

Tony S. Lee

t 202-344-8065  
f 202.344.8300  
tslee@venable.com

July 25, 2008

**VIA ECFS**

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

Re: Iowa Network Services, Inc. et al.  
Notice of Oral Ex Parte Presentation  
CS Docket Nos. 97-80; CSR-7832-Z; CSR-7833-Z; CSR-7840-Z; CSR-7835-Z; CSR-7836-Z; CSR-7837-Z; CSR-7838-Z; CSR-7839-Z; CSR-7841-Z; CSR-7842-Z; CSR-7843-Z; CSR-7844-Z; CSR-7845-Z; CSR-7846-Z; CSR-7847-Z; CSR-7851-Z; CSR-7886-Z; CSR-7887-Z; CSR-7888-Z; CSR-7889-Z; CSR-7890-Z; CSR-7891-Z; CSR-7892-Z; CSR-7893-Z; CSR-7894-Z; CSR-7895-Z; CSR-7896-Z; CSR-7897-Z; CSR-7898-Z; CSR-7899-Z; CSR-7903-Z

Dear Ms. Dortch:

On July 24, 2008, the undersigned representative of Iowa Network Services, Inc. (“INS”), Judith Langholz, Vice President - Product Support for INS, Dennis Pearson, Executive Manager of Video Services for INS, and Robin Wilson, Vice President of Business Development for Nagravision, met with the following: Rick Chessen, Senior Legal Advisor/Media Advisor, to Commissioner Copps; Cristina Chou Pauzé, Legal Advisor, Media, to Commissioner McDowell; Amy Blankenship, Legal Advisor to Commissioner Tate; Elizabeth Andrion, Acting Legal Advisor, Media Issues, to Chairman Martin; Rudy Brioché, Legal Advisor, Media Issues, to Commissioner Adelstein; and Nancy Murphy, Mary Beth Murphy, Steven Broeckaert, and Brendan Murray of the Media Bureau. The purpose of the meetings was to discuss Petitioners’ pending requests for waiver of Section 76.1204(a)(1) in the above-referenced Cable Special Relief proceedings.<sup>1</sup>

---

<sup>1</sup> The Petitioners in the above-referenced Cable Special Relief proceedings are: Alpine Cable Television, LC, Atkins Cablevision, Inc., Citizens Mutual Telephone Cooperative, City of Bellevue (Iowa), Cooperative Telephone Company, Cooperative Telephone Exchange, Dunkerton Telephone Cooperative, Dumont Telephone Company, Farmers Mutual Telephone Company, Griswold Cooperative Telephone Company, Interstate Cablevision Company, Mechanicsville Telephone Company, Minburn Cablevision, Inc., Mutual Telephone – Morning Sun, Northland Communications, Inc., Sharon Telephone Company, Western Iowa Telephone Association, Bernard Telephone Company Inc., Colo Telephone Company, Coon Creek Telephone Company and Coon Creek Telecommunications Corp., F & B Communications, Inc., Farmers Cooperative Telephone Company, Heart of Iowa Communications

Marlene H. Dortch, Secretary

July 25, 2008

Page 2

During the meetings, INS informed the Commission that Petitioners were very small rural telephone companies (“Rural Telcos”) that were either (1) already providing all-digital IPTV-based video service and had obtained a waiver in 2007 to deploy non-compliant set-top boxes, or (2) had never provided IPTV-based video service, and could not do so because they had not received a waiver from the FCC at any time. The 2007 waivers expired on July 1, 2008, and those Rural Telcos no longer have a waiver from the FCC to deploy non-compliant set-top boxes. The Rural Telcos that want to provide new video services for the first time are ready to do so almost immediately once the FCC issues the waivers permitting them to deploy IPTV service. The video service the Rural Telcos seek to introduce are IPTV-based service, which is distinctly different from the service provided by traditional cable TV operators.

INS further noted that the Rural Telcos are very small MVPDs, with subscriber bases ranging from 119 to approximately 2000 subscribers each. Because they have very small customer bases and limited resources, they do not have any ability to influence the Alliance for Telecommunications Industry Solutions (“ATIS”), which is the organization that is developing the standards for IPTV technology to ensure nationwide interoperability for the IPTV industry. Furthermore, they do not have the market or purchasing power to affect the manufacturing timetables of consumer electronics companies to ensure that compliant equipment is available quickly once the IPTV standards are finalized.

Many of the Rural Telcos are comprised of cooperatives or associations, or they are owned by individuals that live and work in the local community. As such, they are acutely aware of the needs of rural subscribers in Iowa, and they are committed to serving their communities by providing advanced, high quality services to historically underserved rural areas. To that end, the Rural Telcos have chosen to deploy video services using an advanced technology, IPTV, that is particularly well-suited to the Rural Telcos’ telephone infrastructure. To date, not including sunk costs for headend equipment and fiber infrastructure, they have invested approximately \$6,700,000 to purchase necessary central office equipment, customer premises equipment, middleware, and conditional access license fees. This is approximately \$394,000 per Petitioner, or \$630 per subscriber. Furthermore, preliminary expenses to provide an MPEG-4 all-

Marlene H. Dortch, Secretary

July 25, 2008

Page 3

digital network and headend to the Petitioners are in excess of \$10,250,000. The Rural Telcos do not make their capital expenditures based on a return on investment analysis. Rather, their primary mission is to provide advanced services to their constituent subscribers because the large national video providers are unable or unwilling to provide the services that preserve and enhance the character of the local rural community, and meet the needs of local subscribers.

The Rural Telcos currently face competition from several companies, which has contributed to an erosion of their subscriber bases. Without a waiver from the FCC, the Rural Telcos are not on a level playing field with those competitors, and the Rural Telcos cannot retain or win back customer that are lost without a waiver of the integration ban rules from the FCC. Specifically, many of the Rural Telcos operate in areas served by Mediacom. Mediacom currently offers a “triple play” bundle of service that includes broadband Internet access, telephone, and cable TV service. Although the Rural Telcos provide telephone service programming, and broadband Internet service in some (but not all) locations, they cannot offer IPTV service to counter Mediacom’s cable TV offering unless they have a waiver from the Commission. DirectTV and Dish Network are two other competitors that provide video services to rural subscribers. It is difficult for the Rural Telcos to win back customers that sign up for service with competitors due to lengthy commitment contracts that prevent customers from switching providers, or due to the customers’ unwillingness to change for reasons of inconvenience. Each day that the FCC delays in acting on the petitions is another day that customers are lost to a triple-play competitor like Mediacom, or to alternative video providers like DirectTV and Dish Network. Thus, not only is it necessary for the Rural Telcos to provide IPTV service to its subscribers to fulfill their mission to service rural subscribers, it is a question of basic survival resulting from the continued erosion of their customer bases.

It is INS’s understanding that ATIS is working on an industry-wide standard for IPTV, and that ATIS has established an informal roadmap to further develop and finalize the IPTV standard for release to manufactures so that they, in turn, can design and manufacture equipment to those standards. The standard being developed by ATIS is distinctly different from CableCards, which, as the name implies, was developed for cable TV service, and not IPTV. The INS informed the FCC that it is their understanding that a compliant IPTV standard is at 18-24 months away, and that it will take at least another 18-24 months for consumer electronics manufacturers to develop set-top boxes and make them available to MVPDs like Petitioners. However, as discussed above, neither INS nor Petitioners have the ability to affect ATIS’s standards development process. Although Nagravision is a member of ATIS, it is one of many,

Marlene H. Dortch, Secretary

July 25, 2008

Page 4

and any proposals by Nagravision must necessarily be discussed and vetted by and through all of the ATIS members and standards committees before they can be adopted.

INS noted that the Consumer Electronics Association (“CEA”) has filed comments in response to Petitioners’ waiver requests, as well as other waiver petitions. The CEA has consistently stated that the Commission should condition any waivers for IP-based MVPDs on the rapid development of a single national conditional access technology, and that absent demonstrated progress towards such a technology, the FCC should not extend or re-extend those waivers indefinitely. INS believes that such an approach would unfairly penalize the Rural Telcos that have, in good faith, made significant expenditures to provide video services and other advanced services in rural areas that would not otherwise have access to such offerings. Rural areas have been historically ignored by the large cable providers because the profit margins are thin, and the low subscriber densities make it difficult to realize any economies of scale.

Rather than punishing the Rural Telcos for making investments in their community through the adoption of advanced IPTV technology, the Commission should expeditiously grant their waivers so that they can move forward with their mission of serving historically underserved rural areas. It is more appropriate for the FCC to separate the waivers filed by small telephone companies from the larger policy considerations raised by CEA, and instead, address those issue through the Petition for Clarification or Waiver filed by the National Telecommunications Cooperative Association and the Organization for the Promotion and Advancement of Small Telecommunications Companies filed in CS Docket No. 97-80 (“NTCA/OPASTCO Petition”). NTCA/OPASTCO are large industry associations that are better suited to addressing issues that affect the entire industry. Unlike INS and Petitioners, NTCA and OPASTCO have the ability to interface with ATIS, CEA, and the consumer electronics manufacturers to ensure that rapid progress is made towards developing an IPTV standard, and that consumer electronics companies are on board to quickly manufacture equipment once those standards are issued. This would serve to assist the standardization activities driven by ATIS and/or the CEA or consumer electronics industry, and better serve the public interest by having those organizations focus on issuing IPTV standards without delaying the provision of IPTV-based services in rural areas served by the Rural Telcos that can ill-afford further delays in the roll-out of their video services.

The Commission should not delay a decision on the waiver requests pending the resolution of the petition for waiver filed by the NTCA/OPASTCO. A delay in acting on the Petitions would hinder, and indeed, halt the provision of much-needed advanced all-

Marlene H. Dortch, Secretary  
July 25, 2008  
Page 5

digital IPTV-based video and related services, such as high-speed Internet access, in historically underserved rural areas in Iowa.

Pursuant to Section 1.1206(b)(2) of the Commission's rules, an electronic copy of this letter and the handouts given at the meetings are being filed for inclusion in the above-referenced dockets. Please direct any questions regarding this filing to the undersigned.

Respectfully submitted,



Tony S. Lee

cc: Rick Chessen  
Cristina Chou Pauzé  
Amy Blankenship  
Elizabeth Andrion  
Rudy Brioché  
Nancy Murphy  
Mary Beth Murphy  
Steven Broeckaert  
Brendan Murray



4201 Corporate Drive  
West Des Moines, IA  
50266-5906

P 800.469.4000  
F 515.830.0123

**July 24, 2008**

In the Matter of

Alpine Cable Television, LC	CSR-7832-Z
Atkins Cablevision, Inc.	CSR-7840-Z
Citizens Mutual Telephone Cooperative	CSR-7834-Z
City of Bellevue (Iowa)	CSR-7835-Z
Cooperative Telephone Company	CSR-7836-Z
Cooperative Telephone Exchange	CSR-7837-Z
Dumont Telephone Company	CSR-7838-Z
Dunkerton Telephone Cooperative	CSR-7839-Z
Farmers Mutual Telephone Company	CSR-7841-Z
Griswold Cooperative Telephone Company	CSR-7842-Z
Interstate Cablevision Company	CSR-7843-Z
Mechanicsville Telephone Company	CSR-7847-Z
Minburn Cablevision, Inc.	CSR-7846-Z
Mutual Telephone – Morning Sun	CSR-7851-Z
Northland Communications, Inc.	CSR-7833-Z
Sharon Telephone Company	CSR-7845-Z
Western Iowa Telephone Association	CSR-7844-Z

Group Petition for Waiver of Section  
76.1204(a)(1) of the Commission's Rules

Implementation of Section 304 of the  
Telecommunications Act of 1996

CS Docket No. 97-80

Commercial Availability of Navigation Devices

### **COMMENTS**

The above Petitioners' in the State of Iowa has requested a group Petition for a waiver of Section 76.1204(a)(1) of the Commission's rules until July 1, 2010. This waiver is necessary because navigation devices that are both compatible with the Petitioners' proposed all-digital video distribution networks and that comply with Section 76.1204(a)(1) are not currently available, and progress towards developing an open conditional access standard for Internet Protocol Television (IPTV) – the video platform the Petitioners will use to provision video service to subscribers – is at least two years away.

Petitioners are among several small MVPDs in Iowa that will obtain video programming through a central distribution network connected to a headend operated by Iowa Network Services, Inc. (INS). Due to their size and limited resources, these Petitioners seek to use IPTV technology that has been successfully deployed by other rural MVPDs connected to the INS central distribution network. By using an IP-based platform, the Petitioners will be able to provision all-digital video service over existing telecommunications infrastructure, including twisted copper pairs and fiber-to-the-home (FTTH).

Petitioners have limited resources and have very limited ability to influence the design or development of navigation devices. Many of these Petitioners face competition from Mediacom, DirecTV and Dish Networks. The list of seventeen Petitioners has a combined potential of 10,642 digital subscribers which averages to approximately 626 subscribers per Petitioner. This compares to Mediacom that reported last year approximately 1,362,000 basic subscribers and 530,000 digital subscribers in their network. Dish Network reported approximately 13,815,000 subscribers as of the quarter ending on March 31, 2008 and DirecTV reported 17,035,000 subscribers in the same time frame.

The FCC denial of the requested waivers would undermine the Act's overall objective of deploying advanced telecommunications capability to all Americans in rural Iowa communities. Petitioners have committed to deploy an all-digital video solution. Their advanced services include Standard-Definition and High-Definition content, Personal Video Recording (PVR) capability within the Set-Top-Box, and Video-on-Demand (VOD) services.

Petitioners have invested approximately \$6,700,000 in capital dollars. This is an average of \$394,118 per Petitioner or \$630 per subscriber. This expense is based on the purchase of central office equipment, customer premise equipment, middleware, and conditional access license fees. In addition, INS has invested heavily in providing an all-digital service to the Petitioners through the central distribution network that is connected to their digital headend. Preliminary expenses to provide a MPEG-4 all digital network and headend to the Petitioners are in excess of \$10,250,000.

Petitioners had hoped to deploy service by today. However, they have not been able to meet their goals due to the lack of an approved Section 76.1204(a)(1) waiver from the Commission and the unavailability of compliant IPTV equipment. INS is asking the FCC to grant a waiver on behalf of the Petitioners pertaining to Section 76.1204(a)(1) so they can begin to deploy their service immediately.

## TIMELINE OF IOWA CABLE COMPANY WAIVERS

### 2007 Waivers

- March 2007: Petitions filed for waiver of Section 76.1204(a)(1) for various Iowa cable companies
- April & May 2007: FCC issues public notices regarding special relief and show cause petitions filed by the Iowa cable companies
- June 2007: FCC issues Order granting a waiver of Section 76.1204(a)(1) until July 1, 2008

### 2008 Waiver

- March 2008: Group petition for waiver of Section 76.1204(a)(1) filed for various Iowa cable companies (Group I Petition) for new operations (these companies did not receive a waiver in 2007 because they did not have cable operations in 2007)
- April 2008: FCC issues public notice regarding special relief and show cause petitions filed by the Iowa cable companies in the Group I Petition
- May 2008: Group petition filed for a two year extension of the waiver granted to Iowa cable companies in June 2007 (Group II Petition) (these companies did receive a waiver in 2007)
- May 2008: FCC issues public notice regarding special relief and show cause petitions filed by the Iowa cable companies in the Group II Petition

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

In the Matter of	)	
	)	
Bernard Telephone Company Inc.	)	CSR-_____ -Z
Colo Telephone Company	)	CSR-_____ -Z
Coon Creek Telephone Company and Coon Creek Telecommunications Corp.	)	CSR-_____ -Z
F & B Communications, Inc.	)	CSR-_____ -Z
Farmers Cooperative Telephone Company	)	CSR-_____ -Z
Heart of Iowa Communications Cooperative	)	CSR-_____ -Z
Kalona Cooperative Telephone Company	)	CSR-_____ -Z
LaMotte Telephone Company	)	CSR-_____ -Z
Local Internet Service Company	)	CSR-_____ -Z
Mahaska Communication Group, LLC	)	CSR-_____ -Z
Radcliffe Telephone Company, Inc.	)	CSR-_____ -Z
South Slope Cooperative Telephone Company	)	CSR-_____ -Z
Wellman Cooperative Telephone Association	)	CSR-_____ -Z
West Liberty Telephone Company	)	CSR-_____ -Z
Winnebago Cooperative Telecom Association	)	CSR-_____ -Z
	)	
Consolidated Petitions for Extension of Waiver of Section 76.1204(a)(1) of the Commission's Rules	)	
	)	
Implementation of Section 304 of the Telecommunications Act of 1996	)	CS Docket No. 97-80
	)	
Commercial Availability of Navigation Devices	)	

**CONSOLIDATED PETITIONS FOR EXTENSION OF WAIVER**

Bernard Telephone Company Inc., Colo Telephone Company, Coon Creek Telephone Company and Coon Creek Telecommunications Corp., F & B Communications, Inc., Farmers Cooperative Telephone Company, Heart of Iowa Communications Cooperative, Kalona Cooperative Telephone Company, LaMotte Telephone Company, Local Internet Service Company, Mahaska Communication Group, LLC, Radcliffe Telephone Company, Inc., South Slope Cooperative Telephone Company, Wellman Cooperative Telephone Association, West

Liberty Telephone Company, and Winnebago Cooperative Telecom Association (collectively, the "Petitioners"), by their undersigned attorneys and pursuant to Sections 1.3 and 76.7 of the Commission's rules,<sup>1</sup> hereby petition the FCC for an extension of the waivers of Section 76.1204(a)(1) of the Commission's rules,<sup>2</sup> which were granted to the Petitioners in the *Waiver Orders* (the "Waivers").<sup>3</sup> The Petitioners operate all-digital video distribution networks that utilize IP-based platforms to deliver video service to their subscribers. The Petitioners submit that an extension of the Waivers is warranted because navigation devices that are both compatible with their IP-based video distribution networks and that comply with Section 76.1204(a)(1) continue to be unavailable, and development of an open conditional access standard for Internet Protocol Television ("IPTV") is at least two years away. An extension of the Waivers is fully supported by the policies established by the Media Bureau in the *All-Digital Waiver Order* precedent.<sup>4</sup> Furthermore, an extension is appropriate in light of the pendency of

---

<sup>1</sup> 47 C.F.R. §§ 1.3, 76.7.

<sup>2</sup> *Id.* § 76.1204(a)(1).

<sup>3</sup> *Consolidated Requests for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, 22 FCC Rcd 11780 (2007) (granting in DA 07-2921 a waiver of the integration ban to the Petitioners identified in Appendix A thereto) and *Petition of Colo Telephone Co. et al.*, 22 FCC Rcd 13428 (2007) (granting in DA 07-3317 a waiver of the integration ban to Colo Telephone Company, Coon Creek Telephone Company and Coon Creek Telecommunications Corp., and Wellman Cooperative Telephone Association (and 4 other MVPDs)) (together, the "*Waiver Orders*").

<sup>4</sup> See *Consolidated Requests for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, 22 FCC Rcd 11780, 11802-04, ¶¶ 58-62 (2007) ("*All-Digital Waiver Order*"); see also *Bend Cable Communications, LLC d/b/a BendBroadband Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, 22 FCC Rcd 209, 218, ¶ 24; *Millennium Telcom, LLC d/b/a OneSource Communications Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, 22 FCC Rcd 8567, ¶ 16 (2007); *GCI Cable, Inc. Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, 22 FCC Rcd 8576, ¶¶ 15, 17 (2007); *Consolidated Requests for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, Memorandum Opinion and Order, DA 08-437, ¶ 1 (rel. Mar. 19, 2008).

the *IPTV Petition*.<sup>5</sup> Petitioners therefore respectfully request the Bureau to grant an extension of the Waivers until July 1, 2010.

**I. BACKGROUND**

**A. The Petitioners**

The Petitioners are multichannel video programming distributors (“MVPDs”) that offer video programming and broadband Internet services over all-digital networks to consumers in small, sparsely populated rural communities in Iowa.<sup>6</sup>

**B. The Petitioners Operate All-Digital IPTV Systems**

Due to their small size and limited resources, the Petitioners utilize technology successfully deployed by other rural MVPDs in Iowa. Specifically, the Petitioners obtain video programming through a central distribution network connected to a headend operated by Iowa Network Services, Inc. (“INS”). By adopting this strategy, the Petitioners enhanced their ability to more rapidly initiate all-digital service to their rural communities, and avoided the significant

---

<sup>5</sup> See *Petition for Clarification or Waiver of the National Telecommunications Cooperative Association (NCTA) and the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO)* at 4, CSR-7387-Z (filed May 4, 2007) (“*IPTV Petition*”) (requesting clarification that IPTV devices that have downloadable security inherent in their system design comply with the separate security requirement).

<sup>6</sup> The individual Petitioners provide video services in the following Iowa communities: Bernard Telephone Company Inc.: Dubuque, Jackson and Jones counties (the latter including Bernard); Colo Telephone Company: Colo; Coon Creek Telephone Company and Coon Creek Telecommunications Corp.: Belle Plaine, Blirstown and Marengo; F & B Communications, Inc.: Benton, Lowden, Calamus, Delmar, and Wheatland; Farmers Cooperative Telephone Company: Dysart and Clutier; Heart of Iowa Communications Cooperative: Union, Conrad, Liscomb, Haverhill Green Mountain, New Providence, Ferguson, Laurel, and Albion; Kalona Cooperative Telephone Company: Kalona and Richmond; LaMotte Telephone Company: Dubuque and Jackson counties; Local Internet Service Company: Fairfield; Mahaska Communication Group, LLC: Oskaloosa, University Park, and Keomah Village; Radcliffe Telephone Company, Inc.: Radcliffe; South Slope Cooperative Telephone Company: Benton, Cedar, Iowa, Linn and Johnson counties; Wellman Cooperative Telephone Association: Wellman; West Liberty Telephone Company: West Branch and West Liberty; and Winnebago Cooperative Telecom Association (14 rural communities).

time and expense that would be necessary to research, develop, and test equipment to determine whether such equipment would be compatible with INS's existing infrastructure and their respective video distribution systems. The Petitioners' all-digital networks enable them to provide service using bandwidth more efficiently, and to provide additional high-quality and innovative features such as high definition video programming and video-on-demand and broadband Internet services, without the overhead and expense of transmitting and maintaining legacy analog television signals.

The Petitioners have chosen to utilize IPTV technology to deliver all-digital video service. By using an IP-based platform, the Petitioners are able to provision video service over existing telecommunications infrastructure, including twisted copper pairs and fiber-to-the-home ("FTTH"). Due to the all-digital nature of their IPTV systems, the Petitioners' subscribers must use a set-top box to access video programming. In fact, without these digital set-top boxes, their subscribers are unable to view any channels because no analog television signals are distributed through the Petitioners' video systems.

The Petitioners' set-top boxes incorporate "middleware," which is software that, among other things, coordinates the conditional access functions of the set-top box. The encryption platforms utilized by the middleware vendors of the Petitioners' IPTV video systems are provided by NagraVision or Widevine. It is the Petitioners' understanding that downloadable security is inherent in IPTV technology. More specifically, in an IPTV system, authentication and video rights are stored in the IPTV network in the middleware and digital rights management software — not in the set-top box itself.<sup>7</sup> It appears that the IPTV solutions from NagraVision

---

<sup>7</sup> See *Petition of the IPTV Operators Group #2 for a Limited Waiver of 47 C.F.R. § 76.1204(b)*, Exhibit B (Technical Synopsis) ("*IPTV Operators Waiver Petition*"); *NTCA/OPASTCO Petition* at 4.

and Widevine comply with the separable security requirement of Section 76.1204(a)(1) of the Commission's rules.<sup>8</sup>

However, the Nagravision and Widevine solutions use closed proprietary standards, and the algorithm and chipsets to allow access to video programming must be supplied or manufactured by Nagravision or Widevine. Consequently, IPTV set-top boxes manufactured by other companies are not compatible with the Nagravision and Widevine solutions. Because the Nagravision and Widevine IPTV solutions are not interoperable with other third-party IPTV set-top boxes in the marketplace, it appears that the Nagravision and Widevine solutions do not meet the requirement of common reliance set forth in Section 76.1204(b) of the Commission's rules.<sup>9</sup>

The Petitioners have contacted their respective middleware vendors regarding the extent to which the encryption platforms provided by Nagravision or Widevine comply with the FCC's rules. Nagravision and Widevine are participants in the Alliance for Telecommunications Industry Solutions (ATIS) working group to develop technical standards for IP-based video systems in the U.S. According to Nagravision and Widevine, navigation devices that are compatible with the Petitioners' all-digital video distribution networks and comply with the integration ban are not currently available to the Petitioners. Moreover, technical standards that would be a prerequisite to designing compliant conditional access devices for IPTV video systems are not expected to be available within the next two years for incorporation by the Petitioners' middleware providers and other vendors.

**C. The Bureau Granted the Petitioners Limited Waivers of the Integration Ban**

In light of their special circumstances, in 2007, the Petitioners filed individual petitions for waiver of the integration ban ("Waiver Petitions") with the Commission. The Bureau granted

---

<sup>8</sup> 47 C.F.R. § 76.1204(a)(1).

<sup>9</sup> *Id.* § 76.1204(b).

the Waiver Petitions, and concluded that, in light of the Petitioners' current operation of all-digital networks, a limited waiver was justified in order to enable the Petitioners to continue to provide all-digital services to their respective subscriber bases.<sup>10</sup> The Petitioners currently operate their IPTV video systems pursuant to the Waivers, which expire on July 1, 2008.

## II. STANDARD FOR WAIVER

Generally, the Commission's rules may be waived only for good cause shown.<sup>11</sup> The FCC has consistently ruled that a waiver is appropriate only if the requested relief would not undermine the policy objective of the rule in question, special circumstances warrant a deviation from the general rule, and that such deviation will serve the public interest.<sup>12</sup>

## III. DISCUSSION

### A. **The Special Circumstances Surrounding the Petitioners' IPTV Video Systems Have Not Changed**

An extension of the Waivers is warranted in each case because there has been no change in the special circumstances that existed at the time that Petitioners filed their petitions for waiver of the integration ban. Navigation devices that are both compatible with the Petitioners' all-digital video distribution networks and comply with the rule continue to be unavailable.

In the *All-Digital Waiver Order*, the FCC encouraged IPTV operators to "work to develop and deploy a separable security solution . . . preferably a downloadable solution based on open standards."<sup>13</sup> As explained in their Waiver Petitions, the Petitioners are very small MVPD that lack the market power or resources to influence manufacturer timetables to develop

---

<sup>10</sup> See n.3, supra.

<sup>11</sup> 47 C.F.R. § 1.3.

<sup>12</sup> See generally, *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

<sup>13</sup> *All-Digital Waiver Order*, 22 FCC Rcd at 11804.

conditional access solutions that comply with the integration ban. Because they do not possess the resources or expertise to develop such a solution on their own, the Petitioners are completely dependent on outside vendors for their set-top boxes and middleware.

The Petitioners have diligently enquired as to when an integration ban-compliant solution for IPTV systems will be available. It is the Petitioners' understanding that progress towards developing an open conditional access standard for IPTV video platforms, such as those utilized by the Petitioners, is still several years away. Specifically, technical standards that would be a prerequisite to designing and implementing compliant conditional access devices for IPTV video systems are not expected to be available within the next two years for incorporation by middleware providers and other vendors.

Grant of this Petition is therefore warranted because navigation devices that are both compatible with the Petitioners' all-digital video distribution networks and that comply with the rule continue to be unavailable, and the technical standards that will drive the development of such IPTV devices that are rule-compliant are several years away.

**B. An Extension of the Waivers Would Not Underline the Policy Goals Underlying the Rule**

Granting the requested extension would not undermine the goal of Section 76.1204(a)(1). The purpose of the rule is to enable unaffiliated manufacturers, retailers and other vendors to commercially market navigation devices while allowing MVPDs to retain control over their system security.<sup>14</sup> The purpose of requiring common reliance is to assure that cable operator development and deployment of new products and services do not interfere with the functioning

---

<sup>14</sup> *Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices*, 20 FCC Rcd 6794 ¶ 6 (2005) ("2005 Deferral Order").

of consumer electronics equipment or the introduction of such equipment into the commercial market for navigation devices.”<sup>15</sup>

Granting this Petition would not undermine the policy goals underlying the rule because, due to their small size and limited resources, the Petitioners have no ability to influence the design or development of navigation devices. The Petitioners are very small MVPDs that provide video service to sparsely populated, rural markets, and they are completely dependent upon standard-setting organizations and third-party manufacturers to compliant devices.

**C. The *All-Digital Waiver Order* Precedent Supports Granting an Extension of the Waivers**

The Bureau has consistently found that all-digital networks, such as those operated by the Petitioners, produce clear, non-speculative public interest benefits that, on balance, warrant a limited grant of waiver of Section 76.1204(a)(1).<sup>16</sup> The Bureau made this determination in the case of each of the Petitioners as well as in more than 150 other petitions for waiver of the integration ban.<sup>17</sup> In granting the Waiver Petitions last year, the Bureau acknowledged the Petitioners’ argument that strict enforcement of Section 76.1204(a)(1) would unfairly punish them for transitioning to an all-digital network, and prohibit them from offering their subscribers the use of set-top boxes necessary to access even the basic features of the video system due to the all-digital nature of the transmissions.<sup>18</sup> Those circumstances have not changed, and the rationale upon which the Commission granted the *All-Digital Waiver Order* remain valid.

---

<sup>15</sup> *2005 Deferral Order*, 20 FCC Rcd at 6809-10, ¶ 30.

<sup>16</sup> *See n.4, supra*.

<sup>17</sup> *Id.*

<sup>18</sup> *All-Digital Waiver Order*, 22 FCC Rcd at 11803, ¶ 59.

In contrast, denial of this Petition would undermine the Act's overall objective of deploying advanced telecommunications capability to all Americans<sup>19</sup> because without an extension of the Waivers, the Petitioners would be required to cease providing their subscribers the set-top boxes necessary to receive any video service, thereby depriving consumers of a primary source of news, entertainment, and advanced services. Rural subscribers already have few, if any, choices for video programming and advanced services, and they may be located too distant from terrestrial television stations to receive reliable and good quality over-the-air transmissions. Through their IPTV systems, the Petitioners bring new and advanced all-digital service offerings to consumers in their rural communities. In order to continue do so, and to maintain the viability of their proposed service offerings, the Petitioners must be permitted to continue to use the set-top boxes that are currently available to them. Grant of an extension in each case therefore will permit the Petitioners' cable subscribers the uninterrupted enjoyment of the benefits that the Petitioners' advanced all-digital video networks offer.

**D. An Extension of the Waivers is Appropriate During the Pendency of the *IPTV Petition***

An extension of the Waivers is appropriate, moreover, to permit the Petitioners to continue providing all-digital video service to their existing subscribers pending the Commission's consideration of the IPTV issues raised by NTCA and OPASTCO in the *IPTV Petition*.<sup>20</sup> The Petitioners recognize that the FCC's action on the *IPTV Petition* may be determinative of the issues raised in the instant Petition. However, because the Waivers will expire July 1, 2008, and no action has been taken on the *IPTV Petition*, the Petitioners must obtain an extension of the Waivers to avoid any interruption in video service to their subscribers.

---

<sup>19</sup> Telecommunications Act of 1996, Pub. L. 104-104, § 706, 110 Stat. 56, 153 (codified in notes under 47 U.S.C. § 157) (the "1996 Act").

<sup>20</sup> *IPTV Petition* at 2.

Petitioners emphasize that denial of the instant Petition prior to the FCC's determination of the issues raised in the *IPTV Petition* would — should the Commission grant the clarification (or, in the alternative, waiver) requested therein — lead to the harmful and contradictory result of the Petitioners being required to discontinue video service using the same noncompliant navigation devices that the Waivers permit them to use today. Such an outcome would cause economic harm to the Petitioners, who have invested substantial time, effort and expense to bring advanced telecommunications capabilities to small, rural communities. The FCC should therefore grant an extension of the waivers granted to the Petitioners in the *Waiver Orders* until July 1, 2010 or the Bureau makes a determination of the issues raised in the *IPTV Petition*, whichever occurs later.

#### **IV. CONCLUSION**

WHEREFORE, the Petitioners request that the FCC grant this Petition for an extension until July 1, 2010, of the waivers granted to the Petitioners in the *Waiver Orders*, or until the FCC decides the issues raised in the *IPTV Petition*, whichever occurs later. The Petitioners also request that the FCC permit them to request further extensions of the Waivers without requiring the submission of a new filing fee. The Petitioners submit that such additional relief is warranted in light of the financial burden associated with the filing fee that subsequent requests for extension of the Waivers would impose upon competitive providers with small rural subscriber bases, and the continued uncertainty surrounding the timeline for the development of IPTV conditional access standards and the availability of rule-compliant navigation devices.

Respectfully submitted,



James U. Troup

Tony S. Lee

Grace R. Chiu

VENABLE LLP

575 7th Street, N.W.

Washington, DC 20036

Tel: (202) 344-4000; Fax: (202) 344-8300

E-mail: JUTroup@Venable.com

TSLee@Venable.com

GRChiu@Venable.com

Counsel for the Petitioners

Date: May 5, 2008

**CERTIFICATION**

I, Larry Bartels, hereby certify under penalty of perjury that I am authorized to make this certification on behalf of Bernard Telephone Co., that I have read the foregoing document and know the contents thereof; and that the same are true of my own knowledge, except to those matters therein stated upon information and belief, and as to those matters I believe them to be true.

Larry Bartels  
Name

General Manager  
Title

Bernard Telephone Co.  
Company

4-18-08  
Date

**CERTIFICATION**

I, Larry W. Springer, hereby certify under penalty of perjury that I am authorized to make this certification on behalf of Colo Telephone Company, that I have read the foregoing document and know the contents thereof; and that the same are true of my own knowledge, except to those matters therein stated upon information and belief, and as to those matters I believe them to be true.

Larry W. Springer  
Name

General Manager  
Title

Colo Telephone Company  
Company

4-17-2008  
Date

**CERTIFICATION**

I, Duane Andrew, hereby certify under penalty of perjury that I am authorized to make this certification on behalf of Coon Creek Telephone Company and Coon Creek Telecommunications Corp., that I have read the foregoing document and know the contents thereof; and that the same are true of my own knowledge, except to those matters therein stated upon information and belief, and as to those matters I believe them to be true.



Name

Manager

Title

Coon Creek Telephone Company and Coon Creek

Company

Telecommunications Corp.

April, 18, 2008

Date

**CERTIFICATION**

I, Mark Harvey, hereby certify under penalty of perjury that I am authorized to make this certification on behalf of Farmers Cooperative Telephone Company, Dysart Iowa, that I have read the foregoing document and know the contents thereof; and that the same are true of my own knowledge, except to those matters therein stated upon information and belief, and as to those matters I believe them to be true.



Name

General Manager

Title

Farmers Cooperative Telephone Company  
Company

4/11/08

Date

**CERTIFICATION**

I, David L. Schmidt, hereby certify under penalty of perjury that I am authorized to make this certification on behalf of Heart of Iowa Communications Cooperative, that I have read the foregoing document and know the contents thereof; and that the same are true of my own knowledge, except to those matters therein stated upon information and belief, and as to those matters I believe them to be true.

  
\_\_\_\_\_

Name

General Manager \_\_\_\_\_

Title

Heart of Iowa Communications Cooperative  
Company

4/18/08 \_\_\_\_\_

Date

**CERTIFICATION**

I, Justyn M. Miller, hereby certify under penalty of perjury that I am authorized to make this certification on behalf of Kalona Cooperative Telephone Co., that I have read the foregoing document and know the contents thereof; and that the same are true of my own knowledge, except to those matters therein stated upon information and belief, and as to those matters I believe them to be true.



\_\_\_\_\_  
Name

\_\_\_\_\_  
CEO/General Manager

Title

\_\_\_\_\_  
Kalona Cooperative Telephone Co.

Company

\_\_\_\_\_  
April 18, 2008

Date

**CERTIFICATION**

I, Lynn A. Sanders, hereby certify under penalty of perjury that I am authorized  
President  
to make this certification on behalf of LaMotte Telephone Co. Inc. that I have read  
the foregoing document and know the contents thereof; and that the same are true of my own  
knowledge, except to those matters therein stated upon information and belief, and as to those  
matters I believe them to be true.

Lynn A. Sanders  
Name

President  
Title

LaMotte Telephone Co. Inc.  
Company

April 16, 2008  
Date

**CERTIFICATION**

I, Frank Hansen, hereby certify under penalty of perjury that I am authorized to make this certification on behalf of Mahaska Communication Group, LLC, that I have read the foregoing document and know the contents thereof; and that the same are true of my own knowledge, except to those matters therein stated upon information and belief, and as to those matters I believe them to be true.

  
Name

General Manager  
Title

Mahaska Communication Group, LLC  
Company

April 21, 2008  
Date

**CERTIFICATION**

I, Ed Drake, hereby certify under penalty of perjury that I am authorized to make this certification on behalf of Radcliffe Telephone Co, that I have read the foregoing document and know the contents thereof; and that the same are true of my own knowledge, except to those matters therein stated upon information and belief, and as to those matters I believe them to be true.

Edwin A Drake

Edwin A Drake

Name

Manager

Title

Radcliffe Telephone Co

Company

4-10-08

Date

CERTIFICATION

I, J.R. Brumley, hereby certify under penalty of perjury that I am authorized to make this certification on behalf of South Slope Coop. Telephone Co., that I have read the foregoing document and know the contents thereof; and that the same are true of my own knowledge, except to those matters therein stated upon information and belief, and as to those matters I believe them to be true.

J.R. Brumley  
Name

CEO  
Title

South Slope Cooperative Telephone Co.  
Company

4-16-2008  
Date

**CERTIFICATION**

I, Jerry Melick, hereby certify under penalty of perjury that I am authorized to make this certification on behalf of West Liberty Telephone Company, that I have read the foregoing document and know the contents thereof; and that the same are true of my own knowledge, except to those matters therein stated upon information and belief, and as to those matters I believe them to be true.

A handwritten signature in black ink, appearing to read "Jerry S. Melick", written over a horizontal line.

Jerry S. Melick  
President  
West Liberty Telephone Company

April 24, 2008

CERTIFICATION

I, Randy E Kelley, hereby certify under penalty of perjury that I am authorized to make this certification on behalf of Wellman Coop Tel. Assn:, that I have read the foregoing document and know the contents thereof; and that the same are true of my own knowledge, except to those matters therein stated upon information and belief, and as to those matters I believe them to be true.

Randy E Kelley  
Name

General Manager  
Title

Wellman Cooperative Telephone Assn:  
Company

April 29 2008  
Date

**CERTIFICATION**

I, Terry Wegener, hereby certify under penalty of perjury that I am authorized to make this certification on behalf of Winnebago Cooperative Telecom Association, that I have read the foregoing document and know the contents thereof; and that the same are true of my own knowledge, except to those matters therein stated upon information and belief, and as to those matters I believe them to be true.

Terry Wegener  
Name

General Manager  
Title

Winnebago Cooperative Telecom Association  
Company

April 28, 2008  
Date

**CERTIFICATION**

I, Kenneth Laursen, hereby certify under penalty of perjury that I am authorized to make this certification on behalf of F&B Communications, Inc., that I have read the foregoing document and know the contents thereof; and that the same are true of my own knowledge, except to those matters therein stated upon information and belief, and as to those matters I believe them to be true.



Kenneth Laursen

Name

General Manager

Title

F&B Communications, Inc.

Company

4/11/2008

Date

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

STAMP AND RETURN

In the Matter of	)	
	)	
Alpine Cable Television, LC	)	CSR- _____ -Z
Atkins Cablevision, Inc.	)	CSR- _____ -Z
Citizens Mutual Telephone Cooperative	)	CSR- _____ -Z
City of Bellevue (Iowa)	)	CSR- _____ -Z
Cooperative Telephone Company	)	CSR- _____ -Z
Cooperative Telephone Exchange	)	CSR- _____ -Z
Dumont Telephone Company	)	CSR- _____ -Z
Dunkerton Telephone Cooperative	)	CSR- _____ -Z
Farmers Mutual Telephone Company	)	CSR- _____ -Z
Griswold Cooperative Telephone Company	)	CSR- _____ -Z
Interstate Cablevision Company	)	CSR- _____ -Z
Mechanicsville Telephone Company	)	CSR- _____ -Z
Minburn Cablevision, Inc.	)	CSR- _____ -Z
Mutual Telephone – Morning Sun	)	CSR- _____ -Z
Northland Communications, Inc.	)	CSR- _____ -Z
Sharon Telephone Company	)	CSR- _____ -Z
Western Iowa Telephone Association	)	CSR- _____ -Z
	)	
Group Petition for Waiver of Section	)	
76.1204(a)(1) of the Commission’s Rules	)	
	)	
Implementation of Section 304 of the	)	CS Docket No. 97-80
Telecommunications Act of 1996	)	
	)	
Commercial Availability of Navigation Devices	)	

**GROUP PETITION FOR WAIVER**

James U. Troup  
Tony S. Lee  
Grace R. Chiu  
VENABLE LLP  
575 7th Street, N.W.  
Washington, DC 20036  
Tel: (202) 344-4000  
Fax: (202) 344-8300

Date: February 29, 2008

Counsel for Petitioners

**TABLE OF CONTENTS**

SUMMARY ..... ii

I. BACKGROUND ..... 3

II. DISCUSSION..... 7

    A. Standard for Waiver .....7

    B. The Policy Objectives of the Integration Ban Would Not Be Undermined by  
    Grant of the Requested Waivers .....8

    C. A Waiver is Necessary Because No Compliant Solution is Available to Permit the  
    Petitioners to Introduce All-Digital Video Service to Consumers.....9

    D. Grant of a Waiver is in the Public Interest Because It Will Promote the Provision  
    of Advanced All-Digital Video Service in Rural Areas .....11

    E. Grant of the Requested Waivers is Appropriate in Light of the Pendency of the  
    NTCA/OPASTCO Petition for Clarification or Waiver .....13

III. CONCLUSION..... 14

CERTIFICATIONS

## SUMMARY

The Petitioners are or seek to be multichannel video programming distributors (“MVPDs”) in small historically underserved rural communities in Iowa. They plan to use a conditional access system provided by NagraVision over an IPTV distribution network in order to serve their subscribers. The Petitioners chose to deploy the NagraVision-based system because it has already been used successfully by other similarly situated MVPDs in Iowa. Although the NagraVision system is a downloadable solution that arguably satisfies the FCC’s requirement to have separable security under Section 76.1204(a)(1) of the Commission’s Rules, the system does not comply with the common reliance requirement of the FCC’s rules.

NagraVision is a participant in the Alliance for Telecommunications Industry Solutions (ATIS) working group to develop technical standards for IP-based video systems in the U.S. According to NagraVision, standards for IPTV conditional access systems are at least two years away, and navigation devices that are compatible with the Petitioners’ all-digital video distribution networks and comply with the integration ban are not currently available to the Petitioners. In light of the unavailability of compliant equipment, and the fact that the NagraVision solution is a proprietary closed system that does not meet the FCC’s common reliance requirement, the Petitioners request a waiver of Section 76.1204(a)(1) until July 1, 2010, in order to begin deployment of all-digital video services to the communities that they serve. Expedited consideration of the Group Petitioner for Waiver is requested as many of the Petitioners seek to deploy service in the latter part of the first quarter of 2008, or first part of the second quarter of 2008.

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

In the Matter of	)	
	)	
Alpine Cable Television, LC	)	CSR-_____ -Z
Atkins Cablevision, Inc.	)	CSR-_____ -Z
Citizens Mutual Telephone Cooperative	)	CSR-_____ -Z
City of Bellevue (Iowa)	)	CSR-_____ -Z
Cooperative Telephone Company	)	CSR-_____ -Z
Cooperative Telephone Exchange	)	CSR-_____ -Z
Dumont Telephone Company	)	CSR-_____ -Z
Dunkerton Telephone Cooperative	)	CSR-_____ -Z
Farmers Mutual Telephone Company	)	CSR-_____ -Z
Griswold Cooperative Telephone Company	)	CSR-_____ -Z
Interstate Cablevision Company	)	CSR-_____ -Z
Mechanicsville Telephone Company	)	CSR-_____ -Z
Minburn Cablevision, Inc.	)	CSR-_____ -Z
Mutual Telephone – Morning Sun	)	CSR-_____ -Z
Northland Communications, Inc.	)	CSR-_____ -Z
Sharon Telephone Company	)	CSR-_____ -Z
Western Iowa Telephone Association	)	CSR-_____ -Z
	)	
Group Petition for Waiver of Section	)	
76.1204(a)(1) of the Commission’s Rules	)	
	)	
Implementation of Section 304 of the	)	CS Docket No. 97-80
Telecommunications Act of 1996	)	
	)	
Commercial Availability of Navigation Devices	)	
	)	

**GROUP PETITION FOR WAIVER**

Alpine Cable Television, LC, Atkins Cablevision, Inc., Citizens Mutual Telephone Cooperative, City of Bellevue (Iowa), Cooperative Telephone Company, Cooperative Telephone Exchange, Dunkerton Telephone Cooperative, Dumont Telephone Company, Farmers Mutual Telephone Company, Griswold Cooperative Telephone Company, Interstate Cablevision Company, Mechanicsville Telephone Company, Minburn Cablevision, Inc., Mutual Telephone –

Morning Sun, Northland Communications, Inc., Sharon Telephone Company, Western Iowa Telephone Association, (each, a "Petitioner," and collectively, the "Petitioners"), by their undersigned attorneys and pursuant to Sections 1.3 and 76.7 of the Commission's rules,<sup>1</sup> respectfully request the FCC to grant a waiver of the ban on integrated set-top boxes set forth in Section 76.1204(a)(1) of its rules.<sup>2</sup> The Petitioners seek a limited waiver of these rules until July 1, 2010.

As discussed below, a waiver is necessary because navigation devices that are both compatible with the Petitioners' proposed all-digital video distribution networks<sup>3</sup> and comply with Section 76.1204(a)(1) are not currently available, and progress towards developing an open conditional access standard for Internet Protocol Television ("IPTV") — the video platform the Petitioners will use to provision video service to subscribers — is at least two years away. Grant of the waiver requests would not undermine the goal of Section 76.1204(a)(1)<sup>4</sup> because the Petitioners, due to their small size and limited resources, have no ability to influence the design or development of navigation devices. In contrast, denial of these waiver requests would undermine the Act's overall objective of deploying advanced telecommunications capability to all Americans<sup>5</sup> because the Petitioners have committed to deploying all-digital video systems and, absent a waiver, they would be prohibited from offering any video service to consumers in the rural communities they plan to serve. Grant of the limited waivers requested herein is

---

<sup>1</sup> 47 C.F.R. §§ 1.3, 76.7.

<sup>2</sup> 47 C.F.R. § 76.1204(a)(1).

<sup>3</sup> See footnote 8, *infra*.

<sup>4</sup> Section 76.1204(a)(1) was promulgated to implement Section 629 of the Communications Act<sup>4</sup> (the "Act"). 47 U.S.C. § 549. The principal goal of Section 629 of the Act is to foster competition and consumer choice in the market for navigation devices. See S. Rep. 104-230, at 181 (1996) (Conf. Rep.).

<sup>5</sup> Telecommunications Act of 1996, Pub. L. 104-104, § 706, 110 Stat. 56, 153 (codified in notes under 47 U.S.C. § 157) (the "1996 Act").

therefore justified in order to enable the Petitioners to begin providing new and advanced all-digital video service in the small rural communities they seek to serve.

In support hereof, the Petitioners state as follows:

## **I. BACKGROUND**

The Petitioners are or seek to be multichannel video programming distributors (“MVPDs”) in small historically underserved rural communities in Iowa.<sup>6</sup> Within these communities, the number of subscribers passed in the service areas in which the Petitioners intend to provide video service are relatively small.<sup>7</sup> Although most of the Petitioners do not currently provide video services in these areas, they plan to do so through an all-digital IPTV video distribution network.<sup>8</sup> It is important to note that Petitioners Dumont Telephone Company, Griswold Cooperative Telephone Company, and Interstate Cablevision Company, are the exceptions in that they currently provide all-digital video services in the communities that they serve. The FCC granted waivers of Section 74.1204(a)(1) to those Petitioners until July 1,

---

<sup>6</sup> The individual Petitioners intend to provide video services in the following Iowa communities: Alpine Cable Television, LC: Elkader, Guttenberg, McGregor, Garnavillo, Elgin; Atkins Telephone Company: Atkins, Cedar Rapids; Citizens Mutual Telephone Cooperative: Bloomfield; City of Bellevue: Bellevue; Cooperative Telephone Company: Victor, Ladora, Hartwick, Guernsey; Cooperative Telephone Exchange: Stanhope, Kamrar; Dumont Telephone Company: Dumont, Allison, Bristow; Dunkerton Telephone Cooperative: Dunkerton; Farmers Mutual Telephone Company: Stanton, New Market, Bethesda; Griswold Cooperative Telephone Company: Griswold, Grant, Lyman, Elliott, Lewis; Interstate Cablevision Company: Truro, St. Marys, Martensdale, St. Charles, New Virginia, Emerson, Carson, Macedonia, Henderson, Imogene; Mechanicsville Telephone Company: Mechanicsville; Minburn Cablevision, Inc.: Minburn, Woodward; Mutual Telephone – Morning Sun: Morning Sun, Wapello; Northland Communications, Inc.: Clear Lake, Ventura; Sharon Telephone Company: Hills, Sharon; Western Iowa Telephone Association: Merville, Lawton, Bronson, Climbing Hill, Smithland, Hornick, Castana, Oto.

<sup>7</sup> The approximate total number of homes passed for the individual Petitioners are as follows: Alpine Cable Television, LC: 3,275; Atkins Cablevision, Inc.: 600; Citizens Mutual Telephone Cooperative: 1,200; City of Bellevue: 1,200; Cooperative Telephone Company: 800; Cooperative Telephone Exchange: 670; Dumont Telephone Company: 920; Dunkerton Telephone Cooperative: 200; Farmers Mutual Telephone Company: 675; Griswold Cooperative Telephone Company: 1100; Interstate Cablevision Company: 1775; Mechanicsville Telephone Company: 600; Minburn Cablevision, Inc.: 1325; Mutual Telephone – Morning Sun: 930; Northland Communications, Inc.: 4860; Sharon Telephone Company: 400; Western Iowa Telephone Association: 3000.

<sup>8</sup> Although some of the Petitioners operate legacy analog cable television systems, the video distribution networks that are the subject of this Petition that the Petitioners will operate will be all-digital. The waivers sought herein do not encompass legacy analog cable systems. The waivers are solely for the new all-digital systems that will be deployed by the Petitioners that will utilize IPTV technology.

2008.<sup>9</sup> Petitioners Dumont Telephone Company, Griswold Cooperative Telephone Company, and Interstate Cablevision Company join in this Petition because they plan to convert to an IPTV distribution platform in the future. However, for the interim period during which they will continue to provide all-digital service using QAM at the edges of their networks, they request that their existing waivers be extended until July 1, 2010, because compliant equipment is not yet available despite diligent inquiries to their middleware providers regarding the date when compliant solutions will be available, and, as further discussed below for all Petitioners, a compliant IPTV solution is at least two years away.

Petitioners are among several small MVPDs in Iowa that will obtain video programming through a central distribution network connected to a headend operated by Iowa Network Services, Inc. ("INS"). The Petitioners' all-digital networks will enable them to provide service using bandwidth more efficiently, and to provide additional high-quality and innovative features such as high definition video programming and video-on-demand (both planned for rollout in the near future) and broadband Internet services (currently being provided), without the overhead and expense of transmitting and maintaining legacy analog television signals.

Due to their small size and limited resources, the Petitioners seek to use technology that other rural MVPDs connected to INS's central distribution network have successfully deployed. By adopting this strategy, each company will be able to more rapidly initiate all-digital service to their rural communities, and avoid the significant time and expense that would be necessary to research, develop, and test equipment to determine whether such equipment will be compatible

---

<sup>9</sup> *In the Matter of Consolidated Requests 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, 22 FCC Rcd 11780 (2007) (granting waiver to Dumont Telephone Company ("Consolidated Waiver Order"); *In the Matter of Colo Telephone Co. et al.; Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices*, Memorandum Opinion and Order, 22 FCC Rcd 13428 (2007) (granting waivers to Griswold Cooperative Telephone Company and Interstate Cablevision Company).

with INS's existing infrastructure and the Petitioners' new video distribution systems. The Petitioners have chosen to utilize IPTV technology to deliver their all-digital video service. By using an IP-based platform, the Petitioners will be able to provision video service over existing telecommunications infrastructure, including twisted copper pairs and fiber-to-the-home ("FTTH").

IPTV has been defined as "television content that, instead of being delivered through traditional broadcast and cable formats, is received by the viewer through technologies used for computers."<sup>10</sup> Although more technical definitions of IPTV may be found,<sup>11</sup> the following description notes some of the advantages of utilizing the IP-based platform to deliver video service.

[IPTV consists of] single or multiple program transport streams which are sourced by the same operator that owns or directly controls the "Final Mile" to the consumer's premises. This control over delivery enables a guaranteed quality of service, and also allows the service provider to provide an enhanced user experience such as better program guide, interactive services . . . .<sup>12</sup>

Due to the all-digital nature of the Petitioners' IPTV systems, it will be necessary for all subscribers to use a set-top box to access video programming. In fact, without these digital set-top boxes, subscribers will be unable to view any channels because no analog television signals are distributed through the Petitioners' video systems.<sup>13</sup> The Petitioners' set-top boxes incorporate "middleware," which is software that allows set-top boxes and MVPD systems to

---

<sup>10</sup> Wikipedia, the free encyclopedia, <http://en.wikipedia.org/wiki/IPTV> (last visited Feb. 7, 2008).

<sup>11</sup> See *id.*; see also *Petition of the IPTV Operators Group #2 for a Limited Waiver of 47 C.F.R. § 76.1204(b), "Technical Synopsis," Exhibit B, Docket No. 97-80* (filed June 19, 2007) ("*IPTV Operators Waiver Petition*").

<sup>12</sup> Wikipedia, the free encyclopedia, <http://en.wikipedia.org/wiki/IPTV> (last visited Feb. 7, 2008).

<sup>13</sup> All legacy cable systems in operation by certain Petitioners currently provide access to analog television signals. However, as discussed above, this Petition only encompasses the all-digital IPTV systems that will be deployed by Petitioners, and no analog signals will be available through IPTV-based services.

communicate with each other. Middleware coordinates the conditional access functions of the set-top box, among other things.<sup>14</sup>

The middleware vendors of the Petitioners' IPTV video systems utilize a conditional access system provided by Nagravision.<sup>15</sup> It is the Petitioners' understanding that downloadable security is inherent in IPTV technology. More specifically, in an IPTV system, authentication and video rights are stored in the IPTV network in the middleware and digital rights management software — not in the set-top box.<sup>16</sup> The Petitioners therefore believe that the Nagravision IPTV solution complies with the separable security requirement of Section 76.1204(a)(1).<sup>17</sup>

The Nagravision solution, however, uses a closed proprietary standard; the algorithm and chipsets to allow access to video programming must be supplied or manufactured by Nagravision. Consequently, IPTV set-top boxes manufactured by other companies are not compatible with the Nagravision solution. Because the Nagravision IPTV solution does not appear to be interoperable with other IPTV set-top boxes in the marketplace, the Petitioners believe that the Nagravision solution does not meet the requirement of common reliance set forth in Section 76.1204(b) of the Commission's rules.<sup>18</sup>

The Petitioners recently contacted Nagravision regarding the extent to which its conditional access solution complies with the FCC's integration ban rule. Nagravision is a

---

<sup>14</sup> Middleware also coordinates the electronic program guide, video-on-demand programs, pay-per-view services, interactive television capabilities, and transmission of data.

<sup>15</sup> Nagravision is "one of the largest suppliers of conditional access systems and other content tools for digital TV providers and a major supplier of set-top boxes to MVPDs in the United States and abroad." Comments of Nagravision at 1, CS Docket No. 97-80, PP Docket No. 00-67 (filed Aug. 24, 2007).

<sup>16</sup> See *IPTV Operators Waiver Petition*, Exhibit B, "Technical Synopsis"; Petition for Clarification or Waiver of the National Telecommunications Cooperative Association and the Organization for the Promotion and Advancement of Small Telecommunications Companies at 4, CSR-7387-Z (filed May 4, 2007) ("*NTCA/OPASTCO Petition*").

<sup>17</sup> See Part III.C., *infra*.

<sup>18</sup> 47 C.F.R. § 76.1204(b).

participant in the Alliance for Telecommunications Industry Solutions (ATIS) working group to develop technical standards for IP-based video systems in the U.S. According to Nagravision, such standards are at least two years away, and navigation devices that are compatible with the Petitioners' all-digital video distribution networks and comply with the integration ban are not currently available to the Petitioners. Moreover, technical standards that would be a prerequisite to designing compliant conditional access devices for IPTV video systems are not expected to be available within the next two years for incorporation by the Petitioners' middleware providers and other vendors.

Grant of the requested waivers therefore is necessary in order to permit the Petitioners to provide advanced high-quality video and related digital services over their new IPTV networks to subscribers located in rural communities. This is a new service, and the Petitioners have not yet started delivering programming to subscribers. Unlike large MVPDs, such as Comcast or Cox, the Petitioners are very small providers that lack the market power or resources necessary to influence manufacturer timetables to develop conditional access solutions that comply with the FCC's integration ban. The Petitioners have enquired as to when an integration ban-compliant solution for their IPTV systems will be available. The information obtained by the Petitioners indicates that no such solution is or will be available within the next two years.

## II. DISCUSSION

### A. Standard for Waiver

Generally, the Commission's rules may be waived only for good cause shown.<sup>19</sup> The FCC has consistently ruled that a waiver is appropriate only if the requested relief would not

---

<sup>19</sup> 47 C.F.R. § 1.3.

undermine the policy objective of the rule in question, special circumstances warrant a deviation from the general rule, and that such deviation will serve the public interest.<sup>20</sup>

As discussed below, the policy objectives of Section 76.1204(a)(1) would not be undermined because grant of the requested waivers would have a negligible impact on the market for the commercial available, non-integrated navigation devices. Moreover, special circumstances exist here because a conditional access solution that provides for common reliance is not available to the Petitioners (or their middleware vendors). Absent a waiver, the Petitioners will not be able to begin providing new, all-digital video service to customers in Iowa. Granting the Petitioners' waiver requests, thereby permitting them to provide advanced digital video service to rural subscribers in Iowa, therefore would serve the public interest.

**B. The Policy Objectives of the Integration Ban Would Not Be Undermined by Grant of the Requested Waivers**

Section 76.1204(a)(1) of the Commission's rules prohibits MVPDs such as the Petitioners from using or leasing set-top boxes that perform both conditional access and other functions in a single integrated device.<sup>21</sup> The purpose of the rule was to enable unaffiliated manufacturers, retailers and other vendors to commercially market navigation devices while allowing MVPDs to retain control over their system security.<sup>22</sup> A conditional access solution must provide for common reliance: it must be interoperable with other video systems.<sup>23</sup> "The concept of common reliance is intended to assure that cable operator development and deployment of new products and services does not interfere with the functioning of consumer

---

<sup>20</sup> See generally, *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

<sup>21</sup> *Id.* § 76.1204(a)(1).

<sup>22</sup> *Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices*, 20 FCC Rcd 6794, 6796, ¶ 6 (2005) ("2005 Deferral Order").

<sup>23</sup> 47 C.F.R. § 76.1204(b).

electronics equipment or the introduction of such equipment into the commercial market for navigation devices.”<sup>24</sup>

While the FCC’s integration ban may confer a general benefit to consumers as a whole, grant of the Petitioners’ waiver requests would not undermine the policy objectives of the rule because the Petitioners neither individually nor collectively possess any ability to influence manufacturers to design and produce devices that comply with the FCC’s integration ban. The Petitioners are very small MVPDs that seek to provide video service to small rural markets with sparse populations. Given the insignificant size of their potential subscriber base when compared to those of the larger MVPDs, the Petitioners have no ability to influence manufacturers or middleware providers to develop conditional access solutions that comply with the requirement for common reliance. Moreover, because the Petitioners lack the resources or the expertise to develop such a solution on their own, they are completely dependent on outside vendors for their set-top boxes and middleware.

C. **A Waiver is Necessary Because No Compliant Solution is Available to Permit the Petitioners to Introduce All-Digital Video Service to Consumers**

The Commission in the *2005 Deferral Order* stated that downloadable security technology would comply with its rules.<sup>25</sup> The FCC further stated that Section 76.1204(a)(1) should be interpreted to require the physical separation of conditional access and other navigation functions “only in the case of *hardware-oriented* conditional access solutions or other approaches that may preclude common reliance on the same security technology and conditional access interface” (emphasis added).<sup>26</sup>

---

<sup>24</sup> *2005 Deferral Order*, 20 FCC Rcd at 6809-10, ¶ 30.

<sup>25</sup> *2005 Deferral Order*, 20 FCC Rcd at 6812, ¶ 35.

<sup>26</sup> *Id.*

The Petitioners propose to utilize a conditional access system for IPTV systems that is provided by Nagravision. It is the Petitioners' understanding downloadable security is inherent in IPTV technology because authentication and video rights are stored in the IPTV network in the middleware and digital rights management software — not in the set-top box.<sup>27</sup> Based as it is on IP-standards, the Nagravision IPTV solution is not a “hardware-oriented” conditional access system. The Petitioners therefore believe that the Nagravision IPTV solution already complies with the separable security requirement of Section 76.1204(a)(1).

To fully satisfy the integration ban rule, however, a conditional access solution must provide for common reliance.<sup>28</sup> The purpose of common reliance is to enable customers to purchase set-top boxes from retailers for use on any multichannel video programming system. The set-top boxes to be used in the Petitioners' video systems, however, are generally not interoperable with other systems (and vice versa). This is because the Nagravision IPTV solution relies on proprietary standards that are not generally available to other consumer electronics manufacturers. The Petitioners, therefore, must rely on Nagravision to provide the set-top box for their video systems, an arrangement that does not satisfy the Commission's requirement for common reliance. Only an open IPTV conditional access standard that is interoperable among various IPTV systems will satisfy the FCC's common reliance standard.

Section 76.1204(b) requires that conditional access systems be compatible with other navigation devices available “through the use of a commonly used interface or an interface that conforms to appropriate technical standards promulgated by a national standards organization.”<sup>29</sup>

---

<sup>27</sup> See *IPTV Operators Waiver Petition*, Exhibit B, “Technical Synopsis”; *Petition for Clarification or Waiver of the National Telecommunications Cooperative Association and the Organization for the Promotion and Advancement of Small Telecommunications Companies* at 4, CSR-7387-Z (filed May 4, 2007) (“*NTCA/OPASTCO Petition*”).

<sup>28</sup> *2005 Deferral Order*, 20 FCC Rcd at 6812, ¶ 35; see also 47 C.F.R. § 76.1204(b).

<sup>29</sup> 47 C.F.R. § 76.1204(b).

Here, however, no commonly used interface for IP-based video systems exists nor have national technical standards designed to ensure the interoperability IPTV set-top boxes been promulgated. As noted above, IPTV standards are at least two years away from being finished by the ATIS working group. Consequently, although the NagraVision IPTV solution arguably complies with the separable security requirement, a waiver is necessary because the NagraVision solution as implemented by the Petitioners' middleware providers does not satisfy the requirement of common reliance.<sup>30</sup> These special circumstances therefore warrant a grant of a waiver of the FCC's integration ban.

**D. Grant of a Waiver is in the Public Interest Because It Will Promote the Provision of Advanced All-Digital Video Service in Rural Areas**

Rural subscribers already have few, if any, choices for video programming and advanced services, and they may be located too distant from terrestrial television stations to receive reliable and good quality over-the-air transmissions. Through their IPTV systems, the Petitioners seek to bring new and advanced all-digital service offerings to consumers in their rural communities. In order to do so, and to maintain the viability of their proposed service offerings, the Petitioners must use currently available set-top boxes and middleware.

As discussed above, however, the Petitioners must rely on NagraVision to provide set-top boxes because the NagraVision IPTV conditional access solution is based on proprietary standards and no alternatives exist in the marketplace. Because the NagraVision solution does not appear to satisfy the requirement of common reliance, a waiver of the integration ban is necessary to permit these consumers to enjoy the benefits that the Petitioners' advanced all-digital video service will offer, and to allow the Petitioners to introduce new and advanced video

---

<sup>30</sup> AT&T has suggested that its IPTV conditional access system complies with the FCC's integration ban, without discussing whether its system satisfied the requirement of common reliance. Comments of AT&T, CS Docket No. 97-80 (filed Aug. 24, 2007).

services to subscribers that would not otherwise have access to high-quality video programming and related services in rural areas.

Without a waiver, the Petitioners will be unable to offer their subscribers the use of set-top boxes necessary to receive any video service, thereby depriving these consumers from a primary source of news, entertainment, and advanced services available to video subscribers located in densely populated urban areas. Strict application of the rule to the Petitioners, who propose to serve sparsely populated and largely agricultural areas, would have an effect that Congress expressly directed the Commission to avoid. Specifically, in enacting the 1996 Act, Congress directed the FCC to implement regulations to encourage the deployment of advanced telecommunications capabilities to all Americans.<sup>31</sup> Moreover, strict adherence to the letter of the rule would result in denying rural subscribers access to advanced all-digital video and related services, while allowing carriers that have not made the commitment to upgrade to new and more advanced technologies, such as the all-digital networks that the Petitioners will use, to continue to provide basic legacy cable services. Such an outcome would frustrate the intent of Congress to promote, rather than deny, advanced services to all Americans, particularly when Congress also directed the Commission to “avoid actions which would have the effect of freezing or chilling the development of new technologies and services.”<sup>32</sup>

Grant of the requested waivers, moreover, would be consistent with the Commission’s policy reflected in its previous grant of waivers to other rural MVPDs connected to INS’s central distribution network. In the *Consolidated Waiver Order*<sup>33</sup> and the *BendBroadband Waiver*

---

<sup>31</sup> The 1996 Act, 110 Stat. at 153 (codified in notes under 47 U.S.C. § 157).

<sup>32</sup> Joint Explanatory Statement of the Committee of Conference, S. Conf. Rep. 104-230, 104th Cong., 2d Sess. at 181 (1996).

<sup>33</sup> *Consolidated Waiver Order*, 22 FCC Rcd at 11802-03, ¶¶ 58-59. The FCC granted the waiver requests of the following rural MVPDs that are connected to INS’s central distribution network: Bernard Telephone Company Inc., Farmers’ and Business Mens’ Telephone Company, Famers’ Cooperative Telephone Company,

*Order*,<sup>34</sup> the FCC concluded that all-digital networks produce clear, non-speculative public benefits that, on balance, justify a limited grant of the waiver requests before the agency. Here, as with the INS MVPDs in the *Consolidated Waiver Order*, strict enforcement of the rule would in effect punish the Petitioners, who similarly serve low-density, rural communities, for committing to deploy an all-digital network. In light of the special circumstances faced by the Petitioners, and their commitment to an all-digital network, grant of the waiver requests herein is in the public interest.

E. **Grant of the Requested Waivers is Appropriate in Light of the Pendency of the NTCA/OPASTCO Petition for Clarification or Waiver**

Finally, in light of the pending petition filed by the National Telecommunications Cooperative Association (“NTCA”) and the Organization for the Promotion and Advancement of Small Telecommunications Companies (“OPASTCO”),<sup>35</sup> the Petitioners submit that a waiver of limited duration is necessary to permit the Petitioners to commence providing all-digital video service pending the Commission’s consideration of the issues raised in the *IPTV Petition*. While the Petitioners recognize that the FCC’s action on the *IPTV Petition* may be determinative of the issues raised in the instant Petition, they can no longer wait for the FCC to act on the petition (pending since May 2007) because their IPTV systems are coming online now. The Petitioners submit that commencing the provision of new, all-digital video service to their rural customers at the earliest possible opportunity is in the public interest and, to that end, request a waiver the FCC’s integration ban.

---

Heart of Iowa Communications Cooperative, Kalona Cooperative Telephone Co., Local Internet Service Company, Mahaska Communications Group, LLC, Radcliffe Telephone Company, South Slope Cooperative Telephone Company, West Liberty Telephone Company, and Winnebago Cooperative Telecom Association (the “INS MVPDs”).

<sup>34</sup> *BendBroadband Waiver Order* ¶ 13.

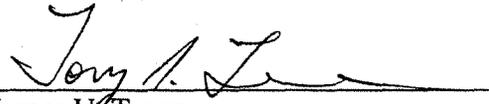
<sup>35</sup> *NTCA/OPASTCO Petition* at 4.

The Petitioners emphasize that denial of the instant Petition prior to the FCC's determination of the issues raised in the *IPTV Petition* would — if the Commission should grant the waiver requested therein — lead to the contradictory result of the Petitioners ultimately being allowed to offer video service using the same noncompliant navigation devices that the rule bars then from using today, absent a waiver. Such an outcome would cause economic harm to the Petitioners, who have invested substantial time, effort and expense to bring advanced telecommunications capabilities to rural communities in Iowa. The FCC should therefore grant the requested waivers to permit the Petitioners to proceed with their all-digital video systems pending the agency's determination of the issues raised in the *IPTV Petition*.

### **III. CONCLUSION**

WHEREFORE, for the foregoing reasons, the Petitioners request that the FCC grant this Petition for Waiver of the integration ban set forth in Section 76.1204(a)(1) until July 1, 2010. As noted above, the Petitioners are rural video system operators with very small subscriber bases. The filing fee required for the requested relief is significant in light of the small size of their operations. The conditional access standards for IPTV are still being developed, and as described above, it will be approximately two years before those standards are ready, and it could be even longer still before equipment is available using those newly developed standards. Accordingly, given the uncertainty of the development timeline for the IPTV conditional access standards and availability of equipment, the Petitioners also request that the Commission permit them to request further extensions without the requirement to also submit a new filing fee. Expedited consideration of the Group Waiver is requested as many of the Petitioners seek to deploy service in the latter part of the first quarter of 2008, or first part of the second quarter of 2008.

Respectfully submitted,



James U. Troup  
Tony S. Lee  
Grace R. Chiu  
VENABLE LLP  
575 7<sup>th</sup> Street, N.W.  
Washington, DC 20036  
Tel: (202) 344-4000  
Fax: (202) 344-8300  
E-mail: JUTroup@Venable.com  
          TSLee@Venable.com  
          GRChiu@Venable.com

Counsel for the Petitioners

Date: February 29, 2008

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

In the Matter of	)	
	)	
Implementation of Section 304 of the Telecommunications Act of 1996	)	CS Docket No. 97-80
	)	
Commercial Availability of Navigation Devices	)	
	)	
Consolidated Petitions for Extension of Waiver of Section 76.1204(a)(1) of the Commission's Rules	)	
	)	
Bernard Telephone Company Inc.	)	CSR-7886-Z
Colo Telephone Company	)	CSR-7887-Z
Coon Creek Telephone Company and Coon Creek Telecommunications Corp.	)	CSR-7888-Z
	)	
F & B Communications, Inc.	)	CSR-7889-Z
Farmers Cooperative Telephone Company	)	CSR-7890-Z
Heart of Iowa Communications Cooperative	)	CSR-7891-Z
Kalona Cooperative Telephone Company	)	CSR-7892-Z
LaMotte Telephone Company	)	CSR-7893-Z
Local Internet Service Company	)	CSR-7903-Z
Mahaska Communication Group, LLC	)	CSR-7894-Z
Radcliffe Telephone Company, Inc.	)	CSR-7895-Z
South Slope Cooperative Telephone Company	)	CSR-7896-Z
Wellman Cooperative Telephone Association	)	CSR-7897-Z
West Liberty Telephone Company	)	CSR-7898-Z
Winnebago Cooperative Telecom Association	)	CSR-7899-Z
	)	

**Comments of the Consumer Electronics Association  
on Consolidated Petitions for Extension of Waiver of 47 C.F.R. § 76.1204(a)(1)**

June 5, 2008

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

In the Matter of	)	
	)	
Implementation of Section 304 of the Telecommunications Act of 1996	)	CS Docket No. 97-80
	)	
Commercial Availability of Navigation Devices	)	
	)	
Consolidated Petitions for Extension of Waiver of Section 76.1204(a)(1) of the Commission's Rules	)	
	)	
Bernard Telephone Company Inc.	)	CSR-7886-Z
Colo Telephone Company	)	CSR-7887-Z
Coon Creek Telephone Company and Coon Creek Telecommunications Corp.	)	CSR-7888-Z
	)	
F & B Communications, Inc.	)	CSR-7889-Z
Farmers Cooperative Telephone Company	)	CSR-7890-Z
Heart of Iowa Communications Cooperative	)	CSR-7891-Z
Kalona Cooperative Telephone Company	)	CSR-7892-Z
LaMotte Telephone Company	)	CSR-7893-Z
Local Internet Service Company	)	CSR-7903-Z
Mahaska Communication Group, LLC	)	CSR-7894-Z
Radcliffe Telephone Company, Inc.	)	CSR-7895-Z
South Slope Cooperative Telephone Company	)	CSR-7896-Z
Wellman Cooperative Telephone Association	)	CSR-7897-Z
West Liberty Telephone Company	)	CSR-7898-Z
Winnebago Cooperative Telecom Association	)	CSR-7899-Z
	)	

**Comments of the Consumer Electronics Association  
on Consolidated Petitions for Extension of Waiver of 47 C.F.R. § 76.1204(a)(1)**

The Consumer Electronics Association respectfully submits these comments in response to requests by fifteen multichannel video programming distributors in Iowa (the

“Petitioners”<sup>1</sup> for an extended waiver of Section 76.1204(a)(1) of the Commission’s rules.<sup>2</sup> That section requires MVPDs to provide “equipment” implementing a separable security function for use in competitive navigation devices, and by July 1, 2007, to rely on the same separable security function in their own leased navigation devices, such as set-top boxes. The Commission promulgated that rule in 1998 and has extended the effective date of the “common reliance” requirement twice. Despite having nine years’ notice of their obligations under these rules, the Petitioners requested a waiver in May 2007. The Commission’s Media Bureau granted a one-year waiver while instructing the Petitioners to “work to develop and deploy a separable security solution that will allow for interoperability between their systems and consumer electronics equipment” during the year given.<sup>3</sup>

Should the Bureau extend Petitioners’ waiver yet again, it should take care not to do so on terms that will lead to a proliferation of mutually incompatible and non-portable conditional access technologies. The navigation device rules implement Congress’s clear directive to “ensure the availability” of video navigation devices from sources other than

---

<sup>1</sup> *Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices, Consolidated Petition for Extension of Waiver of Section 76.1204(a)(1) of the Commission’s Rules*, CS Dkt. No. 97-80, Bernard Telephone Company Inc., CSR-7886-Z, Colo Telephone Company, CSR-7887-Z, Coon Creek Telephone Company and Coon Creek Telecommunications Corp., CSR-7888-Z, F & B Communications, Inc., CSR-7889-Z, Farmers Cooperative Telephone Company, CSR-7890-Z, Heart of Iowa Communications Cooperative, CSR-7891-Z, Kalona Cooperative Telephone Company, CSR-7892-Z, LaMotte Telephone Company, CSR-7893-Z, Local Internet Service Company, CSR-7903-Z, Mahaska Communication Group, LLC, CSR-7894-Z, Radcliffe Telephone Company, Inc., CSR-7895-Z, South Slope Cooperative Telephone Company, CSR-7896-Z, Wellman Cooperative Telephone Association, CSR-7897-Z, West Liberty Telephone Company, CSR-7898-Z, Winnebago Cooperative Telecom Association, CSR-7899-Z (May 8, 2008) (the “Petitions”).

<sup>2</sup> 47 C.F.R. § 76.1204(a)(1) (2007).

<sup>3</sup> *In the Matter of Consolidated Requests 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*, CS Dkt. No. 97-80, Memorandum Opinion and Order ¶ 61 (rel. Jun. 29, 2007) (the “Order”).

the MVPDs. As CEA has explained in this docket,<sup>4</sup> a competitive market for navigation devices *cannot* exist if such devices can only operate in certain parts of the country and are not portable between MVPD systems. Likewise, competitive devices cannot exist if they must implement numerous, mutually incompatible security technologies, based on proprietary protocols, subject to multiple royalties and mutually incompatible licensing terms. Multiple proprietary standards will carry MVPDs even farther away from Congress's goal of a competitive market.

Based on CEA's current understanding and Petitioners' admissions, the technologies from Widevine and Nagravision used by the Petitioners are not nationally portable. These systems "use closed proprietary standards," "are not interoperable with other third-party IPTV set-top boxes in the marketplace" and "do not meet the requirement of common reliance."<sup>5</sup> According to the scant information made public by Widevine and Nagravision, a navigation device designed to work on Petitioners' systems would not even be portable throughout Iowa, much less nationwide.

CEA acknowledges the effort by the Alliance for Telecommunications Industry Solutions (ATIS) to create a standard, based on the CableCARD, that can be used by Internet Protocol-based MVPDs. It was in recognition of this effort that the Bureau granted the Petitioners a one-year waiver through July 1, 2008.<sup>6</sup> However, the Petitioners do not cite any progress made towards that goal nor any of their own efforts in support of

---

<sup>4</sup> *In the Matter of Colo Telephone Company, et al., Requests for Waiver of Section 76.1204(a)(1) of the Commission's Rules, CSR-7218-Z - CSR-7222-Z, CSR-7227-Z, Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, CS Dkt. No. 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).

<sup>5</sup> Petitions at 5.

<sup>6</sup> Order ¶ 61.

that goal; instead relying on the Bureau's continued forbearance. Petitioners request a two-year waiver despite their assessment that "technical standards that would be a prerequisite to designing complaint conditional access devices for IPTV video systems are not expected to be available within the next two years."<sup>7</sup> This contradiction strongly suggests that Petitioners will continue to request waivers indefinitely. Operators and their suppliers will thus have nullified the Commission's rules while entrenching multiple incompatible conditional access technologies on systems around the country – the same status quo that Congress sought to eliminate in 1996.

To prevent this scenario, the Bureau should make explicit that any waivers for IP-based MVPDs will be conditioned on the rapid development of a single national conditional access technology, and that absent demonstrated progress towards such a technology, waivers will not be extended and re-extended indefinitely. Otherwise, suppliers such as those used by the Petitioners will have no incentive to work towards a nationally portable interface, and operators like the Petitioners, assured of a rolling waiver, will have no incentive to ask suppliers to comply with the Commission's rules.

Respectfully submitted,

/s/ Brian Markwalter

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

Brian Markwalter  
Vice President, Technology and Standards  
Consumer Electronics Association  
1919 S. Eads St.  
Arlington, VA 22202  
Tel: (703) 907-7644

---

<sup>7</sup> Petitions at 5.

Dated: June 5, 2008

## CERTIFICATE OF SERVICE

I do hereby certify that on June 5, 2008 I caused a true and correct copy of the foregoing Comments of the Consumer Electronics Association on Consolidated Petitions for Extension of Waiver of 47 C.F.R. § 76.1204(a)(1) to be served via first-class mail on the following:

James U. Troup  
Tony S. Lee  
Grace R. Chiu  
VENABLE LLP  
575 7<sup>th</sup> Street, N.W.  
Washington, D.C. 20036  
Tel: (202) 344-4000; Fax: (202) 344-8300  
Email: [JUTroup@Venable.com](mailto:JUTroup@Venable.com)  
[TSLee@Venable.com](mailto:TSLee@Venable.com)  
[GRChiu@Venable.com](mailto:GRChiu@Venable.com)

/s/ LaClaudia Dyson  
LaClaudia Dyson