

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

In the Matter of)	
)	
)	
Petition of Lafayette City-Parish)	CSR-8152-Z
Consolidated Government of Lafayette, Louisiana)	
d/b/a Lafayette Utilities System)	CS Docket No. 97-80
for Waiver of 47 C.F.R.)	
Section 76.1204(a)(1))	
)	
Implementation of Section 304 of the)	
Telecommunications Act of 1996)	
Commercial Availability of Navigation Devices)	
_____)	

**Comments of the Consumer Electronics Association
on Lafayette Utilities System Petition for Waiver**

May 14, 2009

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

In the Matter of)	
)	
)	
Petition of Lafayette City-Parish)	CSR-8152-Z
Consolidated Government of Lafayette, Louisiana)	
d/b/a Lafayette Utilities System)	CS Docket No. 97-80
for Waiver of 47 C.F.R.)	
Section 76.1204(a)(1))	
)	
Implementation of Section 304 of the)	
Telecommunications Act of 1996)	
Commercial Availability of Navigation Devices)	
_____)	

**Comments of the Consumer Electronics Association
on Lafayette Utilities System Petition for Waiver**

The Consumer Electronics Association (“CEA”) respectfully submits these comments on the request by the Consolidated Government of Lafayette, Louisiana, d/b/a Lafayette Utilities System (“LUS”) for a waiver of Section 76.1204(a)(1) of the Commission’s rules.¹ LUS describes its system as an IP-based system that does not use QAM, and states that no conditional access technology with separable security is available for such systems.

MVPD systems using various technologies, including IP, raise common policy questions regarding device compatibility. CEA believes that rather than creating a patchwork of regulation through individual waiver applications, the Commission should issue a Notice of Proposed Rulemaking with the goal of clarifying Sections 76.640 and

¹ 47 C.F.R. § 76.1204(a)(1) (2007).

76.1204 of its Rules so as to assure compliance with Congress’s mandate. In the Telecommunications Act of 1996, Congress ordered the Commission, in its regulations, to “assure the commercial availability” of video navigation devices from competitive manufacturer and retail sources other than the MVPDs themselves.² This mandate was not limited to traditional digital cable systems based on QAM. The rationale behind Section 76.1204 – that competitive availability will not be possible without common reliance on a standard, separable, nationally portable security technology – applies equally to other types of MVPDs, including IPTV systems. With such systems becoming more widespread, the time is ripe for the Commission to direct the affected industries toward a common standard covering all MVPDs.

Accordingly, the Commission should proceed forthwith with a Notice of Proposed Rulemaking as discussed by CEA and Nagravision USA, Inc. with respect to CEA’s appeal of the Media Bureau’s Cablevision waiver extension order,³ and postpone action on individual waiver requests such as LUS’s until after new rules have been issued.

² 47 U.S.C. § 649.

³ *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices*, CS Docket No. 97-80, CSR-7078-Z, letters from Adam Goldberg, Nagravision USA, Inc. to Marlene H. Dortch, Secretary, FCC Re: Notice of *Ex Parte* Presentation, CSR-7078-Z, CS Docket No. 97-80 (May 5, Apr. 30, 2009); *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices*, CS Docket No. 97-80, letters from James W. Hedlund, Vice President, Regulatory Affairs, CEA to Marlene H. Dortch, Secretary, FCC Re: Notice of *ex parte* presentation in: MB Docket No. 97-80 (Apr. 16, 2009, Apr. 9, 2009 (four separate letters)).

Respectfully submitted,

/s/ James W. Hedlund

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

James W. Hedlund
Vice President for Regulatory Affairs
Consumer Electronics Association
1919 S. Eads St.
Arlington, VA 22202
Tel: (703) 907-7644

Dated: May 14, 2009

CERTIFICATE OF SERVICE

I do hereby certify that on May 14, 2009 I caused a true and correct copy of the foregoing Comments of the Consumer Electronics Association on Lafayette Utilities System's Petition for Waiver to be served via first-class mail on the following:

Jim Baller
Casey Lide
The Baller Herbst Law Group, P.C.
2014 P St. NW, Suite 200
Washington, D.C. 20006

Counsel for Lafayette Utilities Service

/s/ Patricia O'Keefe
Patricia O'Keefe