

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

In the Matter of)	
)	CS Docket No. 97-80
)	
Volcano Vision, Inc.)	CSR-7214-Z
)	
Request for Waiver of Section 76.1204(a)(1))	
)	
Implementation of Section 304 of the Telecommunications Act of 1996)	
)	
Commercial Availability of Navigation Devices)	
_____)	

**Comments of the Consumer Electronics Association
on Volcano Vision, Inc. Request for Waiver of 47 C.F.R. § 76.1204(a)(1)**

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The Consumer Electronics Association (“CEA”) submits these comments in response to the request for waiver of Section 76.1204(a)(1) of the Commission’s rules by Volcano Vision, Inc.¹

Section 76.1204(a)(1), the common reliance rule, is intended to carry out Congress’s instructions to create competition in video navigation devices available at retail. But implementation of the rule has been postponed so long that operators like Volcano Vision now depend on the product decisions of a single vendor. A waiver of the common reliance rule will not give Volcano Vision any additional influence over monopoly vendors. The delay in implementing Section 76.1204(a)(1), and the ensuing

¹ *Commercial Availability of Navigation Devices*, CS Docket No. 97-80, CSR-7214, Volcano Vision Request for Waiver (May 3, 2007) (“Volcano Vision Request”).

avalanche of waiver requests, only adds to the monopoly power of incumbent providers, the exact scenario that common reliance should have prevented.²

Essentially, this very small operator recognizes that it would require a waiver to proceed with its plans because, while it has a sufficient stock of non-CableCARD-reliant navigation devices in stock now, it will not be able to deploy them all to consumers' homes prior to July 1. This analysis is correct: continuing to deploy these products after July 1 would, and should, be a violation of Section 76.1204(a)(1).

Unlike some other small operators, Volcano Vision does not claim that it should be excused because it plans a system as to which there is no separable security solution.³ Rather, Volcano Vision seeks to avoid the expense of compliance as it converts to an all-digital system, and has found itself at the mercy of a single vendor that has arbitrarily decided to eliminate CableCARD reliance from its most affordable products. The Commission has granted waivers under its general waiver rules (not under Section 629) on the basis of small size and plans to achieve an all-digital system by 2009. CEA is not in a position to assess the adequacy of financial evidence. **What is missing** from this waiver application is any mention of CableCARDS, and any commitment by Volcano Vision to comply with *other* Commission regulations that require the provision of CableCARDS and the support on the network of CableCARD-reliant navigation devices.⁴

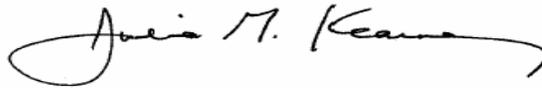
² See *Commercial Availability of Navigation Devices*, CS Docket No. 97-80, CSR-7112-Z, Armstrong Utilities, Inc., Emergency Request for Waiver of 47 C.F.R. § 1204(a)(1) and Request for Clarification at 3 (Nov. 7, 2006) (“Motorola has informed Armstrong that, absent a waiver of the integration ban for the DCT-700, Motorola will stop taking orders for the box . . .”).

³ See, e.g., *Commercial Availability of Navigation Devices*, CS Docket No. 97-80, CSR-7215-Z, Comments of the Consumer Electronics Association on Petition for Waiver Filed by LaMotte Telephone Company Inc. (June 14, 2007). (CEA opposes any such rationale.)

⁴ See, e.g., *Commercial Availability of Navigation Devices*, CS Docket No. 97-80, CSR-7178-Z, Comments of Consumer Electronics Association on CenturyTel, Inc. Request for Waiver of Section 76.1204(a)(1) at 2-3 (May 3, 2007).

CEA has maintained throughout that waivers should not be granted to operators who are not in compliance with other relevant regulations from which no waiver has been sought. Particularly in the case of operators whose systems are, or should readily be compatible with CableCARDS, if the Commission is to grant relief from common reliance on the basis of all-digital plans, small size, or financial hardship, it should require a **real commitment** and **real proof** of real-world, effective, and **ongoing** support for CableCARD-reliant devices on that operator's systems.

Respectfully submitted,



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Dated: June 14, 2007

CERTIFICATE OF SERVICE

I do hereby certify that on June 14, 2007 I caused a true and correct copy of the foregoing Comments of the Consumer Electronics Association on Volcano Vision's Request for Waiver of 47 C.F.R. § 76.1204(a)(1) to be served via overnight mail on the following:

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/s/ LaClaudia Dyson
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