

**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)	
)	
Charter Communications, Inc. Request for Waiver of 47 C.F.R. § 76.1204(a)(1))	CSR- 7049-Z

**Comments of Hewlett-Packard Company, Intel Corporation,
Sony Electronics Inc. and Dell Inc. Opposing Charter's
Request for Waiver of 47 C.F.R. § 76.1204(a)(1)**

Hewlett-Packard Company¹ Intel Corporation², Sony Electronics Inc.³ and Dell Inc.⁴ ("the IT Commenters") hereby oppose the request of Charter Communications, Inc.

¹ HP is a technology solutions provider to consumers, businesses and institutions globally. The company's offerings span IT infrastructure, global services, business and home computing, and imaging and printing. For the four fiscal quarters ended Oct. 31, 2005, HP revenue totaled \$86.7 billion. More information about HP is available at <http://www.hp.com>.

² Intel, the world leader in silicon innovation, develops technologies, products and initiatives to continually advance how people work and live. Additional information about Intel is available at www.intel.com/pressroom.

³ The U.S.-based electronics unit of Sony Corporation of America and the Sony Corporation, Sony Electronics Inc. manufactures and sells personal computers through its VAIO division.

⁴ Dell Inc. is a trusted and diversified information-technology supplier and partner, and sells a comprehensive portfolio of products and services directly to customers worldwide. Dell, recognized by Fortune magazine as America's most admired company and No. 3 globally, designs, builds and delivers innovative, tailored systems that provide customers with exceptional value. Company revenue for the last four quarters was \$54.2

(Charter) for a waiver of the requirement under 47 C.F.R. § 76.1204(a)(1), commencing July 1, 2007, that no multichannel video programming distributor shall place in service new navigation devices, whether by sale, lease or other transfer for use, that do not separate conditional access security functions from other device functions.⁵

Contrary to Charter's assertion that its application is a narrow request covering a narrow category of devices, Charter in fact seeks a perpetual waiver for a very broad category of interactive devices. These so-called "low-end, low-cost, limited function" boxes have far more cable functionality than any device CableLabs has ever approved for the personal computer platform, resulting in less competition in a market that Congress intended to be open competitively at retail. Moreover, the waiver request is inconsistent with three basic principles that the IT Commenters have advocated in other Cable Plug and Play filings: consumer choice, consumer control, and common reliance. For the additional reasons set forth below, the IT Commenters urge the Commission to deny Charter's request, and direct Charter and the cable industry to work more closely with the IT industry on win-win solutions.

A. Consumer Choice

Consumer choice among navigation devices is fundamental to a robust retail market. This means at the very least that a consumer should be able to acquire at retail a product competitive with one they might obtain from their local cable company. To that end, the IT Commenters consistently have argued that the specifications and license

billion. For more information about Dell and its products and services, visit www.dell.com.

⁵ The IT Commenters also support the comments being submitted in this proceeding on behalf of the Consumer Electronics Association, opposing Charter's request for waiver.

requirements for cable-compatible plug-and-play devices should be flexible enough to allow for the incorporation of plug-and-play capability in a wide range of consumer electronics and information technology devices, including traditional stand-alone televisions, cable and satellite set-top boxes, digital video recorders, game consoles, personal computers, and other multi-function devices. Neither the specifications themselves nor the robustness, compliance, and certification rules that govern licensing of necessary technology should preclude any particular class or type of machine from participating in the market for plug-and-play devices.

The category of devices for which Charter seeks exemption is substantial. Moreover, these devices feature substantial functionality, including an interactive program guide and VOD capabilities. The IT Commenters are aware of no CableLabs license or specification available today that would permit a retail device maker to build the types of devices that Charter is seeking an exemption for without doing a full-blown OpenCable Application Platform (“OCAP”) implementation. No license or specification available today would permit a personal computer implementation with those same capabilities. Indeed, Charter is requesting a waiver from the Commission on behalf of product categories that the cable industry has declined to allow to be attached to their systems *at all* if built by competitive entrants. Rather than grant any exemption for these devices, the Commission should require Charter to make available a license agreement and specifications that would enable retail device makers -- including computer manufacturers -- to offer at least the same functionality, based on the same general specifications or similar national standards, in a wide range of consumer products

(including multi-function devices). This result would be consistent with the principle of consumer choice in the market place.

Charter also argues that delay will distract investment away from implementing downloadable security (although not mentioned by specific name, the IT Commentators assume the reference is to Downloadable Conditional Access Security, or "DCAS"). Grant of the requested waiver, however, will provide no incentives for the cable industry to work with the IT industry to evolve DCAS from a proprietary technology to one that can be implemented in a meaningful way on the personal computing platform. If the Commission fails to hold Charter and the rest of the cable industry to its common reliance obligations now, there is no reason to believe that the cable industry will take any more seriously its obligations to develop DCAS consistent with the principle of consumer choice.⁶ *That DCAS and its associated license is wholly incompatible with open platform multi-function products compels reliance on CableCard and CableCard evolution, and removes any incentive to support Charter's waiver in order to speed the transition to DCAS.*

B. Consumer Control

⁶ The IT Commenters and Dell Inc., discussed these concerns at great length in their joint comments regarding DCAS. *See* Comments Of Dell Inc., Hewlett-Packard Company, Intel Corporation, and Sony Electronics Inc., CS Docket No. 97-80, DA 05-3237 (January 20, 2006). All indications from submissions made thus far by the Cable industry portend that DCAS will not be a true downloadable software solution. Rather, it will be a proprietary hardware-based solution that simply replaces one piece of hardware with another -- essentially shrinking the CableCard to a proprietary microchip onto which software can be loaded. True downloadable secure software solutions are available and in use on conditional access video systems in other countries. They are inexpensive to implement, readily renewable, and most amenable to implementation across the widest variety of consumer electronics and information technology platforms.

One of the major themes that the IT Commentators have advanced in these Plug and Play proceedings is consumer control of the home network. There is nothing in the Charter filing suggesting that granting the waiver will facilitate cable approval of technologies like Digital Transmission Content Protection over Internet Protocol (“DTCP over IP”) that are implemented in the horizontal market by hundreds of adopters in the same way that DTCP 1394 and HDCP are implemented. Granting further waiver exemptions does nothing to advance the goal of consumer control of the home network.

C. Common Reliance

Charter makes numerous arguments that even with the waiver the goals of common reliance will be met. At the same time, however, Charter asks the Commission to grant it any other waiver that the Commission might grant. In light of NCTA’s recently filed sweeping waiver request, Charter has effectively asked the Commission to completely waive its compliance obligation for all devices.

The IT Commenters continue to believe that without the enforcement of hard deadlines, the policies and protections secured by common reliance will remain empty promises. Charter’s proposal for a waiver with respect not only to certain “low-cost, limited-capability set-top boxes” and any other waiver the Commission might grant only emphasizes that point.

In sum, The IT Commenters urge the Commission to reject Charter’s request and direct the cable industry to work with the IT industry more closely on win-win solutions. The pattern of delays, waivers, and exemptions favoring “The Set-Top Box” has harmed the rollout of the competitive alternatives that Congress and the Commission envisioned and sought to stimulate. That trend must be broken. Absent some material change in the

current direction, the public interest will be far better served over the long-run if the Commission compels the cable industry to comply with the law and deploy pro-competitive technology solutions on the Commission's current timetable.

Respectfully submitted,

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Date: September 18,, 2006

CERTIFICATE OF SERVICE

I do hereby certify that on September 18, 2006, I caused a true and correct copy of the foregoing Comments of the IT Commenters Opposing Charter Request for Waiver of 47 C.F.R. § 76.1204(a)(1) to be served via over night mail on the following:

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