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May 28, 1998

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Magalie Roman Salas, Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 200  
Washington, DC 20554

Re: Ex Parte Presentation: CS Docket No. 97-80

Dear Secretary Salas:

On Thursday, May 28, 1998, Michael Petricone, Gary Klein, and David Nall, on behalf of the Consumer Electronics Manufacturers Association ("CEMA"), met with Helgi Walker, Legal Advisor to Commissioner Furchtgott-Roth, to discuss the commercial availability of cable navigation devices. The attached document was distributed at the meeting. In accordance with Section 1.1206 of the Commission's Rules, two copies of the CEMA's written presentation have been filed with the Secretary under separate cover for inclusion in the public record.

Please contact the undersigned if you have any questions.

Sincerely,

*David A. Nall* <sub>BJM</sub>

David A. Nall

Attachment

Copy: Helgi Walker

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**THE COMMISSION SHOULD ADOPT PRO-COMPETITIVE,  
PRO-CONSUMER RULES FOR CABLE NAVIGATION DEVICES**

The Commission must act to create a set of structural rules for navigation devices that will give consumers the benefit of competitive market forces with respect to cable services equipment.

The fundamental elements of such structural rules are:

- **Unbundling of cable system security functionality** from the other functionalities provided by cable services equipment, giving consumers choices about the types of, and terms for, equipment they wish to acquire and utilize;
- **Use of standardized technologies** in the delivery of cable services, to the extent possible, so that consumers can benefit from the economies of scale created by national markets; and
- **Disclosure of technical information** necessary for manufacturers to design equipment that will interoperate with cable services, without restricting the prerogative of cable operators to upgrade their systems and to provide new services.

The rules proposed by CEMA in this proceeding are modeled (to the extent applicable) on the highly successful unbundling and network disclosure requirements implemented by the FCC in the common carrier area. Strict attention has been paid to the qualitative difference between cable operators and common carriers, however, in that the role of cable operators as content providers is fully respected in CEMA's proposed rules.

CEMA's proposed rules would fully implement the requirements of Section 629 of the Communications Act, so as to create the regulatory basis for a competitive market for cable subscriber equipment with minimal intrusion into the operations and business of cable system operators.

## Part 76, Subpart T

### COMMERCIAL AVAILABILITY OF CABLE NAVIGATION DEVICES

#### 76.1600 Definitions

- (a) *Cable Navigation Devices*: equipment that is used in direct connection with services provided over a cable system (including interactive and data services) and that does not provide cable system security functionality such as that provided by cable security equipment. Equipment that provides video programming reception, display or recording functionality, but cannot connect directly with cable services, shall not be considered cable navigation devices.
- (b) *Cable Security Equipment*: equipment installed on a cable television subscriber's premises that provides descrambling, decryption or other security-related functionality and interoperates with scrambling, encryption or other techniques utilized by a cable system to prevent the unauthorized reception of multichannel video programming and other services provided over cable systems.
- (c) *Cable System Terminal Devices*: equipment installed on a cable television subscriber's premises by a cable system operator providing the functionality of cable navigation devices and cable security equipment on an unseparated basis.

#### 76.1601 Provision of Equipment

(a) *Cable Security Equipment*. Cable security equipment may only be provided by a cable system operator. Such equipment (1) may only be used by the cable system operator to control access to multichannel video programming and other services provided over a cable system, subject to the requirements of Section 76.630 of this part, and (2) may not provide subscribers with any non-security-related functionality provided by cable navigation devices and other consumer electronics equipment available from retailers, manufacturers and other vendors on a commercial basis.

(b) *Cable Navigation Devices*. (1) A cable system operator may offer cable navigation devices to its subscribers for lease or purchase, provided that the charges for such devices are separately stated and are not subsidized by the cable system operator's service offerings. (2) Retailers, manufacturers and other entities not affiliated with cable system operators may provide cable navigation devices to cable subscribers on a commercial basis.

(c) *Cable System Terminal Devices*. As of the date twelve months from the effective date of the order creating this section, cable systems operators will cease the installation of cable system terminal devices, except for (1) equipment that replaces defective devices leased pursuant to Section 76.1602(b)(2); and (2) equipment deployed subject to a waiver granted under Section 76.1605 of this part.

**76.1602 Introduction of Interoperable Cable Security Equipment**

(a) *New Equipment.* As of the date twelve months from the effective date of the order creating this section, a cable system operator shall provide all new subscribers to any cable service with cable security equipment that complies with the definitional and interoperability provisions of this subpart, and will enable the use of cable navigation devices that are commercially available from manufacturers, retailers, and other vendors not affiliated with the cable system operator. The rates charged for the installation of cable security equipment shall be subject to the requirements of Section 76.923.

(b) *Replacement of Equipment by the Cable System Operator.*

(1) As of the date twelve months from the effective date of the order creating this section, cable system operators that make such changes to a cable subscriber's service so as to necessitate the replacement of the cable system terminal device located on the cable subscriber's premises shall replace any cable system terminal device with cable security equipment that complies with the definitional and interoperability provisions of this subpart, and will enable the use of cable navigation devices that are commercially available from manufacturers, retailers, and other vendors not affiliated with the cable system operator. The rates charged for the installation and lease of cable security equipment shall be subject to the requirements of Section 76.923 of this part.

(2) Nothing in this section shall be interpreted to preclude a cable subscriber's choice to lease a previously installed cable system terminal device from a cable system operator, nor to preclude a cable system operator from making changes in services delivered by cable systems so as to necessitate the replacement of cable system terminal devices.

(b) *Replacement of Equipment at Subscriber's Request.*

(1) As of the date six months from the effective date of the order creating this section and upon the request of a subscriber, a cable system operator must replace previously installed cable system termination devices with cable security equipment that complies with the definitional and interoperability provisions of this subpart, and will enable the use of cable navigation devices that are commercially available from manufacturers, retailers, and other vendors not affiliated with the cable system operator.

(2) The rate charged by the cable operator for replacing previously installed customer premises equipment with cable security equipment pursuant to paragraph (1) of this subsection shall be subject to the requirements of Section 76.923.

**76.1603 Interoperability**

(a) Cable security equipment will comply with Section 15.115 of this chapter, and with the technical standards and consumer electronics compatibility requirements of subpart K

of this part, but in any event the provision of security functionality by such equipment will conform to appropriate technical standards promulgated by a national standards organization accredited by the American National Standards Institute, such as the analog decoder interface standard (EIA-105.1, 105.2), the digital National Renewable Security Standard ("NRSS") (EIA-679), or the digital High Performance Serial Bus standard (IEEE 1394), insofar as such standards address the security functionality required by the cable system operator. Security-related features, functions, techniques or protocols not encompassed in such standards may be utilized by cable system operators subject to the technical information disclosure requirements of this section.

(b) Cable navigation devices shall comply with the requirements for TV interface devices and cable-ready consumer electronics equipment found in Sections 15.115 and 15.118 of this chapter, but in any event the interface of such equipment with cable security equipment will conform to appropriate technical standards promulgated by a national standards organization accredited by the American National Standards Institute, such as the analog decoder interface standard (EIA-105.1, 105.2), the digital National Renewable Security Standard ("NRSS") (EIA-679), or the digital High Performance Serial Bus standard (IEEE 1394).

(c) Cable system operators will ensure that the delivery of digital cable television services offered as of the date twelve months from the effective date of the order creating this section will conform to appropriate technical standards promulgated by national standards organizations accredited by the American National Standards Institute covering all technical characteristics affecting the interoperability of cable navigation devices, such as, but not limited to:

- (1) ATSC Digital Television, A/53;
  - (2) RF Interface Specification for Television Receiving Devices and Cable Television Systems, EIA-23;
  - (3) Cable Television Channel Identification Plan, EIA-542;
  - (4) Digital Transmission Standard for Cable Television, SCTE DVS-031;
  - (5) Digital Video Service Multiplex and Transport System Standard for Cable Television, SCTE DVS-093;
  - (6) "Class A" Issues-Profiles, Levels and Formats, SCTE DVS-033;
  - (7) Program and System Information Protocol for Terrestrial Broadcast and Cable, SCTE DVS-097;
  - (8) Standards equivalent to those listed above.
- (b) The cable system operator may make changes to the cable system, services, facilities, operations or procedures, where such action is not inconsistent with the

rules and regulations in this part. In making such changes, the cable system operator shall ensure that the technical characteristics shall conform to appropriate standards pursuant to subsection (c) of this section. If such changes can reasonably be expected to render any subscriber's cable navigation devices no longer interoperable with the services delivered by the cable system, or require modification or alteration of such cable navigation device, or otherwise materially affect its use or performance, the cable system operator shall provide the subscriber with adequate notice in writing, to allow the subscriber to maintain uninterrupted service.

(c) As of the date six months from the effective date of the order creating this section and within thirty days of the receipt of a request from a manufacturer, retailer, and other vendor that is not affiliated with the cable system operator, the cable system operator shall provide to the requesting party the technical information necessary to design cable navigation devices that will be interoperable with services delivered by the cable system, or shall provide reasonable terms for nondisclosure agreements under which such information may be obtained.

(d) Upon the decision by the cable system operator to make changes to the cable system, services, facilities, operations or procedures that can reasonably be expected to render any subscriber's cable navigation devices no longer interoperable with the services delivered by the cable system, or require modification or alteration of such cable navigation device, or otherwise materially affect its use or performance, and in any event no later than six months before such changes in the cable system are effected, the cable system operator shall make reasonable efforts to notify manufacturers, retailers, and other vendors of cable navigation devices commercially available to subscribers of services delivered by the cable system of such changes. Such notification will also provide the technical information necessary for manufacturers of commercially available cable navigation devices to design such devices that will be interoperable with services delivered by the cable system after the changes to the cable system have been effected, or will provide reasonable terms for nondisclosure agreements under which such information may be obtained.

#### **76.1605 Waiver**

Cable system operators may request waivers of any or all of the requirements of this subpart. Such a request shall, at a minimum, include:

- (a) A showing by the cable system operator that such waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over the cable system;
- (b) A showing by the cable system operator that the delivery of such new or improved multichannel video programming or other service offered over the cable system is not possible through the use of currently commercially available cable navigation devices;

- (c) A showing by the cable system operator that any changes to the cable system that can reasonably be expected to render any subscriber's cable navigation devices no longer interoperable with the services delivered by the cable system, or require modification or alteration of such cable navigation device, or otherwise materially affect its use or performance, are directly related to the delivery of such new or improved multichannel video programming or other service offered over the cable system, and that subscribers' cable navigation devices will remain interoperable with the services delivered by the cable system that are unaffected by the delivery of such new or improved multichannel video programming or other service offered over the cable system;
- (d) The technical information necessary for manufacturers of commercially available cable navigation devices to design such devices that will be interoperable with such new or improved multichannel video programming or other service offered over the cable system, or the reasonable terms for nondisclosure agreements under which such information may be obtained;
- (e) An estimate of the date the waiver should be terminated based on the expected date of commercial availability of cable navigation devices that will be interoperable with such new or improved multichannel video programming or other service offered over the cable system.

**76-1606 Sunset**

The provisions of this section, except for those concerning interoperability, shall sunset when the Commission determines that: (1) the market for cable services is fully competitive; (2) the market for cable navigation devices and other consumer electronics equipment used in connection with cable services is fully competitive; and (3) the elimination of regulation would promote competition and the public interest.

**Amendment to Part 76.617**

... (b) If a cable system operator determines that a subscriber's cable navigation device is responsible for signal leakage that is causing interference outside of the subscriber's home and/or would cause the cable system to exceed the signal leakage limitations for TV interface devices set forth in part 15 of this chapter, the cable operator shall notify the subscriber of the problem and request that it be corrected. If the subscriber fails to correct the signal leakage problem within 90 days after such notification, the cable operator shall discontinue service to the subscriber until the problem is corrected and the subscriber so notifies the cable system operator. In cases where excessive signal leakage occurs, the cable system operator shall discontinue service to the subscriber upon notification to the subscriber.