

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

DOCKET FILE COPY ORIGINAL

RECEIVED

MAY 16 1997

Federal Communications Commission
Office of Secretary

In the Matter of)
)
Implementation of Section 304 of the)
Telecommunications Act of 1996) CS Docket No. 97-80
)
Commercial Availability of)
Navigation Devices)

To: The Commission

COMMENTS OF TANDY CORPORATION

John W. Pettit
Richard J. Arsenault

DRINKER BIDDLE & REATH LLP
901 Fifteenth Street, N.W.
Washington, D.C. 20005
(202) 842-8800

May 16, 1997

Counsel for Tandy Corporation

No. of Copies rec'd
List ABCDE

024

TABLE OF CONTENTS

| | <u>Page</u> |
|--|-------------|
| SUMMARY | ii |
| INTRODUCTION | 1 |
| DISCUSSION | 2 |
| I. SYSTEMS AND EQUIPMENT COVERED BY SECTION 629 | 2 |
| A. The term "Multichannel Video Programming System" Includes Systems Operated By Multichannel Video Programming Distributors | 2 |
| B. Section 629 Applies To Any Equipment Used To Access Any Service Provided Over An MVPD System | 4 |
| II. COMMERCIAL AVAILABILITY OF NAVIGATION DEVICES | 5 |
| A. The Section 3(1) Affiliation Standard Is Appropriate | 5 |
| B. The Primestar Distribution Model Satisfies The Commercial Availability Standard | 6 |
| C. The Commission Should Address The Cable Modem Market Now | 7 |
| D. The Commission Should Adopt A Rule To Require Equipment Authorized After July 1, 1998 Be Portable Across Similar MVPD Systems | 8 |
| III. SECURITY CONCERNS SHOULD NOT BE AN OBSTACLE TO COMMERCIAL AVAILABILITY OF EQUIPMENT | 12 |
| IV. MVPDs SHOULD BE PROHIBITED FROM SUBSIDIZING THE SALE OF NAVIGATION DEVICES AND BUNDLING SERVICE AND EQUIPMENT . | 13 |
| A. Section 629(a) Forbids Subsidization By MVPDs | 14 |
| B. The Commission Should Not Permit MVPDs To Bundle Navigation Devices And Service | 15 |
| V. SECTION 629 REGULATIONS SHOULD NOT BE PREMATURELY SUNSET | 16 |
| CONCLUSION | 18 |

SUMMARY

New Section 629 of the Communications Act establishes the right of consumers to independently obtain and use their own equipment to receive any service offered over a multichannel video programming system. In these comments, Tandy suggests several rules that the Commission should enact to ensure consumers the competitive retail equipment market envisioned by Congress under Section 629.

As a threshold matter, the term multichannel video programming system should be construed to include any system operated by a multichannel video programming distributor (MVPD) including open video systems.

Tandy respectfully suggests that the Commission expeditiously act to promote the commercial availability of cable modems. The Commission can act immediately in this regard because there are no system security constraints associated with cable modems that have to be resolved. Three principles should be established in the Commission's rules. First, the Commission should make clear that Section 629(a) forbids an MVPD from being the exclusive purveyor of modems compatible with its system. Second, if an MVPD offers modems directly, the Commission must require that the MVPD's charges for these devices are separately stated from the charges for internet access service. Third, MVPDs must be forbidden from using the charge for internet access service to subsidize the charge for modems. With these simple

rules in place, the Commission can ensure a robust retail market for cable modem equipment.

Navigation devices and equipment that are compatible with similar MVPD systems will have broad consumer appeal and will be the foundation of a competitive retail equipment market. Accordingly, Tandy urges the Commission to promulgate an equipment authorization rule, effective July 1, 1998, that requires navigation devices and other equipment used to receive any service offered over an MVPD system to be compatible with similar systems. This equipment portability rule will help foster a national retail market for navigation devices by encouraging equipment manufacturers and MVPD system operators to coordinate their activities so that navigation devices are compatible across similar MVPD systems. Significantly, the rule would not require the Commission to adopt specific standards to promote portability.

Tandy also suggests that the Commission, by rule, require that the security component of TV set-top devices and other navigation equipment be unbundled from other navigation functions.

The Commission should, consistent with the language of Section 629, prohibit MVPDs from subsidizing the cost of equipment with service charges and require MVPDs to separately state the price of equipment and service. With separate price information, consumers can make a reasoned choice between purchasing a service/equipment package from the MVPD or

purchasing only the service from the MVPD while purchasing more competitively-priced equipment or equipment with different features from an independent source.

Finally, Tandy urges the Commission not to forbear from regulating certain types of equipment used with MVPD systems. At a minimum, until a mass retail market develops for a particular type of equipment used with an MVPD system, that equipment should be subject to Section 629 commercial availability requirements.

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

In the Matter of)
)
Implementation of Section 304 of the)
Telecommunications Act of 1996) CS Docket No. 97-80
)
Commercial Availability of)
Navigation Devices)

To: The Commission

Tandy Corporation, by its undersigned attorneys, hereby files Comments on the Commission's Notice of Proposed Rulemaking (NPRM) in the captioned proceeding.¹

INTRODUCTION

As one of America's leading retailers of high quality consumer electronics and telecommunications equipment for consumers and business, Tandy has a vital interest in this proceeding the purpose of which is to promote the commercial availability of equipment for use with multichannel video programming systems. Each year, more than 60 million American consumers frequent one of the more than 6,900 Tandy RadioShack or Computer City affiliated stores.

In these comments, Tandy urges the Commission to promulgate rules pursuant to new Section 629 of the Communications Act, 47

1. NPRM released February 20, 1997, FCC 97-53. Tandy is a member of the Consumers Electronics Retailers Coalition (CERC) and concurs with CERC's comments in this proceeding.

U.S.C. § 549,² that establish the right of consumers to independently obtain and use their own equipment to receive any service offered over a multichannel video programming system. The Commission should act quickly and decisively to ensure that consumers obtain the maximum benefits that Congress, through Section 629, intended to afford them.

DISCUSSION

I. SYSTEMS AND EQUIPMENT COVERED BY SECTION 629

A. The term "Multichannel Video Programming System" Includes Systems Operated By Multichannel Video Programming Distributors.

Tandy agrees that Section 629 is "jurisdictionally broad in terms of the entities to which it applies." NPRM ¶ 14. Section 629 directs the Commission to "adopt regulations to assure the commercial availability, to consumers . . . of 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 from manufacturers, retailers, and other vendors not affiliated with any multichannel video programming distributor." 47 U.S.C. § 549(a). Section 629 thus is a decidedly procompetitive statute that should be construed broadly to promote the public interest.

The pro-consumer foundation of Section 629 is illustrated by the Conference Committee's statement that Section 629 is intended

2. Section 629 was added to the Act pursuant to Section 304 of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

to "ensure that consumers are not forced to purchase or lease a specific, proprietary converter box, interactive device or other equipment from the cable system or network operator." H.R. Conf. Rep. No. 104-458, at 181 (1996). Section 629 thus establishes a consumer's right to obtain equipment for use with any service provided over a multichannel video programming "system" from an entity unaffiliated with the system operator. Since Congress did not define the term multichannel video programming "system," the Commission must apply its expert judgment to define what constitutes a multichannel video programming system.

Section 629(a)'s heading refers to "Equipment Used To Access Services Provided By Multichannel Video Programming Distributors." In the absence of legislative history to the contrary, it is reasonable for the Commission to conclude that Congress intended the term multichannel video programming "system" to be at least as inclusive as the term multichannel video programming "distributor," a term defined in Section 602(13) of the Act:

. . . a person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming.

47 U.S.C. § 522(13). Tandy agrees that the term multichannel video programming system should include the full panoply of multichannel video distribution systems including cable television, DBS and satellite services, satellite master antenna television systems, wireless cable systems, multichannel digital

broadcast stations, as well as video delivery systems developed in the future.

The Commission asks whether it should apply Section 629 to MVPDs that provide service over an open video system (OVS). NPRM ¶ 15. Merely because an MVPD chooses to provide service over an OVS, rather than over some other multichannel video programming system, should not relieve the MVPD from the obligation to separately state the charges for equipment and services to consumers. It would be contrary to the spirit of Section 629 to deny consumers the benefit of a competitive retail equipment market on the basis that an MVPD provides service over an OVS. The Commission, exercising its existing rule making authority,³ can ensure that the commercial availability rules adopted in this proceeding apply equally to OVS operators.

B. Section 629 Applies To Any Equipment Used To Access Any Service Provided Over An MVPD System.

Section 629 requires commercial availability, from nonaffiliated sources, of "converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered" by an MVPD. 47 U.S.C. § 549(a) (emphasis added). Thus,

3. The Commission has latitude under its existing regulatory authority to address the competitive availability of equipment used in connection with services offered over an OVS. Section 629 neither expands nor limits the Commission's existing regulatory authority. 629(f) provides "Nothing in this section [629] shall be construed as expanding or limiting any authority that the Commission may have under law in effect before the date of enactment of the Telecommunications Act of 1996." 47 U.S.C. § 549(f).

any equipment used to access any service (not just video programming service) offered by an MVPD is embraced by the plain language of the statute. The Commission's implementing regulations should make clear their applicability to all equipment used to access services provided over MVPD systems.

II. COMMERCIAL AVAILABILITY OF NAVIGATION DEVICES

A. The Section 3(1) Affiliation Standard Is Appropriate.

Section 629(a) requires that equipment be commercially available from manufacturers, retailers and other vendors "not affiliated" with an MVPD. Tandy agrees with the Commission that for the purposes of implementing Section 629, affiliation should be defined pursuant to Section 3(1) of the Communications Act.

NPRM ¶ 27. Section 3(1) provides

The term "affiliate" means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term "own" means to own an equity interest (or the equivalent thereof) of more than 10 percent.

47 U.S.C. § 153(1). Section 3(1)'s 10% ownership threshold provides a bright line test to determine what constitutes affiliation and thus avoids the potential pitfall that a de minimis ownership interest could unwittingly constitute affiliation. Thus, where an MVPD has a 10% or greater interest in a retailer, the commercial availability requirement of Section 629 would require that equipment used to access service provided by that MVPD be available from at least one other retailer with whom the MVPD has no affiliation.

**B. The Primestar Distribution Model Satisfies
The Commercial Availability Standard.**

The Commission seeks comment on the extent to which the Primestar retail distribution model satisfies the commercial availability requirement of Section 629. NPRM ¶ 21. Through its more than 6,800 affiliated RadioShack stores, Tandy is among the leading retailers of Primestar and other direct-to-home satellite television services. The retail distribution of Primestar service, a service that is competitive with other direct-to-home satellite services, by RadioShack and other retailers is precisely the type of relationship Congress intended to foster through Section 629.

The legislative history of Section 629 makes clear that it is intended to "ensure that consumers are not forced to purchase or lease a specific, proprietary converter box, interactive device or other equipment from the cable system or network operator." H.R. Conf. Rep. No. 104-458, at 181 (1996) (emphasis added). Thus, Section 629 does not limit arrangements to facilitate the marketing of services and equipment by retailers. Today, consumers have the option of subscribing to one or more direct-to-home satellite services that are competitively available at the retail level. The Commission should focus in this proceeding on the real problem; namely, ensuring that a competitive environment arises in the cable television industry so that retailers may make available to consumers set top boxes and similar equipment.

C. The Commission Should Address The Cable Modem Market Now.

The Commission notes that "the cable industry has begun deploying modems to provide high speed internet access and will soon be deploying these nationwide." Order at ¶ 68. Industry literature indicates that this market is poised for rapid expansion. See GI Scores Adelphia Order for 50,000 Surfboard Cable TV Modems, Fiber Optics News, April 21, 1997; Cable Modems on the Move, Telecommunications Alert, March 21, 1997 (noting that Time Warner has agreed to buy 250,000 cable modems from Motorola). While the cable modem market is in its infancy, it is expected to grow dramatically in the next few years. See Study Predicts 4.5 Million Cable Modem Users by 2001, Cable World, April 21, 1997.

The cable modem market presents a unique opportunity for the Commission to establish Section 629 regulations. Because there are no security concerns inherent in cable modem equipment that have to be addressed, the Commission can act immediately to promote the commercial availability of cable modems for the benefit of American consumers.

First -- No Exclusive Distribution, the Commission must make clear that Section 629(a) forbids an MVPD from being the exclusive purveyor of modems compatible with its system.

Second -- Separate Price Information, insofar as any MVPD directly markets modems, the Commission must require that the MVPD's charges for these devices "are separately stated," 47 U.S.C. § 549(a), from the charges for internet access service.

With the price of equipment and service separately stated, consumers will have the information they need to make a reasoned choice regarding where to obtain their modems and/or internet access service.

Third-- No Subsidization, the Commission must forbid MVPDs from using the charge for internet access service to subsidize the charge for modems. In this regard, the Commission must specify that MVPDs cannot vary the charge for internet access service based on whether consumers acquire their modems from the system operator or from an independent retailer. For example, any MVPD promotional offering of internet access service must be made available on the same terms to all prospective end users irrespective of where they obtain their modems.

With these simple rules, the Commission can effectively implement its Section 629 mandate to foster the commercial availability of equipment for use with MVPD systems.

D. The Commission Should Adopt A Rule To Require Equipment Authorized After July 1, 1998 Be Portable Across Similar MVPD Systems.

Tandy believes that one of the surest means to foster the commercial availability of navigation equipment and other devices from retailers is to provide that equipment used with similar MVPD systems (i.e., broad categories of MVPD systems such as digital cable television providers, direct satellite service providers, etc.) be portable across these systems. Portability across similar MVPD systems will precipitate a national retail market for navigation devices and other equipment.

From the retailers' perspective, equipment that is portable across similar MVPD systems has three important attributes. First, consumers will be more apt to invest in equipment if the equipment can be used with similar MVPD systems. Second, equipment that is compatible across similar MVPD systems would allow retailers to advertise on a regional or national basis with inherent economies of scale. Third, the ability to market the same piece of equipment to many end users in different geographic markets means that a retailer could obtain equipment at discounted prices by buying the product in larger quantities than purchasing several types of equipment, each of which only functions with a particular MVPD system. Where the utility of equipment is limited to a particular MVPD system these important benefits are absent.

In order to promote the commercial availability of equipment for use with MVPD systems, Tandy proposes the following equipment authorization rule:

On or after July 1, 1998, no application for the authorization of multichannel video equipment will be granted unless the applicant demonstrates that:

- (a) the multichannel video equipment will be readily available to consumers for purchase or lease from manufacturers, retailers, and other vendors not affiliated with any multichannel video programming distributor in those markets where the equipment will be utilized, and

(b) the multichannel video equipment will be portable to all other similar networks of multichannel video service providers in every geographic location where such service is offered.

For purposes of this rule, "affiliation" shall be defined in accordance with Section 3(1) of the Communications Act and "multichannel video equipment" shall include equipment located at the premises of a customer used to access cable television service, direct broadcast satellite service, satellite master antenna television service, multichannel multipoint distribution service, instructional television fixed service, local multipoint distribution service, open video system service, and all other services offered over such systems (including but not limited to services accessed through cable modems).

Tandy's proposed equipment authorization rule would not require the Commission to adopt specific standards to promote portability. Instead, the rule would motivate equipment manufacturers and MVPD system operators to coordinate their activities so that navigation devices and other equipment are compatible across similar MVPD systems.

As the Consumer Electronics Retailers Coalition demonstrates in its comments filed in this proceeding, the private sector already has made considerable progress in standardizing digital transmission standards. Indeed, it appears that most DBS, cable, MMDS and OVS systems will implement a variant of MPEG.

Accordingly, equipment manufacturers and MVPD system operators should not be hard pressed to find common ground to ensure that navigation devices and other equipment are compatible across similar MVPD systems.

Under the rule proposed by Tandy, the Commission would grant an application for MVPD equipment authorization if it finds that "grant of the application would serve the public interest, convenience and necessity." 47 C.F.R. § 2.915(a)(2). A central feature of the Commission's public interest determination would be the extent to which the subject MVPD equipment is compatible with similar MVPD systems. Equipment that complies with the portability requirement would further the public interest by fostering a competitive, and possibly national, retail market for navigation devices and equipment used to access services provided by MVPDs.⁴

4. It is well established that the Commission may use its equipment authorization program to further important policy objectives such as portability of equipment. For example, the Commission recently stated "that vital policy objectives, such as . . . closed captioning of TV receivers, compatibility of TV receivers with cable systems . . . are being ensured in whole or in part through the equipment authorization program." Amendment of Parts 2, 15, 18 and Other Parts of the Commission's Rules to Simplify and Streamline the Equipment Authorization Process for Radio Frequency Equipment, Notice of Proposed Rule Making in ET docket No. 97-94 (released March 27, 1997). See also Exemption of Certain Radio Devices to be Used by Law Enforcement Agencies From the Commission's Equipment Authorization and Licensing Requirements, 6 FCC Rcd 3392 (1991) (wherein the Commission weighed public interest considerations in determining whether to exempt certain equipment from its equipment authorization requirements). The Commission should exercise its authority here to promote the portability, and hence commercial availability, of equipment used with MVPD systems.

It is important to note that the portability rule would not hinder the development of equipment unique to a specific MVPD system where the manufacturer demonstrates that waiver of the rule "is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products." 47 U.S.C. § 549(c). Such waivers, however, should be granted sparingly.

Tandy believes that the Commission should establish the portability rule effective on July 1, 1998. Equipment authorized after that date thus would function across similar MVPD systems. With advance notice of the effective date, manufacturers and MVPDs will have ample time to coordinate their efforts to develop equipment compatible across similar MVPD systems.

III. SECURITY CONCERNS SHOULD NOT BE AN OBSTACLE TO COMMERCIAL AVAILABILITY OF EQUIPMENT

Section 629(b) requires the Commission to be mindful of MVPD system security concerns.⁵ The Commission should not permit such concerns, however, to become insurmountable barriers to the commercial availability of navigation devices and other equipment

5. Section 629(b) provides:

The Commission shall not prescribe regulations . . . which would jeopardize security of multichannel video programming and other services offered over multichannel video programming systems, or impede the legal rights of a provider of such services to prevent theft of service.

47 U.S.C. § 549(b).

from retailers unaffiliated with an MVPD system operator. Tandy proposes that the Commission, by rule, require that the security component of TV set-top devices and other navigation devices be unbundled from other functions of the equipment.

Tandy understands that the private sector has developed digital and analog security interfaces that allow MVPD operators to control system security, while all other navigation circuitry can be provided in commercially available consumer electronics equipment. The technology then exists for the separation of security (by so-called "smart cards" for example) from other navigation functions. The Commission should direct MVPD system operators to provide system security to end users separate and apart from other navigation functions. Unless the security circuitry is separated from other navigation functions, consumers will remain captive customers of the entity controlling the security function and the retail market for navigation devices would not flourish.

IV. MVPDs SHOULD BE PROHIBITED FROM SUBSIDIZING THE SALE OF NAVIGATION DEVICES AND BUNDLING SERVICE AND EQUIPMENT

The Commission correctly notes that Section 629 is premised on the telephone industry CPE model where CPE "may not be provided on a bundled or subsidized basis by the service provider" NPRM at ¶ 8. Nevertheless, the Commission suggests that subsidization and bundling are permissible. NPRM at ¶¶ 40 & 42.

A. Section 629(a) Forbids Subsidization By MVPDs

The Commission asks "Does the language of Section 629(a) preclude MVPDs from selling navigation devices below cost?" Order at ¶ 44. The answer is unequivocally "Yes." Section 629(a) only permits an MVPD to sell navigation devices and equipment if the MVPD's "charges to consumers for such devices and equipment are separately stated and not subsidized by charges for any such service." 47 U.S.C. § 549(a) (emphasis added). The Commission incorrectly infers from the floor colloquy of Senators Faircloth and Burns (see NPRM at ¶ 40) that subsidization is permissible where competition to cable exists. "Legislative history is irrelevant to the interpretation of an unambiguous statute." Davis v. Michigan Dep't of Treasury, 489 U.S. 803, 809 n.3 (1989). The statutory ban on subsidization is absolute and does not admit any exceptions.

Nevertheless, the Commission inquires whether it should refrain from exercising its "authority [to prohibit subsidization] over non-cable MVPDs and cable companies that face effective competition." Order at ¶ 37. The Commission tentatively concludes "that existing equipment rate rules, that are applicable only to noncompetitive cable television systems properly address the Section 629(a)" anti-subsidization requirement. Order at ¶ 76 (footnote omitted).

To ensure a robust retail market for navigation equipment, the Commission must prohibit subsidization by all types of MVPDs whether or not they are subject to effective competition. The

fact that several DBS providers compete with one another and, to some extent, with cable systems, does not support the Commission's conclusion that DBS system operators should be permitted to subsidize the cost of navigation equipment, especially in light of the statutory mandate to prohibit that subsidization. See Order at ¶ 42. That there may be DBS "service" competition does not mean that there is competition in the provision of equipment at the retail level as contemplated by Congress under Section 629. Congress envisioned Commission rules that would foster multiple competitive outlets for equipment including "manufacturers, retailers, and other vendors not affiliated with any" MVPD. 47 U.S.C. § 549(a). To permit MVPDs to subsidize equipment would contradict the plain language of Section 629(a) and may very well thwart Congress' goal of a vibrant retail equipment market.

**B. The Commission Should Not Permit MVPDs
To Bundle Navigation Devices And Service.**

The Commission asks "Does the language [of Section 629(a)] prevent MVPDs from 'bundling' equipment with service?" Order at ¶ 44. Just as it has prohibited the bundling of common carrier services and telephony CPE (see 47 C.F.R. § 64.702(e)), the Commission should prohibit MVPDs from bundling any service offered over MVPD facilities with any equipment. The Commission's rules should state explicitly, consistent with the language of the statute, that MVPD charges for devices and equipment must be "separately stated and not subsidized by charges for any . . . service." 47 U.S.C. § 549(a).

Bundling encourages the development of equipment designed specifically for use with one provider's service to the exclusion of other providers' services and is antithetical to the development of a robust retail equipment market. While such equipment may utilize advanced technology, it often lacks the functionality of equipment developed in a competitive marketplace and may restrict a consumer's options to take service from a variety of providers.

The bundling prohibition would not preclude MVPDs from marketing service/equipment packages. Rather it merely would require them to separately charge for each component and not subsidize the provision of equipment. Thus, MVPDs today can offer "one-stop-shopping" to their customers, offering packages of services and equipment, as long as the charges for each are separately stated and the equipment is not subsidized from charges for service. In this way, MVPDs now may determine the types of service/equipment packages that they believe would be appealing to many consumers. However, the consumers would be able to determine exactly what they are paying for the equipment. This "unbundling" requirement would allow consumers to choose between purchasing the entire package from the MVPD or purchasing only the service from the MVPD while purchasing more competitively-priced equipment or equipment with different features from an independent source.

V. SECTION 629 REGULATIONS SHOULD NOT BE PREMATURELY SUNSET.

The Commission proposes to interpret the regulatory sunset provision of Section 629(e) "as flexibly as possible." Order at ¶ 82. The Commission's flexibility is constrained, however, because three conditions contained in Section 629(e) must be satisfied before regulations may be sunset:

- (1) the market for the multichannel video programming distributors is fully competitive;
- (2) the market for converter boxes, and interactive communications equipment, used in conjunction with that service is fully competitive; and
- (3) elimination of the regulations would promote competition and the public interest.⁶

Tandy disagrees with the Commission "that regulations for certain type[s] of equipment need not be adopted in the first instance." Order at ¶ 51. There is nothing in the language of Section 629 or in its legislative history that even remotely suggests that it would be appropriate for the Commission to forbear from regulating certain types of equipment used with MVPD systems or otherwise ignoring the mandate of Section 629.

Moreover, as the Commission recognizes, some regulations actually facilitate the functioning of competitive markets. See NPRM at ¶ 52 ("Consumer labeling or disclosure of network standards requirements might . . . assist the functioning of fully competitive markets."). The portability rule proposed by Tandy (see discussion supra at 8-11) is one such rule.

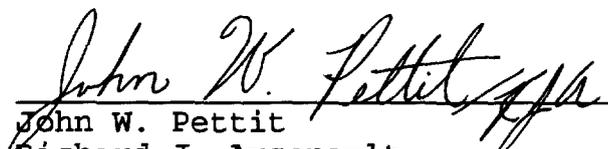
6. 47 U.S.C. § 549(e).

At a minimum, until a mass retail market develops for a particular type of equipment used with an MVPD system, that equipment should be subject to Section 629 commercial availability requirements.

CONCLUSION

For the reasons stated above, the Commission should act quickly to implement its Section 629 mandate to promote the commercial availability of equipment.

Respectfully submitted,


John W. Pettit
Richard J. Arsenault

DRINKER BIDDLE & REATH LLP
Suite 900
901 15th Street, N.W.
Washington, DC 20005-2503

May 16, 1997

Counsel for Tandy Corporation

CERTIFICATE OF SERVICE

I, Richard J. Arsenault, hereby certify that on this 16th day of May 1997, I caused a copy of the attached Comments of Tandy Corporation to be served by hand delivery to the following:

Chairman Reed E. Hundt
Federal Communications Commission
Room 814
1919 M Street, N.W.
Washington, D.C. 20554

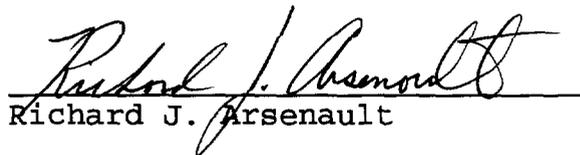
Commissioner James H. Quello
Federal Communications Commission
Room 802
1919 M Street, N.W.
Washington, D.C. 20554

Commissioner Susan P. Ness
Federal Communications Commission
Room 832
1919 M Street, N.W.
Washington, D.C. 20554

Commissioner Rachelle B. Chong
Federal Communications Commission
Room 844
1919 M Street, N.W.
Washington, D.C. 20554

Barrett L. Brick
Cable Services Bureau
Federal Communications Commission
Room 703B
2033 M Street, N.W.
Washington, D.C. 20554
(w/ diskette)

International Transcription Service, Inc.
Suite 140
2100 M Street, N.W.
Washington, D.C. 20037


Richard J. Arsenault