

different “transmission format and modulation schemes used by various platforms” as well as disparate “technical operation[s], modulation schemes, and conditional access methods used to protect” signal security.¹⁰³ In order to ensure portability or interoperability, the Commission would by definition need to interfere in the standard-setting process and dictate specific technical standards.

Some parties have sought to justify FCC-mandated portability and interoperability standards by analogizing the cable system to the telephone network.¹⁰⁴ This argument fails because “there are critical differences between the MVPD distribution market and the development of the telephone market that precludes adopting interoperability requirements based on this market.”¹⁰⁵ Unlike multichannel video applications, the “telephone model required standardization, because the primary purpose of the network was for people to communicate with one another.”¹⁰⁶ The telephone network—a two-way switched communications system—would not function if people used incompatible systems with different standards.¹⁰⁷ Thus, by definition, telephone CPE and network equipment must be interoperable for the network to function as intended.

The multichannel video environment, however, serves a different purpose. The functional capabilities of one person’s navigation device are not dependent on another MVPD’s system. And unlike the “wide disparity that exists today in the MVPD market,” the telephone industry began as a nationwide monopoly where uniform

¹⁰² General Instruments at 36.

¹⁰³ Motorola Comments at 17.

¹⁰⁴ CEMA Comments at 6-7; Circuit City Comments at 5-11; CERC Comments at 27-29.

¹⁰⁵ Motorola Comments at 18.

¹⁰⁶ Scientific-Atlanta Comments at 15.

technical standards were dictated by one company.¹⁰⁸ In addition, as Ameritech New Media noted, the telephone standards were “developed on an analog model that is not adequate for today’s digital environment.”¹⁰⁹ Because of the cable system’s unique technological and market characteristics, the Commission should not use “other existing regulatory frameworks for establishing” standards for commercial availability.¹¹⁰

Finally, Commission-mandated portability and or interoperability requirements would cause serious economic and public interest concerns. Such a requirement “could raise considerably the cost of” CPE because manufacturers would be required to incorporate a “common” solution “despite a lack of consumer demand for such a requirement.”¹¹¹ This type of intrusive regulation would prohibit less expensive, simpler alternatives for those consumers who do not want to pay the premium for a portable or interoperable system.¹¹² Furthermore, security concerns in the cable industry argue against standardization. As Scientific-Atlanta demonstrated, “standardized security systems would be much more vulnerable to theft and piracy.”¹¹³ If consumers find portability and interoperability desirable, then the market will work to provide it.¹¹⁴

¹⁰⁷ *Id.*

¹⁰⁸ Motorola Comments at 18.

¹⁰⁹ Ameritech New Media Comments at 16.

¹¹⁰ *Id.*

¹¹¹ Motorola Comments at 19; *see* Ameritech New Media Comments at 3; General Instrument Comments at 36.

¹¹² Motorola Comments at 19.

¹¹³ Scientific-Atlanta Comments at 16.

¹¹⁴ Motorola Comments at 19.

CONCLUSION

The record overwhelmingly supports Commission limitation of commercial availability regulations to digital navigation devices. Given the near-term obsolescence of analog technology, including the decoder interface, regulation of analog devices would undermine the FCC's aggressive transition to digital television by creating perverse incentives for American consumers to invest in another generation of analog CPE before purchasing digital devices. The Commission should defer to private, consensus-based standard-setting organizations and adopt only a performance or conduct rule allowing MVPDs to achieve commercial availability in the mode best suited to their customers and network requirements.

Respectfully submitted,

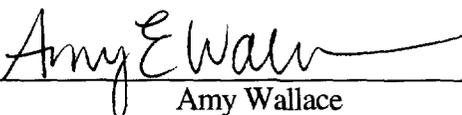
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