

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

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In the Matter of

Implementation of Section 17  
of the Cable Television  
Consumer Protection and  
Competition Act of 1992

ET Docket No. 93-7

Compatibility Between  
Cable Systems and Consumer  
Electronics Equipment

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**OPPOSITION AND COMMENTS OF  
THE NATIONAL CABLE TELEVISION ASSOCIATION, INC. TO  
PETITIONS FOR FURTHER RECONSIDERATION AND CLARIFICATION**

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THE NATIONAL CABLE TELEVISION ASSOCIATION, INC. TO  
PETITIONS FOR FURTHER RECONSIDERATION AND CLARIFICATION**

The National Cable Television Association, Inc. ("NCTA"), by its attorneys, hereby submits an Opposition to the Joint Petition for Further Reconsideration filed by Echelon Corporation and others ("Echelon") and Comments in Support of the Petition for Clarification filed by General Instrument Corporation ("General Instrument") on May 28, 1996 in the above-captioned proceeding.

**INTRODUCTION AND SUMMARY**

In 1992, Congress granted the Commission broad authority to adopt regulations to assure compatibility between television receivers, video cassette recorders and cable systems, consistent with the need to protect against theft of cable service. Section 624(A)(b) of the 1992 Cable Act ("the Cable Act") directed the Commission, "in consultation with representatives of the cable industry and the

consumer electronics industry,” to report to Congress and to issue such regulations as are necessary to achieve this goal.

Shortly after the passage of the Act, NCTA and the Consumer Electronics Manufacturers Association (“CEMA”) (formerly the Consumer Electronics Group of the Electronics Industries Association) established the “Cable-Consumer Electronics Compatibility Advisory Group” (“C3AG”) to advise the NCTA/EIA Joint Engineering Committee (“JEC”) in its on-going efforts to resolve compatibility problems on both a short term and long term basis. In 1993, the C3AG submitted recommendations to the Commission, which subsequently presented a three-phase plan to Congress in October of that year<sup>1</sup>

The long term solution put forth by the C3AG was the development of a Decoder Interface connector and associated descrambler/decoder set back equipment. The C3AG found that the Decoder Interface, an updated version of an existing standard -- the EIA/ANSI multiport connector -- would facilitate effective compatibility and the provision of a wide variety of competitive services from alternative providers. In its First Report and Order in this proceeding, the Commission concluded that the public interest would be served by adopting the Decoder Interface, but deferred adoption pending completion and submission of an acceptable standard by the C3AG.<sup>2</sup> In its recent Reconsideration Order, the

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<sup>1</sup> See “Report to Congress on Means of Assuring Compatibility Between Cable Systems and Consumer Electronics Equipment,” Federal Communications Commission, October 5, 1993.

<sup>2</sup> See “Implementation of Section 17 of the Cable Television Consumer Protection and Competition Act of 1992, Compatibility Between Cable Systems and Consumer

Commission reiterated its intention that the Decoder Interface “serve as a means for promoting competition in the market for equipment used to receive cable service,” emphasizing that participation in this market should be “open to all parties.”<sup>3</sup>

Although the Decoder Interface concept is the result of years of inter-industry study in an open deliberative process, Echelon wishes to halt the entire process based on new provisions in the 1996 Telecommunications Act.<sup>4</sup> NCTA believes, however, that the proposed Decoder Interface is not only fully consistent with the Act but promotes its competitive objectives. The interface is a narrow technical standard and the minimal approach necessary to facilitate compatibility.

Nevertheless, as an initial matter, Echelon’s petition should be rejected because it is premature and unsubstantiated. While the concept of a Decoder Interface has been endorsed by the Commission, no standard has been adopted yet. Indeed, there are critical elements of the interface left to be resolved. Until the standard is completed and adopted by the Commission, Echelon’s petition is

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Electronics Equipment,” First Report and Order, 9 FCC Rcd 1981 (1994) (“First Report and Order”).

<sup>3</sup> See “Implementation of Section 17 of the Cable Television Consumer Protection and Competition Act of 1992, Compatibility Between Cable Systems and Consumer Electronics Equipment,” Memorandum Opinion and Order, ET Docket No. 93-7, FCC 96-129 (released Apr. 10, 1996) (“Reconsideration Order”).

<sup>4</sup> Echelon has participated in the process during the past several years.

speculative. Moreover, its petition also fails for lack of evidence that the standard, even as currently proposed, violates the compatibility provisions of the Act.

In the end, Echelon relies on a reading of the Telecommunications Act that would reduce the Commission's "responsibility and authority" with regard to cable-consumer electronics compatibility issues.<sup>5</sup> We submit, however, that while Congress provided additional guidance for the Commission's actions in this proceeding, it did not repeal Commission authority to adopt a Decoder Interface concept under the compatibility provisions or other provisions of the Act.

In addition, NCTA supports General Instrument's Petition for Clarification, which asks the Commission to clarify that descramble-only components may also incorporate certain essential network functions. The Decoder Interface is designed to facilitate back and forth communication between the consumer, the cable headend and the TV set. This communication function is inextricably linked to the descrambling function and provides the basis for access to advanced options and interactive services. Therefore, the Commission should grant General Instrument's petition.

## **DISCUSSION**

### **I. ECHELON'S PETITION SHOULD BE DENIED**

In its petition, Echelon urges the Commission to reconsider its April 10, 1996 Order in light of the 1996 Telecommunications Act ("Telecom Act"). Echelon believes that the Act's revision of section 624(A), particularly the finding related to

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<sup>5</sup> Echelon Petition at 3.

“narrow technical standards”, calls into question the appropriateness of the proposed Decoder Interface standard. It believes the Commission should undertake “a fundamental reexamination of its assumptions and decisions in this proceeding” by issuing a new notice of proposed rulemaking soliciting comments on the means to achieve narrow technical compatibility standards.<sup>6</sup> For the following reasons, Echelon’s petition should be denied.

**A. Echelon’s Objection to the Decoder Interface is Premature and Unsubstantiated**

Echelon’s petition is premature. While the C3AG has made significant progress in developing the standard, the two sides have not put forth a final proposal to the Commission. Almost two years ago, NCTA and CEMA submitted a joint filing endorsing the electrical and mechanical characteristics of the Decoder Interface designed by the JEC but failed to reach agreement on two major aspects of the proposed standard: the command set and the interface digital specifications.<sup>7</sup> Moreover, CEMA subsequently withdrew its support for that standard.<sup>8</sup> The JEC continued to meet, however, to work on the physical specifications of the IS-105 standard and the C3AG recently resumed negotiations on the outstanding issues. But there is still much work to be done. Without a fully

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<sup>6</sup> Echelon Petition at 5.

<sup>7</sup> Letter from Jeffrey A. Campbell to William F. Caton, Acting Secretary, FCC (August 15, 1994) transmitting Decoder Interface Standards Draft IS-105.

<sup>8</sup> See Letter from Joseph P. Markoski to Richard M. Smith, FCC (March 9, 1995); see also NCTA Letter from Daniel L. Brenner and Wendell H. Bailey to Richard M. Smith, FCC, February 13, 1995.

defined standard before the Commission, it is premature for any affected industry to seek reconsideration of the Decoder Interface.

Furthermore, Echelon provides no substantiation for its assertions that the Decoder Interface fails to comply with section 624(A) of the 1992 Cable Act, as amended by section 301(f) of the 1996 Telecommunications Act. It merely claims that the Decoder Interface is “inconsistent in many ways” with the Act and objects to the concept “as presently envisioned.”<sup>9</sup> These broad, unsubstantiated assertions are insufficient grounds to challenge the Commission’s exercise of its authority. And in the absence of such evidence, the Commission need go no further to deny the petition.

**B. Echelon Takes an Overbroad View of the Telecom Act**

Echelon also attempts to block further development of the Decoder Interface with an overly expansive interpretation of the statute. In modifying section 624(A), Congress added three provisions: a new finding, a new factor to consider and a new regulatory requirement. It did not repeal the Commission’s authority to adopt an interface standard under the compatibility provisions or otherwise limit its authority under other provisions of the Act.<sup>10</sup>

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<sup>9</sup> Echelon Petition at 5-6.

<sup>10</sup> While we generally agree with Echelon’s opposition to government-mandated standards, the FCC is under a statutory obligation to adopt regulations to assure compatibility between consumer electronics equipment and cable systems. Moreover, there are cases where minimal technical standards may be necessary. In this regard, we believe that the Decoder Interface is an appropriately narrow, minimal technical standard in accordance with section 301(f) of the Telecommunications Act.

Section 301(f) first adds a Congressional finding that cable-consumer electronics compatibility can be assured with “narrow technical standards, that mandate a minimum degree of common design and operation, leaving all features, functions, protocols and other product and service options for selection through open competition in the market.” While this provision, along with the other findings in section 624(a), will guide Commission rulemaking on equipment compatibility, it does not *mandate* or even instruct any particular FCC action.

Nevertheless, NCTA believes that the Decoder Interface accomplishes what Congress had in mind: a narrow, minimalist approach to resolving compatibility problems by promoting wide access to the consumer through a bus structure that will support a wide array of competitively-supplied devices. Indeed, the Commission has required that the interface have the capability to separate signal access control functions from non-security related functions served by the connector and thereby “allow non-security functions to be provided through new products offered by retail vendors or to be incorporated into TV receivers and VCRs.”<sup>11</sup> It also directed that the Decoder Interface be developed to permit unimpeded consumer access to competing video delivery systems, such as home satellite dish, DBS, and wireless cable.<sup>12</sup> In light of these decisions, we believe that the Decoder Interface meets the additional congressional finding regarding narrow technical standards.

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<sup>11</sup> First Report and Order at ¶42.

<sup>12</sup> *Id.* at ¶42.

Section 301(f) also directs the Commission to consider “the need to maximize open competition in the market for all features, functions, protocols and other product and service options of converter boxes and other cable converters unrelated to the descrambling or decryption of cable television signals.” Here again, this is one of several factors that the Commission is to take into account in developing compatible interfaces. And this is precisely what the C3AG and JEC have sought to accomplish over many years of work on the standard: maximizing open competition in the provision of features, functions and other options through the Decoder Interface. Indeed, as noted above, even before the passage of the 1996 Telecom Act, the Commission aimed to “promote competition in the market” by requiring the separation of signal access control functions from other non-security related functions.<sup>13</sup> It reaffirmed this position in its Reconsideration Order requiring that “participation in this market be open to all parties.”<sup>14</sup>

Lastly, section 301(f) directs the Commission “to ensure that any standards or regulations developed under the authority of this section...do not affect features, functions, protocols, and other product and service options other than those specified in paragraph (1)(B), including telecommunications interface equipment, home automation communications, and computer network services.” As we have noted, the Decoder Interface multi-pin bus structure is designed to accommodate the multiplicity of products and services that may connect to the TV set. In any

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<sup>13</sup> First Report and Order at ¶42.

<sup>14</sup> Reconsideration Order at ¶38.

event, Echelon fails to explain how the incomplete IS.105 interface standard “affects” features, functions, protocols and other product and service options that it or other providers might offer through the interface connector in violation of the statute. Without such evidence, Echelon’s petition must fall.<sup>15</sup>

## **II. GENERAL INSTRUMENT’S PETITION FOR CLARIFICATION SHOULD BE ADOPTED**

In its Petition for Clarification, General Instrument asks the Commission to clarify that component descramblers supplied by cable operators may incorporate certain network functions in addition to accessing the signal control functions. It asserts that limiting component descramblers to solely providing the signal access control function is inconsistent with the Decoder Interface. As General Instrument notes, the interface is designed to perform a variety of upstream and downstream functions, including communicating with the TV set and communicating between the cable headend and the subscriber. Applying the descramble-only limitation in the Reconsideration Order to component descramblers would also interfere with evolving cable network designs, such as addressability and interactive two-way communications.

NCTA supports General Instrument’s petition. The Decoder Interface by its very nature is designed to enable the customer and the equipment provider and service provider to communicate with each other. This capability is part and parcel

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<sup>15</sup> We also support the statutory analysis of section 301(f) in CEMA’s Opposition and Comments to Petitions for Further Reconsideration and Clarification in response to Echelon’s petition.

of performing the descrambling of video signals. As General Instrument points out, the Decoder Interface supports the subscriber's ability to order and view a scrambled pay-per-view program, or use on-screen menus and program guides generated by the component descrambler.<sup>16</sup> It also supports essential network control functions such as forced tuning and channel mapping.

In order for consumers to choose from among a variety of options available from a cable service provider through the Decoder Interface connector, the cable operator must control the method for making such choices. This entails not only descrambling the signal but providing the functions necessary for consumers to communicate their choices easily and without confusion.

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<sup>16</sup> General Instrument Petition at 6-7.

**CONCLUSION**

NCTA believes that the Decoder Interface standard will promote open competition in the delivery of existing analog cable operations and innovative new technologies and services. We urge the Commission, therefore, to reject Echelon's efforts to halt the process by denying its Petition for Further Reconsideration.

In addition, NCTA urges the Commission to grant General Instrument's Petition for Clarification by ruling that component descramblers which perform only the signal access control function also may include certain essential network functions.

Respectfully submitted,



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