

Robert S. Schwartz
Attorney at Law
202-204-3508
rschwartz@constantinecannon.com

June 18, 2008

VIA ELECTRONIC FILING

Ms. Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Notice of Ex Parte Presentation, CS Docket No. 97-80

Dear Ms. Dortch:

On June 17, 2008, the undersigned, accompanied by Brian Markwalter, Vice President, Technology & Standards, of the Consumer Electronics Association (CEA), met with Rudy Brioché, Legal Advisor to Commissioner Jonathan Adelstein. The purpose of the meeting was to express CEA's disagreement and concern with respect to statements made in a June 5 *ex parte* letter to the Commission by Seth Davidson on behalf of Beyond Broadband Technology LLC ("BBT").

The June 5 letter from Mr. Davidson said that Mr. Bauer of BBT had in a June 4 visit "confirmed" an understanding on the part of Chairman Martin that BBT's "security solution is designed to be an 'open standard'" and that, based on this and apparently other assurances, Chairman Martin had expressed opinions which Mr. Davidson interpreted as signifying that cable operators employing BBT technology would not have to file for a waiver of the FCC's common reliance regulation, 47 C.F.R. § 76.1204(a)(1). In our meeting with Mr. Brioché we expressed strong disagreement that such a conclusion could possibly be drawn from any full and accurate description of the BBT system, or of other competing "downloadable" security systems. Hence, CEA could not agree that any cable operator employing the BBT technology would not require a waiver of this crucial Commission regulation. Rather, CEA's view is that any such implementation without a waiver should be subject to an enforcement action by the Commission.

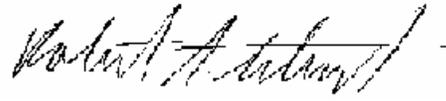
Mr. Markwalter and the undersigned reviewed in the meeting the reasons, set forth in CEA's *ex parte* letter of April 24, 2007 (attached), why any cable operator's deployment of the BBT system or of a similar competitive, non-interoperable system would require a waiver, and why the grant of any such waiver would impede not only common reliance, *but also* the very ability of competitive entrants to offer or attach any commercially available product whatsoever.

June 18, 2008
Page 2

Thus, such a waiver would directly frustrate the FCC's fulfillment of the Congressional directive in Section 629 of the Communications Act to *assure*, in its regulations, the commercial availability of competitive navigation devices. CEA has repeated this concern frequently in this Docket, most recently in its June 5 Comments on the waiver petition of Bernard Telephone Co. *et al.*¹

This letter is submitted pursuant to Section 1.1206(b)(2) of the Commission's rules to provide notice of an oral *ex-parte* presentation in the above referenced matter. Copies of the letter and the attachments are being sent by electronic mail to the meeting participants identified above.

Respectfully submitted,



Robert S. Schwartz
Constantine Cannon LLP
Counsel to CEA

cc: Chairman Martin
Commissioner Copps
Commissioner Adelstein
Commissioner Tate
Commissioner McDowell
Rudy Brioché

¹ Comments of the Consumer Electronics Association on Consolidated Petitions for Extension of Waiver of 47 C.F.R. § 76.1204(a)(1), CS Docket No. 97-80, CSR-7886 – 7899 (June 5, 2008).