

EX PARTE OR LATE FILED

ORIGINAL

MSTV

ASSOCIATION FOR MAXIMUM SERVICE TELEVISION, INC.

July 22, 1999

1776 Massachusetts Ave., NW
Suite 310
Washington, DC 20036

The Honorable William E. Kennard
Chairman
Federal Communications Commission
445 12th Street, SW, Suite 8B-204
Washington, D.C. 20554

Tel (202) 861-0344
FAX (202) 861-0342

Margita E. White
President

Re: DTV/Cable Compatibility
CS Docket No. 98-120

Dear Chairman Kennard:

In holding its May 20, 1999 Roundtable on digital television receiver and cable compatibility, the Commission recognized that consumers interested in buying DTV receivers and set-top box converters are faced with a serious problem. They have no assurance that the equipment they buy this year or even next year will function properly with digital cable signals. As a result, they are forced to choose between being stranded with expensive and obsolete equipment or delaying their purchase (which in turn delays, and possibly forestalls, the transition to DTV).

At the Roundtable, MSTV stated that the discussions among the consumer electronics, cable and motion picture industries had gone on for too long. We urged the Commission to set a 90-day deadline for these industries to finally resolve (not agree to resolve) all of the outstanding standards issues relating to set-top boxes and cable-ready DTV receivers. If there is not *full* agreement on the standards by that date, we urged the FCC to either initiate a fast-track proceeding or use the *DTV Cable Carriage/Compatibility* proceeding to set the narrow technical standards necessary to ensure compatibility. We also urged the Commission to require, at a minimum, that there be three interfaces in 1999 and 2000 "universal" receivers (*i.e.* the 1394, RF interface and component baseband).

The Commission stopped short of taking this action. Rather, because there was no indication that the relevant industries would resolve the compatibility problems in the very near term, you asked the industries, by July 1, to tell the FCC how they were going to ensure digital compatibility by the end of the year. Unfortunately, the promises the Commission received from NCTA, CEMA and the MPAA on July 1 are not reassuring.

- ◆ CEMA promised the Commission only that it would use its "best effort" to reach agreement with NCTA on cable-ready standards by October 31 and to complete "build-to" standards by the end of the year.¹ NCTA, although stating that the "cable

¹ Letter from Gary Shapiro, President, CEMA, to Chairman Kennard, filed in CS Docket No. 98-120, at 1 (July 1, 1999) ("*CEMA Letter*").

No. of Copies rec'd 1 copy
List ABCDE

Honorable William E. Kennard
FCC Chairman
July 22, 1999
Page 2

industry is committed to provide specifications for cable compatibility by October 31,"² declined to make any promises about whether or not these specifications would be agreed to by the equipment manufacturers or would include "build-to" cable-ready standards.

- ◆ Whatever standards CableLabs adopts, it is not clear that the cable industry as a whole will implement them and NCTA made no assurances in this respect.
- ◆ The letters reveal that the cable and equipment manufacturing industries still, after more than a year of discussions, have not agreed on the role of the 1394 interface standard in cable-ready sets.
- ◆ It remains unclear what kind of "full system information" cable systems will be willing to give to equipment manufacturers. Therefore, it is also unclear whether sets will be able to decode the program guide information contained in DTV and other digital signals.³
- ◆ Finally, the rift between the equipment manufacturers and MPAA on the licensing of the 5C copy protection technology raises questions about when 5C or any other copy protection technology will be widely and successfully deployed.⁴

In short, the letters submitted on July 1 reassert promises that the industries will work towards solutions and point fingers at each other for failures to agree to solutions. Promises to agree are not agreements. CEMA and cable entities routinely promise to work together to resolve the digital compatibility issues.⁵ And yet, over a year after you first highlighted the need to standardize 1394 and other digital interfaces, there still is no 1394 standard that includes copy protection (which many argue is a necessary ingredient to any viable digital interface) and no agreement on when and how 1394 will be used. NCTA apparently believes that the 1394 interface will not be widely available until Christmas 2000.⁶ Yet even this date is likely to slip if the past is prologue. On top of all the other delays, CableLabs has now reported to the Commission that it will not meet the July 1, 2000 deadline for separating the security from other

² Letter from Decker Anstrom, President & CEO, NCTA, to Chairman Kennard, filed in CS Docket No. 98-120, at 3 (July 1, 1999).

³ *CEMA Letter*, at 1-2.

⁴ *See id.* at 2; Letter from Jack Valenti, President & CEO, MPAA, to Chairman Kennard, filed in CS Docket No. 98-120 (June 30, 1999) (committing to hold meetings on the licensing agreement until agreement can be reached, "or until such time as it becomes apparent that no agreement can be reached").

⁵ *See, e.g.*, Reply Comments of NCTA, CS Docket No. 98-120, at 78 (Dec. 22, 1998) (promising to work with equipment manufacturers on compatibility issues and discouraging Commission involvement).

⁶ *See* "Are They Kidding or Just Wired? Casters and Cable Cos. Want FireWire-Equipped TV by Xmas," *E-TOWN* (July 9, 1999).

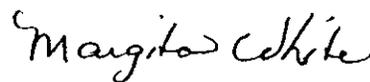
Honorable William E. Kennard
FCC Chairman
July 22, 1999
Page 3

functions in hybrid analog-digital set-top boxes, thereby pushing further into the future the date when there will be competition for the most widely used digital boxes.⁷

What this delay – and the attendant uncertainty about the success of DTV – has shown is that standard-setting is only part of the process of attaining compatibility. Swift implementation of the standards by the cable, equipment manufacturing, and content-producing industries is at least as important. The Commission must do more than just sit on the sidelines, collecting promises and congratulating the industries for making them. The Commission should press the equipment manufacturing and cable industries to accelerate their discussions so that final agreement on build-to cable ready standards is completed in 90 days, in advance of the December date outlined in CEMA's letter. We also again urge the Commission to require basic minimum components for a universal receiver that can be used by all consumers to access any cable system. The Commission should inquire into the status of the proposed discussions *before* the deadlines arrive and, if necessary, intervene to facilitate the parties' reaching agreement on complete build-to standards by the deadline. We also urge the Commission to take steps to encourage widespread implementation of the standards that are agreed to. In doing this, the Commission should be active in getting MPAA and its members to cooperate with the other industries so that consumers have reasonable access to high-quality digital content this winter.

While MSTV is glad to see that the relevant industries responsible for the delay in digital cable compatibility are talking to each other, we are not satisfied with the pace of these discussions and do not think the Commission should be either. Unless the Commission holds the consumer electronics and cable industries responsible for crossing the finish line this October with respect to digital cable ready and universal receivers, the public will not receive the digital services or equipment it deserves.

Sincerely,



Margita E. White
President

cc: The Honorable Michael K. Powell
The Honorable Harold Fuchtgott-Roth
The Honorable Gloria Tristani
The Honorable Susan Ness
The Honorable Clarence "Larry" Irving, Jr.
Members of the House Committee on Commerce
Members of the Senate Committee on Commerce, Science & Transportation

⁷ See Status Report of the National Cable Television Association, General Instrument Corporation and Scientific-Atlanta, Inc., In re. Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices, CS Docket No. 97-80 (July 7, 1999).

Honorable William E. Kennard
FCC Chairman
July 22, 1999
Page 4

cc: Robert Sachs
Gary Shapiro
Jack Valenti
Richard R. Green
Dale N. Hatfield
Bruce A. Franca
Deborah A. Lathen
Jonathan Wilkins
Amy L. Nathan
Robert M. Pepper