

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

In the Matter of)	
)	CSR-7049-Z
Application of Charter Communications, Inc.'s)	CS Docket No. 97-80
Request for Waiver of 47 CFR § 76.1204(a)(1))	

To: The Commission



COMMENTS

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September 18, 2006

I. Introduction and Summary

The American Cable Association (“ACA”) submits these Comments in support of Charter Communications, Inc.’s Request for Waiver of 47 CFR § 76.1204(a)(1) (“Charter’s Request”).

As described in Charter’s Request and in ACA’s comments supporting Comcast’s similar waiver request (“ACA’s June Comments”),¹ 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’s members to provide smaller market customers with digital services that they can afford, including local VOD, family, and themed-tier programming.

Conversely, a ban on deployment of the DCT-700, DCT-2500e, SA E1840, SA E940, SA E3200, Pace Chicago, Pace Indiana, and similar limited-capability boxes like the DCT-2000 and Explorer-940 (collectively, “LCSTBs”) will impede the digital transition and disadvantage ACA’s members’ ability to compete with DBS by raising the price of cable-provided digital services beyond the reach of many subscribers. The impact of the integration ban will be even worse than previously believed – Motorola has indicated that the DCH-100, the CableCARD-enabled replacement for the DCT-700, will

¹ *In the Matter of Application of Comcast Corporation’s Request for Waiver of 47 C.F.R. § 76.1204(a)(1)*, CSR-7012-Z, CS Docket No. 97-80, *Comments of American Cable Association*, filed June 15, 2006. ACA requests that the Commission incorporate ACA’s June Comments into the record in this matter.

cost about \$190, almost three times more than the DCT-700. The DCT-700 costs most operators only around \$80, less than the cost of a unidirectional CableCARD.²

As described below, banning the LCSTBs will significantly slow the digital transition, negatively impacting ACA members and their smaller-market subscribers. ACA, therefore, fully supports Charter's Request.

American Cable Association. ACA represents nearly 1,100 independent cable companies that serve more than 8 million cable subscribers, primarily in smaller markets and rural areas. ACA member systems are located in all 50 states and in virtually every congressional district. The companies range from family-run cable businesses serving a single town to multiple system operators that focus on serving smaller markets. More than half of ACA's members serve fewer than 1,000 subscribers. All ACA members face the challenges of upgrading and operating broadband networks in lower-density markets.

II. The high cost of CableCARD-enabled LCSTBs will slow the digital transition in smaller markets.

ACA members have invested hundreds of millions of dollars to move towards all-digital networks in lower-density markets. By going all-digital, ACA members can free up spectrum in their smaller markets for higher-speed data services, HD, VOD, and other advanced services. ACA members report that LCSTBs, which increase digital penetration among price-sensitive subscribers, are the key to facilitating this digital transition. Moreover, LCSTBs allow ACA members to provide programming directed toward the specific needs and interests of their communities. In ACA's June

² See *Ex Parte Letter filed by Armstrong Utilities, Inc.; In the Matter of Comcast Corporation's Request for Waiver of 47 C.F.R. § 76.1204(a)(1)*; CS Docket No. 97-80; CSR-7012-Z (September 11, 2006) ("*Armstrong's Ex Parte*"), attached as Exhibit 1.

Comments, ACA provided specific examples of how ACA members are using or will use the LCSTBs to transition to all-digital networks and to provide targeted digital programming to their subscribers. In these comments, ACA describes how the enormous price increase for a CableCARD-equipped box will affect its members' plans to transition to all-digital networks.

Armstrong. Armstrong provides cable services to about 230,000 basic subscribers in lower-density markets. Armstrong believes that LCSTBs are the only way to significantly increase its digital penetration rate.

Armstrong has invested more than \$1.6 million in its infrastructure to offer its new all-digital product, TV Plus. TV Plus uses the DCT-700 LCSTB, and therefore costs customers only \$2.95 more than expanded basic. The low cost of the DCT-700 and TV Plus service allows Armstrong to market entry-level DTV as its base product.³ Using the DCT-700, Armstrong anticipates increasing digital penetration approximately 15% per year.⁴

Armstrong reports that without a waiver for the DCT-700, it will be required to add \$2.00-\$4.00 per month to its TV Plus service to cover the increased cost of the DCH-100. Based on its experience with higher-priced set-top boxes, the company expects that the increased cost of separable security will dissuade an entire sector of price-sensitive customers from taking digital services.⁵

³ See *Armstrong's Ex Parte* at 1-2.

⁴ *Id.* at 2.

⁵ *Id.* at 2. In Armstrong's experience, the price of higher-cost set-top boxes has historically slowed digital penetration.

Armstrong management therefore believes that if the Charter's Request is not granted, its business, its subscribers, and the digital transition will suffer.

Atlantic Broadband. Atlantic Broadband serves about 250,000 basic subscribers in Pennsylvania, Florida, Maryland, West Virginia, Delaware and New York. The company has deployed approximately 150,000 low-cost integrated analog/digital boxes, including the DCT-2000 and DCT-2500. The company expects to deploy another 10,000-15,000 of the boxes this year.⁶

Atlantic Broadband had been planning to move to digital simulcast in all of its systems predicated on the savings that the company would have realized using a box like the DCT-700. The company is now rethinking the transition to an all-digital network because of the newly-reported cost of CableCARD-enabled boxes like the DCH-100. A \$190 entry-level box would raise Atlantic Broadband's cost of service, making the digital transition unattractive to price-sensitive customers, and putting the company at a tremendous disadvantage to DBS (which is not subject to the integration ban).

Exacerbating the problem is that CableCARD technology is only an interim technology until OpenCable Application Platform ("OCAP") and downloadable security become available. Once that happens, LCSTBs with CableCARD technology will become dinosaurs. In other words, absent a waiver for the LCSTBs, Atlantic Broadband no longer has any compelling economic incentive to move to an all-digital network before downloadable security and OCAP become available because the high cost of CableCARD-enabled, limited-feature boxes effectively eliminates Atlantic Broadband's economic rationale for going digital.

⁶ As described in *ACA's June Comments*, Atlantic Broadband uses the LCSTBs to provide themed tiers and targeted a la carte programming to its customers.

Sunflower Broadband. Sunflower Broadband serves about 30,000 subscribers in and around Lawrence, Kansas. In April 2005, the company began digital simulcasting, and has converted more than 50% of its subscribers to a digital platform. This transition has been facilitated mainly by the availability of the low-cost DCT-700 box. The company had planned to transition its entire network to a digital platform in the short-term.

The new information on the cost of CableCARD-enabled boxes like the DCH-100 is causing Sunflower Broadband to reconsider its digital transition, however. Currently, Sunflower Broadband offers the DCT-700 for \$3.95 per month, and had been considering lowering the cost even further. Absent a waiver for LCSTBs like the DCT-700, Sunflower Broadband will need to deploy the DCH-100, for which it will need to charge \$6.95 per month – nearly twice the current cost of a DCT-700. Sunflower Broadband's remaining non-digital customers are extremely price-sensitive, and they are not willing to pay this higher cost to convert to digital. Accordingly, Sunflower Broadband management reports that if the Commission does not grant a waiver of the integration ban for LCSTBs, "it will slow down or halt" the company's digital transition.

Sunflower also reports that failure to grant the requested waiver will necessarily raise the price of access to the advanced parental controls available only on Sunflower's digital program guide,⁷ and will affect the company's ability to provide family and genre tiers. This is because programmers require smaller operators to achieve a certain digital penetration rate before the programmers will permit tiering. In other words, if the Commission does not grant the requested waiver, Sunflower's digital

⁷ This is because Sunflower will need to raise its rates to account for the increased price of the DCH-100.

transition will be slowed or halted, and its contractual ability to provide family-friendly and genre tiers will be correspondingly delayed.

III. Conclusion

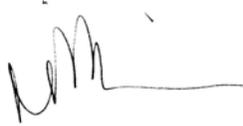
In the smaller markets served by ACA members, the LCSTB allows operators to provide affordable digital services such as local VOD, themed tiers and digital music to subscribers, and is the only feasible means of moving to an all-digital network. Consumers benefit by receiving additional services they desire at lower costs. New information indicates that the cost of a CableCARD-enabled set-top box will be almost three times the cost of an integrated LCSTB. This cost will raise the cost of digital services to consumers and slow the digital transition, while providing little to no corresponding consumer benefits – especially given that LCSTBs such as the DCT-700 cost less than a unidirectional CableCARD. To promote deployment of digital services in low-density markets, the Commission should grant Charter's Request.

Respectfully submitted,

AMERICAN CABLE ASSOCIATION

September 18, 2006

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Exhibit 1



ARMSTRONG®

VIA E-MAIL heather.dixon@fcc.gov

September 11, 2006

Heather Dixon
Legal Advisor to Honorable
Kevin J. Martin, Chairman
Federal Communications Commission
445 12th Street, S.W., Room 8-B201
Washington, D.C. 20554

**Re: Armstrong Utilities, Inc.; Follow up to August 30, 2006 Meeting;
CS Docket No. 97-80; CSR-7012-Z**

Dear Ms. Dixon:

Thank you for meeting with us on Wednesday, August 30, 2006. Your explanation of the issues raised by the Comcast waiver request was very helpful, and we appreciated your time very much.

As I hope I communicated, the Comcast waiver request is extremely important to our company and other ACA members. A low-cost set-top like the DCT-700 is essential to expanding lower cost digital offerings as we transition to an all-digital network. We have invested over \$1.6 million in infrastructure to be able to offer our all-digital product, TV Plus. With the DCT-700 set-top, we can make this accessible to nearly all our customers. As I mentioned, we offer TV Plus for just \$2.95 more than analog expanded basic. We launched TV Plus this year, and customers are telling us they love it. The DCT-700 is the lynchpin of this offering.

At the end of our conversation you mentioned two questions regarding the waiver: 1) Is the DCT-700 truly a low cost, limited functionality device, and 2) considering all the issues, will granting the waiver advance the public interest? After reflecting on these questions, I wanted to provide some additional information from Armstrong's perspective as a small cable company.

The DCT-700 is a low-cost, limited functionality device

Cost. For us, the DCT-700 is clearly a low cost device. We pay approximately \$80 per box, and that price will decline, *if* the model line remains open. As I mentioned during our meeting, Motorola's proposed replacement, the DCH-100, will cost us nearly three times as much. Interestingly, the DCT-700 actually costs *less* than a one-way Cable Card, which today costs \$89. At this time, there is no lower cost way to provide digital programming to our customers.

ARMSTRONG UTILITIES, INC.
ONE ARMSTRONG PLACE • BUTLER, PA 16001
724-283-0925 • FAX 724-283-9655

Functionality. For us and our customers, the DCT-700 is simply a stripped down digital to analog converter. It only provides access to encrypted digital signals and a guide. The box is so basic it does not even include an on/off switch or display. There are limited audio and video outputs. It does not include any cable modem or home network functionality whatsoever. It is not even capable of running the more advanced OCAP guides we intend to offer in the future. The box is truly designed in a minimalist manner to keep costs to a minimum, allowing the operator to offer a digital service to consumers for the lowest possible price. I have attached for your review a comparison of the functionality between the DCT-700 and the next lowest priced device provided by Motorola both before cable card implementation and after. The DCH-100 is the device we showed you that will cost approximately \$190 and is currently Motorola's only option to replace the DCT-700 after July 1, 2009.

A Cable Card waiver for the DCT-700 will help us advance the public interest by transitioning to an all-digital network.

During our meeting, you provided a very helpful explanation of the competing public interest issues the Commission must weigh in evaluating the waiver request. In the case of the DCT-700, the Commission can readily conclude that the balance tips firmly in favor of the waiver.

Our customers like the DCT-700. First and foremost, it is consumer friendly. We and other ACA members have reported to you that consumers love the small box, the small price, and the access to digital programming. Without the DCT-700, we will be required to add \$2 - \$4 to the price of our lowest level all-digital service, just to cover increased box costs. We know this will dissuade an entire sector of especially price-sensitive consumers from embracing digital. As we see every day in our business, there is clearly demand elasticity in our markets when it comes to the pricing of cable service.

The DCT-700 will accelerate our transition to an all-digital network. In addition to providing digital cable to especially price-sensitive consumers, a low-cost set-top will accelerate digital deployment, helping us facilitate product innovation and technology growth. The public interest benefits here are strong too. With the DCT-700, we can market entry-level digital television as our base product. Although we will still offer an analog option, analog will no longer be our lead product. We intend to sell our entry-level digital product to over 70% of our new customers.

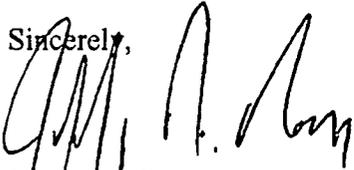
At this rate we will add over 30,000 new customers each year, elevating our digital penetration approximately 15% each year. Today our digital penetration is only 27%, largely due to prior price barriers resulting from higher cost set-top boxes. At this digital growth rate, I believe we will reach a "tipping point" where we will be able to economically transition all video customers to digital without an enormous capital barrier. With an all-digital network, we will be able to meet the bandwidth demand of higher Internet speeds and more HD programming. I believe our company could reach this "tipping point" as early as the end of 2009.

Heather Dixon
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I hope this information helps you in evaluating the waiver request. If I can be of any further assistance, please call me at 724-283-0925, ext. 330.

I appreciate your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey A. Ross". The signature is stylized and cursive.

Jeffrey A. Ross
President – Armstrong Utilities, Inc.

JAR/mag

Enclosure

cc via email: Mathew M. Polka mpolka@americancable.org
Donna Gregg donna.gregg@fcc.gov

DCT Functionality Comparison September 11, 2006

Feature	DCT 700	DCH 100	DCT 2500
Approximate Cost	\$80	\$190	\$170
Description	All Digital, Low Cost, Limited Functionality STB	All Digital, Cable Card Compliant replacement for the DCT-700	Analog/Digital Non Cable Card Compliant predecessor to the DCH-100
Video Outputs			
Composite Video	YES	YES	YES
SVHS Component Video	NO	YES	YES
RF Output	YES	YES	YES
Audio Outputs			
Left & Right Baseband Audio Outputs	YES	YES	YES
Sony/Phillips Digital Interface Format (S/PDIF) Electrical	NO	YES	YES
Sony/Phillips Digital Interface Format (S/PDIF) Optical	NO	YES	YES
Other Interfaces			
Power ON/OFF Button on Front Panel	NO	NO	YES
USB Port	NO	YES	YES
Firewire Port	NO	NO	NO
IR Blaster Output	NO	YES	YES
Front Panel Display of Channel and/or Time-of-Day	NO	NO	YES
Menu Select button on Front Panel	NO	NO	YES
Power, channel selection, and volume controls on front panel	NO	NO	YES
Embedded DOCSIS Cable Modem for DSG	NO	YES	NO
Internal Hard Drive for DVR	NO	NO	NO
Power Supply	External	External	Internal
CableCard Host Interface	NO	YES	NO
OCAP Capable	NO	YES	NO
MoCA Home Networking Interface	NO	YES	NO
Analog Tuner	NO	NO	YES

Certificate of Service

I, Megan Petrulis, paralegal in the offices of Cinnamon Mueller, certify that a copy of the American Cable Association's Comments in support of Charter Communications, Inc.'s Request for Waiver of 47 CFR § 76.1204(a)(1) was sent United States Postal Service postage paid on September 18, 2006 to be delivered to the persons listed below for delivery via First Class Mail, postage prepaid.

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Megan Petrulis
Paralegal
September 18, 2006