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November 6, 2001

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

**Re: Written Ex Parte Presentation: PP Docket No. 00-67 (Compatibility
Between Cable Systems And Consumer Electronics Equipment)**

Dear Secretary Salas:

The Consumer Electronics Association (CEA) hereby respectfully submits its semi-annual report on the progress made in implementing the agreements of February 22, 2000, made between CEA and the National Cable Television Association (NCTA) regarding compatibility between cable systems and consumer electronics equipment.¹

As the Commission knows, the February 2000 agreements consisted of two documents: (1) a technical agreement concerning direct connection of television receivers to the RF output of cable systems, and (2) an agreement addressing carriage of PSIP (Program and System Information Protocol) over cable plant. As in prior reports, CEA will take this opportunity to report to the Commission on the industry's progress in the development of POD (Point of Deployment) security module interface standards.

CEA has little good news to convey to the Commission regarding cable compatibility. At present, CEA members remain unable to design or build any product with minimum competitive functionality for direct operation on a cable system.

While nominal progress on the standards needed to ensure compatibility between digital cable systems and digital television receivers has been made since our last report, CEA remains concerned about the lack of commitment by individual cable MSOs to implement industry standards.

¹ See *In the Matter of Compatibility Between Cable Systems and Consumer Electronics Equipment*, Report and Order, PP Docket No. 00-67, 15 FCC Rcd 17568 ¶¶ 34-36 (rel. Sept. 15, 2000); see also *Erratum* in PP Docket No. 00-67 (OET rel. Oct. 25, 2000) (setting forth reporting requirements).

So far, there has been no public commitment by any of the nation's major cable MSOs to utilize a single, agreed upon standard for either cable transmission or the "middleware" that will enable advanced services to be accessed by competitive devices. Without the major operators' binding commitments to uniform standards and specifications, uncertainty over any DTV's uniform compatibility with all U.S. cable systems will significantly inhibit the nationwide mass-market production of cable-compatible products.

Nor have any of the major cable operators committed to transmit complete and comprehensive program system information (PSIP) data in a manner that will allow DTV electronic program guides (EPGs) to be provided by independent manufacturers. CEA is similarly unaware of any significant developments in the areas identified in the PSIP agreement as areas where technical changes and system redesign were needed to ensure proper provision of PSIP data to cable-ready receivers.²

Access to complete and comprehensive PSIP data (data on all video content provided by an MSO) is essential to allow consumers to tune cable channels using the free program guide built into the TV. While EIA/CEA 818-B specifies a system for the transmission and reception of program guide data via PSIP (using the ATSC A/65 standard), it is not being used by cable operators.

Instead, many cable MSOs continue major infrastructure upgrades to facilitate the delivery of enhanced electronic program guides based on proprietary technologies rather than implementing the protocols agreed upon as part of the open standards process. These MSOs continue to transmit out-of-band program guide information in a manner not currently accessible by receiver designs relying on open standards.

Unless cable operators agree to provide comprehensive PSIP data, consumers will either be forced to lease a proprietary set-top box that uses the cable provider's subscription guide, or be unable to channel surf effectively with the remote control provided by the television or non-proprietary set-top box. This has imposed such a severe and unacceptable limitation on DTV functionality and consumer choice that it effectively precludes independent manufacturers of set-top boxes from competing in this market.

Another major obstacle is the cable industry's desire to implement a PHI license that would allow content providers to curb home recording rights, impede market entry of new consumer electronics equipment and functionalities, compromise manufacturers' intellectual property rights, and threaten the continued interoperability of legacy equipment now in American homes.

² These areas included content re-encoding, PSIP injection into uplink encoders, remultiplexing, and master downlinks feeding multiple cable systems utilizing varying channel maps.

Needless to say, the limitations on normal and customary home recording practices that would be imposed by the PHI license would significantly chill consumer demand for DTV products and new video recording devices.

Various standards issues remain unresolved as well. Revisions to SCTE's DVS-295 (which currently does not support video on demand) are currently in the reballoting process. And, although DVS-301, which addresses copy protection protocols for the POD-Host Interface, has been approved, it is still being reviewed by various SCTE committees. Also, CableLabs' interoperability testing of the POD-Host interface has been very limited.

In addition, CEA does not foresee the near-term completion of final standards for middleware that will enable headend solutions for consumer equipment compatibility. This middleware is the only mechanism the cable industry deems feasible for retail cable products to access any services beyond basic programming, such as electronic program guides, pay-per-view and video on demand.

Essentially, the cable industry has failed to provide technical specifications that would support a commercial market for navigation devices. Thus, there is not a single commercially available set-top product that has emerged which is competitive with set-top boxes provided by entrenched industry suppliers. Additionally, with the PHI license, cable operators have imposed conditions so onerous that reasonable independent manufacturers find them difficult to accept. CEA contends that the foregoing anticompetitive actions of the cable operators are in violation of Section 76.1204(c), which states:

No multichannel video programming distributor shall by contract, agreement, patent, intellectual property right or otherwise preclude the addition of features or functions to the equipment made available pursuant to this section that are not designed, intended or function to defeat the conditional access controls of such devices or to provide unauthorized access to service.

This requirement entails much more than the mere development of a separable device that can descramble encrypted video transmissions. The Commission should clarify that this rule creates an affirmative obligation on the part of cable operators to cease preclusion of the development of fully functional navigation devices (those that can provide fully developed EPGs, transactional and interactive services) based on open standards; and to cooperate fully in industry standards-setting efforts (including those outside the OpenCable specification process) that can result in the development of open standards, so that video programming and all new cable services such as those described above can be delivered to consumers via devices that are available in a competitive commercial marketplace.

Meanwhile, CEA has continued to do its part through open, accredited standard-setting processes even in the absence of an effective inter-industry consultative mechanism.³ CEA has drafted five standards related to cable compatibility, including the recent completion of EIA/CEA-818-B, which updates the minimum requirements for television receivers connected to uni-directional cable services and receiver-compatible digital cable systems. Also, EIA/CEA-819 addresses two-way “interactive” cable services such as video-on-demand, interactive shopping, and audience opinion polling. Finally, revisions to the POD Host Interface specifications in EIA/CIA-818-C are pending approval next month.

In conclusion, expeditious solutions are needed to allow American consumers to purchase products that seamlessly interoperate with cable systems. The current situation not only suffocates the market for products such as set-top boxes, but it also stalls the crucial transitional market for DTV receivers that could interoperate with cable systems—products that, if available, could significantly accelerate the DTV transition.

CEA therefore asks the Commission to:

- (1) Establish an open standards process that will result in a single enforceable, national cable standard for digital television as expeditiously as possible. The Commission should establish certain expedited standard-setting milestones; and if the milestones are not met, the Commission should require CableLabs to substitute alternative standards (*e.g.*, EIA/CEA-819);
- (2) Accelerate the phase-out of proprietary set-top boxes utilizing integrated security by requiring cable operators to utilize POD-equipped set-top boxes and an EPG standard that unaffiliated manufacturers can access. The Commission should be prepared to penalize non-complying MSOs with cease and desist orders requiring no deployment of digital set-top boxes or PODs until compliance is achieved;
- (3) Ensure that cable operators pass through PSIP data using the A/65 standard that will allow Americans to utilize the full functionality of their DTV equipment; and
- (4) Solicit public comment on the current PHI license while encouraging cable to curb its anti-consumer and anti-competitive provisions.

³ Unlike the OpenCable process, the CEA standards process is open to all interested parties and operates under the strict public disclosure and agreement guidelines of the American National Standards Institute (ANSI).

It will only be through Commission intervention that American consumers will experience the full benefits of digital cable systems and the most advanced designs in digital consumer electronics equipment.

Sincerely,

/s/ Michael Petricone

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