Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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

REPLY COMMENTS OF CISCO SYSTEMS, INC.

Cisco Systems, Inc. ("Cisco") strongly supports the request for waiver filed by Charter Communications, Inc. ("Charter") in the above-captioned proceedings.[1] As demonstrated in Charter's waiver request and the comments filed in support of the request,[2] expeditious grant of the waiver will serve the public interest.

Charter seeks a waiver of the Commission's "integration ban" for a number of low-cost, limited-functionality set-top boxes. The Commission has recognized that such waivers may very well serve the public interest by ensuring that consumers continue to have the option to purchase low-cost set-top boxes without undermining the goal of facilitating competition in the sale of navigation devices:

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1 Charter Communications, Inc. Request for Waiver of 47 C.F.R. § 76.1204(a)(1) (July 14, 2006) ("Charter Waiver Request"). Cisco has previously expressed its support for a similar waiver request filed by Comcast Corporation. *See* Letter from Jeffrey A. Campbell, Cisco, to Marlene Dortch, FCC Secretary (Aug. 11, 2006); Letter from H. Allen Ecker, Scientific Atlanta, a Cisco Company, to Marlene Dortch, FCC Secretary (June 15, 2006). All pleadings referenced in these reply comments were filed in CS Docket No. 97-80.

2 *See, e.g.,* Comments of American Cable Association (Sept. 18, 2006); Letter from Neal M. Goldberg, National Cable & Telecommunications Association ("NCTA"), to Marlene Dortch, FCC Secretary (Sept. 18, 2006).

> We are … in agreement … that achieving consumer choice by establishing a competitive market should not displace a low-cost set-top box option for [multichannel video program distributor ("MVPD")] subscribers. It is critical to the [digital television] transition that consumers have access to inexpensive digital set-top boxes that will permit the viewing of digital programming on analog television sets both during and after the transition. … We are inclined to believe that provision of [integrated low-cost, limited-capability set-top boxes] by cable operators will not endanger the development of the competitive marketplace envisioned in Section 629 because the more advanced devices offered by cable operators for primary home use will be required to rely on the same CableCARD technology as devices offered at retail by consumer electronics manufacturers.[3]

Cisco's Scientific-Atlanta subsidiary manufactures several of the set-top boxes covered by Charter's waiver request, including the Explorer 1840, Explorer 940, and Explorer 3200. These are precisely the type of low-cost, limited-capability set-top boxes the Commission envisioned it would consider exempting from the integration ban. They are digital cable set-top boxes that enable customers with analog television sets to access digital tiers of programming and such basic functions as the electronic programming guide, video-on-demand service, and parental controls.[4] Significantly, these set-top boxes do not support advanced functions, such as high-definition programming, digital video recording or storage capability, or broadband Internet access.

Granting Charter's waiver request will allow the continued sale of these low-cost devices. As the Commission itself has observed, it is "critical" that consumers have continued access to such devices because the "availability of low cost boxes will further the cable industry's migration to all-digital networks, thereby freeing up spectrum and

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3 *Implementation of Section 304 of the Telecommunications Act of 1996 – Commercial Availability of Navigation Devices*, Second Report and Order, 20 FCC Rcd 6794, ¶ 37 (2005) ("*Second Report and Order*").

4 The Explorer 3200 also has an analog tuner that allows subscribers to receive analog signals.

increasing service offerings such as high-definition television."[5] At the same time, mid-range and high-range set-top boxes are not covered by Charter's request and under current law would be required to rely on the same CableCARD functionality as devices sold in retail stores. Charter estimates that these mid- and high-range devices will constitute over half of all new devices it places into service immediately after July 1, 2007.[6] Thus, even with the grant of its waiver request, there should be no harm to the Commission's objective of promoting competition in the sale of navigation devices.

Denying Charter's waiver request, on the other hand, will impose significant burdens on consumers and cable operators. Including CableCARD functionality in limited-capability set-top boxes will almost double their cost,[7] effectively depriving consumers of a low-cost option. Without this option, there will be significantly lower consumer demand for digital set-top boxes, and fewer households with analog televisions will be able to access digital programming and services. This will slow the cable industry's transition to all-digital platforms and require cable operators to continue dedicating system capacity to analog service instead of recapturing this capacity to expand and improve their high-definition and broadband Internet services. In addition, forcing cable operators to develop CableCARD functionality for the devices subject to the waiver request would likely divert industry resources away from the implementation of downloadable security, which promises a more efficient, flexible solution to complying with the Commission's integration ban.

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5 *Second Report and Order* ¶ 37.

6 Charter Waiver Request at 8.

7 *See* NCTA Waiver Request at 7 (Aug. 16, 2006) (citing Report of NCTA Regarding the Significant Costs to Consumers Arising from the 2005 Ban on Integrated Set-Top Boxes at 3 (Aug. 2, 2002) ("NCTA Cost Report")).

The Commission should consequently grant Charter's waiver request. Cisco urges the Commission to do so expeditiously to avoid disruptions in production cycles as the cable industry approaches the Commission's July 1, 2007 integration ban deadline. The Commission should also confirm that any waiver granted in this proceeding will apply not only to the devices expressly listed in Charter's request, but also to any replacement and successor set-top boxes and other limited-capability set-top boxes that share similar characteristics. In addition, the waiver should apply to any other MVPD to the extent it deploys similar devices. This would be consistent with the statutory directive that the Commission, when it grants a waiver of its navigation device rules, ensure that "such waiver … be effective for all service providers and products in that category."[8] Extending the scope of a waiver in this manner will also eliminate the burdens associated with the filing of separate – and largely duplicative – waiver requests.

Respectfully submitted,

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[8] 47 U.S.C. § 629(c).

Certificate of Service

I, Ruth Holder, hereby certify that on September 28, 2006 a true and correct copy of the foregoing Reply Comments of Cisco Systems, Inc. was sent by first-class mail to:

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