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May 27, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Ex Parte Presentation

Commercial Availability of Navigation Devices
CC Docket No. 97-80

Dear Ms. Salas:

On May 26, 1998, Robert Lemle and John Urban of Cablevision Systems Corporation and the undersigned met with Commissioner Ness and Anita Wallgren, her Legal Advisor; Susan Fox, Senior Legal Advisor to Chairman Kennard; and Jane Mago, Senior Legal Advisor to Commissioner Powell, regarding the above-captioned proceeding. Specifically, we explained why section 629 of the Communications Act does not require the transmission of electronic program guides. The specific points we raised are reflected in the attached materials, which were provided to the Commission participants at the meeting.

Pursuant to sections 1.1206(b)(1) and (b)(2) of the Commission's rules, an original and one copy of this letter and attachment are being filed with the Office of the Secretary. Copies of the letter and the attachment are also being served on the Commission personnel in the meeting.

Sincerely,

Howard J. Symons

Howard J. Symons

cc: Hon. Susan Ness
Anita Wallgren
Susan Fox
Jane Mago

DCDOCS: 129004.1 (2rjg01!.doc)

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SECTION 629 DOES NOT MANDATE THE TRANSMISSION OF ELECTRONIC PROGRAM GUIDES

StarSight Telecast, Inc. ("StarSight") argues that its electronic program guide service should be considered a "navigation device" and that section 629 therefore prohibits multichannel video programming distributors from "impeding" the "commercial availability" of such services.

The Commission should reject StarSight's proposal. A multichannel video programming distributor should be able to choose to develop its own program guide or to enter into an affiliation agreement with a third-party provider such as StarSight. It should not be forced to make room for a third-party program guide any more than it can be forced to make channel capacity available for other programming services.

StarSight's Demands Lack Any Statutory Basis

- The Commission has already determined that program guides transmitted in a broadcaster's vertical blanking interval are not entitled to carriage under the must carry law. See Implementation of the Cable Television Consumer Protection and Competition Act of 1992 Broadcast Signal Carriage Issues, 9 FCC Rcd 6723, 6733 ¶ 47 n.145 (1994) (expressly declining to find that StarSight's program guide was "program-related material" under section 614(b)(3)(A)). In light of this finding, StarSight's accusation that cable operators are "stripping" StarSight's service from the VBI inaccurately presupposes a right to carriage that does not exist.

- Nothing in the language or legislative history of section 629 supports StarSight's novel argument that the "equipment" covered by this provision includes program guide "services."

- To the contrary, section 629(a) refers to "equipment used" to access services "provided by MVPDs" (emphasis added). The intent of section 629 is clear: it is to promote "[c]ompetition in the manufacturing and distribution of consumer devices." H.R. Rep. No. 204, 104th Cong., 1st Sess. 112 (1995) (emphasis added). In conference, "the scope of [section 629 was] narrowed to include only equipment used to access services provided by multichannel video programming distributors." H.R. Rep. No. 458, 104th Cong., 2d Sess. 181 (1996) (emphasis added).

- Section 629 does not give the Commission authority to order the carriage of "navigational services."

- The limited scope of section 629 does not supersede the Commission's holding on the carriage of VBI-based information or otherwise direct the transmission of

electronic program guides. It certainly does not require an MVPD to reconstitute the VBI in a digital environment, as StarSight demands. Indeed, forcing cable operators to transmit program guides would violate the clear statutory prohibition on treating cable operators like public utilities or common carriers. See 47 U.S.C. § 541(c).

StarSight's Proposal is Beyond the Scope of This Proceeding

- In addition to these statutory infirmities, StarSight's proposal is beyond the scope of this proceeding.

- The Commission lacks the record for making any determination about the manner in which programming and other information will be presented to MVPD subscribers in a digital environment, where the distinctions between Internet "browsers" and video "program guides" will soon disappear.

- StarSight itself acknowledges that it plans to provide its program guide "via PCTVs, Internet terminals and other video and information appliances." Reply Comments of StarSight Telecast, Inc., CS Docket No. 97-80 (filed June 23, 1997), at 7.

- The potential reach of StarSight's plans in a digital environment – extending from television program guides to consumer access to the Internet – is underscored by the cross-licensing agreement between StarSight's parent Gemstar International Group Ltd. and Microsoft, which also owns WebTV.* Microsoft acknowledges that an "'interactive program guide is a key part of delivering on our vision of Better TVs and Better PCs.'" See "Gemstar Signs Worldwide Agreement with Microsoft," Business Wire, Jan. 12, 1998 (attached). WebTV for Windows, included in Microsoft's Windows 98, includes a program guide that is updated "from the Internet or over the vertical blanking interval"** via Gemstar.

- Decisions about program "browsers" – particularly given the significant long-term effects of such decisions -- cannot and should not be made in the context of a proceeding about the retail availability of set-top boxes.

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* Prior to its acquisition by Gemstar, StarSight itself had granted Microsoft a license the rights to use StarSight's electronic program guide. As a Microsoft spokesman explained then, "You could imagine the interest Microsoft would have in the convergence between the Internet, the Web, and television." See "Deal Keeps Interactive TV In Sight," Bellevue (WA) Journal-American, Aug. 28, 1996 (attached).

** See <www.microsoft.com/windows98/basics/features> (visited May 25, 1998). WebTV for Windows "allows your PC to act as a receiver of . . . television programs." Id.

2ND STORY of Level 1 printed in FULL format.

Copyright 1998 Business Wire, Inc.
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January 12, 1998, Monday

DISTRIBUTION: Business Editors

LENGTH: 976 words

HEADLINE: Gemstar Signs Worldwide Agreement with Microsoft

DATELINE: PASADENA, Calif.

BODY:

Jan. 12, 1998--Gemstar International Group Limited (Nasdaq:GMSTF) Monday announced that it has entered into a long-term worldwide cross-licensing agreement with Microsoft Corp. (Nasdaq:MSFT) under which the two companies will cross license their respective intellectual property in the interactive program guide area.

Under the agreement, Microsoft will pay Gemstar a combination of up-front and per unit license fees. The two companies will also share in recurring revenues that may result from Microsoft's interactive program guide.

This agreement supersedes an earlier license agreement between Microsoft and StarSight Telecast Inc., now a wholly owned subsidiary of Gemstar pursuant to a merger that took place in May 1997.

"We believe that this agreement brings great benefit to both parties," said Henry C. Yuen, chief executive officer of Gemstar. "We are excited about the selection of Gemstar's guide technology in Microsoft's platform and the opportunities it represents."

Microsoft has announced plans to introduce an interactive program guide as a part of its TV Viewer feature in the Windows '98 operating system to be released later this year. Microsoft will also incorporate interactive program guides in the current and future versions of its WebTV Plus set-top boxes worldwide.

"This interactive program guide is a key part of delivering on our vision of Better TVs and Better PCs," said Craig Mundie, senior vice president of Microsoft. "Providing viewers with an easy way to find their favorite programs enhances and simplifies the entire TV or PC experience."

Gemstar develops, markets and licenses proprietary technologies and systems aimed at making technology user friendly for consumers. Gemstar's VCR Plus+ instant programming system is a world standard for VCR programming.

VCR Plus+ allows a user to record a television show simply by entering a number -- the PlusCode number -- printed in television program guides. The PlusCode numbers are published by more than 1,500 newspapers and television program guides worldwide, with a combined circulation of more than 330 million.

The VCR Plus+ system has been licensed to virtually every major television and VCR manufacturer and is available in 33 countries including the United States, Canada, the United Kingdom, Continental Europe, Japan, Southeast Asia,

Australia, New Zealand, South America and South Africa.

Gemstar is a leading provider of interactive program guide services, which allow a user to view a television program guide on screen, obtain details about a show, sort shows by themes or categories and select shows for tuning or recording, all through the remote control.

In the United States, data for Gemstar's interactive program guide services are carried on ABC, FOX, CBS, UPN and PBS networks by hundreds of over-the-air broadcast stations and on a number of cable systems. Gemstar's TV GUIDE Plus+, a no-fee, on-screen, interactive program guide has been built into a number of models of new televisions, VCRs and TVCR combination units.

Gemstar's StarSight interactive program guide is currently marketed to cable, telco and MMDS service providers, and its technology is available for integration into direct broadcast satellite receivers, digital and advanced analog cable set-top boxes, PCTV and other Internet devices.

Gemstar's technology and intellectual property are licensed to major companies in the consumer electronics, satellite, cable and personal computer industries, including Aiwa, Akai, Cox, Daewoo, Funai, GTE, Hitachi, Hughes Network Systems, JVC, LG Electronics (Goldstar), Matsushita (Panasonic and Quasar), MediaOne, Microsoft Corp., Mitsubishi, Orion, Philips (Magnavox and Philips), Samsung, Sanyo, Scientific-Atlanta, Sharp, Shintom, Sony, Southern New England Telephone, Thomson (GE, Proscan, RCA), Time Warner, Toshiba, Uniden and Zenith.

Gemstar has 43 issued U.S. patents in the general area of audio-visual technologies with more than 1,000 claims and 19 foreign patents with over 1,000 claims. The company continues to pursue a worldwide patent prosecution program and has more than 120 pending U.S. patent applications and more than 150 pending foreign patent applications. -0-

Except for historical information contained here, the matters discussed in this news release contain forward-looking statements which involve risks and uncertainties, including the timely availability and acceptance of new products, the impact of competitive products and pricing, the management of growth, and the other risks detailed from time to time in the company's Securities and Exchange Commission reports, including the report on Form 20-F for the year ended March 31, 1997, and on Form 10-Q for the quarter ended Sept. 30, 1997. -0-

Note to Editors: VCR Plus+ and PlusCode are registered trademarks of Gemstar Development Corp. TV Guide is a registered trademark of TV Guide Financial Inc. GUIDE Plus+ is a trademark of Gemstar Development Corp. StarSight is a registered trademark of StarSight Telecast Inc. Other product names used herein are for identification purposes only and may be trademarks of their respective companies.

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Journal American-Bellevue WA

August 28, 1996

SECTION: pg D1

LENGTH: 378 words

HEADLINE: Deal keeps interactive TV in sight

BYLINE: Jonathon D Miller

DATELINE: Redmond; WA; US; Pacific

BODY:

Microsoft Corp. has signed a $ 20 million licensing deal with StarSight Telecast Inc. that advances its Internet software and interactive television development efforts.

The deal, completed two weeks ago, gives Microsoft non-exclusive rights to StarSight's intellectual property, which includes an electronic programming guide built into products sold by 75 percent of TV and VCR marketers, according to Multimedia Week.

With the guide, TV users can receive program descriptions, tune directly to a show, and program a VCR to record any current or future show by touching one button on a remote control. StarSight is based in Fremont, Calif.

Tom Gershaw, senior product manager in Microsoft's Consumer and Platforms Division, declined to specify how Microsoft plans to use the technology, but said, "You could imagine the interest Microsoft would have in the convergence between the Internet, the Web and television."

Larry Wangberg, chairman and CEO of StarSight, hinted that the technology could be used to "find sites on the Internet." He said StarSight has tested the electronic programming guide with downloaded software.

StarSight president Brian Klosterman said inclusion of the electronic programming guide in a hybrid TV/computer "could be one of the implementations."

More than 10 consumer electronics companies have licensed StarSight's electronic programming guide, including Thompson Multimedia, which owns 13 percent of StarSight. Other investors are TCI, Cox Communications Inc., The Tribune Co., The Providence Journal and Time Warner Inc.

While other companies have licensed the technology, "most of the licensing Starsight has done has been with traditional devices, not a PC," said Microsoft's Gershaw. He said Microsoft will release more detailed product plans for StarSight "relatively soon."

For a couple years, Microsoft has been testing an interactive TV system in the apartments of 200 employees in Redmond. Gershaw said the licensing deal

gives StarSight access to some of Microsoft's interactive TV software.

Microsoft could begin marketing its interactive TV software immediately if it weren't for the fact that most cable TV systems don't have the adequate infrastructure to support interactive television, Gershaw said.

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