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December 18, 2001

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals, TW-A325
445 12th Street, S.W.
Washington, D.C. 20554

Re: Ex Parte Notification – CS Docket No. 97-80

Dear Ms. Salas:

On December 17, 2001, Chris Crafton and Jeanine Poltronieri of Motorola met with Catherine Bohigan, Legal Advisor to Commissioner Kevin Martin.

The parties discussed the regulations regarding the retail sale of set-top equipment and Motorola expressed its view that the 2005 ban on the lease of integrated set-top equipment should be eliminated. Motorola also expressed its view that the issue is ripe for FCC action since an Further Notice of Proposed Rulemaking examining the prospective ban on integrated equipment was released September 2000. Copies of the materials provided to Ms. Bohigan are attached to this letter.

Please contact Jeanine Poltronieri at (202) 371-6896 regarding any questions concerning this matter.

Respectfully Submitted,

JPoltronieri

Jeanine Poltronieri
Motorola

cc:
Catherine Bohigan

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The Ban on Set-Top Boxes with Built-In Security Should Be Eliminated: Background

With Section 629 of the 1996 Telecom Act, Congress sought to make possible the retail sale of cable set-top boxes. As implemented by the FCC, the rules required that the security be made available in a modular point-of-deployment (pod), and provide information sufficient for the manufacture of host devices by July 2000. (Security is required to prevent non-paying parties from accessing premium programming over cable TV). By requiring the security to be modular in design rather than built into the equipment, cable operators would be required to provide the security add-on separately and allow manufacturers to develop host devices to be sold at retail. **These requirements have been met.**

The cable industry through its research organization *CableLabs* and equipment manufacturers have worked since passage of the Act on the extensive re-design and development of this new, separated security equipment. Companies like Motorola and Scientific-Atlanta have been leading players in the effort to comply with the implementing rules, and companies like Philips and Panasonic as well as others compete in the host box market. Despite this progress, retailers have refused to stock host boxes and sell them to the public. In a continuing effort to promote a retail market for this equipment, cable operators and manufacturers recently announced that they will promote the retail sale of set top boxes with built-in security.

The FCC plans to institute a ban on cable operators from selling or leasing traditional set-top boxes, i.e., boxes with built-in security, after January 1, 2005. Beginning January 1, 2005, any new set-top boxes deployed in the field by cable operators ***must*** have security separated out from the rest of the box. Up until this date, operators may continue to offer boxes with the traditional built-in security as an ***option*** to consumers. After that date, consumers lose this option.

In September 2000, the FCC initiated a Further Notice of Proposed Rulemaking to review the implementation of Section 629. Motorola believes that the record of this proceeding demonstrates that the lease option for built-in devices should not be eliminated from the market in 2005 by the FCC. The ban harms consumers and upsets the regulatory landscape for manufacturers of these devices.

Eliminating Built-In Security & Low-Cost Lease Options for Set-Top Boxes Will Harm Consumers

Retailers argue that the set-top box with built-in security, which is the design currently leased by consumers from their operators, is harming potential sales of set-top boxes in their stores. They seek to advance the date by which such equipment is banned from the market. Certain manufacturers and their association, CEA, argue that unless many components of every set-top box manufactured for the US market are standardized, its member companies cannot compete. That is untrue.

Both elimination of the built-in security set-top box and extensive standardization of every set-top box harm consumers. Consider:

- Cable operators of all sizes would be foreclosed from offering the built-in security set-top box option to consumers. They would be forced to offer only *the higher cost equipment with separated security (about $75 higher cost). This cost would be passed on to the consumer.*

- Manufacturers have been required to produce set-top boxes with separated security since July 2000. However, retailers have not placed any orders for them. This is perplexing, and some have suggested that retailers want a cut of the cable operators' monthly revenue stream (as they get with the direct-to-home satellite television services and equipment they market).

- Manufacturers would incur the additional costs of revamping entire production lines for this equipment to produce *only* separated security boxes, as opposed to today's current product mix which includes both built-in and the mandated separated security models.

- Security is available to licensees. Motorola currently licenses Pace and Scientific-Atlanta has multiple licensees for its security. Any manufacturer also has the option to develop its own set top box with its own proprietary built-in security.

- FCC policies ought not discourage the substantial investment that equipment manufacturers have made by dictating how devices such as set-top boxes are designed and through what distribution channels they should be sold. Any business that wishes to engage in the enterprise of building set-top boxes can license security technology from someone who has it or develop their own.

- This issue is ripe for FCC action. The FNPRM examining the prospective ban on integrated equipment was released September 2000 (CS Docket No. 97-80).