

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

In the Matter of)
) CS Docket No. 97-80
)
Cimarron Telephone Company) CSR-7407-Z
Pottawatomie Telephone Company) CSR-7408-Z
Cross Telephone Company) CSR-7409-Z
Cross Cable LLC) CSR-7410-Z
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Requests for Clarification or Waiver)
of Section 76.1204(a) and (b))
)
Implementation of Section 304 of the)
Telecommunications Act of 1996)
)
Commercial Availability of Navigation Devices)
_____)

Comments of the Consumer Electronics Association
on Four Requests for Clarification or Waiver of 47 C.F.R. § 76.1204(a) and (b)

August 13, 2007

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**Comments of the Consumer Electronics Association
on Four Requests for Clarification or Waiver of 47 C.F.R. § 76.1204(a) and (b)**

The Consumer Electronics Association (“CEA”) respectfully submits these comments in response to the requests for waiver of Section 76.1204 of the Commission’s rules by Cimarron Telephone Company, Pottawatomie Telephone Company, Cross Telephone Company, and Cross Cable LLC (herein “the Petitioners”).

Petitioners are all members of the Northeast Oklahoma IPTV Providers, which separately requested an equivalent waiver to the one the Petitioners are requesting in this

docket.¹ CEA hereby incorporates its comments filed in response to the Northeast Oklahoma IPTV Providers' request for waiver,² and reiterates its stated position outlined in its comments.

The purpose of Section 76.1204 of the Commission's rules is to fulfill Congress's mandate to ensure the availability of video navigation devices at retail, which can compete with devices leased by cable operators. That purpose should guide interpretations of the Commission's rules for both QAM-based digital cable and for IPTV technologies. Accordingly, Petitioners and all IPTV systems should be deemed compliant with Section 76.1204 only if they support a single national standard for compatibility with cable systems.

As CEA has pointed out in comments on other waiver petitions, and in its *ex parte* comments of April 24, 2007, the presence, without more, of a downloadable security component and one or more licensees *cannot* support a national retail market for navigation devices.³ Many IPTV system operators and technology developers have also acknowledged that more is needed if the Commission is to fulfill Congress's goal. Petitioner Premier Communications, for example, acknowledges that its chosen security technology, Widevine, "[cannot] be used with set-top boxes that have not been

¹ *Commercial Availability of Navigation Devices*, CS Docket 97-80, CSR-7407-Z, Northeast Oklahoma IPTV Providers' Petition for Clarification or Waiver at 1 (June 18, 2007).

² *Commercial Availability of Navigation Devices*, CS Docket 97-80, Comments of the Consumer Electronics Association on Two Requests for Waiver of 47 C.F.R. § 76.1204(a)(1) (July 26, 2007) ("CEA July 26 Comments").

³ *Commercial Availability of Navigation Devices*, CS Docket 97-80, CSR-7131-Z, letter from Julie M. Kearney to Marlene Dortch, Office of the Secretary, FCC, re "Emergency Petition of JetBroadband" (Apr. 24, 2007) (herein "CEA April 24 *ex parte* letter"); *Commercial Availability of Navigation Devices*, CS Docket 97-80, Comments of the Consumer Electronics Association on Six Requests for Waiver of 47 C.F.R. § 76.1204(a)(1) (July 5, 2007) ("CEA July 5 Comments").

configured with the appropriate chipsets or other hardware and software,”⁴ and that continued deployment of new equipment using this technology will require a waiver. In fact, nearly every IPTV operator to file a petition in this docket has acknowledged that it has the same responsibilities under the Commission’s rules as a QAM-based cable operator, and that merely using some “downloadable security” technology does not fulfill those responsibilities.

The reason for this is as obvious as it is fundamental. As CEA observed in its July 5 Comments on Six IPTV Waiver Requests –

The chipsets and firmware necessary for navigation devices to implement “downloadable” security are not themselves “downloadable.”

Rather, the electronic interface for each system would have to be separately engineered and built into the hardware and software of any television or other navigation device. If there can be any number of such "downloadable" systems – indeed, if more than one – any advantage of separable security would be lost, as there would still be no common security interface. The navigation devices would be no more, and perhaps less, nationally portable than are present integrated-security set-top boxes. And, as in the case of present set-top boxes, a different and perhaps incompatible license would be required from each system vendor. Thus, despite all of its efforts to assure competitive navigation devices via separable security, ***a national patchwork of different “downloadable” systems would put the Commission back where it started a decade ago – with individual, proprietary security solutions posing a fundamental obstacle to competitive entry.***⁵

At least some IPTV operators and their vendors have gone beyond seeking waivers and are actively seeking to comply with Section 76.1204 “in the near future.”⁶

⁴ See, e.g., *Commercial Availability of Navigation Devices, Premier Communications, Inc. Petition for Waiver of Section 76.1204(a)(1)*, CS Docket 97-80, CSR-7349-Z at 6 (June 19, 2007); *Commercial Availability of Navigation Devices*, CS Docket 97-80, CSR-7182-Z, Local Internet Service Company, Petition for Waiver of Section 76.1204(a)(1) at 10-11 (Apr. 2, 2007); CSR-7147-Z, Dumont Telephone Co., Petition for Waiver of Section 76.1204(a)(1) at 6-7 (Mar. 12, 2007); CSR-7177-Z, West Liberty Telephone Company, Petition for Waiver of Section 76.1204(a)(1) at 5-7 (Mar. 13, 2007).

⁵ CEA July 5 Comments at 3.

⁶ *Commercial Availability of Navigation Devices*, CS Docket 97-80, IPTV Operators Group #2 Group Petition for Waiver at 8 (June 19, 2007). To CEA’s knowledge, this petition has not been noticed for comment.

At the same time, a major telecommunications standard-setting body is developing “two distinct solutions for IP-based separable security in the emerging IPTV market that will achieve the objectives set forth by the Federal Communications Commission in CS Docket No. 97-80.”⁷ Those solutions will include “. . .[a]n enhancement of the existing CableCard specification . . . to enable IP flows that are agnostic to the network technology of the [MPVD].”⁸

CEA applauds these efforts by operators and technologists, and asks the Commission not to pull the rug out from under them by approving some weaker standard of compliance for IPTV operators than it is already enforcing for QAM systems. With “distinct solutions for meeting the objectives of the FCC as set forth in the CS Docket 97-80”⁹ under way for IPTV systems, now is not the time to declare that existing IPTV technologies are compliant for the sole reason that they include downloadable security, or that licenses have been “offered” to equipment manufacturers, or even that some equipment manufacturers have in fact licensed a technology which cannot support a national market.

As CEA has stated previously,¹⁰ for the purposes of fulfilling the Section 629

⁷ ATIS IP-Based Separable Security Incubator, Mission Statement, <http://www.atis.org/issi/about.asp> (accessed July 25, 2007) [hereinafter “ATIS Mission Statement”]. ATIS is a telecommunications standard-setting body which “provide[s] the stage for its 300-plus member companies to engage and align in support of the industry’s most critical technology and operational priorities.” ATIS 2006 Annual Report at 4, available at http://www.atis.org/PRESS/53126_Spreads.pdf (accessed July 26, 2007). ATIS called its IPTV standardization effort “this year’s best example of how ATIS addresses the business-driven needs of its member companies.” *Id.*

⁸ ATIS Mission Statement. Although middleware issues are outside the scope of Section 76.1204 (a) and (b), they are equally important to the development of a competitive market for navigation devices, and CEA congratulates the Petitioners for recognizing this. The Commission should address middleware more fully in its consideration of comments on the Third Further Notice of Proposed Rulemaking.

⁹ ATIS: General Information, <http://www.atis.org/issi/> (accessed July 25, 2007).

¹⁰ See CEA April 24 ex parte letter and CEA July 5 Comments.

mandate, a “commonly used” interface is one that manufacturers of navigation devices can rely on to build and sell a commercially viable product to a national market. All participants in this proceeding recognize that manufacturers cannot rely on an interface which does not include a separable security specification. Likewise, an interface subject to discriminatory licensing terms, one that will be abandoned unilaterally by cable operators in the near future, or one which will not be scaled to a single national standard, as the CableCARD is, in use on all urban and rural systems, cannot create a viable market for navigation devices. Even “open” interfaces, without more, will not lead to a viable market if cable operators are free to use any one of a multitude of incompatible “standards.” For the reasons discussed above, and in CEA’s July 5 Comments,¹¹ a single national standard is needed.

All of these criteria must be met if the Commission is to comply with the Congress’s directive to support commercial entry to the market for navigation devices. As CEA has stated previously, these criteria are far from radical.¹² The CableCARD currently fulfills all of these, and CEA looks forward to a comparable standard for IPTV devices in the near future.

Obviously, IPTV is an “emerging technology” relative to QAM-based digital cable, and a national standard for IPTV “remain[s] under development.”¹³ IPTV operators cannot, as of today, move to a single national interface that manufacturers can rely on, as QAM-based operators can by using the CableCARD. Nonetheless, the

¹¹ *Supra* note 3.

¹² CEA April 24 ex parte letter.

¹³ *Commercial Availability of Navigation Devices*, CS Docket 97-80, CSR-7297-Z, Northeast Oklahoma IPTV Providers Petition for Clarification or, in the Alternative, Waiver of Sections 76.1204(a) and (b) of the Commission’s Rules at 4 (June 18, 2007).

Commission should not promulgate interpretations now that will remove the incentive to develop a single national standard for IPTV as soon as is practical – or better yet, a national standard that can encompass both QAM and IPTV.

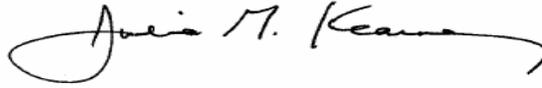
CEA is mindful of the Commission’s admonition in its Order of July 24, 2007 to address the merits of the request at hand.¹⁴ These comments are not meant to present CEA’s comprehensive position on the applicability of Section 76.1204 to IPTV devices. As the Commission has raised the issue of IP-based MPVDs in its Third Further Notice of Proposed Rulemaking,¹⁵ and has also asked for public comment on CEA’s proposal for enhancements to multistream CableCARDs, the details of implementation, and any necessity for a general, time-limited waiver for IPTV implementations should be addressed by the Commission after considering all comments and replies to the extant Third FNPRM. CEA intends to comment more fully in that context.

For the purposes of these petitions for clarification or waiver, CEA supports a time-limited waiver in preference to a reinterpretation of Section 76.1204(b) that would permanently exempt the petitioners from fulfilling the criteria that will make a true national market for competitive devices possible.

¹⁴ *Commercial Availability of Navigation Devices*, CS Docket 97-80, Memorandum Opinion and Order at 5 ¶ 7 (July 23, 2007) (DA-07-3317).

¹⁵ Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices, CS Docket No. 97-80, PP Docket No. 00-67, Third Further Notice of Proposed Rulemaking (rel. June 29, 2007).

Respectfully submitted,



Of counsel
Robert S. Schwartz
Mitchell L. Stoltz
Constantine Cannon LLP
1627 Eye Street, N.W.
10th Floor
Washington, D.C. 20006
(202) 204-3508

Julie M. Kearney
Senior Director and Regulatory Counsel
Consumer Electronics Association
1919 S. Eads St.
Arlington, VA 22202
Tel: (703) 907-7644

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CERTIFICATE OF SERVICE

I do hereby certify that on August 13, 2007 I caused a true and correct copy of the foregoing Comments of the Consumer Electronics Association on four Requests for Clarification or Waiver of 47 C.F.R. § 76.1204(a) and (b) to be served via overnight mail on the following:

James H. Barker
Cameron Smith
LATHAM & WATKINS LLP
555 Eleventh Street, N.W., Suite 1000
Washington, D.C. 20004
Counsel for Northeast Oklahoma IPTV Providers

/s/ LaClaudia Dyson
LaClaudia Dyson