

**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
)	

**Comments Of The Consumer Electronics Retailers Coalition
On Further Notice Of Proposed Rulemaking**

February 13, 2004

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The Consumer Electronics Retailers Coalition (“CERC”) filed joint Comments and Reply Comments¹ with the Consumer Electronics Association (“CEA”) in this proceeding in response to the January, 2003 Further Notice of Proposed Rulemaking.² CERC endorses the February 13, 2004 CEA Comments in this Second Further Notice of Proposed Rulemaking. As an association of retailers, CERC wishes to give special emphasis, and its own perspective, on certain of the issues on which the FCC has asked comment, so additionally files this separate comment.

I. FCC APPROVAL OF DOWNRESOLUTION WOULD BE A BREACH OF FAITH WITH CONSUMERS.

CERC members and their retail colleagues have introduced HDTV-capable displays to the public. In a shifting environment of broadcast, cable, and satellite tuners and program offerings, the one fixed point of reference has been that a display is “HD-ready.” Simply put, this has meant that the display (whether it produces a picture by digital or analog means) has

¹ *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices*, CS Docket No. 97-80, *Compatibility Between Cable Systems and Consumer Electronics Equipment*, PP Docket No. 00-67, Consumer Electronics Industry Comments, Joint Comments of the Consumer Electronics Association And The Consumer Electronics Retailers Coalition In Response To Further Notice of Proposed Rulemaking (Mar. 28, 2003); Joint Reply Comments of the Consumer Electronics Association And The Consumer Electronics Retailers Coalition In Response To Further Notice of Proposed Rulemaking (Apr. 28, 2003).

² *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices*, CS Docket No. 97-80, *Compatibility Between Cable Systems and Consumer Electronics Equipment*, PP Docket No. 00-67, Further Notice of Proposed Rulemaking, 18 FCC Rcd 518 (2003).

sufficient native resolution to produce an HDTV picture; sufficient processing circuitry to create the picture; and an interface with sufficient bandwidth to receive and transfer, in realtime, the signals comprising the picture. For the first several sales years of HDTV (and EDTV) displays, this has meant *only* that the display has been equipped with a “component analog” video interface – the same interface that the FCC is now considering subjecting to “downres.” Indeed, while digital interfaces are now abundant, this is still the case for many of the highest end products.³

The introduction of HDTV initially saw very few sources of content for these displays. Local broadcasters came on line sporadically; most cable systems did not yet carry HDTV; satellite services required upgrades. Consumers were conservative about committing to signal acquisition devices, but they bought the displays – initially, at prices 10-15 times that of a 32” conventional television – because they knew that content acquisition devices would be available in the future to provide the HDTV signals. Now that HDTV programming finally is coming on line, and is being distributed over cable and satellite, the FCC is entertaining the idea of allowing it to be “downres’ d” so that – until it reaches free, over-air broadcast – these pioneering consumers would not see it in HDTV.

If the FCC allows this, these consumers will be entitled to ask the FCC – what could they have done differently? What should they have done differently? Why should their neighbors, who now can buy an HDTV display for 2-3 times the price of a conventional 32” television, receive HDTV over cable or satellite channels, whereas they, who pay the same subscription price, cannot? The only choice that most of these consumers had prior to purchase would have been no purchase at all, thereby sinking the DTV transition, and the FCC’s public policy objectives with it.

³ Many flat-panel displays are equipped with computer-oriented 15-pin VGA-style component analog (RGB) inputs. A signal from a navigation device with a consumer electronics-oriented “Y,Pb,Pr” output, converted to this input, would still be “downres’ d” because the pixel information is removed at the output of the set-top box providing the signal. As to CRT-based HDTV receivers, CERC is aware of anecdotal claims that early products could display no better than “downres’ d” content. These claims run counter to CERC members’ product evaluation and merchandising experience, and in 2003 could easily be refuted by comparing the CBS NFL 1080i telecasts with Fox’s “480 widescreen,” or an HBO HDTV presentation with a DVD of the same movie.

For retailers, the hardest consumer questions involve the DTV transition – when will analog broadcasts be turned off? When will local broadcasters start broadcasting HDTV at full power? When will all local cable systems start carrying HDTV? Consumers who buy these products anyway deserve better treatment than to find that the one reliable element of their system is now under the control of those who wish to degrade it, for dubious and ineffective copy protection purposes.

II. THE FCC SHOULD NOT PUNISH CONSUMERS THROUGH THE “REVOCATION” OR “RETIREMENT” OF INTERFACES OR TECHNOLOGIES FORMERLY CONSIDERED “SECURE.”

CERC finds it ironic that the sole (but flawed⁴) justification of “downres” is to “incent” or “incite” consumers toward products with more secure interfaces (FNPRM ¶ 82), yet a follow-on question (¶ 86) asks whether these “secure” interfaces and other technologies ought then to be subject to “retirement” or “revocation.” If all investments that the FCC incites consumers to make are so easily subject to cancellation, why should a consumer take the plunge at all – on Charlie Brown-like faith that *this time* the FCC will not allow the football to be moved?

As we note above, consumers generally have not been able to make purchase decisions about HDTV-capable products based on choice of interfaces, and are unlikely to do so in the future (as digital interfaces become commonplace). However, consumers are even more challenged when it comes to hooking the product up, and controlling it adequately as it is mated with a set-top box, a home theater receiver, and recording and network devices, each with its own set of interfaces and remote controls. Once the consumer – or his or her installer – finds a setup that works, this is the setup on which the consumer will rely. The physical wiring often becomes inaccessible, and the rationale for the connections is forgotten. “Revoking” or “retiring” an interface, on either a “selectable” or a permanent basis, is likely to cause havoc – not just for the product in question, but for the entire viewing station and, increasingly, for the consumer’s home network.

⁴ “Downres” cannot affect the purchasing behavior of consumers who have already bought HDTVs, and need not affect the purchasing behavior regarding future HDTVs, which will in fact have secure digital interfaces.

CERC members are likely to receive many of the resulting consumer calls, as are manufacturers and cable and satellite Customer Service Representatives. If the action that harms their system lies with content originators and the FCC, there will be little that can be done to help these consumers -- other than to rip apart their systems and to try to devise a setup that works, though it is inferior to the one chosen initially.

III. CERC OPPOSES ADDITIONAL MANDATORY PRE-SALE LABELING IN THE PRESENT ERA OF UNCERTAINTY.

As it asks about possibly diminishing consumer reliability on present and future product interfaces, the Commission also expresses concern over whether consumers will be adequately informed of: “(1) the need to use a set-top box in order to receive interactive services, (2) the necessity to obtain a POD from their cable operator, or (3) any other relevant information disclosing the functionalities or limitations of these devices.” CERC’s comments are:

(1) STB for interactive services. Many retailers have marketing arrangements with cable operators, through which consumers will be informed of the availability of these services and the devices necessary to receive them. Not all consumers understand the meaning and context of “interactive,” or other terms that the Commission might make mandatory.⁵ There is sufficient incentive to sell these services and sufficient risk of confusing consumers that this would be a bad idea.

(2) Necessity to obtain a POD. If retailers and local cable operators conclude arrangements whereby the retailer offers the consumer a POD at the time of consumer purchase of the device, such labeling will be unnecessary. If not, the retailer need only tell the consumer that a POD, and not a set-top box, is all that is necessary to receive certain cable services. Again, there is every incentive to make such a simple communication; a fixed label on the same subject can only add confusion and expense.

⁵ Indeed, several filings in this Docket have demonstrated confusion on this score at the highest levels of the IT industry. See *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices*, CS Docket No. 97-80, *Compatibility Between Cable Systems and Consumer Electronics Equipment*, PP Docket No. 00-67, Comments of Intel (Mar. 27, 2003); Comments of ATI Technologies, Inc., Dell Computer Corporation, Hewlett-Packard Company, Intel Corporation, Microsoft Corporation and the NEC Corporation at 3-4 (Mar. 28, 2003).

(3) Other information relevant to functionalities or limitations. The complexity of this proceeding and the number of options on which the Commission has asked comment would make such a label impossible to devise at this time. Moreover, the greatest uncertainties seem to lie with choices that are still to be made by content providers, MVPDs, and broadcasters. Any such labeling more properly should pertain to *their* practices and should appear in contexts other than the retail sale of display devices. But instead of undertaking such a complex and defensive task, the Commission should concentrate on ensuring that these devices are supported and function predictably – in other words, that consumers get the functionality that they pay for.

IV. CONCLUSION.

Navigation devices have been the only element of the DTV Transition that has been off limits to CERC members, who otherwise have helped create, in consumer electronics and IT products, some of the most efficient, innovative, and competitive markets in history. In moving forward, the Commission should place top priority on encouraging and rewarding consumer investment in this transition, and on creating a true “level playing field” in the areas, now being opened, from which competitive manufacturers and retailers have been foreclosed.

Respectfully submitted,

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