

January 6, 2012

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

Re: Basic Service Tier Encryption; Compatibility Between Cable Systems and Consumer Electronics Equipment, MB Docket No. 11-169, PP Docket No. 00-67.

Dear Ms. Dortch:

On January 4, 2012, Kathryn Zachem, Senior Vice President, Regulatory and State Legislative Affairs, Comcast Corporation; Cristina Pauzé, Vice President, Regulatory Affairs, Time Warner Cable; Diane Oo, Director of Federal Affairs, Cablevision; Rick Chessen, Senior Vice President, Law and Regulatory Policy, NCTA; Neal Goldberg, Vice President and General Counsel, NCTA; Tara Corvo of Mintz Levin; and the undersigned met with the following Media Bureau staff to discuss issues in the Commission's basic tier encryption Notice of Proposed Rulemaking ("NPRM"): Bill Lake, Chief, Media Bureau; Michelle Carey, Mary Beth Murphy, Nancy Murphy, Steve Broeckaert, Alison Neplokh, and John Gabrysch. Ms. Zachem, Ms. Pauze, Mr. Chessen, Christopher Harvie of Mintz Levin, and the undersigned also had a separate meeting on that day with Jessica Almond, Special Advisor to Chairman Genachowski, to discuss the same proceeding, and the undersigned had a phone conversation with Brendan Murray of the Media Bureau on January 6, 2012 on this matter.

In these meetings, we urged that the Commission move as quickly as possible to adopt the proposed rule change allowing cable operators to encrypt the basic service tier in all-digital cable systems. We noted the substantial consumer and other public interest benefits associated with the rule change, including, among other things, remote service connections and disconnections, reduced truck rolls, and reduced theft of service, as well as the absence of any consumer harms. We cited to Cablevision's experience in New York City as providing clear evidence that these benefits are real and can be implemented rapidly. In particular, consistent with Cablevision's filings in this docket, Cablevision has reduced the number of truck rolls for service disconnections in fully encrypted areas of its New York City system by over 99 percent, has received no consumer complaints regarding basic tier encryption, and has received few requests for free equipment under the conditions in the *Cablevision Waiver Order* (less than 0.1 percent of customers requested such equipment).¹

¹ See Cablevision Comments at 12-13; see also Comcast Comments at 16-17.

We asked that the rule change be made promptly so that other all-digital cable systems can quickly realize similar benefits. Comcast has gone all-digital in 23 percent of its footprint, with plans to expand all-digital service to approximately 80 percent of its footprint this year; Time Warner Cable has piloted all-digital service in its Augusta, Maine system and plans to start rolling out all-digital service in other markets; and Cablevision is working to extend all-digital service to its cable systems outside New York City. We explained that we wanted to realize the benefits of basic tier encryption – and deliver benefits to consumers – as quickly as possible in these all-digital systems, but those benefits cannot be achieved in the absence of a rule change. We further noted that these lost benefits will be compounded as more and more systems make the transition to all-digital. We also explained that, for systems that go all-digital in the future, it would greatly simplify customer notification, and reduce customer confusion, if basic tier encryption can promptly follow the transition to all-digital delivery.

We noted that the record in this rulemaking strongly supports swift adoption of the rule change for all-digital systems. Out of the 28 entities that filed comments, 19 expressed support or qualified support, including public interest and diversity groups (Public Knowledge/Media Access Project (“PK/MAP”), the Minority Media and Telecommunications Council (“MMTC”), and the Hispanic Technology and Telecommunications Partnership (“HTTP”)); local franchising authorities (the cities of Miami, Hialeah, Lancaster, Irvington, and York); large and small cable operators (such as RCN and BendBroadband), and program suppliers (MPAA). PK/MAP, MMTC, and HTTP also called for the Commission to act expeditiously. The remaining parties raised objections that were without merit or advocated for tangential or irrelevant issues, such as AllVid, and we noted that we had fully responded to these commenters in our filings.²

With respect to certain LFA proposals to expand the equipment conditions to cover institutional buildings, we explained that cable operators typically negotiate with LFAs to meet the individualized equipment needs of institutional buildings in a particular community. Imposing a “one-size-fits-all” approach would constrain the flexibility to meet the particularized needs of each community. There is no record evidence that there is a problem with the existing approach. In fact, the City of Boston noted that its equipment needs are being met by local cable operators.³ We also indicated our agreement with NATOA that the equipment conditions in the NPRM do not supersede or otherwise affect cable operators’ franchise obligations⁴ and that we would not object to the Commission affirming that point in an implementing order.

Regarding the proposed rules in the NPRM, we noted our support for those proposals with certain modifications included in NCTA’s comments in the docket, including (1) permitting operators

² See NCTA Reply Comments at 8-17; Comcast Reply Comments at 8-10; Cablevision Reply Comments at 7-11; Time Warner Cable Reply Comments at 7-11; Letter from Neal M. Goldberg, NCTA, to Marlene H. Dortch, Secretary, FCC, MB Dkt. No. 11-169, PP Dkt. No. 00-67 (Dec. 29, 2011).

³ See City of Boston Reply Comments at 1 n.1.

⁴ See NATOA Reply Comments at 4.

to carry analog barker or informational channels on all-digital systems, which is an issue the Commission had inquired about in the NPRM; (2) establishing a 60-day window during which eligible customers could request free set-top boxes and CableCARDS, which is consistent with the approach Cablevision followed in New York City and was endorsed by several other parties; and (3) adopting certain conforming edits so that the equipment conditions use the same language as much as possible, changes that were not opposed by any party.⁵ With respect to the condition for low-income customers, we indicated our continued support for the Medicaid-based approach in the NPRM, and added that, if the Commission considers expanding the eligibility criteria, it must ensure that any additional criteria are based on participation in a another federal program that be verified readily, similar to how Medicaid participation can be verified with a Medicaid card. In this regard, we were asked if the Medicaid program covers the elderly. We understand that it does based on statements on the relevant government websites.⁶

Kindly direct any questions regarding this matter to my attention.

Sincerely,

/s/ Jonathan Friedman
Jonathan Friedman
Counsel for Comcast Corporation

cc: Jessica Almond
Bill Lake
Michelle Carey
Mary Beth Murphy
Nancy Murphy
Steve Broeckaert
Alison Neplokh
John Gabrysch
Brendan Murray

⁵ See NCTA Comments at 10-12 & App.; see also NATOA Reply Comments at 3 (“We commend NCTA for advancing this notification provision and strongly urge the Commission to adopt it.”); ACA Reply Comments at 10-12; BendBroadband Comments at 7.

⁶ See “Seniors and Medicare and Medicaid Enrollees,” available at <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Population/Medicare-Medicaid-Enrollees-Dual-Eligibles/Seniors-and-Medicare-and-Medicaid-Enrollees.html> (“Medicaid provides health coverage to more than 4.6 million low-income seniors”); see also “Medicaid Eligibility: Are You Eligible?” available at http://www.cms.gov/MedicaidEligibility/02_AreYouEligible_.asp (noting that the elderly are eligible to apply for Medicaid coverage).