

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Charter Communications, Inc.’s)	
Request for Waiver of Section 76.1204(a)(1))	CSR-8740-Z
of the Commission’s Rules)	MB Docket No. 12-328
)	
Implementation of Section 304 of the)	CS Docket No. 97-80
Telecommunications Act of 1996)	PP Docket No. 00-67
)	
Commercial Availability of)	
Navigation Devices)	

REPLY COMMENTS
OF
THE ALLVID TECH COMPANY ALLIANCE

AllVid Tech Company Alliance (the “Alliance”) respectfully submits these Reply Comments in connection with the Request for Waiver submitted by Charter Communications in the above-referenced proceeding.¹ The Alliance supports the Opposition filed by the Consumer Electronics Association,² and renews its request that the Commission move forward with a rulemaking to ensure retail competition in the market for devices to access Multichannel Video Programming Distributor (“MVPD”) services, as directed by Congress over fifteen years ago.³

It is important not to lose sight of why Congress enacted Section 629 of the Communications Act of 1996 – to foster a competitive retail market for navigation devices used

¹ See Charter Communications, Inc.’s Request for Waiver of 47 C.F.R. § 76.1204(a)(1) of the Commission’s Rules, CSR-8740-Z, MB Dkt. No. 12-328, *et al.* (Nov. 1, 2012).

² See Opposition of the Consumer Electronics Association, CSR-8740-Z, MB Dkt. No. 12-328, *et al.* (Nov. 30, 2012).

³ 47 U.S.C. § 549(a).

by consumers to access the full range of services offered by MVPDs:

The Commission shall, in consultation with appropriate industry standard-setting organizations, adopt regulations to assure the commercial availability, to consumers of multichannel video programming and other services offered over multi-channel video programming systems, of converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems, from manufacturers, retailers and other vendors not affiliated with any multichannel video programming distributor.⁴

Almost two years ago, the Commission recognized that the current rules “have yet to realize Congress’ charge to develop a fully competitive retail market.”⁵ And in October of this year, the Commission stated that “We agree with CEA and the AllVid Tech Company Alliance that ensuring the effective implementation of Section 629 of the Act and continuing future device compatibility are important issues that the Commission must resolve.”⁶ Yet this situation has not improved.

Moreover, the long string of Commission waivers allowing companies to continue avoiding the minimal requirements in place, combined with the lack of Commission action to pave a specific and comprehensive path forward to a competitive retail market, has left consumers stuck renting MVPD devices with little control in how they view MVPD video programs and services.

Unfortunately, Charter’s petition offers nothing to promote device competition or otherwise improve this situation, and indeed, as outlined by CEA, would be a step backwards.

⁴ 47 U.S.C. § 549(a).

⁵ *In the Matter of Video Device Competition, Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices, Compatibility Between Cable Systems and Consumer Electronics Equipment*, MB Dkt. No. 10-91, CS Dkt. No. 97-80, PP Dkt. No. 00-67, Notice of Inquiry, ¶ 6 (rel. Apr. 21, 2010) (“NOI”).

⁶ *In the Matter of Basic Service Tier Encryption, et al.*, MB Dkt. No. 11-169, *et al.*, Report and Order, FCC 12-126, n.162 (rel. Oct. 12, 2012).

As we move into an all-digital and IP-delivery era, the Commission should not grant waivers to systems that will not, at a minimum, allow separation of security or portability. And continuing to force consumers to rely on whatever proprietary technologies are rolled out on the schedule dictated by MVPDs is flatly contrary to the intention and requirements of Section 629.⁷

As reflected by the Charter petition, MVPDs are moving toward IP-based program distribution, but their promises of “integration” into consumer devices are partial and limited in scale, scope, and time. The Commission’s insight in Section 4.2 of the National Broadband Plan was that, in an IP-based era, the fallback interface to assure device function and portability should also be IP-based, as well as inherently two-way and interactive.⁸ The petition underscores the critical need for the Commission to identify a secure, open, standard IP-based interface between MVPD services and retail devices.

An open, uniform, national standard, as contemplated by the AllVid “gateway” approach, and as recommended by the Commission to Congress in the National Broadband Plan, is a prerequisite for innovation and competition.⁹ This administration has emphasized the importance of interoperability standards to ensure that “equipment or software from different vendors [can] work together or communicate” and allow “new, innovative creations to work with older, established services.”¹⁰ As the Alliance has pointed out previously, while the White House

⁷ See Comments of Samuel J. Biller, MB Dkt. No. 12-328, *et al.* (Nov. 27, 2012) (discussing an individual consumer’s concerns that Charter’s waiver request violates the principle of common reliance and places retail devices at a competitive disadvantage).

⁸ *In the Matter of A National Broadband Plan for Our Future, et al.*, GN Docket Nos. 09-47, 09-51, 09-137, Section 4.2, introductory language to Recommendation 4.12. (Dec. 21, 2009).

⁹ See generally *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Comments of the Allvid Tech Company Alliance on Further Notice of Inquiry, MB Dkt. No. 07-269 (June 8, 2011).

¹⁰ Exec. Office of the President, Nat’l Sci. & Tech. Council, A Policy Framework for the 21st

discussed the importance of standards in the smart grid context, the issues are parallel in the multichannel video programming context.¹¹ Just last month, the Media Bureau also emphasized – in this very context – the importance of open standards in “allowing industries to build devices and services that work together without consultation: *a service or product that is offered according to a standard will work on any device built to the standard, even if the party responsible for the service or product has never had any contact with the party that made the device.*”¹²

Unless the Commission proceeds with an AllVid rulemaking, the markets for MVPD devices, and for MVPD programming and services, will continue to remain essentially in the same condition they were in when the Congress enacted Section 629 in 1996. There is no reason for consumers to remain, for the most part, stuck renting equipment provided by MVPDs and their chosen suppliers. As noted by Public Knowledge, the Commission should instead move forward with an approach that “leads to greater compatibility, device competition, and consumer choice.”¹³ A competitive market for navigation devices based on an IP interface would allow consumers to choose the best technologies and products in the marketplace personalized to their preferences, instead of relying on the decisions that MVPDs have made for them.

Century Grid: Enabling Our Secure Energy Future 26 (June 2011) (“White House Policy Framework”) (citing PCAST 2010).

¹¹ See generally *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, Reply Comments of the Allvid Tech Company Alliance on Further Notice of Inquiry, MB Dkt. No. 07-269 (July 8, 2011).

¹² See *In the Matter of TiVo Inc.’s Request for Clarification and Waiver of the Audiovisual Output Requirement of Section 76.640(b)(4)(iii)*, et al., Memorandum Opinion and Order, MB Dkt. No. 12-230, et al., DA-12-1910, ¶ 9 (rel. Nov. 28, 2012) (emphasis added).

¹³ Comments of Public Knowledge, MB Dkt. No. 12-328, et al., 3 (Nov. 30, 2012).

Conclusion

The petition for waiver filed by Charter underscores the need for a national standard allowing for the direct attachment of retail devices to MVPD systems. A grant of the Charter petition would be a further step away from the clear directive of Congress in enacting Section 629. The Alliance continues to urge the Commission to issue a Notice of Proposed Rulemaking that will focus public comment on opening the market for device competition in rendering programming and services, as required by Section 629, and on an IP-based gateway link between external and home networks, as laid out in Recommendation 4.12 of the National Broadband Plan. By doing so now, the Commission will encourage real device competition and will enhance the availability of online video devices for consumers everywhere.

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Respectfully Submitted,



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