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February 23, 2012

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

I am writing in regards to the proposed changes to the FCC Rules removing the ban on cable providers encrypting the so-called "Basic" level of channels currently offered via Unencrypted QAM service.

First, as a background to my interest in this proposed rule change, I have been a consumer of these basic levels of channels for the past 7+ years, and also have recently moved to the more comprehensive cable channel packages utilizing a Cablecard adapter which is rented from my cable provider, so I have real-world experiences with both levels of service.

Also, I have significant experience in the telecommunications field both academically, personally and professionally. My undergraduate degree is in Telecommunications from the Pennsylvania State University and I expect to receive my Master's Degree in Computer Science this spring. Furthermore I have been involved in the telecommunications industry professionally for over 10 years in several areas such as internet, cable and broadcast television and telephony. I have an active Amateur Radio License from the FCC, FRN 0003998523.

First I wanted to clarify which channels are currently offered in Unencrypted QAM format from cable providers. From personal experience from my cable television subscriptions, I've noticed that the bulk of channels offered in this format are currently channels which are also available in Over-The-Air (OTA) broadcast format for free. This includes stations such as ABC, NBC, Fox, PBS and other "legacy" networks. **In my situation, I purchased this tier of service because I live too far away from broadcast stations to receive a reliable signal.** If given a choice, I would have used the free OTA

signals for reception; however the only way to receive these channels was via the "Basic" level of service from my television provider, currently offered at $12.99[1] per month.

If this ban on encryption for the "basic" tier of service was lifted, and the cable industry is allowed to encrypt these channels, a consumer would have also had to purchase a cable adapter for each television set they wished to watch these television channels on. At the current estimate of about 3 television sets per U.S. household[2], and the current rental fee of $3.99 per adapter[3] (whether this is a digital adapter or a CableCard adapter), **this would increase the bill to an average household who uses the "basic" tier of service to $24.96 – or an increase of roughly 92% to an existing customer's cable bill for the same exact service**.

Addressing the National Cable & Telecommunications Association's Arguments

The NCTA's main arguments for the adoption of Encrypted QAM channels for basic tiers of services are summarized as follows, according to their letter to the FCC[4]:

> *"the proposed rule change will result in substantial consumer benefits for tens of millions of cable customers. Encryption will free cable customers from having to wait at home for a service visit when connecting or disconnecting service. It also will result in improved service reliability for consumers by reducing theft of service, which RCN reports has been a particular problem for standalone broadband customers with QAM capable devices. Furthermore, in light of these benefits, cable operators have strong incentives to migrate rapidly to all-digital networks, which translates into faster Internet and other services customers value."*
>
> **and**
>
> *"the small number of customers who do rely on QAM devices will be eligible to receive free equipment under the transitional measures."*

To address the first comments that "the proposed rule change will result in substantial consumer benefits for tens of millions of cable customers." This message is purely a way to positively spin the negative effects that encrypting the basic level of service would have on customers. The cable industry has the technical capability to disconnect service at the termination point outside of the customer's home, and in fact would not have to visit a customer's home while disconnecting service (and often do not). The NCTA is hedging on the basis of keeping customers "hot" and connected to their networks while controlling access using encryption controls on the content at the rented digital adapter

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[1] Current Verizon FiOS Television Rates, February 2012
[2] http://blog.nielsen.com/nielsenwire/consumer/u-s-homes-add-even-more-tv-sets-in-2010/
[3] Current Verizon FiOS Television Rates, February 2012
[4] http://apps.fcc.gov/ecfs/document/view.action?id=7021858767

rather than physically disconnecting clients from their cable service. The decryption is done in the home via the devices (which are sold by the cable companies). This could also feasibly be done via an external device outside of the consumer's home. This argument simply makes it convenient to the cable company.

The parties which mainly benefit under this system are the television providers, who no longer need to employ contractors and technicians to perform this service at customer's homes.

Theft of service is certainly an issue in which the FCC, while looking out for the best interests of consumers, also must consider the interests of the companies providing services. Allow me to address these concerns below.

In this instance, the "Basic" tier of service they are speaking of are mainly channels which are already available OTA for free. The NCTA argues that

> *If all channels are encrypted, there is less ability for individuals to manipulate equipment to obtain unauthorized access to service and service reliability improves. Likewise, encryption eliminates the ability of broadband-only customers from accessing basic tier channels illicitly.*

I think it is important to address this on two levels.

The first is that it is important to note that the basic tier of service they are speaking of includes mainly free, OTA channels which are either available for free, or which the consumer does not have the ability to receive OTA because of distance from broadcast towers or other obstructions.

The FCC has held that these channels – provided via OTA – service a public good. In fact, part of the reason that cable providers are required to carry these channels in a basic tier of service, is because of this public good – some of the channels included in basic tier are community service channels which consumers have no other way to access.

Part of the implicit agreement of being able to operate as a common carrier is that these channels, which serve a public good, will not be charged rates which are unlikely to be afforded by citizens who may be struggling at the poverty line.

The second is that these signals are sent out over the cable either in encrypted or unencrypted format – on a per-TV basis there is absolutely no further difference in whether these stations are encrypted or unencrypted. The physical cable is still outputting data at these frequencies, whether the signal is decrypted or received at the end of the path, or not.

The NCTA also states that cable providers will provide current customers who utilize Unencrypted QAM service with cable boxes which will provide the same service for free.

While this is good for existing consumers, any new service signups would not likely receive this equipment for free, and this is a way for the cable providers to "phase out" Unencrypted QAM service rather than provide an alternative at the same cost to the customer. In the end, the consumer still pays more for the same amount of service.

Stifling Innovation and Competition

The NCTA wishes to frame the argument for encrypted QAM service as a benefit to consumers, however from the points above you can determine that the main benefactor for encrypting the basic level of QAM service are the cable providers themselves.

New technologies are continually being created to move the telecommunications industry forward. Cable companies have a few ways of dealing with these innovations. They can develop new technologies themselves, purchase the new technologies from innovators, or attempt to stifle the competition through legislation or rule-changes through government regulator organizations such as the FCC.

The proposed change to FCC regulations regarding Encrypting the "Basic" Tier of cable service is clearly an example of the latter. **The changes would benefit the cable companies while providing few, if any, benefits to consumers and increasing already-strained household budgets with further fees to access this now protected essential content.**

Please consider rejecting this proposed modification to existing rules and maintain that the basic tier of cable service remain in the unencrypted QAM format from cable service providers.

Thank you for your consideration.

Sincerely,

/s/ David T. Drager

David T. Drager