

DOCKET FILE COPY ORIGINAL  
EX PARTE OR LATE FILED

MEMORANDUM

RECEIVED

JUN 11 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

TO: Magalie Roman Salas, Secretary

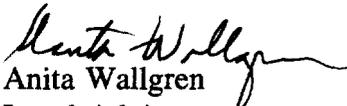
FROM: Anita Wallgren

DATE: June 11, 1998

RE: Ex Parte Presentation by Congressman Edward Markey, Ranking Minority Member, House Commerce Committee, Subcommittee on Telecommunication, Trade and Consumer Protection, *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, Representative Edward Markey called Commissioner Susan Ness to discuss the FCC's treatment of integrated set top boxes in the above-captioned proceeding. Representative Markey expressed his concerns regarding the creation of a pro-competitive environment for set top boxes, and the need for separate security modules to enable national portability.

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

No. of Copies rec'd 021  
List A B C D E

EX/SC/DE/100

ONE HUNDRED FIFTH CONGRESS

TOM BLILEY, VIRGINIA, CHAIRMAN

W.J. "BILLY" TALEN, LOUISIANA  
 MICHAEL B. DEBAY, OHIO  
 MICHAEL BLUMBERG, FLORIDA  
 DAN Rostenkowski, COLORADO  
 JOE BARTON, TEXAS  
 J. BENNIE HARTNEY, ILLINOIS  
 FRED LIPSON, MICHIGAN  
 CLYFF STANLEY, FLORIDA  
 BILL PASAREL, NEW YORK  
 PAUL E. GILLNER, OHIO  
 SCOTT L. HILLS, WISCONSIN  
 JAMES C. GREENWOOD, PENNSYLVANIA  
 MICHAEL S. DEBAFO, IDAHO  
 CHRISTOPHER COOL, CALIFORNIA  
 NATHAN SPAN, GEORGIA  
 STEVE LAMBERT, OKLAHOMA  
 RICHARD DURR, NORTH CAROLINA  
 BRIAN P. GIBNEY, CALIFORNIA  
 BO WATFIELD, KENTUCKY  
 GENE GARDNER, IOWA  
 CHARLES HENWOOD, GEORGIA  
 NEIL WHITE, WASHINGTON  
 TOM COBURN, OKLAHOMA  
 RICK LAIRD, NEW YORK  
 BARBARA CUBIN, WYOMING  
 JAMES S. ROGAN, CALIFORNIA  
 JOHN SHANKUS, ILLINOIS

JOHN D. DINGELL, MICHIGAN  
 HENRY A. WAXMAN, CALIFORNIA  
 EDWARD J. MARKEY, MASSACHUSETTS  
 RALPH BA. HALL, TEXAS  
 RICK BOLDRON, VIRGINIA  
 THOMAS J. BRANTON, NEW YORK  
 EDOLPHUS TORRES, NEW YORK  
 FRANK PALLONE, JR., NEW JERSEY  
 SHERRILL BROWN, OHIO  
 BART GORDON, TENNESSEE  
 ELIZABETH FLEINE, OREGON  
 PETER DEUTSCH, FLORIDA  
 BONNY L. RUSH, ILLINOIS  
 ANNA E. BISHOP, CALIFORNIA  
 RON KLICK, PENNSYLVANIA  
 BART STUPAK, MICHIGAN  
 ELIOT L. ENGEL, NEW YORK  
 THOMAS C. SAWYER, OHIO  
 ALBERT R. WYNN, MARYLAND  
 GENE BRINN, TEXAS  
 KAREN MCCARTHY, MISSOURI  
 TED STRICKLAND, OHIO  
 DIANA DIGETTE, COLORADO

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

June 10, 1998

JAMES E. DENDERIAN, CHIEF OF STAFF

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

RECEIVED

JUN 11 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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

SENT BY 202/229 2000  
202 418 2821 := 3/ 3  
The Honorable William E. Kennard

June 10, 1998

Page 2

*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