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October 28, 2004

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *Ex parte* communication in CS Docket No. 97-80 (Commercial
Availability of Navigation Devices)

Dear Ms. Dortch:

On October 27, 2004, David H. Arland, Vice President, U.S. Communications, Thomson Inc., sales agent for RCA TV manufacturer, TCL-Thomson Electronics; Larry Sidman of Paul, Hastings, Janofsky & Walker LLP, counsel to Thomson; Angela Lee, Manager of Government and Industry Affairs for Mitsubishi Digital Electronics America Inc.; and Robert Schwartz of McDermott Will & Emery, counsel to Mitsubishi; met with Bill Johnson, Rick Chessen, Steve Broeckert, and Natalie Roisman of the Media Bureau; Jon Cody, Legal Adviser to Chairman Powell; Stacy Fuller, Legal Adviser to Commissioner Abernathy; Johanna Shelton, Legal Adviser to Commissioner Adelstein; and Elizabeth Andrion, Special Adviser to Commissioner Martin. The purpose of each meeting was to discuss the reasons why the Commission should not eliminate or extend the July 1, 2006 date by which cable operators are no longer permitted to sell or lease integrated cable set top boxes, and therefore must rely on the same security solution made available to competitive entrants, should be retained.

Thomson and Mitsubishi reaffirmed their respective strong commitments to Digital Cable Ready television products as indispensable to a successful and expeditious conclusion of the digital television transition. In that context, the proper function of CableCARDs is critical. They discussed numerous technical implementation problems consumers are experiencing with CableCARDs resulting in improper operation or failed operation. These include persistent problems with CableCARDs or their headend support, erroneous software or firmware fixes, inability of authorized subscribers to acquire some channels that offer encrypted content, and erroneous and overly restrictive copy protection outcomes. An article entitled, "My CableCARD Adventure" published in the November 2004 edition of *Sound & Vision* magazine, a copy of which is attached hereto, was distributed to elaborate upon the problems besetting CableCARD use and operation.

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Thomson and Mitsubishi made clear that, in their view, retention of the July 1, 2006 “reliance date” is absolutely essential to ensuring that CableCARD problems such as these would be rectified promptly and would not multiply. The necessary level of commercial and user confidence in CableCARD reliant products depends on the cable industry having the same level of commitment to such products as consumer electronics manufacturers. Absent a requirement that the cable industry also rely on CableCARDs for system security, there is simply insufficient incentive to ensure a robust market for integrated digital cable-ready television products as envisioned when the Commission adopted its September 10, 2003 Second Report and Order in this docket. At this critical juncture in the digital television transition, eliminating or extending the July 1, 2006 date would remove one of the lynchpins of its success.

Respectfully submitted,



Lawrence R. Sidman

Attachment

cc (without attachment):

Bill Johnson
Rick Chessen
Steve Broeckaert
Natalie Roisman
Jon Cody
Stacy Fuller
Johanna Mikes Shelton
Elizabeth Andrion