

§ 73.9002 Sale or distribution of demodulators, covered demodulator products, and peripheral TSP products.

(a) *Demodulators.* No party that manufactures or imports a demodulator shall sell or distribute in interstate commerce such Demodulator unless:

(1) At the time of such sale or distribution such demodulator is itself, or is incorporated into, a product that complies with the demodulator compliance requirements and was manufactured in accordance with the demodulator robustness requirements; or

(2) Such sale or distribution is to a party that has committed in writing pursuant to paragraph (d) of this section not to sell or distribute demodulators other than in accordance with paragraphs (a)(1) or (a)(2) of this section.

(b) *Covered demodulator products.* No party shall sell or distribute in interstate commerce a covered demodulator product that does not comply with the demodulator compliance requirements and demodulator robustness requirements. The requirements of this paragraph shall not apply to the sale or resale of a product that was manufactured prior to the effective date of this subpart or that initially was sold or distributed in compliance with this subpart.

(c) *Peripheral TSP products.* No party that manufactures or imports a peripheral TSP product shall sell or distribute such peripheral TSP product in interstate commerce unless, at the time of such sale or distribution, such peripheral TSP product complies with the demodulator compliance requirements and was manufactured in accordance with the demodulator robustness requirements. The requirements of this paragraph shall not apply to the sale or resale of a product that was manufactured prior to the effective date of this subpart or that was initially sold or distributed in compliance with this subpart.

(d) *Written commitments.* (1) A written commitment to allow sale or distribution of demodulators under paragraph (a)(2) of this section, or for a peripheral TSP product, shall be submitted to the Federal Communications Commission,

Chief, Media Bureau, Attn: Broadcast Flag Written Commitment, 445 12th Street, SW., Washington, DC 20554.

(2) The information to be provided by a party filing a written commitment to allow sale or distribution of demodulators under paragraph (a)(2) of this section shall include a statement that one of the following conditions is true:

- (i) The party is a bona fide reseller;
- (ii) The party is a licensed digital television broadcaster; or
- (iii) The party is a multichannel video programming distributor, or other party engaged, or about to become engaged, in the lawful retransmission of unencrypted digital terrestrial broadcast content pursuant to § 76.1909 of this chapter.

(3) The information to be provided by a party filing a written commitment for a peripheral TSP product shall include statements that the party is engaged, or about to become engaged, in the lawful commercial enterprise of manufacturing such peripheral TSP product, and that such product will comply with the demodulator compliance requirements and be manufactured in accordance with the demodulator robustness requirements.

(4) It shall be a violation of this subpart, enforceable by the Commission, for any person that has filed a written commitment pursuant to paragraph (d) of this section to:

- (i) In the case such commitment to allow sale or distribution of demodulators under paragraph (a)(2) of this section, sell or distribute the demodulator other than in accordance with paragraphs (a)(1) or (a)(2) of this section; or
- (ii) In the case of such commitment for a peripheral TSP product, sell or distribute the peripheral TSP product other than in compliance with paragraph (c) of this section.

(5) Written commitments filed pursuant to paragraph (d) of this section will be publicly available in accordance with §§ 0.441 through 0.470 of this chapter.

(e) The requirements of this section shall become applicable on July 1, 2005.