



OPASTCO

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June 27, 2007

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554

Ex Parte Notice

**Re: 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
CS Docket No. 97-80**

Dear Ms. Dortch:

On June 27, 2007, Jill Canfield of the National Telecommunications Cooperative Association (NTCA), and Stephen Pastorkovich of the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) met with Michelle Carey, Senior Media Advisor to Chairman Martin, to discuss the NTCA-OPASTCO petition in the above-referenced proceeding. Section 76.1204 of the Commission's rules requires the separation of navigation and security functions in set-top boxes.

In the petition, NTCA and OPASTCO requested clarification regarding security requirements, as well as clarification regarding how compliance with the rule's "commonly used interface" requirements could be fulfilled in an Internet protocol television (IPTV) environment. In the alternative, the petition requested temporary waivers for small carriers providing IPTV services pending resolution of these issues and/or the development of applicable industry standards.

Subsequently, NTCA and OPASTCO were asked to file FCC Form 159 in conjunction with the "waiver request." In the meeting, NTCA and OPASTCO explained that while they are willing to file the requested form, they are trade groups, not carriers, so Form

159 appears to be inapplicable. Further, the petition requested clarification, and in the alternative, waivers for a class of carriers, not individual carriers. NTCA and OPASTCO provided a written summary of the situation, along with proposed means of resolution, attached.

In accordance with FCC rules, this letter and the presentation are being filed electronically in the above-captioned dockets.

Sincerely,

/s/ Stephen Pastorkovich

Stephen Pastorkovich
Business Development Director/
Senior Policy Analyst
OPASTCO

cc: Michelle Carey



The NTCA-OPASTCO Petition On Set-Top Boxes Should Be Granted

Many rural carriers entered the IPTV market to provide consumer choice and expand broadband penetration. Section 76.1204 of the Commission's rules, which requires separation of the security and navigation functions of set-top boxes, was written before the emergence of viable IPTV solutions. The rules, scheduled to go into effect July 1, 2007, incorporate cable industry standards.

However, similar standards have not yet been developed for IPTV technologies. This ambiguity has required cutting-edge companies to pay large filing fees for waivers that should not be necessary. These cutting-edge carriers deploying the most robust broadband networks and bundling video and broadband together for maximum customer penetration, are effectively being penalized for their efforts. The link between video competition and broadband deployment has been recognized:

"The ability to deploy broadband networks rapidly and the ability to offer video to consumers are linked intrinsically." – Chairman Martin's remarks to the Phoenix Center (Dec. 6, 2006)

"Entertainment applications will be the key. If anything will pull in the [broadband] holdouts, it's going to be applications that make the Internet more akin to pay TV." – John Barrett, Director of Research, Parks Associates, Press Release (Mar. 22, 2007)

On May 4 2007, the National Telecommunications Cooperative Association (NTCA) and the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) jointly filed a Petition for Clarification in order to establish what constitutes compliance for IPTV equipment, pending the development of standards. In the alternative, it requests a waiver for all providers of IPTV services pending clarification (consistent with OPASTCO's December 11, 2006 filing in CS Docket No. 97-80). In addition, older NextLevel products should be granted permanent waivers, as requested in a separate petition.

On June 19, after multiple filings and meetings with Commission staff, NTCA and OPASTCO were asked to file a Form 159 under 47 C.F.R. § 1.1104(9)(g) for the "waiver request." Firstly, NTCA and OPASTCO are not service providers, so Form 159 is not applicable. Further, the Petition was for clarification, with a request for waiver for a class of carriers as an alternative, again precluding the applicability of Form 159.

The Petition also noted that the Regulatory Flexibility Act allows for different compliance requirements for small entities (5 U.S.C. § 603(c)).

Resolution

The Commission should either (1) grant the clarification prior to the July 1 deadline; (2) in the alternative, grant a blanket waiver for small IPTV providers regardless of Form 159 filings; or (3) at the very least, the Commission should utilize its authority under the Regulatory Flexibility Act to establish different compliance timetables for small entities, especially those deploying video over broadband.