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EX PARTE OR LATE FILED

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June 3, 1998

VIA MESSENGER

Ms. Magalie R. Salas
Federal Communications Commission
Office of the Secretary
1919 M Street, N.W.
Room 222
Washington, DC 20554

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JUN 3 - 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Re: Notice of Written *Ex Parte* Presentation; In the Matter of
Implementation Of Section 304 of the Telecommunications Act of
1996; Commercial Availability of Navigation Devices:
CS Docket No. 97-80**

Dear Ms. Salas:

This is to notify the Office of the Secretary that on June 3, 1998, Intel Corporation submitted written *ex parte* comments in the above-mentioned proceeding. These comments were provided to Rick Chessen, Senior Legal Advisor to Commissioner Tristani, Susan Fox, Senior Legal Advisor to Chairman Kennard, Jane Mago, Senior Advisor to Commissioner Powell, Paul Misener, Senior Legal Advisor and Helgi Walker, Legal Advisor to Commissioner Furchtgott-Roth, Anita Wallgren, Legal Advisor to Commissioner Ness, William Johnson of the Cable Services Bureau and Karen Kornbluh of the Mass Media Bureau. A copy of the written *ex parte* document so provided to the above-named parties is enclosed with this notice.

In accordance with Section 1.1206 of the Federal Communications Commission rules, this original and one copy are provided to your office. A copy of this notice has been hand-delivered to the parties listed above together with the *ex parte* comments referenced herein and attached hereto.

Douglas B. Comer
Director, Legal & Regulatory Affairs
Intel Corporation
1634 I St., N.W. Ste. 300
Washington, DC 20036

Enclosure

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List A B C D E

Federal Communications Commission

June 3, 1998

Page 2

cc:

Rick Chessen
Susan Fox
William Johnson
Karen Kornbluh
Jane Mago
Paul Misener
Helgi Walker
Anita Wallgren

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Implementation of Section 304)
of the Telecommunications Act)
of 1996)
)
Commercial Availability of)
Navigation Devices)
_____)

CS Docket No. 97-80

To: The Commission

Ex Parte Comment of Intel Corporation

Intel Corporation hereby submits this ex parte comment in the above captioned proceeding.

As a manufacturer of high technology computing and consumer electronics parts and components, Intel was a strong advocate of Section 304 of the Telecommunications Act of 1996, which became Section 629 of the Communications Act and the basis of this proceeding. It is fair to say that promoting competition from companies such as Intel was a primary objective of the legislation.

Intel believes that it can serve the public if given the opportunity to facilitate consumer choice through new and innovative product configurations. Action by the Commission giving Intel the freedom to compete in the market for Navigation Devices will offer consumers a new array of features and choices, embodied in new configurations of products.

On October 31, 1995, representatives of nine industry associations sent a letter to all Telecommunications Act conferees, announcing a broad industry consensus supporting (what became) section 304, subject to certain pending changes (all ultimately adopted by the conferees). That letter read in part (emphasis supplied):

Section 203 addresses the existing unavailability of converter boxes and similar devices from manufacturers, retailers, and other vendors not affiliated with video program subscription services. There is no longer any technical or legal justification for such a restriction on consumer choice. Section 203 would require that the Commission's regulations ensure the commercial availability of such devices, from independent manufacturers and retailers, provided that system security and the right to prevent theft of service are not impaired. Methods to achieve competitive availability without jeopardizing security have already been developed in the private sector.

* * *

Section 203, since originally introduced by Representatives Bliley and Markey as H.R. 1275, has benefited from addition of a sunset, and of provisions to protect system security and avoid redundant regulations. With these additional refinements as to scope, operation and effect, it will enjoy consensus support in the computer hardware, computer software, consumer electronics manufacturing, consumer electronics retailing, and telecommunications equipment industries. ***This is a very strong consensus in favor of competition, and choice for consumers.***^{1/}

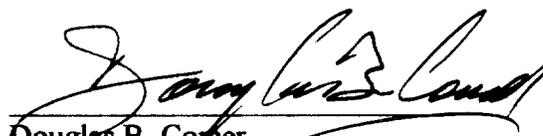
We do not find it conceivable that Congress passed this measure out of any desire to preserve the noncompetitive *status quo*. The clear intention of the statute, supported by its title and legislative history, is to the contrary. Intel agrees with the definition of commercial availability provided in this proceeding by the Business Software Alliance:

^{1/} The October 31, 1995 letter was signed by: Alliance to Promote Software Innovation (APSI); Business Software Alliance; Computer & Communications Industry Association; Consumer Electronics Retailers Coalition; Consumer Electronics Manufacturers Association; Information Technology Industry Council; International Mass Retail Association; National Retail Federation; and North American Retail Dealers Association.

MVPD equipment should be deemed to be commercially available if consumers have the ability to choose from a variety of brands available from a variety of sources -- at least some of which are independent of the system operator. ***System operators should not bge allowed to satisfy their statutory requirement merely by distributing system-designated equipment through specified distributors.*** Applying the test set forth above, personal computers, software, and telecommunication CPE are commercially available. Cable set-top boxes and cable modems, which are provided exclusively by cable system operators, plainly are not.^{2/}

Clearly, Congress intended that the choice of devices be meaningful and useful to the consumer. Intel hopes that the Commission's action in this proceeding will enable true technological competition.

Respectfully submitted,



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1634 I St., N.W. Ste. 300
Washington, DC 20036

Dated: June 3, 1998

^{2/} Comments of the Business Software Alliance, CS Docket No. 97-80, at p. 2 (May 16, 1997) (emphasis added).