

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

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

REPLY COMMENTS OF RCN CORPORATION

RCN Corporation (“RCN”) submits these Reply Comments in support of Comcast Corporation’s Request for Waiver of 47 C.F.R. § 76.1204(a)(1) (“Waiver Request”) filed on April 19, 2006, in the above-captioned proceeding.¹ Specifically, RCN urges the Commission to grant a waiver of the Commission’s integration ban rule to all multi-channel video programming providers (“MVPDs” to permit continued deployment of certain low-cost, limited-capability set-top boxes, including but not limited to the DCT-700 and DCT-2500(e) set-top boxes, for the reasons set forth in the Waiver Request.

RCN, through its operating subsidiaries, is the nation’s largest facilities-based cable overbuilder, providing wireline cable television, telephone, and broadband Internet access services primarily to residential customers. RCN offers its services over its own fiber optic network, in competition with the incumbent cable and telephone companies. RCN provides competitive services in the Boston, New York, Philadelphia, Lehigh Valley, Washington, D.C.,

¹ See *In the Matter of Comcast Corporation’s Request for Waiver of 47 C.F.R. § 76.1204(a)(1)*, Public Notice, CS Docket No. 97-80 (CSR-7012-Z), DA 06-1022 (rel. May 17, 2006).

Chicago, San Francisco and Los Angeles markets. As such, RCN has long been on the front lines of cable competition.

I. WAIVER OF THE INTEGRATION BAN FOR LOW-COST, LIMITED-CAPABILITY DEVICES SERVES THE PUBLIC INTEREST

As a general matter, the Commission may grant a waiver of its rules upon a determination that public interest would be served,² and more specifically, it may grant a waiver of its cable equipment rules upon such a showing.³ Moreover, in its public notice, the Commission expressly acknowledged that it would consider requests for waivers of the prohibition on integration devices for limited capability integrated digital cable boxes.⁴ Indeed, in its recent brief to the Court of Appeals in connection with the pending appeal of the integration ban, the Commission specifically recognized that the integration ban might impose cost burdens and assured the Court that it would mitigate such burdens “by entertaining requests for waiver of the ban with respect to certain ‘low-cost, limited capability boxes.’”⁵ RCN submits that Comcast has shown that the public interest would be served by the requested waiver, and RCN therefore urges that the Commission grant a waiver to all MVPDs of its integration ban rule for DCT-700, DCT-2500(e) and similar low-cost, limited-capability set-top box equipment.

The type of equipment for which the waiver is sought enables cable customers with analog televisions to access programming services and associated features that are delivered digitally. For example, RCN has deployed the DCT-700 to approximately 5,100 customers in

² 47 C.F.R. §§ 1.3, 7.6(i)

³ 47 C.F.R. § 76.1207.

⁴ See *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, 20 FCC Rcd. 6794, ¶ 37 (2005).

⁵ FCC Brief, *Charter Communications, Inc. and Advance/Newhouse Communications v. FCC*, No. 05-1237, at 14 (D.C. Cir. Mar. 7, 2006).

the Chicago area as of June 1, 2006, and anticipates deploying approximately 7,700 additional units in Chicago by year end. As more and more customers seek to purchase RCN's advanced digital service offering for use on their analog televisions, RCN expects to deploy DCT-700 units in other markets this year. Similarly, RCN anticipates deploying thousands of DCT-2500(e) units to its customers this year. RCN anticipates that its need to deploy those and similar set top boxes will increase over time and will clearly extend beyond the July 1, 2007 effective date of the integration ban. Absent the requested waiver, RCN will not be able to deploy these low-cost devices to its customers who seek to upgrade their service to digital on their analog televisions.

Grant of a waiver of the integration ban for low-cost, limited-capability set-top box equipment will help accelerate consumer adoption of digital programming and services. These types of set-top boxes provide a cost-effective way for cable consumers with analog televisions to access a wide array of digital programming, including video-on-demand ("VOD"), parental control technologies, and tiered programming.⁶ RCN consumers using the low-cost, limited-capability set-top boxes will be able to use an interactive program guide, access VOD and parental controls, and will continue to be able to enjoy digital picture quality in the markets where digital simulcasting has been implemented. In addition, as consumers adopt digital programming and services and the digital transition continues, consumers are likely to replace analog equipment with entirely digital equipment. Thus, the concern that grant of the waiver could result in a perpetual situation or the "stockpiling" of specific set-top box equipment is improbable.⁷

⁶ See Waiver Request at 10-12.

⁷ See, e.g., Comments of Consumer Electronics Association at 1 (filed June 15, 2006).

The consumer demand for access to digital solutions is increasing rapidly – for one thing, access to VOD programming such as PBS Kids programs gives parents the virtual equivalent of “a la carte” programming for their children. This increasing demand has further necessitated the request for a waiver. Further, as the digital transition continues, and until prices of digital televisions decline, more and more lower income cable consumers will want to connect to a cable system via a low-cost, limited-capability digital set-top box. Consumers using a low-cost, limited-capability set-top box would be able to continue to use their analog televisions and would be given a wider array of programs and access to VOD, parental controls, etc. Denial of Comcast’s request would make low-cost, limited capability boxes more expensive and therefore slow this consumer demand and the availability of digital services to lower income users, and would therefore also slow the migration of cable systems to fully digital services.

A waiver will not affect competition between the CableCARD-enabled devices and the low-cost, limited-capability set-top boxes that are used with older analog televisions. The consumers that seek CableCARD-enabled equipment typically want advanced functionality, and CableCARD-related efforts have been focused on higher-end products. By comparison, the low-cost, limited-capability set-top boxes meet the needs of consumers with analog televisions but do not contain advanced capabilities such as digital video recording (“DVR”) or broadband Internet access capabilities and do not produce a high-definition output. Grant of the waiver also would not reduce the number of devices or diversity of models that rely on CableCARD support;⁸ it would merely provide consumers with additional choices between devices and models.

On the other hand, failure to grant the waiver would result in harm to cable operators and consumers because making limited-capability set-top boxes compliant with the Commission

⁸ See Comments of Sharp Electronics Corporation at 1 (filed June 15, 2006).

rules would require a substantial redesign and would greatly increase the overall cost of the device.⁹ As a result, RCN would have to likely have to pursue other, more costly equipment options, which limit consumer choice and increase their cost. Moreover, RCN, other cable companies, and cable equipment manufacturers will likely have to shift resources to develop alternatives to the current limited-capability set-top box equipment, which might delay the development and implementation of downloadable security.

II. CONCLUSION

For the foregoing reasons, RCN respectfully requests that the Commission grant the Waiver Request of the integration ban for the DCT-700, DCT-2500(e), and similar low-cost, limited-capability set-top box equipment.

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Respectfully submitted,



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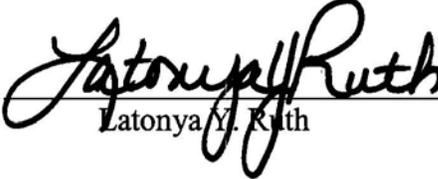
⁹ Waiver Request at 17.

CERTIFICATE OF SERVICE

I, Latonya Y. Ruth, hereby certify that, on June 30, 2006, true and correct copies of the foregoing Reply Comments of RCN Corporation were sent by electronic mail to the following:

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