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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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	)	

REPLY OF
THE NATIONAL CABLE TELEVISION ASSOCIATION, INC.

The National Cable Television Association, Inc. ("NCTA"), by its attorneys, hereby submits its Reply to the Response of Circuit City Stores, Inc. ("Circuit City Response") to Petitions for Clarification of General Instrument Corporation ("General Instrument Petition") in the above-captioned proceeding.

INTRODUCTION

In our comments submitted on July 5, 1996, NCTA supported the Petition for Clarification filed by General Instrument Corporation concerning the separation of security and non-security related functions in future cable-ready component modules. We agree that the Commission's rules should make clear that basic descramblers, i.e., those limited to signal access control, may incorporate certain functions that are essential for security and network control. Such a ruling would not impinge on, or otherwise interfere with, the competitive availability of non-security features and functions in new products offered at retail or through service providers.

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Circuit City Stores, Inc. ("Circuit City") seeks an interpretation of the Commission's requirement that the Decoder Interface standard be capable of separating security and non-security functions that would be detrimental to consumers and would severely disadvantage a cable operator's ability to control access to its system. It urges the FCC to preclude basic descramblers from performing functions essential to the delivery of scrambled programming. Without these functions, consumers will have great difficulty communicating with the television receiver, set back or set-top module, and the cable headend. The absence of on-screen guides and instructions will make it cumbersome and, in some cases, impossible for consumers to make programming choices. And it will also make the programming itself more vulnerable to theft.

Circuit City also attempts to go beyond this proceeding by putting forth its anti-competitive and anti-consumer position on section 304 of the Telecommunications Act, which addresses commercial availability of navigation devices. It ignores the statutory directives in the Act in order to pursue its agenda of becoming the exclusive distributor of integrated set back equipment, thereby shutting off consumers to alternative lease or purchase options. Indeed, Circuit City would not only foreclose service providers from participating in this competitive marketplace but would further jeopardize theft-of-service by forcing the retail sale of converter boxes containing system security in contravention of the Act.

Therefore, Circuit City's attempts to take the rules that are intended to stimulate competition and twist them into rules insulating them from competition from cable and other non-retail providers must be rejected.

DISCUSSION

I. BASIC DESCRAMBLERS SHOULD BE ABLE TO INCORPORATE FUNCTIONS ESSENTIAL TO THE DELIVERY OF SCRAMBLED SERVICES

As the Commission recognized in its initial Report and Order on compatibility, the Decoder Interface constitutes a "significant step toward achievement of more effective compatibility between cable systems and consumer electronics equipment," including "its capabilities for serving all existing scrambling systems, for accommodating new cable technologies and services, and for providing a migration path to digital cable service."[1] The Decoder Interface Connector's multi-pin bus structure will facilitate the connection of multiple alternative service providers and competitively-supplied equipment -- in a manner that is virtually transparent to the consumer.

Indeed, the Cable-Consumer Electronics Advisory Committee ("C3AG") and the Joint Engineering Committee ("JEC") have designed the interface first and foremost to benefit the consumer. It will make access and manipulation of existing cable services and new advanced telecommunications services that are secured by

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[1] Compatibility Between Cable Systems and Consumer Electronics Equipment, ET Docket No. 93-7, First Report and Order, at para. 38, released May 4, 1994.

the cable operator or other service provider easy and convenient. Experience has shown that ease and convenience is important to consumers' willingness to try new services and equipment.

The draft Decoder Interface is capable of separating security and non-security-related functions in equipment in order to facilitate the competitive availability of features other than security control.[2] All that the General Instrument Petition seeks is clarification that a basic security-only descrambler provided by the cable operator must be able to incorporate certain functions to fulfill its purpose -- the delivery of scrambled programming to the subscriber.

For example, scrambled channels are often premium or pay-per-view services. Where there are multiple video, data and multimedia service offerings connected to the cable ready receiver, the consumer must have the means to access and select those services that he or she desires. If the basic descrambler is not capable of communicating with the network and other equipment connected to the interface -- that is, able to send out and bring back messages -- the subscriber will be unable to register his choices. The subscriber may be forced unnecessarily to lease or purchase another piece of equipment to perform this vital function.

Thus, the basic set back component descrambler must have the capability of communicating with the television receiver, that is, to force tune the receiver's

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[2] These non-security offerings may include electronic program guides, video games, Internet browsers, caller ID and on screen displays, tuners for DBS and MMDS, sophisticated parental control, and a wide range of other features.

tuner to a particular channel. It also must be able to talk to the cable headend to authorize access or to modify security or system access rights. And the descrambler must be able to display menus and receive messages concerning the subscriber's programming choice. These functions are not optional features, but are an integral part of the signal access control function.

Moreover, these functions must be uniform throughout the entire cable system. Otherwise, consumers will be frustrated and confused if they are forced to figure out one methodology for communicating their choices for one level of service and an entirely different methodology for upgraded service. This would simply be an unworkable approach.

In addition to designing the Draft Decoder Interface Standard, IS-105.1 and IS 105.2, to incorporate functions essential to the delivery of scrambled programming, the engineers recognized that these functions are critical to protecting against signal piracy. In order to ensure that cable system security is not compromised, the access functions must be controlled by the service provider. In two-way, interactive cable systems, the network operator must be able to control both upstream and downstream communications and authorization concerning scrambled services. Congress and the Commission stated in the 1992 Cable Act and its implementing rules, and again in the 1996 Telecommunications Act, that protecting against theft-of-service is an important goal of the FCC's equipment rules.

II. THE TELECOMMUNICATIONS ACT OF 1996 DOES NOT PRECLUDE CABLE OPERATORS FROM OFFERING NAVIGATION DEVICES OR OTHER COMPONENT MODULES THAT INCORPORATE SECURITY AND NON-SECURITY FUNCTIONS

Circuit City attempts to rewrite section 304 of the Telecommunications Act for its own anticompetitive purposes. It argues that Congress "left no room or rationale for the Commission to fashion any exception for operator-provided devices that integrate security functions with other features" in set-top or set-back modules. It ignores the precise statutory language, however, which provides that any multichannel video programming distributor ("MVPD"), including cable operators, may offer navigation equipment to access its services to consumers. Indeed, Congress was unequivocal that the FCC's regulations *not* preclude MVPDs from participating in the competitive market for navigation equipment:

> Such regulations shall not prohibit any multichannel video programming distributor from also offering converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, to consumers, if the systems operator's charges to consumers for such devices and equipment are separately stated and not subsidized by charges for any such service.[3]

Moreover, the statute goes on to state that the Commission shall not prescribe regulations which "would jeopardize security of multichannel video programming and other services" or "impede the legal rights of a provider of such services to prevent theft of service."[4]

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[3] Telecommunications Act, section 304 (emphasis added).

[4] Id.

Circuit City's filing is at best premature since the Commission has not yet released its Notice of Inquiry and Notice of Proposed Rulemaking on section 304.

Nevertheless, nothing in section 304 or section 301(f) precludes cable operators and other multichannel distributors from competing in the provision of integrated set-top or set back equipment. Indeed, as described above, the Decoder Interface is a narrow technical standard that is specifically designed to facilitate connection by multiple distributors and manufacturers. As the Commission points out in its recent Reconsideration Order in this proceeding:

> [W]e reiterate that it is our intention that the Decoder Interface serve as a means for promoting competition in the market for equipment used to receive cable service. We believe it is important that participation in this market be open to all parties, including cable operators and consumer equipment manufacturers. [5]

While requiring cable operators to provide components that perform only signal access control functions, the Commission goes on to say that

> we see no need to preclude cable operators from also incorporating signal access control functions in multi-function component devices that connect to the Decoder Interface connector. Our decision ensures that subscribers will have several competitive alternatives in selecting component descrambler equipment.

Under the 1992 Cable Act and the Commission's rules, the subscriber would have the choice of obtaining a device from a retail vendor and using it in conjunction with a cable operator-supplied descrambler. The subscriber also could lease or purchase a device from a cable operator that performs a variety of functions, or just connect a

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[5] Compatibility Between Cable Systems and Consumer Electronics Equipment, ET Docket No. 93-7, Memorandum Opinion and Order, at para. 38, released April 10, 1996 (emphasis added).

basic descrambler with no special features. The point is that the subscriber has the choice of various sources for equipment. All functions other than those related to security would be available in competitively-supplied equipment.

CONCLUSION

For the foregoing reasons, the Commission should clarify its Reconsideration Order to reflect the specifications of the draft Decoder Interface, which enables the component descrambler supplied by the cable operator to contain essential communications and network control functions as part of the signal access control function.

Respectfully submitted,

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July 18, 1996

CERTIFICATE OF SERVICE

I, Staci M. Pittman, do certify that on this 18th day of July, 1996, copies of the foregoing **"REPLY OF THE NATIONAL CABLE TELEVISION ASSOCIATION, INC.."** were delivered by first-class, postage pre-paid mail upon the following:

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