. Under this scenario, it is quite likely that some manufacturers of home theater systems would be driven out of the market or forced to produce less advanced products.

Moreover, imposing such a testing obligation on new and future audio/video systems could prove even more incongruent, and could stifle product innovation and deter introduction of future technologies. Today, for example, many manufacturers, including Sony, market products with virtual surround capabilities, which mimic the experience of surround sound using only two channels. These technologies rely on complex digital signal processing to allow a consumer to experience full-featured sound from a lower-cost device. Arguably, however, these virtual channels would count as “associated channels”, and thus would be required to be fully driven to the rated per-channel power. Such an outcome makes little sense in the context of these products, and would drive up the costs of these products considerably. Expanding the application of old rules to these or future technologies would result in no consumer benefit.

IV. Conclusion

For the reasons stated above, Sony strongly encourages the Commission to maintain the Amplifier Rule. Sony asks however, that in considering the application of the Rule to multi-channel audio/video devices, it give manufacturers the added flexibility of testing pursuant to EIA/CEA-490-A, and not attempt to stretch the Rule to cover situations and technologies that it was never meant to address.

Respectfully submitted,

/s/

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