March 21, 2003

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20054

Re: In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices; CS Docket No. 97-80

Dear Ms. Dortch:

The Commission is considering issues related to the commercial availability of navigation devices, and Zenith Electronics Corporation has a significant interest in the outcome of this proceeding. Please permit me to submit these comments as part of the Commission's consideration of these matters.

Section 629 of the Communications Act of 1934, as added by the Telecommunications Act of 1996, requires the Commission to adopt regulations to assure the commercial availability of converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming. The section requires that those rules allow consumers to obtain these devices from commercial sources other than their cable providers. Since the enactment of this provision, the Commission has adopted rules intended to improve consumer choice by fostering a competitive retail market for this equipment, and has required that a cable operator's conditional access, or security, functions be located in a separate point of deployment ("POD") device. In addition, the Commission has adopted a Further Notice of Proposed Rulemaking seeking comment on various issues related to these navigation devices, including whether the 2005 date for the phase-out of integrated boxes remains appropriate.

Zenith continues to believe that the 2005 date makes sense. Without such a deadline, Zenith and other manufacturers of consumer electronics equipment will be placed at a competitive disadvantage in the retail marketplace as compared to cable providers. Congress has determined that consumers should not have to rely solely on their cable operators for their set-top box equipment, and Zenith intends to manufacture and market such equipment in the future. In fact, Zenith demonstrated a digital cable set-top box with POD technology at the recent Consumer Electronics Show in Las Vegas. Together with other consumer electronics manufacturers, our deployment of this technology will help to achieve Congress' intent that there be competition in the retail marketplace.

Further, the conference report accompanying the 1996 legislation requiring the availability of navigation devices specified that the Commission should "avoid actions which could have the effect of freezing or chilling the development of new technologies".[1] Without the continued

[1] House Report 104-458, at 181.

ZENITH ELECTRONICS CORPORATION zenith
2000 MILLBROOK DRIVE LINCOLNSHIRE, ILLINOIS 60069

requirement to phase out integrated boxes by a time certain, cable operators will lack sufficient incentives to support POD technology. To the contrary, their incentives would be just the opposite: to continue to promote their own integrated set-top boxes so as to keep consumers dependent on their own devices.

In its recent ex-parte filing, the cable industry points to providing multi-stream capabilities (the heart of the "picture in picture" feature) if it is allowed to maintain embedded conditional access. This very example points out the fallacy of the cable industry's argument. If the cable industry is allowed to develop highly desirable features while the consumer electronic industry must maintain older technology with fewer features, the playing field is clearly not level. This type of competitive disadvantage has stymied the development of retail digital cable products in the past. The 2005 deadline was intended to avoid this very kind of disadvantage.

Because eliminating the 2005 deadline is inconsistent with the development of new technology and the statutory objective of promoting commercial availability, Zenith urges the Commission to retain the timetable it previously has adopted. In this way, consumers will benefit from the availability of navigation devices that contain interchangeable technology.

This letter is being provided to your office in accordance with Section 1.1206 of the Federal Communications Commission rules. I appreciate the opportunity to share these views with you, and would gladly respond to any questions you might have about this matter.

Sincerely,

Richard Lewis
Senior Vice President and Chief
Technology Officer

cc: Chairman Michael Powell
Commissioner Kathleen Abernathy
Commissioner Jonathan Adelstein
Commissioner Michael Copps
Commissioner Kevin Martin
W. Kenneth Ferree, Media Bureau Chief
Rick C. Chessen, Associate Media Bureau Chief