

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
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Digital Data Transmission Within )  
the Video Portion of Television )  
Broadcast Station Transmissions )

MM Docket No. 95-42

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To: The Commission

REPLY COMMENTS OF CHRIS-CRAFT INDUSTRIES, INC. /  
UNITED TELEVISION, INC.

Chris-Craft Industries, Inc. and United Television, Inc. ("Chris-Craft/United") respectfully submit these reply comments in the above-referenced proceeding.

In this proceeding, the Commission has noted that "we intend . . . to consider the work of the National Data Broadcasting Committee when we adopt a final decision." Notice ¶ 35. A number of commenters also agree that "a coordinated set of national technical standards is essential to the technical and business viability" of a data broadcasting service.<sup>1/</sup> NAB, for example, "urge[s] the Commission to adopt industry standards for this technology."<sup>2/</sup> As MSTV suggests, rather acting on specific petitions, the Commission should establish an appropriate set of

<sup>1/</sup> NAB/EIA Comments at 2.

<sup>2/</sup> NAB Comments at 1-2.

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transmission requirements for high speed data broadcasting based on the information to be provided by NDBC.<sup>3/</sup>

WavePhore apparently agrees (at 12) that NDBC "will make available information that will permit broadcasters to judge the ability of any available technology to be used without harming picture quality." It also urges the Commission (at 15) not to adopt a standard before the process of "improving" WavePhore's technology is complete. Yet despite its recognition (at 16) of the utility of the NDBC process "to gather and disseminate information" to broadcasters, WavePhore inexplicably concludes (at 16) that "the Commission should not wait for the conclusion of the [NDBC] process."

WavePhore's position, apparently, is that preliminary NDBC tests show "acceptable picture quality" both from its technology and that of Digideck, and that the Commission should quickly "adopt a flexible regulatory scheme" under which broadcasters would be permitted "to choose the system that works best for them." Id. at 11, 16, 19. This position ignores the importance of a standard, as recognized by other commenters. But it also makes no policy sense to establish such a right to choose that is uninformed by the results of the very testing process that WavePhore itself endorses.

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<sup>3/</sup> MSTV Comments at 2-3.

As other comments make clear,<sup>4/</sup> initial tests by NDBC did not turn out to be particularly helpful to WavePhore. While that is not the question here,<sup>5/</sup> the preliminary results hardly counsel in favor of ignoring the conclusion of the NDBC's further testing process. Perhaps WavePhore's system will ultimately be selected as the least likely to cause discernible degradation or interference. Perhaps it will not. But a precipitous Commission decision that fails to take account of the results of the NDBC process could, as Chris-Craft/United cautioned in their initial comments, inadvertently doom data broadcasting as a competitive force in this important emerging market, by promoting an inferior technology and thereby causing suppliers and consumers to rely upon nonbroadcast technologies instead.<sup>6/</sup>

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<sup>4/</sup> See NDBC Results of Tests, March 2, 1995 (attached to NAB/EIA comments); Digideck Comments at 7.

<sup>5/</sup> Nor do we believe that this Notice is an appropriate forum in which to engage in the touting of competing data broadcasting technologies or "the market valuation" of their proponents. See WavePhore Comments at 1-4. We note, however, that WavePhore Canada's devices are designed for use in the VBI, not the active program video. Compare WavePhore Comments at 3 with WavePhore SEC Form 10-K, at 2; *id.* ex. 10.17 (National VBI Datacasting System Agreement with Canadian Broadcasting Corp.). Similarly, it is Chris-Craft/United's understanding that the much-touted Intel agreement (WavePhore Comments at 3) is also based on the WavePhore Canada (BleuMont) VBI technology.

<sup>6/</sup> WavePhore suggests that it is unclear "when the [NDBC] process will conclude." NDBC, however, has now scheduled completion of all testing for the end of this year. NAB/EIA Comments at 4. MSTV "is confident that the NDBC will bring its studies and deliberations to an expeditious conclusion." MSTV Comments at 6.

The underlying basis for WavePhore's internally inconsistent position about the NDBC process is made much clearer elsewhere. WavePhore apparently believes that its technology "will be commercially available before that of any potential competitor."<sup>7/</sup> It therefore concludes that "it has an opportunity (and a competitive advantage over any such potential competitors) to achieve widespread early acceptance of its technology sufficient to amount to a de facto industry standard (. . . as, for example, VHS has become the de facto standard of video cassette recorders) before the voluntary national standard-setting process becomes relevant."<sup>8/</sup> That private interest of WavePhore in hedging its bets on the ultimate quality of its system is certainly not a basis for Commission action. The public interest quite clearly lies in fostering a viable, high quality data broadcast service that can provide consumers with competitive alternatives to similar cable or telco technologies.

Nor should the Commission, as WavePhore suggests (at 15 n.15), abdicate its role in the standards process in reliance upon the AM stereo experience. Indeed, that experience compels precisely the opposite conclusion. Congress ultimately required the Commission to establish the AM stereo standard that the Commission had previously elected not to provide, because Congress found that stimulation of the market was "dependent upon

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<sup>7/</sup> WavePhore SEC Form 10-K, at 9 (March 31, 1995).

<sup>8/</sup> Id.

the establishment of an AM stereo standard." S. Rep. No. 451, 102d Cong., 2d Sess. 3 (1992). Congress noted that 35-40% of broadcasters had indicated that lack of such a standard had been a major reason for not previously adopting AM stereo. Id.

For the reasons stated above and in their initial comments, Chris-Craft/United urge the Commission to establish standards for high speed data broadcasting based upon the results of the ongoing NDBC testing process, and to defer action on individual data broadcasting technologies until the results of that process can be evaluated.

Respectfully submitted,

CHRIS-CRAFT INDUSTRIES, INC./  
UNITED TELEVISION, INC.

  
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William R. Richardson, Jr.

WILMER, CUTLER & PICKERING  
2445 M Street, N.W.  
Washington, D.C. 20037  
(202) 663-6000

Their Counsel

July 10, 1995

CERTIFICATE OF SERVICE

I, William R. Richardson, Jr., hereby certify that on this 10th day of July, 1995, I caused to be delivered by first-class mail, postage prepaid (and By Hand where indicated), copies of the foregoing "Reply Comments of Chris-Craft Industries, Inc./United Television, Inc.," to the following:

Paul Gordon, Esq.\*/  
Legal Branch  
Mass Media Bureau  
Federal Communications Commission  
2000 M Street, N.W., Room 548  
Washington, D.C. 20554

James E. McNally, Jr.\*/  
Engineering Policy Branch  
Mass Media Bureau  
Federal Communications Commission  
2000 M Street, N.W., Room 567  
Washington, D.C. 20554

Bruce D. Jacobs  
Scott R. Flick  
Kevin M. Walsh  
Fisher Wayland Cooper Leader  
& Zaragoza L.L.P  
2001 Pennsylvania Avenue, N.W.  
Suite 400  
Washington, D.C. 20006

Allen B. Conner, Jr.  
Digideck, Incorporated  
535 Middlefield Road  
Suite 200  
Menlo Park, CA 94025

Jonathan D. Blake  
Ronald J. Krotosynski, Jr.  
Covington & Burling  
1201 Pennsylvania Avenue, N.W.  
P.O. Box 7566  
Washington, D.C. 20044-7566

Victor Tawil  
Association for Maximum Service  
Television, Inc.  
1776 Massachusetts Avenue, N.W.  
Suite 310  
Washington, D.C. 20036

Matthew J. McCoy  
George A. Hanover  
Consumer Electronics Group  
Electronic Industries Association  
2500 Wilson Boulevard  
Arlington, VA 22201

Lynn D. Claudy  
Kelly Williams  
National Association of Broadcasters  
1771 N Street, N.W.  
Washington, D.C. 20036

Stephen K. Weber  
Wayne Luplow  
Zenith Electronics Corporation  
1000 Milwaukee Avenue  
Glenview, IL 60025-2493

Richard J. Bodorff  
David E. Hilliard  
Michael K. Baker  
Wiley, Rein & Fielding  
1776 K Street, N.W.  
Washington, D.C. 20006

Louis Martinez  
Radio Telecom & Technology, Inc.  
6951 Flight Road, Suite 210  
Riverside, CA 92504

Grier C. Raclin  
Susan H.R. Jones  
Gardner, Carton & Douglas  
1301 K Street, N.W.  
Suite 900, East Tower  
Washington, D.C. 20005

Robert A. Mansbach  
Joel Pearlman  
6560 Rock Spring Drive  
Bethesda, MD 20817

Larry Goldberg  
WGBH Educational Foundation  
125 Western Avenue  
Boston, MA 02134



\_\_\_\_\_  
William R. Richardson, Jr.

\_\_\_\_\_  
\*/ By Hand.