

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

In the Matter of)	
)	CSR 7056-Z
National Cable & Telecommunications)	
Association's Request for Waiver of)	CS Docket No. 97-80
47 CFR § 76.1204(a)(1))	

To: The Commission



COMMENTS

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I. Introduction and Summary

The American Cable Association (“ACA”) submits these Comments in support of the National Cable & Telecommunications Association’s (“NCTA”) Request for Waiver of 47 CFR § 76.1204(a)(1) (“NCTA’s Waiver Request”).

Low-cost set-top boxes (“LCSTBs”) are driving the transition to all-digital networks in smaller markets. Low-cost set-top 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. As a result, LCSTBs have led to unprecedented gains in digital penetration rates.

As shown in NCTA’s Waiver Request, waiving the “integration ban” in 47 C.F.R. § 76.1204(a)(1) until downloadable security becomes available will allow this digital transition to continue. Conversely, requiring the addition of CableCARD slots in set-top boxes will force those consumers who can afford a non-integrated box to pay for a technology that is on the verge of obsolescence, and will force many cost-conscious, small-market consumers to abandon digital services altogether. As a result, the integration ban will hamper the deployment of advanced digital services and skew video competition in the smaller and rural markets served by ACA’s members, while producing no discernible consumer benefits. ACA therefore fully supports NCTA’s Waiver Request.

American Cable Association. ACA represents nearly 1,100 independent cable companies that serve nearly 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. Smaller-market consumers should not have to bear the costs of an interim transition to CableCARD-compatible set-top boxes.

Low-cost set-top boxes like the DCT-700 allow ACA's members to provide affordable digital services.¹ Accordingly, LCSTBs have resulted in unprecedented gains in digital penetration. For example, ACA member Armstrong Utilities, Inc., has increased its digital box deployment rate almost 500% since deploying the DCT-700.² ACA member Sunflower Broadband has almost doubled its digital penetration rate in the year-and-a-half since it began deploying the DCT-700.³

As ACA has shown in this docket, CableCARD-compatible boxes will significantly raise the cost of digital services for consumers.⁴

¹ As described in ACA's filings in this docket, the low cost of the DCT-700 and other LCSTBs allows ACA members to provide digital programming to their subscribers for just a few dollars more per month than analog expanded basic. See *In the Matter of Comcast Corporation's Request for Waiver of 47 C.F.R. § 76.1204(a)(1), Comments of American Cable Association*, CSR 7012-Z, CS Docket No. 97-80 (filed June 15, 2006) ("ACA's Comments on Comcast's Waiver Request") at 5-7; *In the Matter of Charter Communications Inc.'s Request for Waiver of 47 C.F.R. § 76.1204(a)(1), Comments of American Cable Association*, CSR 7049-Z, CS Docket No. 97-80 (filed September 18, 2006) ("ACA's Comments on Charter's Waiver Request") at 4-7.

² See *In the Matter of Armstrong Utilities, Inc. Emergency Request for Waiver of 47 C.F.R. § 1204(a)(1)* (November 7, 2006) ("Armstrong's Waiver Request") at 3.

³ See *In the Matter of The World Company d/b/a Sunflower Broadband, Request for Waiver of 47 C.F.R. § 1204(a)(1)* (November 20, 2006) ("Sunflower Broadband's Waiver Request") at 3.

⁴ See *ACA's Comments on Charter's Waiver Request* at 4 and 6

ACA agrees with NCTA – there is no reason to force consumers to pay for expensive CableCARD-compatible devices when technologically superior and less expensive downloadable security is just around the corner.⁵ Downloadable security will be available long before economies of scale produce any decrease in the prices of CableCARD-compatible boxes. The only thing that the integration ban will accomplish in the price-conscious markets served by ACA’s members is to discourage the deployment of digital services.

III. A waiver is necessary to facilitate deployment of innovative digital services.

As detailed in NCTA’s Waiver Request and in ACA’s filings in this docket, a waiver of the integration ban is necessary to assist the development of new and improved digital services.⁶

ACA’s members are using LCSTBs to provide innovative digital services like local VOD, themed tiers and targeted a la carte programming.⁷ Because ACA’s members can economically provide these services with LCSTBs, digital penetration is soaring in member markets. In turn, the enthusiastic consumer acceptance of these new digital services is driving deployment of additional digital services. The integration ban threatens this progress. As NCTA explains in its Waiver Request – and as ACA members’ experience proves – requiring consumers to purchase more expensive, non-

⁵ See NCTA’s *Waiver Request* at 3-4.

⁶ See, e.g., ACA’s *Comments on Comcast’s Waiver Request*; ACA’s *Comments on Charter’s Waiver Request*; *In the Matter of Charter Communications Inc.’s Request for Waiver of 47 C.F.R. § 76.1204(a)(1)*, *Reply Comments of American Cable Association*, CSR 7049-Z, CS Docket No. 97-80 (filed September 28, 2006).

⁷ See, e.g., ACA’s *Comments on Comcast’s Waiver Request* at 4-7.

integrated set-top boxes will prevent many consumers from upgrading to digital services.⁸

IV. A waiver is necessary to avoid further skewing video competition.

As NCTA describes, the integration ban imposes a significant burden on cable operators while carving out an exception for DBS based on competitive considerations that no longer exist.⁹ This regulatory imbalance will disproportionately affect ACA's members, none of which is more than a fraction of the size of either of the DBS giants.¹⁰ Because they lack bargaining power, ACA's members pay a much higher cost for programming than DirecTV and EchoStar. Without the requested waivers, ACA's members will be unable to provide consumers with low-cost set-top boxes, which will only magnify the disparity in cost structure between cable and DBS, and will artificially skew video competition in small and rural markets.

⁸ See *NCTA's Waiver Request* at 16. See also *Sunflower Broadband's Waiver Request* at note 3 (in the same time that Sunflower Broadband has deployed over 18,000 DCT-700s, it has deployed only 4,000 higher-end boxes); *Armstrong's Waiver Request* at 3 (Armstrong is now deploying almost 3,100 DCT-700s per month. Before offering the DCT-700, Armstrong was deploying only 645 more expensive set-top boxes per month).

⁹ See *NCTA's Waiver Request* at 24-27.

¹⁰ Over half of ACA's members serve fewer than 1,000 subscribers. ACA's largest member, Mediacom, serves 1.6 million subscribers. In contrast, DirecTV serves over 15 million subscribers, and EchoStar recently reported that it now serves about 12.8 million subscribers.

V. Conclusion.

Low-cost set-top boxes allow ACA's members to provide affordable digital services such as local VOD, themed tiers and digital music to their smaller-market subscribers, and are the only feasible means of moving to an all-digital network in these markets. Consumers benefit from LCSTBs by receiving additional services that they desire at a lower cost.

Conversely, an integration ban will result in a reduction in digital penetration in low-density and rural markets, less innovation, and artificially skewed competition. Aside from being highly undesirable, these results are at odds with the Commission's mandate to increase the availability of advanced digital services.

To promote deployment of digital services, the Commission should grant NCTA's Waiver Request.

Respectfully submitted,

AMERICAN CABLE ASSOCIATION



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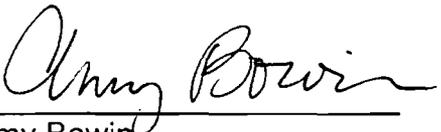
November 30, 2006

CERTIFICATE OF SERVICE

I, Amy Bowin, paralegal with the law firm of Cinnamon Mueller, certify that a true and correct copy of the American Cable Association's Comments was served on the following individuals by either first class mail or electronically on November 30, 2006:

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