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Before The
Federal Communications Commission
Washington, D. C.

ORIGINAL
FILE

In The Matter Of:)
)
Inquiry Into Encryption Technology)
)
For Satellite Cable Programming)

PP Docket No. 92-234

COMMENTS OF PRIMETIME 24

G. Todd Hardy, Esquire
Hardy & Ellison, P. C.
Attorneys for PrimeTime 24

9306 Old Keene Mill Road
Suite 100
Burke, Virginia 22015
(703) 455-3600

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COMMENTS OF PRIMETIME 24

I. Introduction

PrimeTime 24 Joint Venture ("PrimeTime 24") is a partnership that is engaged principally in the retransmission of the signals of WABC-TV (ABC, New York), WRAL-TV (CBS, Raleigh) and WXIA-TV (NBC, Atlanta) for the benefit of C-Band home satellite dish ("HSD") owners and a small number of cable systems located throughout the United States.

Currently, PrimeTime 24 distributes its three signal network package to over 400,000 HSD households and approximately 700,000 cable homes. It operates as a "satellite carrier" under the Satellite Home Viewer Act of 1988 (the "SHVA") to the extent it provides network retransmission service to HSD consumers. PrimeTime 24 provides signal retransmission service to its cable customers as a "passive carrier."

Since its inception in 1986, PrimeTime 24 has been dedicated to the delivery of network programming to HSD households that were then, and are now, unserved by any other distribution technology¹. Today, television households that

¹Despite the disparity in "subscriber" numbers, a significant majority of revenues of PrimeTime 24 are attributable to its HSD business - the mainstay of its commercial purpose and operations. Most of its cable customers, by far, are served by systems located in Puerto Rico.

are not served by one or more of the networks and that do not subscribe to cable, rely exclusively on satellite retransmissions for reception of news, sports and entertainment programming from ABC, CBS and NBC. Under the terms of SHVA, PrimeTime 24 may authorize the receipt of its network package only to the extent its HSD customer resides in an "unserved household", i.e. each PrimeTime 24 network signal is provided only as needed to fill in the gaps in network coverage in "white areas", locations unserved by traditional distributors of network programming.

As a result of its marketing focus, PrimeTime 24 is uniquely positioned. It is one of the very few television services that was conceived and developed for the benefit of the HSD industry. Even more remarkable is its survival despite the fact that its customer universe is restricted both legally and practically to the "white areas" of the country.²

II. Use of Videocipher Technology

Virtually since its launch, the retransmissions of PrimeTime 24 were scrambled utilizing Videocipher technology.³ PrimeTime 24 did so only because to utilize some other encryption technology would have been commercially impractical in the face of Videocipher adoption by the major programming forces in the industry. Ever since, PrimeTime 24 has suffered with each "break" of Videocipher technology along with the rest of the HSD industry. However, the absence of a dependable industry security system took its toll on PrimeTime 24 more than most, if not all, other programmers. While the signal "piracy" levels remained at the levels cited by the Commission in its Notice of the Inquiry, PrimeTime 24 was hampered in its ability to gain a critical mass of subscribers within its "white area"

²Estimates of the size of the universe of "unserved households" differ. In previous filings with the Commission, representatives of the networks submitted that there were no more than 500,000 such homes throughout the country. PrimeTime 24 estimates that the total number of "unserved households" in this country is many times that amount but still a substantial minority of all television households. No one knows how many "unserved households" are currently equipped with C-band dishes, but the current proportion of the total of the "unserved households" served by the C-band industry represents approximately two-thirds of all activated VCII decoders.

³Satellite Broadcast Networks Inc., a current joint venture partner in PrimeTime 24, filed comments in the Commission's 1986 scrambling inquiry in which it announced its intent to serve the HSD marketplace.

customer subset. Since the introduction of Videocipher II Plus with renewable security ("VCII Plus"), PrimeTime 24 daily authorization rates have increased many fold; testament to the high levels of existing signal theft in the industry.

With the foregoing as a backdrop for its participation in this proceeding, PrimeTime 24 supports the purpose of this Inquiry and the included promotion of competitive forces espoused by the Commission. It is the firm belief of PrimeTime 24 that competition in the supply of encryption equipment and technology will be extremely helpful to the industry by not only ensuring the availability of the lower equipment costs but also by enhancing the incentives for the delivery of secure systems and necessary upgrades as expeditiously as possible. In that regard, PrimeTime 24 applauds the efforts and investments of Titan Satellite Systems Corporation and offers the following brief comments on the specific issues raised by the Commission in its Notice of Inquiry that are particularly suited to the past experience and future involvement of PrimeTime 24.

III. Decoder Equipment Competition

A. Benefits of Intra-VCII Competition

The Commission correctly points out that the marketplace and related public interest will benefit from the increase in variety of sources of reception equipment. The condition of the C-band industry as it developed over the last few years demands that new equipment entrants propose compatibility rather than wholesale reconstruction. As a result, competition in the supply of reception equipment can only serve to bring prices down and ensure high quality and advancement of products.

It is also true that inevitable and dramatic changes in the programming delivery methods of the future provide the opportunity to now reexamine the state of the current marketplace to ensure that its future development does not favor the entrenched at the expense of emerging competitors. That review should first be conducted with the record of hardship that is already known.

As noted above, signal piracy took its toll on everyone in the industry. For PrimeTime 24, it meant that the rigors of launching an HSD oriented service were

compounded by a leaky consumer sales bucket. Millions of dollars of additional investment in PrimeTime 24 were necessary, in significant part, simply to stay alive while the scrambling situation of the industry struggled to stabilize. Only recently, more than five years after the launch of its service, has PrimeTime 24 begun to turn the financial corner. That experience would have been considerably different had the signal security system for the industry been more reliable and more readily corrected when problems became known. PrimeTime 24 survived, at great cost, during the last few years of turmoil brought on by the inadequacies of the industry scrambling system. Future HSD oriented programmers may not be as fortunate.

PrimeTime 24 feels confident that the introduction of real intra-VCII competition is the only reliable means of avoiding the hardships it experienced as a small programming entrant, in the future. Clashes with programming pirates will be repeated. When they are, competitive supply of encryption equipment will ensure the fastest and most complete response, even to the detriment of then current inventories of compromised equipment. Without real competition in the industry, solutions may be slow in coming or incomplete, to the continued detriment of the industry and HSD consumers.

B. Future "VCII Plus" Supply Shortages

Estimates vary as to the coming demand for VCII Plus decoders now that the use of compromised VC II technology and equipment has been made commercially unattractive to most. It seems clear that over one million VCII decoders have been shipped but not authorized. If accurate, that universe of potential pirate HSD units represents a significant and near term demand for the supply of VCII Plus equipment. When new HSD equipment sales are considered in addition, it is widely felt that the monthly orders for VCII Plus equipment will far outstrip the GIC supply capabilities for a considerable period of time.

PrimeTime 24 shares the concern voiced by many in the industry that GIC will not be able to adequately address the immediate demand for VCII Plus units for many months, if not years. If the roll out of VCII Plus equipment is unable to match the demand of current and future HSD owners for any extended period of time, it is too long. Since virtually all programmers have turned off their VCII data streams for residential consumers, the pressure to fund ways to pirate "Plus"

technology and equipment will grow. If the demand for decoders is not met legitimately, the industry could soon be living under the cloud of yet another chapter of signal theft at worst and consumer confusion at best.

One thing is certain, single sourcing cannot reduce the expected supply shortage. Any help provided by true competition in this marketplace is a benefit and badly needed at this stage of C-band marketplace development.

PrimeTime 24 suggests that the Commission require that as a part of this Inquiry that GIC provide data that: (a) completely substantiates its estimates of the future demand for VCII Plus equipment by current VCII decoder owners and future HSD consumers; and (b) provides reliable backup data that accounts for all previous manufacture, shipment and authorization of VCII decoders. If possible within the realm of real commercial proprietary interests, that information can then be commented on appropriately by all interested parties for the benefit of the Commission as it examines the present and future need for competition.

C. Commercial VCII Universe

The fact that commercial VC II equipment is not the subject of a "Plus" upgrade is also a significant problem for the future. The presence of that VC II equipment and the data streams sent to authorize it provides signal pirates with another resource to defeat the system in HSD homes equipped with older VC II decoders. Key codes sent along those commercial data streams can be identified, intercepted and routed to VC II residences where they are improperly used to authorize the receipt of programming. If real competition were present in the encryption marketplace, a second decoder supplier could offer alternative commercial equipment and theoretically allow the discontinuation of the VC II commercial data streams. Without competition and the discontinuance of the use of the VCII commercial data streams, a real upgrade of consumer signal security may not actually take place.⁴

⁴ Attached is an advertisement of a vendor who offers to sell a modem that will make the key codes used in the authorization of commercial VCII decoders available to residential owners of compromised VCII decoders "automatically". If effective, the availability of that modem would mean that key codes will not have to be painstakingly and repeatedly entered for each home. As a result, unauthorized service to those VCII homes will not be practically affected by the VCII Plus upgrade program.

IV. DBS Authorization Centers

With the introduction of a second VCII Authorization Center, each programmer would be faced with incremental costs for duplicative telephone lines between its customer service locations and that new Center. In addition, either directly or indirectly, the cost of establishment of the second Center would inevitably be paid for by the programmers and consumers who use it. Neither costs appear to be necessary in light of the technical capabilities of the current and only DBS Authorization Center established by GIC in San Diego. It is the information and belief of PrimeTime 24 that, with relatively minor software changes, the current Center could communicate with decoders built by GIC competitors.

Once again, PrimeTime 24 suggests that the Commission continue to press the equipment suppliers involved for adequate and complete technical information in this area, subject to review and further comment of all concerned. For its part, it is simply the hope of PrimeTime 24 that an Authorization Center solution can be found and agreed upon that will enable the practical introduction of a second source for secure encryption equipment.

V. Digital World of the Future

The Commission also correctly points out that the recent "digital" movement in the world of television distribution offers the opportunity for disruption in an incompatible VCII marketplace. Despite recent announcements of huge commitments to GIC for the supply of digital decoding equipment in the future, in both cable and satellite, PrimeTime 24 respectfully urges attention primarily on the problems we know too well in C-band satellite universe.

If the Commission concentrates on promoting competition in the supply of reception equipment in the C-band environment, the current satellite industry and its suppliers will be best prepared to grow and develop competitively in the future. Without the promotion of entry of competitive forces now, the players who will further dominate the C-band landscape will be the same parties that will control developments in the future world of satellite distribution of television programming.

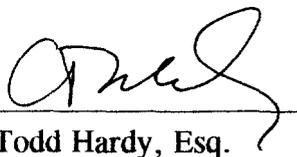
That being said, the Commission is wise in including DBS and "digital" developments, both announced and long expected, in the full scope of this Inquiry. These developments in technology that presently appear more real than in the past could result in a disenfranchising of the current C-band industry and the customers it serves. Should the largest of the companies that are involved in cable and satellite decide that non-digital transmission security systems do not warrant continued maintenance, or even use, hundreds of thousands of television households across the country could be simply told that they have to upgrade or replace their systems. The possibility that might occur, no matter how remote, is sufficient reason for the inquiry. As this Inquiry proceeds, the consideration of all suggestions by the participants should be viewed with the impact on both current distribution technologies and those of the "digital" future in mind if only to avoid the potential for the public interest calamity mentioned above.

VI. Conclusion

The signal security system used by the C-band satellite industry and the consumers it serves still suffers from its own deficiencies and the continued threat of crippling piracy. PrimeTime 24 believes that its past and present shortcomings and opportunities for future problems will best be addressed, and perhaps only be addressed, through the introduction of real competition in the supply of reception equipment.

The introduction of real competition in this area may come about as a result of industry action. PrimeTime 24 is willing to pursue that goal as it is able in the marketplace. In the interim, PrimeTime 24 welcomes this Commission review, suggests consideration of examination of the points highlighted in these Comments and promises its support of any Commission promotion of a more competitive environment in the supply of HSD encryption equipment.

Respectfully submitted,
PrimeTime 24 Joint Venture

By 
G. Todd Hardy, Esq.

Hardy & Ellison, P.C.
9306 Old Keene Mill Road
Suite 100
Burke, Virginia 22015

Its Attorneys

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