

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

In the Matter of)	
)	
Annual Assessment of the Status of)	MB Docket No. 07-269
Competition in the Market for the)	
Delivery of Video Programming)	

COMMENTS OF VERIMATRIX, INC.

Verimatrix, Inc. (“Verimatrix”) hereby files these comments in response to the *Notice of Inquiry*¹ and the *Supplemental Notice of Inquiry*² in the above-captioned proceeding. As discussed below, Verimatrix’s experience in the U.S. video programming delivery market suggests that lack of effective competition hinders the entry of innovative products and frustrates achievement of Congressional and FCC policies intended to promote such competition. As discussed below, consumers are being denied the benefits of common reliance for conditional access technology and the corresponding greater choice in equipment and video content, as envisioned by Section 629 of the Communications Act.³

¹ Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, *Notice of Inquiry*, MB Docket No. 07-269, FCC 07-207 (rel. Jan. 16, 2009) (“NOI”).

² Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, *Supplemental Notice of Inquiry*, MB Docket No. 07-269, FCC 09-32 (rel. April 9, 2009) (“Supplemental NOI”).

³ 47 U.S.C. § 549.

I. BACKGROUND AND INTRODUCTION

Founded in 2000 and based in San Diego, Verimatrix provides software-based conditional access (“CA”) and digital rights management (“DRM”) solutions that enable seamless distribution of content to consumers over managed and unmanaged networks. Worldwide, Verimatrix is a leading provider of software-based content security solutions and applications, supporting over 200 network operators and 7 million consumers in 38 countries. Verimatrix has relationships with leading global telecom and broadcast equipment manufactures as well as content providers, broadcasters and distributors. Through forums such as ATIS, DVB, OMA, and DECE, Verimatrix has worked with partners to try to develop open standards for content security.

Verimatrix’s Video Content Authority System (VCAS™) provides a software-based content security solution that can be deployed across platforms or devices, making it ideal for deployment on existing networks. The Verimatrix solution provides the highest level of security possible today for multichannel video programming distributors (“MVPDs”) and other content providers, as well to consumers. Verimatrix’s software is fully separable from physical hardware and therefore can be run on traditional set-top boxes (“STBs”) and legacy devices in the field, as well as on TV receivers, retail video devices such as TiVo and Slingbox, game platforms, connected DVD or BluRay players, PCs, mobile phones and other innovative consumer devices. The software can be deployed without significant upgrades to existing infrastructure, resulting in lower costs to

operators and consumers. Furthermore, Verimatrix's technology is flexible enough that it can easily be deployed in IP-based networks, including "over-the-top" broadband content delivery services, video-to-mobile services, etc.

In short, Verimatrix's technology fosters the Congressional and FCC policies of encouraging greater competition in the market for navigation devices and gives consumers greater choice in using TV receivers and navigation devices with or without a proprietary set top box. The technology also enables consumers to move content to devices of their choosing while protecting the content provider's intellectual property by preventing unauthorized access and transfers.⁴

II. FLAWS AND DISINCENTIVES IN THE MARKET FOR THE DELIVERY OF VIDEO PROGRAMMING PREVENT INNOVATIVE PRODUCTS FROM REACHING CONSUMERS

As noted above, Verimatrix's VCAST™ has found widespread acceptance among network operators and system integrators around the world. Despite its global acceptance, Verimatrix has been hindered in its penetration of the U.S. market. Most MVPDs and other content providers opt for proprietary solutions rather than solutions that are open and provide separable security in accordance with the FCC's common reliance rules. Thus, consumers who want to buy innovative devices from suppliers other than the network operator are forced to buy and/or use a CableCARD unnecessarily, since software-based solutions

⁴ For more information about Verimatrix and its products, solutions, and technology, please visit <http://www.verimatrix.com/>.

such as those offered by Verimatrix and others meet the policy objectives of separable security and common reliance.

One example of the burdens that new entrants like Verimatrix face in the marketplace is in the market for cable service, which continues to be the dominant delivery option for video content despite recent gains from other platforms such as satellite, telco, and broadband. CableLabs has a certification program to allow additional outputs, but in order to integrate such an option into its own products, Verimatrix would need CableCARDS to decrypt the incoming client stream. Such a requirement defeats the purpose of designing an open and separable system and increases costs needlessly.

In contrast, in the European market, the Simulcrypt digital video broadcasting (“DVB”) standard is available throughout Europe, enabling multiple CA vendors to compete in server and client devices while ensuring compatibility across networks regardless of the CA solution or solutions employed. As a result of this open standard, European consumers enjoy considerable benefits that sadly are not available in the U.S. market, despite the long-established policy of promoting competition for navigation devices.

As the Commission noted when it adopted the common reliance rule,⁵ the integration of security and non-security functions “is an obstacle to the functioning of a fully competitive market for navigation devices by impeding consumers from switching to devices that become available through retail

⁵ 47 C.F.R. § 76.1204.

outlets”⁶ and requiring the separation of security would “allow[] manufacturers to provide a diverse array of equipment.”⁷ In enacting Section 629, Congress stressed the importance of such competition in the navigation devices market, saying that “[c]ompetition in the manufacturing and distribution of consumer devices has always led to innovation, lower prices and higher quality.”⁸

The lack of common reliance allows cable operators and other content providers to stifle innovation in equipment and the delivery of content. For example, innovative technologies, such as TiVo, often create demand that has not been met by the cable operator. It wasn’t until TiVo entered the market that most operators started providing DVRs. Slingbox is another example of an appealing use case that allows portability of content, which sadly is not available through proprietary MSO-deployed CPE boxes. Verimatrix’s VCAS™ solution will enable companies such as TiVo and Sling Media to compete more effectively, thereby allowing consumers to reap the benefits of increased competition envisioned by Section 629. Software-based solutions such as VCAS™ offer consumers access to superior, scalable video-on-demand services as well as to content from a wide variety of sources available on more distribution channels.

Verimatrix urges the FCC to correct the market conditions that continue to frustrate reaching the goal of common reliance and place obstacles in the path of

⁶ *Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices*, Report and Order, CS Docket No. 97-80, FCC 98-116, para. 69 (rel. June 24, 1998) (“*First Report and Order*”).

⁷ *First Report and Order*, para. 61.

⁸ H.R. Rep. No. 104-204, at 112 (1995).

consumers who, the Commission already has determined, will benefit from the availability of open, interoperable security solutions. There are no valid reasons why U.S. MVPDs and other video network operators opt for closed and proprietary solutions that hinder competition. Industry groups will continue to struggle to reach consensus, unless the Commission exercises leadership of the process. Verimatrix urges the FCC to enforce existing rules to address these obstacles to robust competition in the U.S. market. Where countries have adopted open network policies and enforced their rules, such as in Spain, Italy, and France, consumers have reaped the benefits of very competitive markets for equipment and services. Consumers in the United States deserve no less.

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Respectfully submitted,

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