

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of	)	
	)	
Nagra USA’s Request for Waiver of Sections	)	MB Docket No. 12-242
76.1204(a)(1) and 76.640(b)(4)(ii)(A) of the	)	
Commission’s Rules	)	

**REPLY COMMENTS OF NAGRA USA**

**I. INTRODUCTION AND SUMMARY**

Nagra USA (“Nagra”) has asked for a waiver of Sections 76.1204(a)(1) and 76.640(b)(4)(ii)(A) of the Commission’s rules for products that are “headless gateways,” that have the capability to relay content to devices over a home network using home networking interfaces which comply with open industry standards and specifications for home networking.<sup>1</sup>

Nagra believes that dominance of networking technologies for distributing content is imminent, and unnecessary restrictions on the deployment of devices which accommodate the transition to IP distribution will distort the marketplace and limit the ability of American consumers to have and use these new, networking-based technologies.

Commenters on Nagra’s petition have expressed either support<sup>2</sup> or opposition conditioned on matters that are the subject of a separate proceeding.<sup>3</sup> In particular, we agree with Public

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<sup>1</sup> See Media Bureau Seeks Comment on Nagra’s Request for Waiver of Set-Top Box Regulations, MB Docket No. 12-242, DA 12-1422 (Aug. 30, 2012).

<sup>2</sup> See *In the Matter of Nagra USA’s Request for Waiver of Sections 76.1204(a)(1) and 76.640(b)(4)(ii)(A) of the Commission’s Rules*, MB Docket No. 12-242, Comments of Public Knowledge (Sept. 19, 2012) (“Public Knowledge Comments”).

Knowledge that the Commission should focus on the need for competitive availability of navigation devices, not on specific hardware components.

## **II. WAIVER SHOULD NOT BE CONDITIONED ON MATTERS RELATING TO 76.640(b)(4)(iii)**

Arguments by CEA and the AllVid Alliance are generally that relief from the 76.1204(a)(1) should never be granted until there is a viable and permanent replacement for CableCARD that assures the availability of competitive navigation devices.<sup>4</sup>

Section 76.640(b)(4)(iii) of the Commission's rules requires that on December 1, 2102 cable-operator-provided high definition set-top boxes "comply with an open industry standard that provides for audiovisual communications including service discovery, video transport, and remote control command pass-through standards for home networking."<sup>5</sup> TiVo has petitioned the Commission to address this section in a concurrent proceeding, unrelated to the instant request.<sup>6</sup>

In essence, CEA and the AllVid Alliance ask that the Commission not grant waivers for 76.1204(a)(1) until and unless 76.640(b)(4)(iii) is clarified or modified in some way. If the

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<sup>3</sup> See *In the Matter of Nagra USA's Request for Waiver of Sections 76.1204(a)(1) and 76.640(b)(4)(ii)(A) of the Commission's Rules*, MB Docket No. 12-242, Comments of the AllVid Tech Company Alliance (Sept. 19, 2012) ("AllVid Comments"); *In the Matter of Nagra USA's Request for Waiver of Sections 76.1204(a)(1) and 76.640(b)(4)(ii)(A) of the Commission's Rules*, MB Docket No. 12-242, Comments of the Consumer Electronics Association (Sept. 19, 2012) ("CEA Comments").

<sup>4</sup> CEA Comments at 2 ("CEA has opposed and will continue to oppose any waiver that would undermine CableCARD common reliance unless and until an IP-based successor interface that is nationally standard and nationally portable is referenced in FCC regulations."); Alliance Comments at 2 ("[T]he Alliance must oppose the Commission acting on this petition unless and until the Commission has acted to provide specific assurances referring to and protecting the use of open, nondiscriminatory standards in competitive devices.").

<sup>5</sup> 47 C.F.R. 76.640(b)(4)(iii).

<sup>6</sup> See Media Bureau Seeks Comment on TiVo's Request for Clarification and Waiver of the Audiovisual Output Requirement of Section 76.640(b)(4)(iii), MB Docket No. 12-230, DA 12-1347 (Aug. 16, 2012).

Commission modifies and clarifies 76.640(b)(4)(iii) such that those requirements assure interoperability between operator-provided and retail devices, then devices subject to this waiver will also be assured of interoperability (and we have not asked for relief from 76.640(b)(4)(iii)). On the other hand, if the requirements of 76.640(b)(4)(iii) are unchanged, or not successful in requiring interoperability, the CableCARD requirements in 76.1204(a)(1) will continue to also be unsuccessful in ensuring a competitive marketplace – and consumers will continue to be hindered in receiving the advantages of supporting connected televisions.

The home networking interface is an interface that competitive devices may use to connect to operator-provided services. As Public Knowledge explains, the core objective of 76.1204(a)(1) is to allow competitive navigation devices access to operator-provided services, not to make specific requirements on conditional access hardware.<sup>7</sup>

### **III. CONCLUSION**

The Commission should act to enable access to services by competitive navigation devices by granting Nagra's waiver request.

Respectfully submitted,

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<sup>7</sup> Public Knowledge Comments at 2.