

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

In the Matter of)	
)	CSR-7049-Z
Charter Communication Inc.'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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September 18, 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 July 14, 2006, Charter Communications Inc. (“Charter”) 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 and DCT-2500e set-top boxes (“Waiver Request”).² Motorola strongly 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 and DCT-2500e are low-cost, limited-function set-top boxes. As detailed in the Waiver Request, the DCT-700 includes a single digital tuner, an RF output and a

¹ See *In the Matter of Charter Communications Inc.’s Request for Waiver of 47 C.F.R. § 76.1204(a)(1)*, Public Notice, CSR-7049-Z, CS Dkt. No. 97-80, DA 06-1733 (*rel.* Aug. 29, 2006).

² See *In the Matter of Charter Communications Inc.’s Request for Waiver of 47 C.F.R. § 76.1204(a)(1)*, CSR-7049-Z, CS Dkt. No. 97-80 (July 14, 2006).

composite video output, and right and left audio channel outputs; the DCT-2500e includes this basic functionality plus an analog tuner.³ Both devices provide a cost-effective way for cable customers with analog television sets to access digitally-delivered programming and services, including, among other things, an electronic program guide (“EPG”), pay-per-view (“PPV”) services, and video-on-demand (“VOD”), as well as closed captioning, parental controls, and emergency alert messages. Neither device supports high-definition (“HD”) programming, digital video recording (“DVR”), Internet access, or other advanced capabilities. In short, the DCT-700 and DCT-2500e are exactly the types of low-cost, limited-function set-top boxes for which the Commission has invited requests for waiver of the integration ban.⁴

The DCT-700 is deployed in digital cable systems that simulcast analog channels in digital; hence, this device can rely exclusively on a digital tuner to access programming services carried in those systems. In contrast, the DCT-2500e is used in cable systems that have yet to make the conversion to all-digital simulcasting (and will not do so prior to the effective date of the integration ban).⁵ Rather, in those systems, programming services are carried in either analog or digital, so the low-cost set-top box must include both an analog and digital tuner to access those services. The DCT-700 and/or DCT-2500e have been deployed by other cable operators, including Comcast, RCN, Armstrong, BendBroadband, Cable ONE, Sunflower

³ See Waiver Request at 6 & Ex. B (detailing capabilities of DCT-700); *see also id.* at 7 & Ex. F (detailing capabilities of DCT-2500e).

⁴ See *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, Second Report & Order, 20 FCC Rcd. 6794 ¶ 37 (2005) (“2005 Integration Ban Order”) (inviting waiver requests for low-cost, limited-capability set-top boxes).

⁵ See Waiver Request at 2 n.3.

Broadband, and Atlantic Broadband.⁶ Several other cable operators have also expressed interest in deploying these devices later this year.

Grant of the Waiver Request is necessary to preserve these low-cost set-top box options for Charter customers -- and customers of other cable operators that use these boxes -- after the integration ban goes into effect. As Charter noted in its request, these boxes typically cost less than \$100 at volume.⁷ Imposing a CableCARD requirement on these devices, however, would increase the cost of the boxes by 75%-100% or more.⁸ *These cost increases would translate into higher consumer costs as well -- on the order of an estimated \$2-3 per month per set-top box.*⁹ Under such circumstances, Charter and other cable operators would risk the loss of price-sensitive customers to their competitors, including DBS companies (which are not subject to the integration ban).¹⁰

In addition, approval of the Waiver Request is crucial to Charter's and other cable operators' digital transition plans. The waiver will help accelerate consumer adoption of digital programming and services by giving cable customers low-cost box options beyond the integration ban deadline -- and thereby hasten the migration of Charter's systems and other cable

⁶ See, e.g., American Cable Association Comments, filed in CS Dkt. No. 97-80, CSR-7012-Z (June 15, 2006) ("ACA Comments"); RCN Reply Comments, filed in CS Dkt. No. 97-80, CSR-7012-Z (June 30, 2006); American Cable Association *Ex Parte*, filed in CS Dkt. No. 97-80, CSR-7012-Z (Aug. 31, 2006). A total of 2.9 million DCT-700s have been deployed worldwide, including 1.6 million in the U.S. With respect to the DCT-2500e, 3.3 million have been deployed worldwide, including 2.8 million in the U.S.

⁷ See Waiver Request at 12.

⁸ See *id.*

⁹ See *id.* at 15 (citing NCTA cost estimates).

¹⁰ See *id.*

systems to all-digital networks.¹¹ Of course, the Commission has previously acknowledged this fact.¹² The faster Charter and other cable operators can make this transition, the faster they can free up analog spectrum for HD, expanded broadband offerings, and other digital services.¹³ In short, this transition will create more and innovative choices for consumers, consistent with the key objectives of Section 629(c) -- the provision of the navigation device statute under which this Waiver Request was filed.¹⁴

In contrast, failure to grant the waiver would create substantial public interest harms. First, it would undermine cable operators' digital transition plans by forcing them to pursue significantly more costly CableCARD implementations, even for low-end boxes that the Commission has previously acknowledged are poor candidates for such a solution. Consequently, fewer digital set-top boxes would be deployed, fewer customers would have access to digital programming and services, and Charter's and other cable operators' transition to all-digital platforms would be significantly slowed -- contrary to key Commission and congressional goals.

¹¹ *See id.* at 12-13; *see also* ACA Comments at 2 ("The move towards all-digital networks in smaller markets has been made possible by the availability of low-cost, limited-capability set-top boxes. These boxes allow ACA members to provide small market customers with digital services that they can afford, including local VOD, family, and themed-tier programming.").

¹² *See 2005 Integration Ban Order* ¶ 37 ("The availability of low-cost boxes will further the cable industry's migration to all-digital networks . . .").

¹³ *See* Waiver Request at 13-14. A number of CE companies made this very point in the Comcast waiver proceeding. *See, e.g.,* Panasonic Comments, filed in CS Dkt. No. 97-80, CSR-7012-Z, at 5 (June 15, 2006) ("[T]he sooner Comcast can free up the space in its cable systems currently occupied by relatively bandwidth-hungry analog channels, the faster Comcast would be able to provide additional digital programming channels and other services to its customers, including more HDTV programming."); Thomson *Ex Parte*, filed in CS Dkt. No. 97-80, CSR-7012-Z, at 1 (June 15, 2006) ("Grant of a waiver will reflect recent technological developments and marketplace changes and better position the nation for a more rapid and consumer-friendly transition.").

¹⁴ *See* Waiver Request at 1-2 (citing 47 U.S.C. § 549(c) (directing the Commission to grant waivers that would assist the development of new and improved services)).

Second, failure to grant the waiver will impair Charter's and other cable operators' ability to innovate in a highly competitive MVPD marketplace. As Charter noted in its Waiver Request, "[t]he massive undertaking to develop non-integrated low-cost set-top boxes in addition to other non-integrated devices . . . would divert financial and other resources from future projects . . ." ¹⁵ In short, such an outcome would defeat the pro-innovation objective of Section 629(c).

Third, failure to approve the waiver could slow the development and implementation of downloadable security -- which, as the Commission has noted, is a less expensive and technologically superior security system than the CableCARD. ¹⁶ Motorola has been participating in the cable industry-led effort to ready downloadable security for eventual deployment; it has dedicated over 80,000 man-hours so far to downloadable security development and testing and anticipates committing substantial, additional resources to the downloadable security effort in the future. If the Waiver Request is denied, the participants in the downloadable security initiative will 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 and DCT-2500e. ¹⁷ Reallocating resources in this way will slow progress on downloadable security and deny cable customers, cable operators, 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.

¹⁵ *Id.* at 16.

¹⁶ *See 2005 Integration Ban Order* ¶ 31.

¹⁷ *See Waiver Request* at 10-11.

In light of the foregoing, Motorola respectfully asks that the Commission give prompt approval to the Waiver Request.

Respectfully submitted,

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September 18, 2006

CERTIFICATE OF SERVICE

I, Steve B. Sharkey, hereby certify that, on September 18, 2006, copies of the attached Comments of Motorola, Inc. were served via regular mail, on the following:

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