

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

In the Matter of)	
)	CSR-7012-Z
Comcast Corporation's)	
Request for Waiver of)	CS Docket No. 97-80
<u>47 C.F.R. § 76.1204(a)(1)</u>)	

COMMENTS OF MOTOROLA, INC.

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June 15, 2006

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Motorola, Inc. ("Motorola") hereby submits these comments in response to the Commission's Public Notice in the above-captioned proceedings.¹ On April 19, 2006, Comcast filed a request for waiver of the Commission's integration ban rule for certain low-cost, limited-capability set-top boxes, including Motorola's DCT-700 set-top box.² Motorola supports this waiver request and urges the Commission to give prompt approval to the request for the reasons set forth below and those identified in the waiver request.

The DCT-700 is the lowest-cost, most limited-function set-top box that Motorola manufactures for the cable industry. It is a low-end digital set-top box designed to enable cable customers to view digitally-delivered programming services on their analog TV sets. As detailed

¹ See *In the Matter of Comcast Corporation's Request for Waiver of 47 C.F.R. § 76.1204(a)(1)*, Public Notice, CS Dkt. No. 97-80, DA 06-1022 (*rel.* May 17, 2006).

² See *In the Matter of Comcast Corporation's Request for Waiver of 47 C.F.R. § 76.1204(a)(1)*, CSR-7012-Z, CS Dkt. No. 97-80 (Apr. 19, 2006) ("Comcast Waiver Request").

by Comcast, the DCT-700 includes a single digital tuner, an RF output and a composite video output, and right and left audio channel outputs, and allows customers to access, among other things, an electronic program guide (“EPG”), pay-per-view (“PPV”) services, video-on-demand (“VOD”), and limited interactive television (“ITV”) capabilities.³ The DCT-700 does *not* support high-definition (“HD”), digital video recording (“DVR”), Internet access, or other advanced capabilities, nor does it include an analog tuner. The DCT-700 has been deployed by Comcast and other cable operators, including Charter, RCN, Sunflower Broadband, and BendBroadband.⁴ Several other cable operators have also expressed interest in deploying DCT-700s in the second half of this year.

In short, the DCT-700 is exactly the type of low-cost, limited-function set-top box for which the Commission has invited requests for waiver of the integration ban. Indeed, the Commission has said repeatedly -- both in its *2005 Integration Ban Order* and in its recent advocacy before the D.C. Circuit in the appeal of that *Order* -- that it would favorably entertain such waiver requests:

- “[W]e will entertain requests for waiver of the prohibition on integrated devices for limited capability integrated digital cable boxes.”⁵
- “[T]he Commission promised to mitigate the potential short-term cost burdens of the integration ban by entertaining requests for waiver of the ban with respect to certain ‘low-cost, limited capability boxes.’”⁶

³ See Comcast Waiver Request at 4 & Ex. A (also noting that the DCT-700 supports closed captioning, parental controls, Macrovision copy protection, and emergency alert messages).

⁴ A total of 2.9 million DCT-700s have been deployed worldwide, including 1.6 million in the U.S.

⁵ See *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, Second Rept. & Order, 20 FCC Rcd. 6794 ¶ 37 (2005) (“*2005 Integration Ban Order*”).

- “[T]he Commission undertook to consider waivers of the integration ban with respect to limited capability set-top boxes . . . [and] determined that waivers for such boxes would benefit those cable subscribers most concerned about the cost of equipment, while maintaining the overall benefits of the integration ban with respect to boxes with more advanced capabilities[.]”⁷
- “The Commission . . . announced that it would receive waiver requests from cable companies that wanted to continue providing no frills, simple digital set-top boxes on an integrated basis. The Commission said it would be favorably inclined to view waiver requests for these boxes . . . and, in fact, the Commission has already received such a waiver request from Comcast.”⁸

The Commission can make good on these statements by giving prompt approval to the Comcast Waiver Request.

Grant of the Comcast Waiver Request will also advance important public interests. First, it will help accelerate consumer adoption of digital programming and services. The DCT-700 is providing a cost-effective way for cable customers to access a wide array of digital programming and services, including digital programming tiers, VOD, ITV applications, and parental control technologies.⁹ Second, the DCT-700 is assisting cable operators in their transition to all-digital networks. In particular, as more DCT-700s are deployed and the number of digital subscribers grows, Comcast and other cable operators will have the ability to reclaim analog spectrum for

(...footnote continued)

⁶ See Brief of Respondents at 14, *Charter Comm. Inc. and Advance/Newhouse Comm. v. FCC*, No. 05-1237 (D.C. Cir. Mar. 7, 2006).

⁷ *Id.* at 30.

⁸ Oral Argument Transcript at 21, *Charter Comm. Inc. and Advance/Newhouse Comm. v. FCC*, No. 05-1237 (D.C. Cir. May 11, 2006).

⁹ See Comcast Waiver Request at 10-12. Grant of the waiver is therefore fully consistent with the waiver standard in the navigation device statute. Section 629(c) directs the Commission to grant waivers where “such waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products.” 47 U.S.C. § 549(c); see also 47 C.F.R. § 76.1207.

other uses, such as more HD and VOD services and faster Internet access.¹⁰ This will make cable operators stronger competitors in the multichannel video programming distributor (“MVPD”) marketplace.

In contrast, failure to grant the waiver would result in profound harms to cable operators and customers alike. As Comcast noted, making the DCT-700 CableCARD-compliant would require a substantial redesign of the set-top box and greatly increase the overall cost of the device.¹¹ Under such circumstances, Comcast has said that it would have to pursue other, more costly equipment options. This would mean that fewer digital set-top boxes would be deployed and fewer customers would have access to digital programming and services. As a result, cable operators’ migration to all-digital networks would be delayed and operators’ efforts to recapture analog spectrum for HD, VOD, and other digital services would also be slowed.

Furthermore, failure to approve the waiver could slow the development and implementation of downloadable security. The Commission has underscored the public interest benefits of downloadable security, noting, among other things, that downloadable security will offer a “less expensive and more flexible system for both protecting system security and creating a consumer product interface.”¹² Motorola has been participating in the cable industry-led effort to ready downloadable security for eventual deployment. Motorola has dedicated over 80,000

¹⁰ The Commission has underscored the public interest benefits of cable operators’ transitioning to all-digital networks. *See 2005 Integration Ban Order* ¶ 37 (“The availability of low-cost boxes will further the cable industry’s migration to all-digital networks, thereby freeing up spectrum and increasing service offerings such as high-definition television.”).

¹¹ *See Comcast Waiver Request* at 17.

¹² *2005 Integration Ban Order* ¶ 31; *see also id.* (noting that downloadable security “is likely to facilitate the development of a competitive navigation device market, aid in the interoperability of a variety of digital devices, and thereby further the DTV transition”); *id.* (noting that downloadable security “would not require the potentially costly complete separation of the physical security element”).

man-hours so far to downloadable security development and testing, and participated in demonstrations of the technology for Commission staff and at the recent Consumer Electronics Show and NCTA National Show. Motorola anticipates committing substantial, additional resources to the downloadable security effort in the future.

If the Comcast Waiver Request is delayed or denied, Motorola is concerned that the industry's efforts to develop and deploy downloadable security will be delayed. The participants in the downloadable security initiative will likely have to shift manpower and other resources away from downloadable security to develop CableCARD alternatives to low-cost set-top boxes like the DCT-700. Motorola, for example, relies on the same personnel and testing facilities for downloadable security, CableCARD, and other projects, and cannot accelerate work on new CableCARD-related initiatives without compromising work on downloadable security. Motorola is concerned that reallocating resources in this way will slow progress on downloadable security and deny cable operators, cable customers, and CE manufacturers the many public interest benefits associated with downloadable security and generally detract from further innovation with respect to cable equipment -- all without any clear public interest benefit.

The Commission expressed concerns about the diversion of resources away from downloadable security in its *2005 Integration Ban Order*,¹³ and there are similar risks present if a CableCARD alternative must be developed for low-cost, limited-function set-top boxes. Grant of the instant waiver, however, will help obviate those risks. The waiver will provide consumers with a low-cost set-top box option while downloadable security is in development. It will also

¹³ See *id.* (noting that, if the integration ban were not extended, "resources would be diverted from producing a downloadable security system to physical separation of the security element from set-top boxes").

help the cable industry maintain forward progress on downloadable security so that consumers can eventually enjoy the benefits of this “less expensive and more flexible” security system.

In light of the foregoing, Motorola respectfully asks that the Commission give prompt approval to the Comcast Waiver Request. Furthermore, Motorola supports Comcast’s request that any grant cover not only the devices specified in the Comcast Waiver Request, but also replacement and successor versions of these devices and any devices that share similar characteristics as the specified devices. Clarifying that the waiver grant covers all such devices would, as Comcast notes, avoid the time, expense, and uncertainty associated with filing separate waiver requests for every comparable set-top box placed in service.¹⁴

Respectfully submitted,

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¹⁴ See Comcast Waiver Request at 7. Grant of the waiver in this fashion would also be consistent with the directive in the Commission’s navigation device rules that: “Such a waiver shall be effective for all service providers and products in the category in which the waiver is granted.” 47 C.F.R. § 76.1207; see also 47 C.F.R. § 549(c).

CERTIFICATE OF SERVICE

I, Steve B. Sharkey, hereby certify that, on June 15, 2006, copies of the attached Comments of Motorola, Inc. were served via overnight mail, on the following:

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