

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

In the Matter of:)	
)	
JetBroadband VA, LLC)	CS Docket No. 97-80
JetBroadband WV, LLC)	
)	CSR-7131-Z
Emergency Petition for Deferral of)	
Enforcement of July 1, 2007 Deadline in)	
47 C.F.R. § 76.1204(a)(1))	
)	
To: Chief, Media Bureau)	

**REPLY COMMENTS OF JET BROADBAND VA, LLC
AND JET BROADBAND WV, LLC**

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April 12, 2007

I. Introduction and Summary

JetBroadBand VA, LLC and JetBroadband WV, LLC (collectively, “JetBroadband”) file these Reply Comments in support of their request that the Commission defer enforcement of the July 1, 2007 deadline in 47 C.F.R. § 76.1204(a)(1) to allow JetBroadband the opportunity to receive and deploy the separable-security, low-cost navigation devices that JetBroadband has ordered from Beyond Broadband Technology, LLC (“BBT”). As noted in JetBroadband’s Deferral Request, the company has placed orders for 3,000 of the BBT boxes, which utilize a downloadable conditional access security system.

The American Cable Association (“ACA”) and Motorola have both filed comments in support of JetBroadband’s request.¹ As ACA notes, the “success of the BBT box could have a positive effect on competition in the set-top box market, giving consumers an inexpensive box and helping the migration to digital, especially in small and rural markets.”²

The Consumer Electronics Association (“CEA”) is the only party to oppose JetBroadband’s request. In short, CEA attacks the Commission’s determination that BBT’s downloadable security solution meets the Commission’s separable

¹ See *Comments of Motorola, Inc.*, CS Docket No. 97-80, CSR-7129-Z (filed Apr. 2, 2007) and *In the Matter of JetBroadband VA, LLC and JetBroadband WV, LLC Emergency Petition for Deferral of Enforcement of July 1, 2007 Deadline in 47 CFR § 76.1204(a)(1)*, *Comments of the American Cable Association*, CS Docket No. 97-80, CSR-7129-Z (filed Apr. 4, 2007). (“*Motorola Comments*” and “*ACA Comments*” respectively).

² *ACA Comments*, p. 2-3.

security requirements.³ CEA's opposition to new entrant BBT's separable security solution is ironic, given CEA's posturing in this as a promoter and protector of competitive entry. Further, CEA's attack on the BBT technology is based on wholly unsubstantiated allegations which provide no legitimate basis for reconsideration of the Commission's determination that the BBT technology meets its separable security requirements, or for the denial of JetBroadband's deferral request.

I. The Commission should reject CEA's unsubstantiated attack on the BBT technology.

CEA's attack on the BBT technology is baseless and is beyond the scope of this deferral request. In 2006 BBT met with the Commission and filed a detailed ex parte letter with the Commission describing its separable security solution.⁴ If CEA had issues with the BBT technology, it had ample opportunity to raise its concerns with the Commission at that time. CEA failed to do so. Accordingly, the Commission was well within its authority to make its reasoned determination that the BBT technology meets the Commission's standards for separable security.⁵

Subsequently, JetBroadband reasonably relied on the Commission's determination, and placed an order for 3,000 of the BBT boxes. Delivery of the

³ *Commission Reiterates the Downloadable Security Technology Satisfies the Commission's Rules on Set-Top Boxes and Notes Beyond Broadband Technology's Development of Downloadable Security Solution, Public Notice, CS-Docket 97-80, (rel. January 10, 2007). ("BBT Notice").*

⁴ Letter from Seth A. Davidson, Fleishman and Walsh, L.L.P. to Ms, Marlene Dortch, Secretary, Federal Communications Commission dated December 22, 2006 regarding ex parte presentations with exhibits attached, filed in CS Docket 97-80.

⁵ *BBT Notice.*

boxes is delayed, accordingly, JetBroadband has followed Commission precedent,⁶ and requested a short deferral until the boxes are delivered. CEA should not be allowed to collaterally attack the Commission's decision in this proceeding.

In any event, CEA offers no legitimate argument that the BBT technology is not compliant with the Commission's requirements for separable security. CEA merely complains that the specification has been shared except under a non-disclosure statement.⁷ The use of a non-disclosure agreement is standard practice in the software industry, and in no way indicates that the technology is not "open platform."⁸

III. Conclusion

As shown in JetBroadband's Deferral Request, good cause exists for the deferral to allow the JetBroadband to deploy the BBT technology: JetBroadband's requested deferral will speed the digital transition in JetBroadband's low income, rural markets. Further, granting the deferral will assist the development of a competitive market for commercial navigation devices by providing market opportunities for new entrant BBT. The Commission

⁶ *In the Matter of Bend Cable Communications, LLC d/b/a BendBroadband, Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules, Memorandum Opinion and Order*, CSR-7057-Z, CS 97-80, DA 07-47, ¶10 (rel. January 10, 2007).

⁷ *Comments of the Consumer Electronics Association on the JetBroadband VA, LLC and JetBroadband WV, LLC Petition for Waiver of 47 C.F.R. § 76.1204(a)(1)*, CS Docket No. 97-80, CSR-7129-Z (filed Apr. 2, 2007) ("Comments").

⁸ In fact, BBT has filed a statement with the Commission confirming that BBT is offering its technology on an "open standard" basis to all CE and set-top box manufacturers. See, Letter to Chairman Kevin J. Martin, Federal Communications Commission from Ben Hooks, Bill Bauer and Tony Swain of Beyond Broadband Technologies dated December 21, 2006, attached to the *BBT Notice*.

should deny CEA's belated attempt to block a new entrant from competing in the market for navigation devices.

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Respectfully submitted,
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CERTIFICATE OF SERVICE

I, Bruce E. Beard, attorney with the law firm of Cinnamon Mueller, certify that a true and correct copy of the *Reply of Jet Broadband VA ,LLC and Jet Broadband WV, LLC* was served on the following individuals by first class mail on April 13, 2007:

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