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May 20, 1998

VIA MESSENGER

Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: *ET Docket No. 93-7/CSB Docket No. 97-80*

Dear Ms. Roman Salas:

Echelon Corporation ("Echelon"), reiterates its long pending request that the Commission promptly issue a Public Notice seeking comment on the so-called "decoder interface" standard for cable compatibility.¹ Now that the National Cable Television Association ("NCTA") and the Consumer Electronic Manufacturer's Association ("CEMA") have notified the Commission that both components of the decoder interface standard -- EIA/IS-05.1, the physical connection component, and EIA/IS-105.2, the communications protocol -- have finally been balloted and approved,² the Commission is required to solicit public comment on the standard and determine its legality under the amended provisions of Section 17 of the 1992 Cable Act.³

Even though the concept of a decoder interface for ensuring compatibility among TVs, VCRs and cable "set-top box" converters has been under consideration by the FCC for nearly five years, the Commission has *never* sought public comment on this standard. In fact, in 1994 the Commission stated that public comment on the standard *would* be solicited once the decoder interface was completed.⁴ The NCTA/CEMA Ex Parte demonstrates that development of the decoder interface standard is finished and that the time has now come for the Commission to give

¹ Joined by some of the nation's largest and most well-recognized computer, energy and high-technology companies, Echelon, for the past two years, has sought public comment on the issue of the decoder interface. Joint Petition for Further Reconsideration, ET Docket No. 93-7 (filed May 28, 1996); letter from Glenn Manishin, Echelon, to William F. Caton, FCC, dated March 28, 1997.

² Letter from Andy Scott, National Cable Television Association and George Hanover, Consumer Electronics Manufacturers Association, and Andy Scott, National Cable Television Association, to William F. Caton, FCC, dated March 26, 1998 (*NCTA/CEMA Ex Parte*).

³ Cable Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, 106 Stat. 1460, § 17 (1992) (codified, as amended, at 47 U.S.C. § 544a).

⁴ *Implementation of Section 17 of the Cable Television Consumer Protection and Competition Act of 1992—Compatibility Between Cable Systems and Consumer Electronic Equipment*, First Report and Order, ET Docket No. 93-7, 9 FCC Rcd. 1981 ¶ 40 (released May 4, 1994) ("*First Report and Order*").

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all interested parties the opportunity to comment on (i) whether this is an appropriate standard under Section 17 of the 1992 Cable Act, and (ii) whether the standard satisfies the specific limitations of Section 301(f) of the 1996 Act, 47 U.S.C. §§ 544a(a)(4), (C)(1)(A), (c)(2)(D).

Public comment is now critical because the Commission has indicated that it is considering the decoder interface in its current proceeding on the commercial availability of navigation devices.⁵ As the Commission recognized in its Notice of Proposed Rulemaking in that proceeding, Section 301(f) is “intended to restrict the Commission’s standard-setting authority and to respond to issues associated with the ‘decoder interface standard’ that is the subject of the Commission’s proceeding in ET Docket 93-7—the cable compatibility proceeding.”⁶ Ignoring the legal mandate in Section 301(f), as well as the fact that the decoder interface has never been the subject of public comment before the FCC, Circuit City has recently proposed that the Commission adopt both EIA/IS-105.1 and 105.2 in Docket No. 97-80.⁷ In proposing this standard, Circuit City misrepresents the decoder interface as being “accredited by the American National Standards Institute” (“ANSI”) *Id.* at 2. The decoder interface is not yet an ANSI standard, however, because it has not even been submitted to — let alone approved by — ANSI as consistent with ANSI’s requirements of openness, balance and due process. Circuit City’s formal proposal of the decoder interface standard, however, underscores the urgency for the Commission to accept public comment on this issue. Before the Commission can legitimately assess the decoder interface as part of any Section 629 decision in Docket No. 97-80, it must first determine whether it complies with the Commission’s legal mandate under Section 17 of the 1992 Cable Act, as amended by Section 301(f) of the 1996 Act. Since it is improper for the Commission to adopt a standard in the navigation device proceeding that is specifically *prohibited* by Section 301(f), it would be unfair, and plainly inconsistent with congressional intent, for the FCC to mandate a standard pursuant to Section 629, or any other provision, without giving parties the opportunity to be heard.

As the Commission is aware, in Section 301(f) Congress took the extraordinary step of intervening in the pending cable compatibility rulemaking to constrain the Commission’s standard-setting authority in the face of its consideration of the decoder interface standard, including both the EIA/IS-105.1 and 105.2. Finding that compatibility among consumer electronics equipment can be assured with “narrow technical standards” and “a minimum degree of common design,” Congress directed the Commission to ensure that any standards adopted to promote cable compatibility “do not affect features, functions, protocols, and other product and service options . . . including telecommunications interface equipment, home automation communications, and computer network services.” 47 U.S.C. § 544a(c)(2)(D) (emphasis added).

The decoder interface violates Section 301(f) on two levels. First, the interface standard includes the CEBus[®] home automation communications protocol, which is not a “*narrowly tailored*” compatibility standard designed to address the “*specific problems the 1992 Act asked the FCC to handle*.”⁸ Moreover, because CEBus is only one of numerous competing protocols for home automation communications and thereby provides an unfair competitive advantage to manufacturers of CEBus-based products, the decoder interface “affects” home automation services

⁵ *Implementation of Section 304 of the Telecommunications Act of 1996 Commercial Availability of Navigation Devices*, Notice of Proposed Rulemaking, FCC 97-53, CS Docket No. 97-80 (released February 20, 1997).

⁶ *Id.* at ¶ 36.

⁷ Letter from Robert S. Schwartz, Circuit City, to William F. Caton, FCC, dated May 18, 1998 (*Circuit City Ex Parte*).

⁸ 142 Cong. Rec. H1160 (daily ed. Feb. 1, 1996) (*emphasis supplied*).

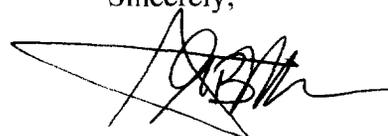
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in violation of Section 301(f). In order for the Commission to ensure compliance with Section 301(f), it must invite public comment on this important issue before taking any action in the navigation device proceeding.

Pursuant to Section 1.1206 of the Commission's Rules, two copies of this letter are enclosed for filing. Please contact me should you have any questions in regard to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Manishin", written over a large, stylized star or asterisk shape.

Glenn B. Manishin
Elise P.W. Kiely

EPWK:hs

cc: Dale Hatfield, Chief, Office of Engineering and Technology
William H. Johnson, Deputy Chief, Cable Services Bureau
John Wong, Cable Services Bureau
Bruce A. Franca, Office of Engineering and Technology
Karen Kornbluh, Mass Media Bureau