

WILLKIE FARR & GALLAGHER

Washington, DC
New York
London
Paris

EX PARTE OR LATE FILED

November 8, 1994

Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

NOV 8 1994
FEDERAL COMMUNICATIONS COMMISSION

DOCKET FILE COPY ORIGINAL

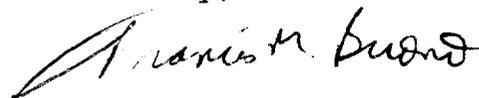
Re: ET Docket No. 93-7 -- Ex Parte Presentation

Dear Mr. Caton:

On Tuesday, November 8, 1994, I met with Lisa B. Smith, Legal Advisor to Commissioner Andrew Barrett, on behalf of General Instrument Corporation ("GIC") in connection with the above-captioned proceeding. We discussed the Commission's rule prohibiting cable operators from altering the infrared codes used to operate the remote control capabilities of existing customer equipment. 47 C.F.R. § 76.630(c). The views expressed on behalf of GIC are reflected in GIC's formal filings in this proceeding, as well as in the attached outline that was used during the meeting.

Please let us know if you have any questions.

Sincerely,



Francis M. Buono

Enclosure

cc: Lisa B. Smith

No. of Copies rec'd 021
List A B C D E

EX PARTE PRESENTATION BY GENERAL INSTRUMENT CORP. IN ET DOCKET 93-7

I. THE COMMISSION SHOULD NOT PROHIBIT CABLE OPERATORS FROM ALTERING INFRARED CODES IN EXISTING CUSTOMER EQUIPMENT.

- The ban is unnecessary, because existing rules and marketplace realities already foreclose the putative anticompetitive behavior cited as justification for the ban.
 - FCC rules prohibit operators from disabling the remote control capability of their converters and require consumer education about third-party remotes.
 - Operators will not undertake the substantial expense and burdens of changing their IR codes merely to collect the modest return generated by the FCC's actual-cost equipment rules.
 - Most subscriber-owned remotes are competitively-supplied, inexpensive, "universal" remotes that are compatible with most, if not all, converters.
- The ban will impose significant costs and technical difficulties on cable operators, converter manufacturers, and consumers.
 - Manufacturers will be forced to produce either numerous versions of the same converter model, or converters that are compatible with all pre-existing IR codes and transmission techniques. Either approach yields more cost to manufacturers and operators, and ultimately to consumers in the form of higher equipment lease rates.
- The ban will thwart competition in the supply of converters to cable systems. To avoid the costs and technical problems of ensuring backward compatibility with existing equipment, operators will favor their existing converter suppliers to the detriment of potential new entrants.
- The ban will impede technological innovation. The ban will create disincentives for converter suppliers to develop, and cable operators to implement, advanced IR code schemes and new remote control technologies.
- The ban unjustly discriminates against cable operators. There is no justification for imposing the ban on cable operators, while allowing TV/VCR manufacturers and third-party converter suppliers to continue to provide non-compatible IR equipment.
- EIA/CEG's proposed modification of the ban should also be rejected. EIA/CEG's proposal (to prohibit cable operators from using new IR codes for the remote control functions included in existing customer equipment if such IR codes were not in use as of May 4, 1994) would have the same costly, anti-competition, anti-innovation, and discriminatory effects as the current rule, and should be rejected by the Commission.

II. A PREFERABLE ALTERNATIVE: REQUIRE ALL EQUIPMENT MANUFACTURERS TO DISCLOSE THEIR IR CODES TO THIRD-PARTY EQUIPMENT MANUFACTURERS.

- This would further limit incentives to alter IR codes for improper purposes by assuring the competitive supply of third-party remotes that are compatible with the new IR codes. It would also avoid the numerous problems created by the current rule and by EIA/CEG's proposed modification. Finally, new suppliers who choose to include the old IR codes in their equipment could use this fact as a competitive selling point.