

April 13, 2010

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

**Re: CS Dkt. No. 97-80; GN Dkt. Nos. 09-51, 09-47, 09-137**

Dear Ms. Dortch:

Our companies manufacture digital transport adapters (“DTAs”). We strongly support Commission policies to encourage the deployment of DTAs by cable operators, and welcome press reports that the Commission is considering proposals to exempt both standard-definition (“SD”) and high-definition (“HD”) DTAs from the integration ban.<sup>1</sup> However, we urge that any such exemption apply to *all* cable systems, and *not* be limited to systems with activated channel capacity of 552 MHz or less.

As our companies have explained previously,<sup>2</sup> DTAs provide a critical tool in the digitization of cable systems and the advancement of the Commission’s broadband goals. Cable operators require low-cost devices that enable subscribers to view programming that has been migrated from analog to digital delivery over the cable plant. DTAs are substantially cheaper than CableCARD-enabled devices that provide more advanced capabilities, and can thereby facilitate the rapid reclamation of analog bandwidth for faster Internet, more HD and ethnic channels, and other digital services without undermining the Commission’s CableCARD objectives.

The SD DTAs that have been deployed to date are playing an important role in this digitization effort, but do not provide an adequate solution for subscribers with HDTVs because they cannot output HD channels. As the Commission concluded in its *Cable One Waiver Order*, HD is becoming “commonplace” in the video marketplace today, and can no longer be considered an “advanced” service for purposes of the Commission’s set-top box waiver policies.<sup>3</sup> According to Kagan, over 63% of television households now have an HDTV, up from 27% in

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<sup>1</sup> See *CableCARD, Gateway Draft FCC Items To Deal With Retail Device Use*, Comm. Daily, at 2-3 (Apr. 6, 2010).

<sup>2</sup> See, e.g., Joint Opposition of Motorola, Cisco, Pace, Thomson, and NagraVision, CSR-7902-Z, CS Dkt. No. 97-80, at 2-4 (July 9, 2009).

<sup>3</sup> See *In the Matter of Cable One, Inc.’s Request for Waiver of Section 76.1204(a)(1) of the Commission’s Rules*, Mem. Opin. & Order, 24 FCC Rcd. 7882, ¶ 12 (2009) (“*Cable One Waiver Order*”).

2006, and that figure is expected to climb to 90% in the next three years.<sup>4</sup> Likewise, there are over 110 HD networks today,<sup>5</sup> and HD is a standard feature on most television sets.<sup>6</sup>

HD DTAs would provide a low-cost way for cable subscribers to access one-way HD channels on their HDTVs. As with SD DTAs, HD DTAs would be a less expensive alternative to CableCARD-enabled HD devices, and might be a particularly attractive option for secondary TV sets in the home, an increasing number of which are HDTVs.<sup>7</sup> The Commission underscored in its *Cable One Waiver Order* the importance of removing regulatory barriers to consumers' using such low-cost HD devices, stating that it saw "no reason to provide a regulatory incentive to deprive consumers of the HD-quality programming they expected and paid for when they purchased their sets."<sup>8</sup>

We strongly believe that HD DTAs should be an option for all cable subscribers, not just those receiving service in smaller cable systems. An SD DTA on an HDTV set unnecessarily degrades the services otherwise available to consumers, regardless of whether they are served by a large or small cable system. In this regard, HD DTAs would improve the subscribers' viewing experience by enabling them to watch HD channels on their HDTVs, and would also likely help accelerate adoption of HD technology.

It also bears emphasis that a broad DTA exemption would make DTA deployments a more affordable option for all cable operators. Cable systems with an activated channel capacity of 552 MHz or less constitute about 8% of all cable systems,<sup>9</sup> and likely cover an even smaller percentage of cable subscribers since these systems are typically located in rural areas and have relatively fewer subscribers. It would be difficult to achieve scale economies for production of HD DTAs if the subscriber base for such devices is limited to smaller systems. In contrast, applying a DTA exemption to all cable systems would help lower HD DTA costs for all cable operators and their subscribers as HD DTAs would be purchased in greater volumes. This would benefit both large *and* small cable operators and their subscribers.

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<sup>4</sup> See SNL Kagan, *Digital/HD TV Set Projection Model* (2010) ("Kagan HDTV Report").

<sup>5</sup> See SNL Kagan, *Multichannel Market Trends: High-Definition Cable Networks (As Of 2/3/09)* (Feb. 17, 2009).

<sup>6</sup> See Kagan HDTV Report (reporting that, in 2009, 82% of digital sets sold to consumers have HD capability).

<sup>7</sup> See *id.* (noting that the percentage of HDTVs purchased as primary sets has decreased from 74% in 2006 to 45.9% in 2009); Leichtman Research Group, *HDTV 2009: Consumer Awareness, Interest, and Ownership*, at 32 (2009) ("38% of HDTV owners have more than one HDTV set, and 26% are likely to get another HDTV set in the next year"); *id.* at 30 ("Reduced prices are allowing HD sets to be more affordable for potential new owners, as well as existing owners shopping for additional HDTV sets."); see also *Cable One Waiver Order* ¶ 12 ("Now, however, consumers are purchasing sets of all sizes with HD capabilities and using them throughout their homes.").

<sup>8</sup> *Cable One Waiver Order* ¶ 12.

<sup>9</sup> See Ian Olgeirson, *Multichannel Trends: IPTV Looms, But Cable Plant Outlook Maintains Evolutionary Course*, SNL Interactive, Dec. 18, 2009 (also noting that percentage of smaller-capacity systems is projected to decline from 8% to 4% over the next three years).

Finally, we do not believe that granting a DTA exemption for all cable systems would adversely affect the Commission's navigation device policies. NCTA recently reported that cable operators have now deployed almost 20 million CableCARD-enabled set-top boxes,<sup>10</sup> so the Commission's common reliance goals are already being met. Likewise, as the Commission concluded in its *Cable One Waiver Order*, HD DTAs are "unlikely to present a significant impediment to the development of a competitive retail market for navigation devices."<sup>11</sup> Simply stated, there is no retail marketplace for HD DTAs. The Unidirectional Digital Cable Ready Products available at retail, like the TiVo and Moxi devices, include more advanced features than HD to differentiate themselves, such as DVR functionality, interactive TV applications, and access to certain Internet content. In contrast, HD DTAs are limited to accessing one-way programming services.

For the foregoing reasons, we urge the Commission to exempt all DTAs from the integration ban and apply the exemption to all cable systems.

Respectfully submitted,

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<sup>10</sup> See Letter from Neal M. Goldberg, Vice President and Gen. Counsel, NCTA, to Marlene H. Dortch, Secretary, FCC, CS Dkt. No. 97-80, at 1 (Mar. 31, 2010) (reporting that the top 10 cable operators have deployed more than 19.5 million operator-supplied set-top boxes with CableCARDs.).

<sup>11</sup> *Cable One Waiver Order* ¶ 13.