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MEMORANDUM

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JUN 11 1998
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

TO: Magalie Roman Salas, Secretary

FROM: Rick Chessen, Senior Legal Advisor to Commissioner Tristani

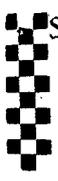
DATE: June 11, 1998

RE: Ex Parte Presentation, *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigational Devices* (CS Docket No. 97-80).

On June 10, 1998, I received a call from Justin Lilley of the House Commerce Committee regarding the above-captioned proceeding. Mr. Lilley's comments reflected the views expressed in a letter dated June 10, 1998, from Rep. Tom Bliley and Rep. Edward J. Markey, which was received by our office on that date and which is attached hereto.

I am submitting this memorandum and the attached letter for inclusion in the public record pursuant to our *ex parte* rules.

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FAX TRANSMISSION

To: Honorable Gloria Tristani (202) 418-7542

From: Honorable Tom Bliley

Date: June 10, 1998

Number of Pages (including cover sheet): 3

Notes:

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U.S. House of Representatives
Committee on Commerce
 Room 2125, Rayburn House Office Building
 Washington, DC 20515-6115

June 10, 1998

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FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

The Honorable William E. Kennard
 Chairman
 Federal Communications Commission
 1919 M Street, NW
 Washington, D.C. 20554

Dear Chairman Kennard:

As the Commission prepares to issue final rules concerning the commercial availability of navigation devices, we are writing to urge you and your colleagues to seize this historic opportunity to sever the cable industry's 50-year, monopoly grip on the American consumer's ability to choose navigation devices that are both feature-rich and widely available.

We authored Section 304 of the Telecommunications Act of 1996, and thus can advise the Commission as to its intent. Section 304 is intended:

- to promote competition in the market for customer premises equipment that is used to navigate multichannel video programming distribution (MVPD) systems;
- to promote consumer choice through the nationwide, commercial availability of feature-rich navigation devices;
- to promote competition in technologies that will enable navigation functions to ultimately be included in televisions, personal computers, videocassette recorders, and other consumer electronics devices; and
- to promote the development of private technical standards, on which the Commission would rely, that would allow navigation functionality to be built into consumer electronics and computer products.

We recognized then, and still do today, that Section 304 raises security-related issues. But our confidence in the ability of industry participants to promote competition in navigation devices

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without impeding system security has been vindicated. Indeed, the cable industry itself, through the efforts of CableLabs, has been both willing and able to draw upon the output of various standard-setting organizations to achieve specifications that allow navigation functionality to be included in virtually any broadband digital device -- *without* compromising system security.

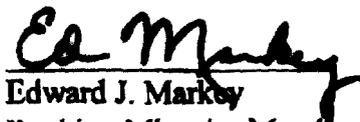
In the end, the key element of any set of specifications is a standard security interface. Moreover, to ensure a truly competitive marketplace for the manufacture and distribution of navigation devices, the Commission must ensure that *all* providers of cable navigation devices operate on the same terms, including reliance on separate security modules that enable national portability. Section 304's competitive vision will never emerge if the cable industry is permitted to operate outside of the private technical standards that enable competition. The only, and indeed least regulatory, way for the Commission to assure competition is to rule that, after a date certain, *all* providers of navigation devices must rely on security circuitry that enables national portability. Otherwise, the cable industry will inevitably continue to focus on the provision of integrated boxes, well into the era of transition to digital transmission and at the expense of consumer choice and competition.

We regard Section 304 as a pro-competitive element of the Telecommunications Act of 1996, and urge bold action by this Commission to seize this historic opportunity for consumers.

Sincerely,



Tom Bliley
Chairman



Edward J. Markey
Ranking Minority Member
Subcommittee on
Telecommunications, Trade and
Consumer Protection