

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
IPTV Operators Group)	CSR - [_____]
Group Petition for Waiver of)	
47 C.F.R. § 76.1204(b))	
)	
Implementation of Section 304 of the)	CS Docket No. 97-80
Telecommunications Act of 1996;)	
Commercial Availability of Navigation)	
Devices)	
)	

**THE PETITIONER OF THE IPTV OPERATORS GROUP FOR WAIVER FOR A
LIMITED TIME OF THE OPEN INTERFACE REQUIREMENT, 47 C.F.R. §
76.1204(b)**

June 1, 2007

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PETITION FOR WAIVER

Pursuant to section 629(a) and (c) of the Communications Act of 1934, as amended (“Act”),¹ and sections 1.3, 76.7 and 76.1207 of the Commission’s rules,² the member companies of the IPTV Operators Group (“IPTV Group” or “Petitioners”)³ respectfully request the Commission to grant a waiver of the open interface requirement set forth in section 76.1204(b) of the Commission’s rules until such time as vendors are able to make their products compliant with a national standard or when the FCC has prescribed criteria for compliance with

¹ 47 U.S.C. § 549(a) & (c).

² 47 C.F.R. § § 1.3, 76.7 & 76.1207.

³ The IPTV Operators Group is a group of the forty-nine multichannel video programming distributors listed in Exhibit A, each of which uses IPTV technology to provide digital video services. Each member of the IPTV Operators Group is a small cable operator, as that term is defined in section 76.901(e) of the Commission’s rules, serving subscribers of video services in rural communities. Each of the Petitioners is an affiliate or division of a local exchange carrier or is utilizing existing small local exchange carrier infrastructure for the provision of video services.

the common interface requirement and vendors are able to incorporate these specifications into their products.

The Petitioners support the Request for Declaratory Ruling filed by OPASTCO and NTCA⁴ and strongly urge the FCC to issue a clarification of section 76.1204(b)'s interface requirement so that the industry can ensure compliance with the FCC's conditional access rules.⁵ In the event that the FCC does not grant the Request for Declaratory Ruling submitted by OPASTCO and NTCA by the July 1, 2007 compliance deadline, Petitioners seek waiver of section 76.1204(b) for a limited time.

Such waiver is appropriate and warranted under the specific circumstances described herein because it will allow the Petitioners to provide uninterrupted video services to the small and rural video markets in which they serve. Accordingly, grant of this waiver will serve the public interest by promoting seamless deployment of advanced technologies and spurring competition in the provision of video services.

I. INTRODUCTION

The Petitioners are utilizing a new video platform called Internet Protocol Television ("IPTV") to provision video services to subscribers over broadband networks. IPTV technology is a digital video solution delivered over a high-speed connection. The Petitioners are using existing telecommunications infrastructure, including the core fiber optic network and twisted copper

Each authorized representative for the IPTV Group member companies has signed an endorsement to this petition, under penalty of perjury, attesting to the truth and accuracy the facts stated herein.

⁴ OPASTCO is the Organization for the Protection and Advancement of Small Telephone Companies and NTCA is the National Telecommunications Cooperative Association.

⁵ See generally *Petition for Clarification or, in the Alternative, Waiver of Section 76.1204(a), (b) of the Commission's Rules, Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices*, Petition for Clarification, CS Docket No. 97-80 (filed May 4, 2007) ("*Petition for Clarification*"). In its Request for Declaratory Ruling, OPASTCO and NTCA urged that the FCC issue a Declaratory Ruling (1) declaring that MVPD operators utilizing IPTV technology will be compliant with the integration ban as of the July 1 deadline and (2) establishing that MVPD operators will be compliant with section 76.1204(b)'s interface requirement if they are utilizing cable navigation equipment that uses an interface that (i) connects to and functions with the navigation

pairs, or fiber-to-the-home (“FTTH”), to subscriber premises, to deliver both IP video and high-speed internet services. The addition of video revenues allows these companies to spread the costs of enhancing and expanding their broadband networks over two income sources, and as such, has allowed Petitioners to increase their broadband footprint and increase the broadband speeds available to customers. As a result, IPTV has allowed the Petitioners to increase competition in their respective service areas not only in all- digital video services but in broadband data services as well.

IPTV technology is already in compliance with the integration ban set forth in section 76.1204(a)(1) of the Commission’s rules because it contains non-integrated downloadable conditional access (“DCAS”) functions.⁶ But, section 76.1204(b) requires an MVPD’s conditional access interfaces to be in accordance with either a standard set by a national standards organization or a commonly used interface. As mentioned previously, IPTV is a new technology which is still developing. There are currently no national standards for the conditional access interface, so IPTV cannot meet a national standard. Also, criteria for a common interface have not been defined. Therefore, the Petitioners can not be certain how to comply with the common interface requirement. Once criteria are identified, the Petitioners can follow those criteria when purchasing equipment. Only the IPTV vendors have control over whether a particular conditional access product is “using the same technologies and standards available to manufacturers of commercially available devices. . . .”⁷ Accordingly, the Petitioners must rely on vendors’ specifications to comply with the interface requirement.

devices of more than one consumer electronics (“CE”) vendor that has successfully integrated its equipment; or (ii) is publicly offered, such as via partnering or licensing, to CE vendors. *Id.*

⁶ The non-integrated conditional access functions are explained in detail in the Technical Synopsis provided in Exhibit B.

⁷ See *Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices*, Second Report and Order, fn 136 (March 17, 2005) (*2005 Second Report and Order*).

As stated previously, the Petitioners support the Request for Declaratory Ruling submitted by OPASTCO and NTCA and urge the FCC to grant the requested relief to establish how MVPD operators can comply with section 76.1204(b).⁸ In the meantime, however, and as discussed below, the Petitioners' seek waiver of section 76.1204(b) until a national standard has been developed, or the FCC has defined criteria for compliance with the interface requirement, and vendors are afforded the opportunity to make their products compliant.

II. DISCUSSION

A. Standard for Waiver

Section 629(a) of the Act prescribes that the Commission “adopt regulations to assure the commercial availability” of video navigation devices.⁹ The goal of Congress in enacting section 629 was to “ensure that consumers have the opportunity to purchase navigation devices from sources other than their [MVPD].”¹⁰ Congress also sought to avoid Commission actions having “the effect of freezing or chilling the development of new technologies and services.” Furthermore, section 629(c) states that the Commission *must* waive a regulation where the waiver standard of that section has been met.¹¹

The FCC promulgated section 76.1207 to implement the waiver requirement of section 629(c).¹² Section 76.1207 instructs an MVPD, among other providers of multichannel video programming and equipment, to bring a waiver request pursuant to section 76.7 of the

⁸ See generally *Petition for Clarification*.

⁹ 47 U.S.C. § 629(a).

¹⁰ See *Charter Communications, Inc., Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules, Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices*, Memorandum Opinion and Order, ¶2 (rel. May 4, 2007) citing S. Rep. 104-230, at 181 (1996)(Conf. Rep.).

¹¹ See 47 U.S.C. § 549 (c) stating, “[t]he Commission shall waive a regulation adopted under subsection (a) for a limited time upon an appropriate showing . . . that such waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products. Upon an appropriate showing, the Commission shall grant any such waiver request within 90 days of any application filed under this subsection. . . .”

¹² Section 76.1207 tracks the text of section 629(c) almost exactly. See 47 C.F.R. § 76.1207.

Commission’s rules where (a) requesting a waiver for a limited time; and (b) upon a showing that “waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service over multichannel video programming systems, technology or products.”¹³ Any grant of a waiver pursuant to section 76.1207 is effective for all service providers and products in the category for which waiver is granted.¹⁴

The FCC may also generally waive its rules for good cause shown.¹⁵ Under section 1.3 of the rules, a waiver is appropriate where the “particular facts would make strict compliance inconsistent with the public interest.”¹⁶ Furthermore, the District of Columbia Circuit Court of Appeals has held that the Commission is always required to “take a ‘hard look’ at meritorious applications for waiver, and must consider all relevant factors,” especially where the application of a general rule under particular circumstances would not serve the public interest underlying that rule.¹⁷

With this instant Petition, the Petitioners demonstrate how they satisfy the waiver standards for section 629(c), as well as sections 1.3, 76.7, and 76.1207 of the Commission’s rules. The Petitioners demonstrate why waiver for a limited time of the deadline for compliance with the interface requirement is within the public interest.

¹³ *Id.*

¹⁴ *See id.*

¹⁵ 47 C.F.R. § 1.3.

¹⁶ *AT&T Wireless Services, Inc. et al. v. Federal Communications Commission*, No. 00-1304 (D.C. Cir. 2001), *citing* *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (“*Northeast Cellular*”).

¹⁷ *KCST-TV, Inc. v. FCC*, 699 F.2d 1185, 1191, 1192 & 1195 (D.C. Cir. 1983) (vacating FCC denial of a waiver request, holding that once the premise of the rule had been shown not to apply, the “logic of applying [the rule] collapses,” and it was arbitrary to apply the rule). *See also* *WAIT Radio v. FCC*, 418 F.2d 1153, 1157-1159 (D.C. Cir. 1969)(stating, “a general rule, deemed valid because the overall objectives are in the public interest, may not be in the ‘public interest’ if extended to an applicant who proposes a new service that will not undermine the policy, served by the rule, that has been adjudged in the public interest.”).

B. The Petitioners Request a Waiver for a Limited Time

In accordance with section 629 of the Act and section 76.1207 of the Commission's rules, the Petitioners are seeking a waiver for a limited time until a national standard has been developed for conditional access interfaces, or until the FCC has defined criteria for compliance with the common interface requirement, and vendors have the opportunity to develop products in accordance with such standard or criteria. IPTV is still developing and does not yet have a national standard interface or a common standard based on wide spread general use. Companies are just now implementing IPTV technology commercially so there is little embedded base of equipment. However, the Petitioners and their equipment vendors are taking steps to become fully compliant with section 76.1204 in the near future. Since IPTV systems are already designed to use downloadable security functions, the Petitioners are already meeting the Commission's objective of employing downloadable security.¹⁸

The Petitioners are currently attempting to become compliant with the interface requirement of section 76.1204(b). The Petitioners are encouraging their IPTV vendors to make efforts to open their systems even as IPTV technology is still being developed. Vendors of middleware and encryption products have begun to open a dialogue with other middleware, encryption and consumer electronics ("CE") vendors on DCAS interoperability and are offering the use of their product specifications for the purpose of such development.

All the vendors used by the Petitioners are openly offering partnering opportunities on their websites and list several system vendors they are currently working with in developing their products.¹⁹ Some vendors have validated their commitment to an open interface, beyond the

¹⁸ See 2005 Second Report and Order, ¶ 36.

¹⁹ The Petitioners can provide additional information regarding these partnering programs upon request by Commission staff.

general offering of the partnering relationships, by providing documentation stating their compliance commitments to the FCC or to the Petitioners. For example, Widevine, an encryption vendor utilized by some of the member companies of Petitioners,²⁰ states in a letter to the FCC on March 22, 2007: “The Widevine Cypher suite of content security solutions is widely available to the consumer device and cable industries.”²¹ Middleware vendors have also issued such statements. In a statement released by Minerva, the middleware vendor states that “Minerva Networks certifies, as required by the FCC, that the interface specifications used to integrate Conditional Access/Digital Rights Management . . . systems with Minerva’s middleware and applications are available to [customer premise equipment] device vendors under non-discriminatory terms and conditions.”²² In addition to the intent of vendors to work with other vendors of IP to integrate their systems, the industry has also begun preliminary steps toward the development of an industry standard of DRM interoperability.²³ Thus, it is clear that the industry is committed to the earliest possible development and implementation of interoperability standards for IPTV DCAS.

Notwithstanding these impending compliance solutions, the Petitioners will not be in a position to come into compliance with the interface requirement by the July 1 deadline for their IPTV systems. Accordingly, the Petitioners urge the FCC to take the same approach to granting the Petitioners a deferral of the July 1 deadline for the interface requirement as it took for granting

²⁰ Widevine is among the multiple encryption vendors being utilized by member companies of Petitioners. Additional information regarding the specific member companies utilizing Widevine for encryption is available for presentation to FCC staff upon request.

²¹ Letter from Brian Baker, CEO, Widevine Technologies to Chairman Martin, FCC (March 22, 2007), attached hereto as Exhibit C. Widevine has also offered a statement indicating that it “publishes an open API specification that enables middleware vendors to easily interface” with its encryption product. *See* Widevine Statement entitled “Widevine Secure Platforms,” attached hereto as Exhibit D. Other vendors being used by the Petitioners’ member companies have also issued similar statements, such as Myrio and Minerva.

²² *See* Minerva’s Statement (May 7, 2007), attached hereto as Exhibit E.

²³ *See, e.g.* IPTV DRM Interoperability Requirements, ATIS – 0800001 (April 2007) *available at* <https://www.atis.org>

the deferral of the integration ban in 2005.²⁴ In the *2005 Second Report and Order*,²⁵ the FCC extended the phase-out of integrated cable navigation devices until July 1, 2007 to “afford cable operators additional time to determine whether it is possible to develop a downloadable security function that will permit them to comply with our rules without incurring the cable operator and consumer costs associated with the separation of hardware.”²⁶ In the case of IPTV, it is not the downloadable security that needs to be developed; instead, it is the national standard and/or the criteria for common reliance that needs development.

Petitioners seek waiver of the July 1, 2007 deadline for compliance with the interface requirement only until such time as a national standard has been developed, or until the FCC has defined the criteria for common reliance, and vendors have had the opportunity to develop products in accordance with such standard or criteria. As previously mentioned, the Petitioners support the Request for Declaratory Ruling filed by OPASTCO and NTCA and encourage the FCC to make a determination as to the relief requested in that Request.²⁷ Once a method for compliance has been established through the development of a national standard or the declaration of criteria for a common interface, the Petitioners will be able to take steps to bring their IPTV systems into compliance.

²⁴ See *2005 Second Report and Order*, ¶ 31 & 36.

²⁵ *Implementation of Section 304 of the Telecommunications Act of 1996*, Second Report and Order, 20 FCC Rcd 6794 (2005).

²⁶ *2005 Second Report and Order*, ¶ 31.

²⁷ See *Petition for Clarification*. As previously summarized, OPASTCO and NTCA urge the FCC to declare that MVPD operators utilizing IPTV technology will be compliant with the integration ban as of the July 1 deadline, and that compliance with section 76.1204(b) includes an MVPD utilizing cable navigation equipment that uses an interface connecting to and functioning with the navigation devices of more than one CE vendor that has successfully integrated its equipment; or which is publicly offered, such as via partnering or licensing, to CE vendors. *Petition for Clarification*, *supra*.

C. Waiver Is Required to Assist in the Development of New and Improved Video Technologies and Services

Also in accordance with section 629 of the Act and section 76.1207 of the Commission's rules, the Petitioners demonstrate below that waiver is necessary to assist the development of IPTV technology, an improved multichannel video programming technology. IPTV is a new technology, only a few years old, which utilizes the same protocols as data services. Since IPTV uses the same platform, it promises to allow video and data to seamlessly integrate so customers can control what they are watching and enhance the video experience with interactive data functions.

IPTV technology is an improvement to multichannel video programming services because it expands competition in the rural video services market by enabling telephone providers in rural markets to provision video services over existing wireline infrastructure without the costly construction of a separate network. The Petitioners are all affiliates and divisions of rural landline telephone companies that have sought to expand their telephone service markets to video services. Through building upon their current telephone business and leveraging their current infrastructure, the Petitioners have been able to add IPTV video capability to their businesses.

IPTV technology is also an improvement over traditional CATV services because the downloadable conditional access element inherent in the system makes this technology already compliant with the Commission's integration ban, unlike many traditional CATV technologies. In an IPTV system, the conditional access security functions exist in the MVPD's network, separate from other service management functions contained in customer premise equipment, such as the set top box. Since the security and non-security service management functions are not

integrated within a single device, operators using IPTV DCAS are in compliance with the criteria set forth in section 76.1204(a)(1) of the Commission's rules.²⁸

The grant of a waiver for a limited time to the Petitioners is necessary to assist in the continued development of IPTV technology and the achievement of continued expansion to competition in the rural video services market. Furthermore, if waiver is not granted, consumers will be severely limited in their choices of service providers and the types of available video services technologies in rural markets. The Petitioners will not be able to deploy new IPTV set top boxes after the July 1, 2007, compliance deadline if waiver is not granted and, accordingly, will not be able to expand their customer base and provide expanded competition in rural video services. Also, continued deployment of IPTV technology in the Petitioners' rural service areas would be halted, at minimum, and likely would have to be abandoned due to a lack of growth in subscriber revenues.

D. Strict Compliance with Section 76.1204(b)'s Interface Requirement is Inconsistent with the Public Interest

In the previous sections, the Petitioners have demonstrated why waiver should be granted pursuant to section 629 of the Act and section 76.1207 of the Commission's rules. The Petitioners also demonstrate in the discussion below that strict application of section 76.1204(b) with respect to Petitioners would be contrary to the public interest and to the Act's goal of deploying advanced telecommunications to all Americans.

The public interest requires that broadband deployment occur even in sparsely populated areas such as the rural service markets of the Petitioners. If waiver is not granted, however, it would become cost ineffective for the Petitioners to continue upgrades and expansion of their broadband networks in such areas. Since IPTV and data are both delivered over broadband,

²⁸ See 47 C.F.R. § 76.1204(a)(1).

Petitioners can spread the costs of broadband network upgrades and expansion between both video and data revenue sources. The video revenue portion helps to support the deployment of higher speed data services over broadband. Since the broadband network must be upgraded and expanded for IPTV services,²⁹ the Petitioners are currently able to simultaneously offer higher speed data services that would otherwise have taken years to deploy on data services revenues alone. Thus, a grant of a waiver for a limited time promotes the public policy objective of delivering higher speeds of broadband to rural communities.

A waiver for a limited time also promotes video competition in the rural service territories of the Petitioners in the public interest. The Petitioners have only recently entered the video market so are currently building market share in this market. If waiver is denied, however, the Petitioners' market growth could not occur because the Petitioners would not be able to add new customers. It is not feasible for the Petitioners to continue to support a video product if there is no opportunity to reach their market penetration targets, or Petitioners are unable to win new customers from competitors. The Petitioners would be forced to cease providing all video services due to economic constraints resulting from the inability to capture new customers and revenues. Thus, a video competitor would be eliminated from the Petitioners' markets.

In many of Petitioners' rural service markets, the companies are the only wireline based video provider for customers. The service territories served by some of the Petitioners, is so sparsely populated it is not cost effective for the traditional cable companies to build out their networks. Thus, Petitioners, who are affiliates and divisions of small local exchange carriers, have made wireline video services available over a larger and less dense area than the competing cable company. Video subscribers would no longer have their choice of a service provider for

²⁹ Typically, IPTV service uses between eight and twenty-one Mbps of bandwidth to the home.

cable services in a number of the Petitioners' markets.³⁰ Thus, if the Commission does not grant this waiver, it would effectively be removing competitive services from the market, contrary to the public interest.

E. Grant of Petitioners' Waiver Request Would Not Undermine the Policy Objective of Section 76.1204(b)

The policy objective of section 76.1204(b) would be promoted with grant of a waiver to the Petitioners for a limited time. The FCC promulgated section 76.1204 of the Commission's rules to effect a transition to commercially available navigation devices and to implement section 629 of the Act. Section 629 was enacted "to afford consumers the opportunity to purchase navigation devices from other than their [MVPD]."³¹ The objectives of section 629 "are in keeping with the 1996 Act's general goal of 'accelerating rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition.'"³²

While it is progressive and beneficial for consumers in the video markets to be able to make a choice about the equipment they will utilize to receive video signals, the policy objective of section 76.1204, as it relates to the Act's overall objective of deploying advanced telecommunications and information technologies and services to all Americans, would ultimately be undermined if the Commission does *not* grant the Petitioners a waiver because consumers in Petitioners' markets would not have a choice in their cable services provider and development of new innovative IPTV technologies would be stifled in rural areas. In addition, if waiver is not

³⁰ The Petitioners are providers of IPTV service, which is a non-traditional cable landline MVPD service. In many of Petitioners' markets, there may be providers of services in other video categories, such as satellite television. If the Commission would like more specific information on which markets contain competitors in other categories of services, such information may be provided upon request.

³¹ See *BellSouth Interactive Media Services, LLC and BellSouth Entertainment, LLC*, Memorandum Opinion and Order, DA 04-2544 (rel. Aug. 18, 2004) ("2004 BellSouth MO&O").

granted and there is a cessation of cable service to new customers provisioned by Petitioners, the potential for the provision of competitive cable services would effectively be removed from those markets where Petitioners are currently the sole cable provider. Further, it may not be cost efficient for the Petitioners to continue to upgrade and expand their broadband networks for the provision of higher speed data services in their service areas if they are prohibited from coupling that service with new video services.

The grant of a waiver would not undermine the policy objective of section 76.1204, additionally, because Petitioners in total comprise a very small percentage of the overall MVPD market. Thus any impact on the overall transition of MVPD providers to commercially available devices would be negligible.

In total, the Petitioners service areas are less than 0.03% of the entire U.S. MVPD market³³, with a total of approximately 25,378 subscribers. The Petitioners' deployment of IPTV in the provision of their cable services in small, low density rural markets represents only a percentage of that total. On average, each Petitioner has less than 1000 subscribers in its respective market, making up less than 0.0015% of the overall MVPD market for each member. Thus, if Petitioners are granted a waiver and permitted to continue the use of non-integrated boxes that do not have a standard interface, the policy objective of section 76.1204 would not be undermined because there would be little to no impact on the overall transition to commercially available devices and new customers of Petitioners would continue to have access to advanced digital video services over high-speed broadband networks.

³² See *Implementation of Section 304 of the Telecommunications Act of 1996*, Report and Order, ¶ 2 (rel. Jun. 24, 1998) (“1998 Report and Order”).

³³ Based on the FCC's Video Assessment, the total number of U.S. households currently subscribed to a MVPD service totals 94.2 million. See *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 05-255 (Feb. 10, 2006).

F. The Petitioners' Circumstances Are Consistent with FCC Policy Reflected In the Grant of Previous Waivers

In granting previous waivers of its navigation rules, the FCC has focused on Commission policy, as well as the Act's objectives.³⁴ In *2007 Cablevision MO&O*,³⁵ the Commission recognized extraordinary circumstances surrounding Cablevision's early migration to the use of smart card technology, which incorporated separate security functions.³⁶ In that proceeding, the Commission stated, "[w]e find it particularly persuasive that Cablevision began implementing its SmartCard-based approach in 2001, more than three years before the Commission clarified that the integration ban requires reliance on an identical security function."³⁷ The Commission recognized further that Cablevision had implemented its technology "whereas other cable operators are only now beginning to place orders for digital cable set-top boxes that do not include integrated security in order to meet the July 1, 2007 deadline"³⁸

Petitioners have also achieved these extraordinary circumstances. As previously stated, Petitioners are utilizing IPTV technology, which, by its nature, incorporates downloadable security consistent with the FCC's separate security objectives. Thus, the FCC should grant a waiver of section 76.1204(b) to allow Petitioners to continue to deploy services over equipment that meets the Commission's integration ban until either the criteria for a common interface is defined or a national standard for IPTV is developed.

³⁴ See generally, *2004 BellSouth MO&O; Bend Cable Communications, LLC d/b/a BendBroadband*, Memorandum Opinion and Order, CSR-7057-Z (rel. Jan 10, 2007)("2007 BendBroadband MO&O"); *Cablevision Systems Corporation's Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, Memorandum Opinion and Order, CSR-7078-Z (rel. Jan. 10, 2007)("2007 Cablevision MO&O").

³⁵ *Cablevision Systems Corporation's Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, Memorandum Opinion and Order, CSR-7078-Z (rel. Jan. 10, 2007).

³⁶ See *2007 Cablevision MO&O*, ¶ 20.

³⁷ *Id.*

³⁸ *Id.*

In *2007 Bend MO&O*,³⁹ the Commission granted a waiver of its navigation rules to BendBroadband. In doing so, the Commission considered BendBroadband's commitment to migration to an all-digital system by 2008 and the obstacles it would face if it were forced to discontinue the use of the Motorola DCT-700 set-top box after July 1, 2007.⁴⁰

Unlike BendBroadband, Petitioners have already achieved the provision of services over all-digital networks. Like BendBroadband, however, Petitioners would face having to cease the provision and marketing of new digital video services if a waiver is not granted.

In the *2004 BellSouth MO&O*,⁴¹ the Commission granted BellSouth a permanent waiver from the technical standards of sections 76.602 and 76.640 of the Commission's rules associated with non-integrated security.⁴² In granting a waiver to BellSouth, the Commission considered BellSouth's status as a "small cable company," serving a very small percentage of the MVPD market.⁴³ The Commission also found that waiver was in the public interest because "grant of a waiver will allow BellSouth to continue to deliver digital services to its subscribers and remain a viable competitor in the MVPD marketplace."⁴⁴

In this instance, each of the Petitioners individually qualifies as a "small cable company" as that term is defined for purposes of section 76.901(e).⁴⁵ Under this section a small cable company is one serving 400,000 subscribers or less. Even in total, Petitioners do not exceed the threshold for a small cable company, as they are collectively serving less than 400,000 subscribers. Thus, Petitioners give special emphasis to the fact that very few subscribers would

³⁹ *Bend Cable Communications, LLC d/b/a BendBroadband*, Memorandum Opinion and Order, CSR-7057-Z (rel. Jan 10, 2007).

⁴⁰ See *2007 BendBroadband MO&O*, ¶ 10.

⁴¹ *BellSouth Interactive Media Services, LLC and BellSouth Entertainment, LLC*, Memorandum Opinion and Order, DA 04-2544 (rel. Aug. 18, 2004).

⁴² See *2007 BellSouth MO&O*, ¶ 8.

⁴³ See *id.*, ¶ 5.

⁴⁴ See *id.*, ¶ 8.

⁴⁵ 47 C.F.R. § 76.901(e); See also *2005 Second Report and Order*, App. C & fn 185.

be affected by a waiver to Petitioners. Just as with BellSouth, grant of a waiver would also allow Petitioners to continue to deliver digital video services as viable competitors in their rural markets. Furthermore, it would ensure the continued development and deployment of broadband networks in rural markets.

Finally, in granting a waiver to Charter Communications in *2007 Charter Communications, Inc. MO&O*,⁴⁶ the FCC took notice of the circumstances surrounding Charter's provision of services in rural markets stating, "[w]e are sympathetic to the fact that Charter's financial difficulties may be due, in part, to its predominantly rural customer base."

The Petitioners are all serving rural markets with sparse populations. Individual member companies' comprising the Petitioners, in some cases, are currently serving less than 60 IPTV subscribers. Competition in these areas coupled with low revenues resulting from lower subscriber counts compounds the financial difficulty Petitioners would be facing if waiver is not granted.

In all the waivers discussed above, the FCC has granted waiver of the separate security rule allowing continued deployment of integrated devices. The Petitioners are already providing non-integrated devices so are compliant with integration ban portion the FCC rule. The Petitioners are only requesting an extension of the compliance date for a limited time for the open interface portion of the rule to allow their innovative IP technology to develop to a point where a common interface and/or a national standard can be implemented.⁴⁷

⁴⁶ *Charter Communications, Inc., Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules, Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices*, Memorandum Opinion & Order, CSR-7049-Z, ¶ 18 (May 4, 2007).

⁴⁷ See, e.g., *Charter Communications, Inc., Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules, Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices*, Memorandum Opinion and Order, CSR-7049-Z (May 4, 2007); *Millennium Telcom, LLC d/b/a OneSource Communications, Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules, Implementation of Section*

III. CONCLUSION

WHEREFORE, for the reasons stated herein, Petitioners request that the Commission grant this Petition for Waiver for a limited time of the open interface requirement set forth in section 76.1204(b) of the Commission's rules.

Respectfully submitted,

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Chief Operations Officer

Albany Mutual Telephone

By: /s/ Steven W. Katka
Steven W. Katka
General Manager and Chief
Operations Officer

All West/Utah, Inc.

By: /s/ Jack Walkenhorst
Jack Walkenhorst
Vice President of Outside Plant and
Engineering

Alliance Communications

304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices, Memorandum Opinion and Order, CSR-7129-Z (May 4, 2007); GCI Cable, Inc., Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules, Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices, Memorandum Opinion and Order, CSR-7130-Z (May 4, 2007).

By: /s/ Bob Stiefvater
Bob Stiefvater
Plant Supervisor

BEK Communications Coop.
By: /s/ Derrick F. Bulawa
Derrick F. Bulawa
Chief Executive Officer and General
Manager

Branch Cable, Inc.
By: /s/ L. Brooks Derryberry
L. Brooks Derryberry
Vice President

Cameron Communications, LLC
By: /s/ Bruce Petry
Bruce Petry
Controller

Chibardun Cable TV, Inc.
By: /s/ Rick Vergin
Rick Vergin
Chief Executive Officer

Coleman County Telecommunications dba
Coleman County Broadcasting
By: /s/ Michael R. Walton
Michael R. Walton
Chief Executive Officer

Consolidated Cable Vision, Inc.
By: /s/ Paul Schuetzler
Paul Schuetzler
Chief Executive Officer and General
Manager

Consolidated Telephone Company
By: /s/ Kevin T. Larson
Kevin T. Larson
Chief Executive Officer and General
Manager

Coon Valley Telecommunications, Inc.
By: /s/ Lenord Leis
Lenord Leis

General Manager

Daktel Communications, LLC

By: /s/ Keith A. Larson

Keith A. Larson

Chief Executive Officer

Delta Telephone, Inc.

By: /s/ L. Brooks Derryberry

L. Brooks Derryberry

Vice President

D&E Systems, Inc.

By: /s/ Scott Sandall

Scott Sandall

VP Marketing

DTC Cable, Inc.

By: /s/ Douglas N. Edwards

Douglas N. Edwards

Vice President

Etex Communications, LP

By: /s/ Danny Kellar

Danny Kellar

General Manager

Franklin Telephone, Inc.

By: /s/ L. Brooks Derryberry

L. Brooks Derryberry

Vice President

Hargray CATV Company, Inc.

By: /s/ Mark Reinhardt

Mark Reinhardt

Director of Regulatory Affairs

Hometown Online, Inc.

By: /s/ Joyce Stoeberl

Joyce Stoeberl

Director of External Affairs

Indiana Fones, Inc.

By: /s/ Scott Hiatt

Scott Hiatt

Secretary

Interstate Telecommunications Cooperative,
Inc.

By: /s/ James B. Canaan
James B. Canaan
Support Services Manager

James Valley Cooperative Telephone
Company

By: /s/ James Groft
James Groft
General Manager

LaValle Long Distance

By: /s/ David J. Lull
David J. Lull
Vice President

LBH, LLC

By: /s/ Bruce Petry
Bruce Petry
Controller

Marquette Adams Communications, LLC

By: /s/ Bryan Amundson
Bryan Amundson
General Manager

North Dakota Telephone Company

By: /s/ Dave Dircks
Dave Dircks
General Manager

Northern Valley Communications, LLC

By: /s/ James Groft
James Groft
Chief Executive Officer

NTELOS Media, Inc.

By: /s/ Anne Sarbin
Anne Sarbin
Regulatory Manager

Perry-Spencer Communications, Inc. dba
PSC

By: /s/ James M. Dauby
James M. Dauby
President and Chief Executive Officer

Pineland Telephone Cooperative, Inc.
By: /s/ Richard P. Price
Richard P. Price
Executive Vice President

Price County Telephone Co.
By: /s/ John Mess
John Mess
Secretary/Treasurer

Richland Grant Long Distance
By: /s/ David J. Lull
David J. Lull
Vice President

Ringgold Telephone Company
By: /s/ Steve Scharf
Steve Scharf
Vice President

Sancom, Inc.
By: /s/ Ryan Thompson
Ryan Thompson
General Manager

Stockholm Strandburg Telephone Company
By: /s/ James B. Canaan
James B. Canaan
Support Services Manager

Tech Com, Inc.
By: /s/ David J. Lull
David J. Lull
Operations Manager

Telepak Networks, Inc.
By: /s/ L. Brooks Derryberry
L. Brooks Derryberry
Vice President

Tomorrow Valley Cable Television, Inc.

By: /s/ Carl F. Bohman
Carl F. Bohman
President

Union Information Systems, LLC
By: /s/ Reed Warner
Reed Warner
General Manager

United Telephone Mutual Aid Corp.
By: /s/ Dennis Hansel
Dennis Hansel
Assistant General Manager

Valley Communications, Inc.
By: /s/ Bob Schuetzle
Bob Schuetzle
Plant Manager

Venture Vision
By: /s/ Randy Olson
Randy Olson
Assistant General Manager

Vernon Communications, LLC
By: /s/ Rodney D. Olson
Rodney D. Olson
President

Verneau Networks, Inc.
By: /s/ Donald Hammer
Donald Hammer
President

Viking Electronics dba Polar Cablevision
By: /s/ David Dunning
David Dunning
Executive Vice President

Volunteer Wireless, Inc.
By: /s/ Levoy Knowles
Levoy Knowles
Executive Vice President

EXHIBIT A

EXHIBIT A

The IPTV Operators Group

1. Ace Telephone Association dba Ace Communications Group
2. Ace Telephone Company of Michigan dba Ace Communications Group
3. Albany Mutual Telephone
4. All West/Utah, Inc.
5. Alliance Communications
6. BEK Communications Coop
7. Branch Cable, Inc.
8. Cameron Communications, LLC
9. Chibardun Cable TV, Inc.
10. Coleman County Telecommunications dba Coleman County Broadcasting
11. Consolidated Cable Vision, Inc.
12. Consolidated Telephone Company
13. Coon Valley Telecommunications
14. Daktel Communications, LLC
15. D&E Systems, Inc.
16. Delta Telephone, Inc.
17. DTC Cable, Inc.
18. Etex Communications, LP
19. Franklin Telephone, Inc.
20. Hargray CATV Company, Inc.
21. Hometown Online, Inc.
22. Indiana Fones, Inc.
23. Interstate Telephone Company
24. James Valley Cooperative Telephone Company
25. LaValle Long Distance
26. LBH, LLC
27. Marquette Adams Communications, LLC
28. North Dakota Telephone Company
29. Northern Valley Communications, LLC

30. NTELOS Media Inc.
31. Perry-Spencer Communications, Inc. dba PSC
32. Pineland Telephone Cooperative, Inc.
33. Price County Telephone Co.
34. Richland Grant Long Distance
35. Ringgold Telephone Company
36. Sancom, Inc.
37. StarVision, Inc.
38. Stockholm Strandburg Telephone Company
39. Tech Com, Inc.
40. Telepak Networks, Inc.
41. Tomorrow Valley Cable Television, Inc.
42. Union Information Systems, LLC
43. United Telephone Mutual Aid Corp.
44. Valley Communications, Inc.
45. Venture Vision
46. Verneau Networks, Inc.
47. Vernon Communications, LLC
48. Viking Electronics dba Polar Cablevision
49. Volunteer Wireless, Inc.

EXHIBIT B

EXHIBIT B

Technical Synopsis

The IPTV system utilizes switched digital video (“SDV”), which is uniquely different from traditional cable television (“CATV”) based on its video channel delivery method and conditional access authentication. Unlike a traditional CATV system, which broadcasts every channel in its system to every home, SDV only delivers one to three channels to a home at one time. Accordingly, a user only receives channels that have been explicitly requested and only where the user is authorized to receive such channels. Whereas traditional CATV systems authenticate and store video entitlements either in the set-top box or on a Cable Card/Smart Card system, the IPTV SDV system stores authentication or video entitlements in the network in the middleware and digital rights management (“DRM”) software and not on the set top box.

The IPTV system topography is built on three major hardware components - the headend, the distribution equipment and the set top box - plus software that controls the overall system. The headend receives video content broadcast signal from satellites and off-air antennas and then transforms those signals into digital format for encoding and delivery into the distribution system. The distribution system encapsulates the video in an IP format for delivery of the video and other broadband service to the customer premise. The distribution system utilizes either DSL or fiber to the home technologies. The set top box receiving the video signal reformats it and delivers it to the TV.

The software of the IPTV system; middleware and DRM, manages the customers, tracks assignments, provides maintenance functions, changes channels for customers, provides the program guide and performs the conditional access functions. There are two software packages, middleware and DRM. Both the middleware and DRM are located at the in the core network. The

middleware provides a security function – validation of a customer’s authorization to view a channel. Each time the subscriber changes a channel , the set top box sends a signal back into the network for permission to view the called upon channel. Once the authorization is received from the middleware, the distribution system switches the channel to the customer line.

DRM provides and manages video content control and copy protection in the distribution of video signals within the MVPD’s network. In an IPTV system the DRM is downloadable. DRM system works with other systems such as middleware and billing systems also located at the service node and utilize a series of secret information keys that code and decode video signals sent from the network to each set top box.

EXHIBIT C



Comprehensive content security for video operators™

March 22, 2007

Widevine Technologies
900 4th Ave, Suite 3400
Seattle, WA 98164

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Martin,

For the last few years, the cable industry, the Consumer Electronics Association and the Federal Communications Commission have been working to define and enforce separable security in the cable television industry in an effort to break the bonds of traditional conditional access providers. During this period, next generation video service providers, namely telecommunications and internet service providers, have successfully used Widevine Technology's separable security solution for secure delivery of multimedia content.

Widevine is pleased to inform you that our Cypher suite of security solutions have delivered "downloadable security" for numerous multimedia service operators since 2001. Widevine's proven solutions further enable the cable television industry to seamlessly implement downloadable security to a wide range of consumer devices

Since 1999, Widevine has enabled the secure delivery and consumption of broadcast and video-on-demand content on two-way networks. Widevine was the first content security company in the industry to deliver a downloadable security solution to market. Today, over 120 service operators worldwide use Widevine's separable security solutions.

Architecturally, Widevine achieves this separation using a component called a Virtual SmartCard client. Operators that utilize the Virtual SmartCards to protect consumer devices renew the content security in a matter of minutes, depending on the size of the network. The downloadable and renewable nature of the Virtual SmartCard enables Widevine to maintain a Hollywood studio-approved level of content security for distributed linear broadcast, video-on-demand, streamed media and file downloads. Designed for flexibility and affordability, Widevine is able to integrate a Virtual SmartCard client on a device in a very short period of time. Today, Widevine supports major IP-enabled set top box, personal video recorder, and PC consumer devices.

Furthermore, Widevine offers the cable industry a low-cost solution for separable security. Since no additional hardware components are required with the Widevine solution, consumer device manufacturers can keep device costs low. Since Widevine's Virtual SmartCard client is integrated and deployed with a wide range of devices, operators have the flexibility and control to choose the consumer device that best meet's their content security and business needs.

The Widevine Cypher suite of content security solutions is widely available to the consumer device and cable industries. With respect to the Commission's mandate of "common reliance," Widevine's solutions have been generally available for worldwide licensing to any operator and consumer device manufacturer on a reasonable and non-discriminatory manner for years while utilizing industry standards for encryption.

Today, Widevine is in active discussions with the major cable MSOs in the US and they are aware of the value Widevine can offer as they migrate to digital and two-way networks.

Further delays of the industry to preclude "downloadable" security into new and legacy devices will continue to propagate the duopoly environment that has hindered innovation and competition for so long. Widevine respectfully requests the Commission consider the availability, severability and compliance with common reliance that Widevine offers today.

We welcome any further inquiries you may have regarding Widevine's solutions.

Kind Regards,



Brian Baker
CEO
Widevine Technologies

CC: Monica Desai, Chief of the Media Bureau; Heather Dixon, Legal Advisor to Chairman Martin

EXHIBIT D

Widevine is the most selected and integrated content security vendor for IP video worldwide. In order to facilitate a fast time to market and to offer video operators the flexibility and choice required to choose the best possible components for each video deployment, Widevine works with a wide range of ecosystem partners. The following list offers an overview of the middleware, VOD server and consumer premises equipment vendors Widevine secures.

Middleware Vendors

Widevine publishes an open API specification that enables middleware vendors to easily interface with Widevine Cypher®. The APIs are primarily available in XML which also has the richest feature set. However, alternative interfaces in “C” or HTTPS are also available. The APIs are a published and open interface.

Typically, the responsibility for developing the interface to Widevine’s open API lies with the middleware vendor. Many of the middleware vendors below were able to complete their interface in less than one (1) month with minimal or no assistance from Widevine. Widevine does not take responsibility for the middleware integration.

Complete:

- Alcatel MediaManager*
- Alcatel OMP
- Concurrent MediaHawk
- Dreampark
- Kasenna LivingRoom
- Minerva iTVManager
- Motorola View 2*
- MPT MBOS
- Orca Interactive RightTV
- Siemens/Myrio Total Manager *
- TUT iView
- UTStarcom RollingStream Middleware

In process:

- Cisco/Scientific Atlanta ISDP
- iMAKE
- Nordija
- TandbergTV IPTV

Roadmap:

- Entriq MediaSphere
- MSTV IPTV Edition
- thePlatform mpsManage

* Talk to your Widevine sales representative for details.

Compatible Video-on-Demand (VOD) Server Vendors

In most cases, Widevine does not typically require integration with a particular VOD server. This is due to the unique way Widevine applies encryption, which is agnostic to the VOD server. The only requirement Widevine has on VOD servers is an understanding of the process the VOD server utilizes to ingest video content and to create trick play files. Widevine typically completes compatibility testing in about two weeks.

Complete:

Widevine has completed compatibility testing with the following VOD servers:

- Arroyo*
- Alcatel OVS
- Concurrent
- Entone
- Infovalue
- Kasenna
- NCube / C-COR
- QuickTime Darwin Server
- Real Networks Media Server
- SeaChange
- Streaming21
- UTStarcom RollingStream Video Server
- VideoLAN
- Windows Media Server

Roadmap:

- BitBand
- BroadBus

*Acquired by Cisco Systems

Consumer Premises Equipment (CPE) Integrations

Widevine has the most integrations to IP enabled set-top-boxes, residential gateways, PCs and portable devices of any content security vendor worldwide. Below is a comprehensive list of completed, in process and planned integrations. The following definitions explain the integration status for each CPE.

Complete:

Widevine has a Cypher® Virtual SmartCard™ (VSC) client available today for this platform.

In Process:

Widevine has begun porting a Cypher VSC client to this platform. This means that Widevine has received from the CPE manufacturer the pre-requisites for integration, including executed legal documents (if required), production quality sample CPEs and Software Development Kits. A target release date exists in most cases for CPEs that are "In Process".

Roadmap:

Widevine has been requested by a customer to support this platform, or Widevine believes that this platform will be desired by customers and is working with the manufacturer to obtain the pre-requisites in order to begin the integration. One or more of the pre-requisites have not been met blocking the start of integration. Once the prerequisites are met integrations typically are completed in less than 90 days. *In 2006 and 2007, Widevine is focused on enabling operators to use retail available consumer electronics (TVs, DVD players, etc). This will reduce or eliminate the CPE cost for video operators. Several video processor platform integrations are also in process including Sigma Designs, the leader in IPTV video processor chips. The following pages detail the actual CPE integration status.*

Complete

The following CPE integrations are Complete:

Personal Computers / Home Media Centers

- Mac 8.5 through Tiger
- Windows 95
- Windows 2000
- Windows XP
- Windows Vista

Set Top Boxes

- Amino AmiNet 103 (SD / MPEG-2)
- Amino AmiNet 110 (SD / MPEG-2)
- Amino AmiNet 120 (HD / MPEG-2)
- Amino AmiNet 124 (SD / H.264)
- Amino AmiNet 125 (SD / H.264)
- Amino AmiNet 130 (HD / H.264)
- Amino AmiNet 500 PVR (SD / MPEG-2)
- Entone Hydra II Video Gateway 3 Stream (HD / H.264)
- Foxconn MOD201 (SD / MPEG-2)
- Foxconn MOD204 (HD / H.264)
- HwaCom MOD202 (SD / H.264)
- HwaCom MOD203 (SD / H.264)
- Kreatel 711N (SD / MPEG-2)*
- Motorola RG 2200 3 stream (SD / MPEG-2)

Widevine Technologies, Inc.

Page 3 of 5



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- Motorola RG 2400 3 stream (SD / MPEG-2)
- Motorola RG 3000 (HD / MPEG-2)
- Motorola VIP1200 (HD / H.264)**
- Motorola VIP1510 (SD / MPEG2)**
- Motorola VIP1710 (SD / H.264)**
- Motorola VIP1720 (SD / H.264)**
- Pace DB220 (SD / MPEG-2)
- Pace DSL4000 (SD / MPEG-2)
- Pace IP420 (SD / MPEG-2)
- Scientific Atlanta IPN-330MC (HD / H.264)
- Scientific Atlanta IPN-430MC (HD / H.264 / PVR)
- Thomson IP900 (SD / MPEG-2)
- Thomson IP1000 (SD / H.264)
- Thomson IP1100 (HD / H.264)
- Thomson DSL1500 (SD / MPEG-2)
- Tilgin Mood 200 (SD / MPEG-2) ***
- UTStarcom MC1088 (HD / H.264)
- YuXing YX-5218A (SD / MPEG-2)

* Acquired by Motorola

** The Motorola VIP series was formally part of Kreatel

*** Tilgin was formally i3 Micro. Maximum throughput on the Mood 200 is 3.75Mbps

In Process

The following CPE integrations are in process

Set Top Boxes:	Target:
ADB 3800 (H.264)	APR 2007
Motorola VIP1216 PVR (SD / H.264)**	APR 2007
Motorola VIP1910 (HD / H.264)**	APR 2007
Motorola VIP1920 (HD / H.264)**	APR 2007
Motorola RG Classic 3 stream	APR 2007
Motorola RG 2000 3 stream	APR 2007
Tilgin Mood 300 (H.264 / PVR)***	APR 2007

Portable Devices

Apple Video iPods	JUL 2007
Archos AV 404,504,600, 700, 4100	JUL 2007
Archos Gmini 402	JUL 2007
Archos Gmini 500	JUL 2007
Archos PMA 430	JUL 2007
Creative Labs Zen Vision	JUL 2007
Creative Labs Zen Vision M	JUL 2007
Creative Labs Zen Vision W	JUL 2007

Mobile Phones

DNP UIM (Japan) and SH Mobile MAY 2007

Roadmap

The following integrations are on the roadmap, based on customer need.

Personal Computers / Home Media Centers

- Entriq MediaSphere
- thePlatform mpsManage

Set Top Boxes:

- Entone Hydra HD (HD / H.264)
- Scientific Atlanta IPN-601G
- Scientific Atlanta IPN-603G
- Scientific Atlanta IPN-603MCG (HD / H.264 / PVR)
- Wegener SMD-515 (HD / H.264)
- Wegener SMD-520

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WTN-WVSP-121406

EXHIBIT E

Minerva's statement

"Minerva Networks offers the following statement regarding compliance with the Federal Communications Commission's (FCC's) "set-top box" rule. The FCC set-top box rule requires that by July 1, 2007, all video/cable providers must cease selling or leasing new boxes with integrated security and non-security functions. Minerva Networks certifies, as required by the FCC, that the interface specifications used to integrate Conditional Access/Digital Rights Management (CA/DRM) systems with Minerva's middleware and applications are available to CPE device vendors under non-discriminatory terms and conditions."

5/7/2007