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June 3, 1998

EXHIBITION DATE FILED

DOCKET FILE COPY ORIGINAL

JUN 3 1998

JUN 9 1998

By Hand Delivery

Magalie Roman Salas, Esq.
Secretary
Federal Communications Commission
1919 M Street, NW
Room 222
Washington, DC 20554

RE: Written Ex Parte Submission in the Navigational Devices Proceeding
(CS Docket No. 97-80)

Dear Ms. Salas:

In accordance with 47 C.F.R. § 1.1206(b)(1), submitted herewith on behalf of Gemstar International Group Limited (Gemstar") and StarSight Telecast, Inc. ("StarSight"), are two copies of written materials for inclusion in the public record of the above-referenced proceeding. This submission supplements and reflects the views already contained in Gemstar's and StarSight's previous ex parte filings and Reply Comments in this proceeding.

Please direct any questions concerning this submission to the undersigned.

Respectfully submitted,


Michael D. Berg

Enclosure

#247470

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EX PARTE PRESENTATION
GEMSTAR INTERNATIONAL GROUP LIMITED & STARSIGHT TELECAST, INC.
RESPONSE TO NATIONAL CABLE TELEVISION ASSOCIATION EX PARTE
PRESENTATION

NAVIGATIONAL DEVICES PROCEEDING

(CS Docket No. 97-80)

June 3, 1998

Gemstar International Group Limited ("Gemstar") and StarSight Telecast, Inc. ("StarSight") respond to the ex parte presentation of the National Cable Television Association (NCTA) on May 28, 1998.

- 1) Unaffiliated Vendors. NCTA misstates the Gemstar/StarSight position in this proceeding. See NCTA Ex Parte Submission at 3. Gemstar and StarSight do not seek rules requiring multichannel video programming distributors (MVPDs) to "configure" their systems to transmit a third party's electronic program guide (EPG). Rather, FCC rules should prohibit intentional interference by an MVPD (or, indeed, anyone) with unaffiliated navigational devices, and navigational material that is already part of signals being retransmitted. Refraining from disabling an unaffiliated navigational device or data is required by Section 629, and does not require a cable operator to configure its system or take other action. To the contrary, interference with the operation of an unaffiliated navigational device or service requires deliberate action, such as configuring the system, by an MVPD. StarSight's proposed rules would require correction of inadvertent interference where technically feasible. Refraining from interfering with navigational devices or data does not convert an MVPD into a public utility or common carrier.
- 2) Analog Boxes. Section 629's requirement that the Commission ensure commercial availability of equipment and services provided by unaffiliated providers is not limited to digital MVPD systems. The Commission must adopt rules that apply to both analog and digital MVPD systems. The Commission should assure that theft of service is not used as a pretext to block the operation of unaffiliated equipment and services.
- 3) System Security. StarSight's proposal accommodates fully concerns about system security. Under StarSight's proposed rule, an MVPD defending a complaint of interference with the commercial availability of unaffiliated equipment or service could show that the steps which caused the interference were "essential to the protection of . . . programming and services from theft, and that no technically feasible alternative exists to accomplish that purpose." StarSight Ex Parte Submission filed May 18, 1998, at 1. This strikes a fair balance between the requirement that MVPDs not interfere with the commercial availability of equipment "used by the consumer to access multichannel video programming and other services" offered by unaffiliated providers, and the interest in protecting MVPD systems from theft of service.