

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Implementation of Section 304 of the Telecommunications Act of 1996	)	CS Docket No. 97-80
	)	
Commercial Availability of Navigation Devices	)	
	)	
Compatibility Between Cable Systems and Consumer Electronics Equipment	)	PP Docket No. 00-67
	)	



**Initial Regulatory Flexibility Analysis Comments**

On behalf of more than 1000 independent cable companies, ACA submits these comments in response to the Initial Regulatory Flexibility Analysis (“IRFA”) appended to the FNPRM.<sup>1</sup> Together, ACA member companies serve about 7.5 million cable subscribers. The companies range from family-run cable businesses serving a single town to multiple system operators with small systems that focus on small markets. About half of ACA’s members serve fewer than 1,000 subscribers. All ACA members face the challenges of developing and operating broadband networks in lower density markets, including the challenges of the DTV transition.

ACA has consistently supported the Commission's efforts to advance the DTV transition, and will continue to do so. ACA members are on point in delivering advanced services like cable modem service and digital cable service to smaller markets. Several ACA member systems already deliver broadcaster's DTV signals in smaller markets. Many more ACA members are actively exploring how to deliver HDTV signals in their markets.

At the same time, the Commission must proceed with care when promulgating DTV regulations that will affect smaller cable systems. When it comes to cable regulation, one size does not fit all. DTV regulations that impose disproportionate compliance burdens and costs on smaller cable systems will stall the progress ACA members are making, with the unintended consequence of actually slowing the DTV transition in smaller markets.

To address the special circumstances of smaller cable companies, ACA asks that the Commission raise and answer three principal questions for small cable:

- What are the costs of compliance for smaller cable systems?
- How will plug-and-play requirements affect Comcast's Headend-in-the-Sky ("HITS"), the main source of digital cable services for smaller cable systems?
- Why are some of the plug-and-play regulations only limited to systems having 750 MHz capacity or greater, while other regulations apply to all digital cable systems, even those operated by smaller cable operators?

---

<sup>1</sup> *In the Matter of the Compatibility Between Cable Systems and Consumer Electronic Equipment*, Further Notice of Proposed Rulemaking, FCC 03-3, PP Docket No. 00-67 (rel. Jan. 10, 2003), Appendix A, "Initial Regulatory Flexibility Analysis".

Where the answers point toward disparate costs and burdens for small cable systems, the Commission should include in its final regulations a streamlined waiver process and an extended phase-in for small system compliance. The Commission should also limit the scope of all the plug-and-play regulations to 750 MHz digital cable systems. Many very small cable systems now offer digital services and imposing additional compliance obligations and costs on those systems will threaten the progress they have made in rolling out digital services.

The Regulatory Flexibility Act requires the Commission in its initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities.<sup>2</sup> The IRFA must contain a description of any significant alternatives to the proposed rule that would accomplish the stated objective of the statute and that would minimize any significant economic impact of the proposed rule on small entities.<sup>3</sup> An example of an alternative includes an “exemption from coverage of the rule, or any part thereof, for such small entities.”<sup>4</sup>

The Commission has a statutory obligation to consider the impact any Commission action would have on small entities. Economic realities require the Commission to establish an alternative treatment for small cable companies. Because of the impact to small cable as discussed above and in ACA’s Comments, the Commission must address these issues and include a comprehensive discussion of the impact its actions will have on small cable in its Final Regulatory Flexibility Analysis.

---

<sup>2</sup> 5 USC § 603(a).

<sup>3</sup> 5 USC § 603(c).

Respectfully submitted,

**AMERICAN CABLE ASSOCIATION**

Matthew M. Polka  
President  
American Cable Association  
One Parkway Center  
Suite 212  
Pittsburgh, Pennsylvania 15220  
(412) 922-8300

By: \_\_\_\_\_/s/\_\_\_\_\_  
Christopher C. Cinnamon  
George D. Callard  
Emily A. Denney  
Cinnamon Mueller  
307 North Michigan Avenue  
Suite 1020  
Chicago, Illinois 60601  
(312) 372-3930

Attorneys for the American Cable  
Association

March 28, 2003

Reg Flex Comments PP Docket 00-67 032703.doc

---

<sup>4</sup> 5 USC § 603(c)(4).