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MEMORANDUM

EX PARTE OR LATE FILED

TO: Magalie Roman Salas, Secretary

FROM: Anita Wallgren

DATE: June 11, 1998

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

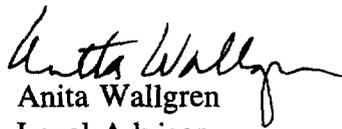
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JUN 11 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

On June 10, 1998, Justin Lilley, Counsel, House Commerce Committee called Anita Wallgren, Legal Advisor to Commissioner Susan Ness to discuss the FCC's treatment of integrated set top boxes in the above-captioned proceeding. Mr. Lilley asked if the Commission would consider prohibiting cable operators from continuing to utilize integrated boxes by a date certain. He stated that such a prohibition would spur greater competition in the set top box market. On June 11, 1998, Mr. Lilley also called Anita Wallgren to follow up on that request.

I am submitting this *ex parte* memorandum and attached letter to the FCC Secretary for inclusion in the public record pursuant to our *ex parte* rule 47 C.F.R. § 1.1203(a)(4).

  
Anita Wallgren  
Legal Advisor

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

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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

The Honorable William E. Kennard

June 10, 1998

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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