

ABC, Inc.

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Sam Antar  
Vice President  
Law & Regulation  
Legal

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JUN 16 1997

Federal Communications Commission  
Office of Secretary

June 16, 1997

HAND DELIVER

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, DC 20554

Re: Reply Comments - CS Docket No. 97-80

Dear Mr. Caton:

On behalf of ABC, Inc., enclosed for filing with the Commission are an original and six copies of its Reply Comments in CS Docket No. 97-80.

If there are any questions concerning the above matter, please communicate directly with the undersigned.

Very truly yours,

Sam Antar

SA/ak  
Enclosures

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JUN 16 1997

Federal Communications Commission  
Office of Secretary

Before the  
Federal Communications Commission  
Washington, DC 20554

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

To: The Commission

Reply Comments of ABC, Inc.

ABC, Inc. files these Reply Comments to urge the Commission to take into account in deciding the issues raised in this docket the need to ensure that set-top boxes are able to accommodate terrestrial broadcast DTV signals.

Attached for the consideration of the Commission in this docket are extracts from comments filed by a coalition of broadcasters, including ABC, Inc. in MM Docket No. 87-268, as follows:

Attach. #1 - Extract from Petition For Clarification and Partial Reconsideration of the Fifth and Sixth Reports and Orders submitted by The Association for Maximum Service Television, Inc., The Broadcasters Caucus and Other Broadcasters, MM Docket No. 87-268 6/13/97.

Attach. #2 - Extract from Broadcasters Comments on the Fourth Notice of Proposed Rulemaking - 11/20/95 -- MM Docket No. 87-268

Attach. #3 - Extract from Broadcasters Reply Comments on the Fourth Notice of Proposed Rulemaking -- 1/22/96 -- MM Docket No. 87-268

These comments stress the importance of compatible technologies by cable and broadcast media. The absence of compatibility would undermine free over-the-air broadcast television and retard the transition to DTV.

Respectfully submitted,

By: 

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Counsel for ABC, Inc.

June 16, 1997

**C. THE COMMISSION SHOULD TAKE STEPS TO ENSURE INTER-OPERABILITY WITH CABLE.**

In response to the Fourth Further Notice, Broadcasters requested that the Commission take steps to ensure that cable adopted digital technologies that are compatible with the broadcast DTV transmission standard.<sup>64</sup> The important consumer benefits and the rapid roll-out of DTV that adoption of the DTV broadcast transmission standard makes possible could be lost if equipment manufacturers have to outfit DTV sets with expensive cable decoders to accommodate incompatibility between the DTV transmission standard and cable DTV standards. The same is true if consumers are forced to rely on set-top boxes in order to receive cable transmissions that are incompatible with sets designed to receive broadcast signals.<sup>65</sup> Consumers' experience over the last ten years with set-top boxes argues powerfully that the Commission should step in early to forestall a repeat of such confusion.

In the meantime, important segments of the cable industry have taken voluntary steps to standardize cable digital transmissions. The Society of Cable

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<sup>64</sup> See Joint Comments VI at 38-39; Joint Comments VII at 18-21; see also Joint Comments VIII at 27-29.

<sup>65</sup> Compatibility between the broadcast and cable DTV standards will give consumers access to the full range of television programming in the same quality in which it is transmitted. Congress recognized the importance of this consumer benefit in enacting the must carry non-degradation requirement in the Cable Television Consumer Protection and Competition Act of 1992. 47 U.S.C. § 614(b)(4)(A). Further, the consumer will benefit by paying less for DTV equipment. Sufficient commonality between broadcast and cable standards will lower the price of cable-ready DTV sets and so speed the transition. Such commonality also will lessen the cable industry's control of access by affording cable and other video distribution companies fewer opportunities to use set-top boxes to close the gateways of competition. Also, insistence on cable compatibility will give clear direction to receiver manufacturers, thus spurring the mass production of digital sets and accelerating the DTV transition. Finally, compatibility will enhance the usefulness of auxiliary consumer equipment such as VCRs.

Telecommunications Engineers ("SCTE") standard shares some features with the DTV transmission standard. However, important aspects of the standards are different and inconsistent. With appropriate Commission action, harmonization of the SCTE standard with the DTV standard should be straightforward. Without such action, Petitioners are concerned that harmonization will not occur. Petitioners strongly urge the Commission on reconsideration to adopt firm principles regarding harmonization of the SCTE standard with the DTV standard<sup>66/</sup> and, thereafter, to move expeditiously to work out the necessary details for compatibility in a separate proceeding, as was anticipated in 1994.<sup>67/</sup>

**D. THE COMMISSION SHOULD NOW ADDRESS CHANNEL LABELING.**

Petitioners are pleased that the Commission has agreed to allow an inter-industry committee to explore the appropriate channel assignment scheme for DTV. Sixth R&O ¶ 170. The Specialist Group on Transport Systems Documentation, a subgroup of the Advanced Television Systems Committee's Technology Group on Distribution has been exploring this issue and is developing proposals. In light of the expedited buildout schedule

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<sup>66/</sup> The Commission has long recognized the importance of cable compatibility. See Tentative Decision and Further Notice of Inquiry, MM Docket No. 87-268, 3 FCC Rcd. 6520 (1988) (supporting interoperability); Second Report and Order and Further Notice of Proposed Rulemaking, MM Docket No. 87-268, 7 FCC Rcd. 3340 (1992) (proposing that ATV system must support carriage of ATV over cable systems); Memorandum Opinion and Order/Third report and Order/Third Further Notice of Proposed Rulemaking, MM Docket No. 87-268, 7 FCC Rcd. 6924 (1992) (endorsing efforts to ensure that ATV standard performs satisfactorily for both broadcast and cable operations); First Report and Order, ET Docket No. 93-7, 9 FCC Rcd. 1981 (1994) (noting that the development of a digital cable standard must consider the relationship of the cable system to the terrestrial broadcast ATV standard).

<sup>67/</sup> In 1994, the Commission found that "standards for cable digital transmissions are desirable. These standards will be needed to ensure that compatibility is maintained as new digital cable technologies are introduced . . . . [We] will initiate a separate action on these issues as is necessary to assure continuing compatibility in the future." In re Implementation of the Cable Act - Compatibility Between Cable Systems and Consumer Electronics Equipment, ET Docket No. 93-7, First Report and Order ¶ 4 (May 4, 1994).

Third, the Commission should safeguard against the anti-competitive use of set-top boxes to create technological barriers that could deny the viewing public access to ATV programming. Central to the FCC's ATV agenda has been the goal of ensuring that free, over-the-air television remains fully available to all Americans in the age of advanced television. Set-top boxes could cause unnecessary and anti-competitive bottlenecks in the distribution of ATV programming if, for example, they act as "gatekeepers," capable of delivering only certain digital transmission protocols. This would limit consumers' choice or force them to buy multiple set-top boxes. The Commission should prevent this potential bottleneck by requiring that boxes designed to receive (and descramble or decompress) cable signals be able to accommodate terrestrial broadcast ATV signals as well. Commission adoption of an open access safeguard will help ensure that the FCC's demonstrated commitment to the availability of ATV for all Americans will not be frustrated.<sup>45/</sup>

One of the ways the Commission has already attempted to ensure inter-industry technical compatibility for the benefit of the consumer is to oversee the development of compatible broadcasting and cable ATV transmission standards within the Advisory Committee on Advanced Television Systems process. Of course, the possibility exists that the cable industry will eschew such a compatible technical standard and select instead a standard that is not compatible with the broadcast ATV standard. Such a choice would raise a number of serious concerns that we believe are best addressed in a separate proceeding on standards that the Commission has indicated it will

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<sup>45/</sup> Of course, the Commission also will need to address these compatibility and open access issues as the ATV technical standard itself is put out for formal comment in the coming months.

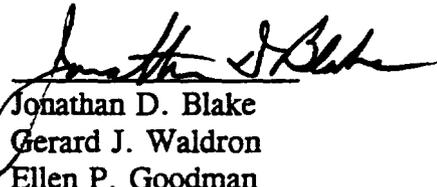
open.<sup>46/</sup> Suffice to say here that the technical standard the cable industry, or any part of that industry, selects should not be permitted to interfere with cable systems' fulfillment of their must carry and other obligations (e.g., non degradation, etc...). Any other result would render these must carry and other obligations meaningless, thereby undermining free over-the-air broadcast television and retarding the transition to ATV.

### CONCLUSION

The Commission adopted the Fourth NPRM with a primary objective of "preserv[ing] our nation's free, universal broadcasting service."<sup>47/</sup> The foregoing comments urge a way to achieve that goal so that the public is able to receive a new digital television broadcast service as quickly as possible without prematurely losing the one on which it now depends.

Respectfully submitted,

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Dated: November 20, 1995

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<sup>46/</sup> See First Report and Order, ET Docket No. 93-7, 9 FCC Rcd No. 10 (April 4, 1994), para. 144.

<sup>47/</sup> FCC Report No. DC-95-103, MM Docket No. 87-268 (July 28, 1995).

make it so. Any expenses thus incurred to ensure compatibility with the public's ATV broadcast signals therefore should be borne by those systems.

**C. CABLE SYSTEMS SHOULD ENSURE THAT THEIR TECHNICAL STANDARDS AND PRACTICES DO NOT INTERFERE WITH THE PUBLIC'S ACCESS TO BROADCAST SIGNALS AND A SPEEDY TRANSITION TO ATV.**

The Fourth NPRM recognizes that cable carriage of ATV signals would raise "issues relate[d] to the technical interface and associated cost and rate issues." Fourth NPRM, at 32. Among other things, the Joint Comments urged that "the Commission should safeguard against the anti-competitive use of set-top boxes to create technological barriers that could deny the viewing public access to ATV programming. . . [Furthermore,] the technical standard the cable industry, or any part of that industry, selects should not be permitted to interfere with cable systems' fulfillment of their must carry and other obligations."<sup>44/</sup> The decade-long development and testing of the ATV standard under the auspices of the FCC Advisory Committee on Advanced Television Service ("ACATS") supports this view. Throughout that history, broadcast/cable compatibility has been a central focus. As the NAB comments point out, the Commission itself consistently has noted the importance of compatibility between the transmission of broadcast and cable signals.<sup>45/</sup> To meet that concern, the ACATS ATV

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<sup>44/</sup> Joint Comments, at 38-39.

<sup>45/</sup> See Comments of NAB, at 8-9 (citing Tentative Decision and Further Notice of Inquiry, MM Docket No. 87-268, 3 FCC Rcd. 6520 (1988) (supporting interoperability); Second Report and Order and Further Notice of Proposed Rule Making, MM Docket No. 87-268, 7 FCC Rcd. 3340 (1992) (proposing that ATV system must support carriage of ATV over cable systems); Memorandum Opinion and Order/Third report and Order/Third Further Notice of Proposed Rule Making, MM Docket No. 87-268, 7 FCC Rcd. 6924 (1992) (endorsing efforts to ensure that ATV standard performs satisfactorily for both broadcast and cable operations); First Report and Order, ET Docket No. 93-7, 9 FCC Rcd. 1981 (1994) (noting that the development of a digital cable standard must consider the relationship of the cable system to the terrestrial broadcast ATV standard)).

standard includes a high capacity special transmission mode suitable for the cable environment. Cable interests, represented by CableLabs, have been represented and have monitored and contributed to the development of this standard through the Advanced Television Test Center and ACATS process. This joint effort by the cable and broadcast industries was intended to lead to cable's adoption of the ATV standard to ensure maximum compatibility between both industries.

A number of cable commenters now urge that the Commission not require cable to adopt technologies that are compatible with the ACATS ATV standard.<sup>46/</sup> Incompatible broadcast and cable ATV technologies will cause consumer confusion in the marketplace, raise the costs of receiving ATV, slow the penetration of cable-ready ATV sets, delay the transition to an all-digital broadcast service, and frustrate the Commission's goal of returning NTSC spectrum. Specifically, if cable systems develop non-standard and various digital compression, packetization and transmission schemes, digital ATV sets designed to accommodate the broadcast standard will not be able to decode cable's digital information unless fitted with cable decoders. Thus, cable-ready sets would be prohibitively expensive and unlikely to penetrate the market very quickly, if they were available at all. Consumers would have small incentive to purchase ATV sets only capable of receiving broadcast signals and incapable of receiving cable signals.

In place of cable-ready sets, cable equipment manufacturers would have to produce a large quantity of set-top box converters. The mandatory set-top box would convert all cable-delivered programs to analog format for viewing on analog sets or for

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<sup>46/</sup> NCTA requests that the Commission not impose the broadcast digital standard on cable. See Comments of NCTA, at 17. TCI and GI oppose the application of any standard to cable. See Comments of TCI, at 21; Comments of GI, at 18.

recording in an analog form. Reliance on these converters would cement the cable industry's role as gatekeeper and impede the penetration of ATV sets for over-the-air reception of free television. Moreover, the use of incompatible technologies by cable and broadcast media would make the receiving and playback of programs from a digital VCR difficult (if not technically impossible), confusing and expensive.

Alternatively, if cable system and broadcast ATV transmissions were compatible, ATV sets could easily receive and display programming from multiple-service providers. This would speed ATV set penetration and the recovery of the NTSC spectrum. Thus, we urge the Commission to pursue maximum commonality between the cable and broadcast industries in the areas of modulation, transport, packetization structures, and compression protocols.<sup>47/</sup>

**D. THE COMMISSION SHOULD NOT REGULATE RETRANSMISSION CONSENT NEGOTIATIONS WITH RESPECT TO CABLE SIGNAL.**

NCTA argues that the Commission should adopt regulations that would restrict broadcasters in negotiating for retransmission consent of their digital signals. NCTA's argument is based on its belief that broadcasters have superior bargaining power "which would result in cable operators having no choice but to concede to demands for carriage of digital broadcast services as the price for gaining carriage of major market network affiliates." There is no factual basis for NCTA's bargaining

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<sup>47/</sup> As discussed in NAB's comments in this proceeding, the FCC has rightly noted the value of a universal digital standard for ATV providers. See Comments of NAB, at 8-10. EIA also recognizes this value: "[w]idespread acceptance of a single standard will facilitate the deployment of ATV by minimizing the equipment that consumers will have to lease or buy to enjoy ATV programming . . . [and spare them] the complexity, confusion and expense of choosing the correct mix of service and equipment." Comments of EIA, at 11. To secure these advantages of a single transmission standard, NAB advocates that the Commission mandate cable's adoption of the ATV transmission standard approved for digital broadcasting.