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FCC MAIL ROOM

Federal Communications Commission
1919 M St NW
Washington, DC 20554

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97-80

RE: Comment on NPRM 97-53

Dear Chairman and Commissioners:

The following is Comment on the proposed implementation of Section 629 of the Communications Act entitled COMPETITIVE AVAILABILITY OF NAVIGATION DEVICES.

1. Interpretation of Congressional intent

Prior to The Telecommunications Act of 1996 (the 1996 Act), legislation and FCC rulemaking had succeeded in assuring the availability of *cable-ready* tuners in television broadcast receivers and video recorders. Congress rightly took note of the fact that many cable operators rendered these features useless by requiring that proprietary converter boxes be used to view programming. Further, most cable operators offer such converters only on a rental basis, and, as a result, consumers pay far more than the devices' cost in the long term. Even if the consumer were offered a purchase option, the equipment would be proprietary to his current system and would likely not be usable if the consumer moved to the territory of a different cable operator. It is my belief, and this is supported by media coverage of the announcement of the 1996 Act, that Congress' intent was to remedy all three of these problems.

2. Multichannel programming from cable system

One way to restore usability of *cable-ready* tuners is to accomplish all security measures (descrambling, etc.) *outside* the consumer's premises, and supply the consumer with the multichannel programming he ordered, no more and no less, ready for reception by regular *cable-ready* broadcast receivers. This would leave the total responsibility of the security equipment with the cable operator. From the consumer's viewpoint, this is the simplest system and the one he would naturally expect from the cable operator. From the cable operator's viewpoint, it would have complete control over security, would be able to use equipment of its choice, and would be free of any responsibility for Customer Premise Equipment. For those customers whose tuners are not *cable-ready*, equipment is already available on the market at reasonable prices. If this form of delivery were mandated by the FCC, it would not be necessary to implement Section 629.

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3. Multichannel output from Customer Premise Equipment

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If cable operators are not required to supply multichannel unscrambled signals, then implementation of Section 629 is necessary. Rules promulgated under this section should assure the availability of Customer Premise Equipment which provides at its output all channels for which the consumer has paid. That is, such equipment has a security function only, and only one such piece of equipment is necessary per subscriber. The cable feed into this device may contain scrambled signals. The multichannel output of the device must contain all the signals for which the consumer has paid in an unscrambled form, ready for reception by regular *cable-ready* broadcast receivers and video recorders. Thus the consumer regains the rights to use the channel selection features of his *cable-ready* tuners, to distribute the cable

TV signals within his premises, and to let family members in different rooms watch and record several channels simultaneously without renting or purchasing additional equipment for each room location.

4. Required notice of impending equipment obsolescence

Any Customer Premise Equipment which the cable operator requires the consumer to use in order to receive the subscribed channels should be available for purchase, preferably from multiple sources. The cable operator must be required to inform subscribers and potential subscribers of any planned change to the distribution method which would render the Customer Premise Equipment obsolete or render it less than fully useful (for example, if a service or feature expansion is planned, and new equipment will be required to utilize the new services or new features). Such notice must be given in advance of any planned change an amount of time equal to the payback period of the pertinent equipment. The payback period in months would be determined by dividing the price the cable operator charges for the equipment by the monthly charge by the cable operator to rent the same equipment. If the cable operator does not sell equipment, it would be required to cite three retailers from which its subscribers may reasonably purchase the equipment, and their prices, which would be averaged. If the cable operator does not rent equipment, it would be required to cite three outlets from which its subscribers may reasonably rent the equipment, and their monthly rates, which would be averaged. The cable operator would be prohibited from implementing any such distribution system change if timely notice had not been given.

5. One way transmission acceptable; Required equipment connection to phone line unreasonable

If a standard security device is proposed as a way to make customer equipment portable from one system to another, it should not require all cable operators to convert their one-way signal distribution systems to two-way, since the cost of providing a two-way infrastructure is much greater than that of a one-way system. Two-way systems allow, among other features, ordering of optional pay-per-view programming without telephoning the cable operator, but they can also be used to report subscribers' viewing habits, which many consider to be an undue invasion of privacy. The method of artificially converting a one-way system into a two-way system as used by the DBS providers, that of *requiring the Customer Premise Equipment to be constantly connected to the subscriber's telephone line* so that the equipment may make telephone calls without the subscriber's knowledge or control, specifically *should not be allowed*. This requirement is unreasonable. Subscribers should be able to retain control over the use of their telephone lines at all times. One-way systems are sufficient for the transmission and reception of subscription signals paid for in advance. Consumers should retain the right to use their equipment in a receive-only manner. If two-way capability is provided, subscribers must have the right to switch it off if they do not desire the added features it enables. It is reasonable for the cable operator to ask the subscriber for the unique serial number of the standard security device purchased through retail channels, so that by one-way transmission it can control the security device. It is unreasonable to require the customer's equipment to transmit information back to the cable provider as a condition of providing service if the customer objects to such transmission.

Respectfully submitted,

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