

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of Section 304 of the Telecommunications Act of 1996)	CS Docket No. 97-80
)	
Commercial Availability of Navigation Devices)	PP Docket No. 00-67
)	
Compatibility Between Cable Systems and Consumer Electronics Equipment)	

**REPLY COMMENTS OF THE
NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION
ON TIVO, INC.'S PETITION FOR RULEMAKING**

October 25, 2013

Rick Chessen
Neal M. Goldberg
National Cable & Telecommunications
Association
25 Massachusetts Avenue, N.W. – Suite 100
Washington, DC 20001-1431
(202) 222-2445

TABLE OF CONTENTS

INTRODUCTION AND SUMMARY2

I. THE RECORD MAKES CLEAR THAT THERE IS NO NEED TO REINSTATE
THE PLUG-AND-PLAY RULES.....3

II. THE COMMISSION SHOULD REFRAIN FROM IMPOSING CABLE-ONLY
ENCODING RULES IN LIGHT OF CURRENT MARKETPLACE
CONDITIONS AND LEGAL QUESTIONS CREATED BY THE *ECHOSTAR*
DECISION.....6

CONCLUSION.....12

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of Section 304 of the Telecommunications Act of 1996)	CS Docket No. 97-80
)	
Commercial Availability of Navigation Devices)	PP Docket No. 00-67
)	
Compatibility Between Cable Systems and Consumer Electronics Equipment)	

**REPLY COMMENTS OF THE
NATIONAL CABLE & TELECOMMUNICATIONS ASSOCIATION
ON TIVO, INC.’S PETITION FOR RULEMAKING**

The National Cable & Telecommunications Association (“NCTA”)¹ hereby replies to comments filed in response to TiVo, Inc.’s (“TiVo’s”) Petition for Rulemaking.² The TiVo Petition requests that the Commission conduct a rulemaking to impose new rules on cable operators based on those adopted in the *2003 Plug-and-Play Order*³ and vacated by the U.S.

¹ NCTA is the principal trade association for the U.S. cable industry, representing cable operators serving more than 90 percent of the nation’s cable television households and more than 200 cable program networks. The cable industry is the nation’s largest provider of broadband service after investing over \$200 billion since 1996 to build two-way interactive networks with fiber optic technology. Cable companies also provide state-of-the-art competitive voice service to more than 23 million customers.

² Petition for Rulemaking, CS Docket No. 97-80, PP Docket No. 00-67 (July 16, 2013) (“TiVo Petition” or “Petition”); *Media Bureau Seeks Comment on TiVo Petition for Rulemaking To Reinstate the Commission’s Second Report and Order Implementing Section 629 of the Act and Associated Rules*, Public Notice, 28 FCC Rcd. 10840 (2013..

³ *Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices; Compatibility Between Cable Systems and Consumer Electronics Equipment*, Second Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd. 20885 (2003) (“*2003 Plug-and-Play Order*” or “*2003 Order*”). As NCTA detailed in its comments, the vacated rules included: (1) technical plug-and-play requirements imposed on manufacturers of unidirectional cable-ready products (“UDCPs”) and cable operators, and (2) encoding rules applicable to all MVPDs that set limits on the levels of copy protection for MVPD-distributed content and also restricted the use of certain device output controls. *See* NCTA Comments at 2.

Court of Appeals for the D.C. Circuit in *EchoStar Satellite L.L.C. v. FCC*.⁴ For the reasons set forth below and in NCTA's initial comments, NCTA respectfully requests that the Commission reject TiVo's Petition.

INTRODUCTION AND SUMMARY

As NCTA and other commenters explained, marketplace developments over the last decade make reinstatement of the plug-and-play rules unnecessary. Today, consumers are able to access video content from both MVPD and non-MVPD sources on a variety of devices, such as tablets, smartphones, smart TVs, game consoles, and other IP-enabled devices. If anything, reinstatement of the rules would pose a risk to innovation in a marketplace that is rapidly evolving away from the set-top box and MVPD-supplied equipment. Moreover, contrary to the claims of the Consumer Electronics Association ("CEA"), Public Knowledge, and the AllVid Tech Company Alliance ("Tech Alliance"), there is no evidence of harm to CableCARD customers or device manufacturers in the wake of the *EchoStar* decision. Cable operators continue to support CableCARDs, and manufacturers are introducing new CableCARD devices even in the absence of any plug-and-play rules. To the extent TiVo is concerned about the need for enforceable rules in this area, the Commission's separate security requirement operates as a regulatory backstop.⁵

The record also demonstrates that the Commission should refrain from adopting cable-only encoding rules. Numerous parties, including supporters of the Petition, recognized that encoding limits are well established and accepted in today's marketplace, and operators and programmers alike have strong incentives to ensure that they meet consumers' expectations in

⁴ *EchoStar Satellite L.L.C. v. FCC*, 704 F.3d 992 (D.C. Cir. 2013) ("*EchoStar*").

⁵ NCTA Comments at 12-13.

this area. Even aside from these marketplace considerations, the *EchoStar* decision places significant constraints on the Commission’s ability to adopt new encoding rules. CEA and the Tech Alliance contend that the *EchoStar* decision in no way impacts the Commission’s authority to impose the rules from the *2003 Plug-and-Play Order* just on cable operators, but that is inaccurate. As Verizon and the Program Network Interests (“Programmers”) pointed out, the court rejected all of the Commission’s legal justifications in the *2003 Order* for adopting the encoding rules and raised significant questions about the Commission’s ability to adopt any new rules going forward. Ignoring the court’s rulings in this regard and pressing forward with cable-only rules, which CEA and the Tech Alliance appear to advocate, likely would lead to another round of protracted litigation and new marketplace uncertainty.

I. THE RECORD MAKES CLEAR THAT THERE IS NO NEED TO REINSTATE THE PLUG-AND-PLAY RULES.

CEA and other supporters of the Petition claim that reinstatement of the plug-and-play rules is necessary to preserve the marketplace for retail navigation devices.⁶ However, as NCTA and other commenters explained, those rules are an anachronism in a marketplace that is evolving so rapidly. Cable operators, MVPDs, and other video distributors are responding to consumer demand by enabling access to their services on a wide range of different devices and platforms, the vast majority manufactured by CEA members and available at retail stores.⁷ As NCTA noted, “the marketplace is migrating rapidly toward a model where cable services are delivered as an application on a wide and growing array of third-party, IP-enabled devices, including tablets, smartphones, game consoles, smart TVs, and PCs.”⁸ The Programmers further

⁶ See CEA Comments at 3; Public Knowledge Comments at 2-3; Tech Alliance Comments at 4.

⁷ Verizon Comments at 4-5; see also ACA Comments at 8; NCTA Comments at 9-10; MPAA Reply at 3.

⁸ NCTA Comments at 8.

noted that “[c]onsumers today can access video content in myriad ways, using a wide range of devices both within and outside the home.”⁹ Verizon likewise highlighted the transition in the marketplace away from the traditional set-top box model, noting that subscribers can access FiOS TV programming through an app on a variety of CE devices.¹⁰ In sum, as Verizon stated, “the Commission should continue to encourage the marketplace developments that are already well underway to achieve the goals of Section 629 in ways that the CableCARD rules could not.”¹¹

In contrast, “[f]urther technology mandates or other government regulation in this collaborative, dynamic, and rapidly evolving marketplace is clearly unnecessary and would only slow the brisk pace of innovation.”¹² NCTA underscored how inflexible regulations like the plug-and-play rules “cannot adjust promptly to changes in the market and technology,”¹³ and catalogued the many instances in which it took several years for the Commission to adapt the rules to a changing marketplace and emerging technology.¹⁴ The Programmers similarly noted that “the burdens associated with seeking relief from the rules have served to either entirely forestall new MVPD services, or substantially delayed their introduction, thereby limiting the

⁹ Joint Comments filed by 21st Century Fox, CBS Corp., Time Warner Inc., Viacom Inc., and The Walt Disney Company (“Programmers Comments”) at 1-2 (noting that “this unprecedented wave of innovation is the direct product of investment and groundbreaking technological advances in largely *nontraditional* services embraced by content creators, program networks, and service providers in private collaboration with device manufacturers”) (emphasis in original).

¹⁰ Verizon Comments at 3-5.

¹¹ *Id.* at 5.

¹² *Id.*

¹³ NCTA Comments at 11.

¹⁴ *Id.* at 10 (noting that it took the Commission two years to grant a waiver for early-release theatrical content; four years to revise the rules to account for the introduction of M-Cards; almost seven years to reflect that broadcast content had become available on cable on-demand menus; and nearly a decade to resolve all the petitions for reconsideration on the *2003 Plug-and-Play Order*).

innovations available to U.S. consumers on these platforms.”¹⁵ In this dynamic marketplace, saddling cable operators with decade-old regulations would deter innovation and harm consumers.

CEA, the Tech Alliance, and Public Knowledge further assert that reinstatement of the plug-and-play rules is necessary to ensure “stability” in the marketplace for retail CableCARD devices and to protect CableCARD customers.¹⁶ However, these commenters provide no evidence to support these purely speculative claims. In fact, all evidence in the record is to the contrary. As NCTA and others observed, cable operators continue to support CableCARDS notwithstanding the *EchoStar* decision and have strong incentives to maintain this support in order to meet the needs of their CableCARD customers or risk losing them to competitors.¹⁷ Furthermore, contrary to claims of uncertainty regarding CableCARD support post-*EchoStar*, TiVo has reported a surge in its CableCARD business,¹⁸ and other manufacturers, such as Samsung and Ceton Corp., are bringing new retail CableCARD devices to market.¹⁹ And, to the extent that TiVo and supporters of its Petition are concerned about the need for enforceable rules in this area, a regulatory backstop already exists in the form of the Commission’s separate security requirement.²⁰

¹⁵ Programmers Comments at 2.

¹⁶ See CEA Comments 3-6; Tech Alliance Comments at 2-4; Public Knowledge Comments at 1-3.

¹⁷ NCTA Comments at 11-12; Programmers Comments at 2; *see also* ACA Comments at 7.

¹⁸ TiVo Reports Results for the Second Quarter Ended July 31, 2013, <http://investor.tivo.com/phoenix.zhtml?c=106292&p=irol-newsArticle&ID=1850119&highlight=> (reporting a 33% increase in TiVo subscriptions in the past year).

¹⁹ See CEA Comments at 3; NCTA Comments at 12; Programmers Comments at 2; Public Knowledge Comments at 2; *see also* TiVo Petition at 22 & n.53.

²⁰ See NCTA Comments at 4, 12-13. As NCTA explained in its initial comments, *see id.* at 12-13, cable operators have an independent duty under the Commission’s navigation device rules to make “separate security” available to customers with retail equipment, and operators comply with that requirement today via CableCARD. This rule is distinct from the Commission’s integration ban rule, which prohibits the use of integrated security in
(footnote continued...)

In short, there is no need for the Commission to reinstate the plug-and-play rules. However, if the Commission nonetheless decides to proceed with a rulemaking, it should consider automatically sunseting any rules it imposes after a limited period of time, e.g., three to five years.²¹

II. THE COMMISSION SHOULD REFRAIN FROM IMPOSING CABLE-ONLY ENCODING RULES IN LIGHT OF CURRENT MARKETPLACE CONDITIONS AND LEGAL QUESTIONS CREATED BY THE *ECHOSTAR* DECISION.

The record demonstrates that singling out cable operators for encoding rules makes even less sense in today's marketplace than when that approach was rejected by the Commission and the cable and consumer electronics industries in 2003.²² The Commission declined to adopt cable-only encoding rules in 2003 because such rules "would create a permanent competitive imbalance in the MVPD programming market that could negatively impact consumers."²³

(...footnote continued)

operator-supplied navigation devices. Contrary to claims that TiVo has made in the press, *see Lack of Action on Set-Top Box Bill No Bar to Opponent Visiting Hill Offices*, TR Daily, Oct. 10, 2013, NCTA has not said that the integration ban provides a regulatory backstop if the plug-and-play rules are not reinstated. Rather, it has said that the separate security requirement would provide such a backstop.

²¹ *See* NCTA Comments at 13. CEA suggests that the Commission may reinstate the technical plug-and-play rules and impose new cable-only encoding rules without a rulemaking. *See* CEA Comments at 4. CEA provides no authority for this proposition because there is none. Reinstatement of rules that no longer have legal effect, such as those vacated by the *EchoStar* court, requires a notice-and-comment rulemaking under the Administrative Procedure Act ("APA"). *See N.C. Growers' Ass'n v. United Farm Workers*, 702 F.3d 755, 759, 764-66 (4th Cir. 2012) (concluding that the Department of Labor's temporary reinstatement of previously superseded regulations was a "rulemaking" under the APA and that its failure to adhere to the statute's notice-and-comment requirements was arbitrary and capricious). The Media Bureau's issuance of a Public Notice on TiVo's Petition does not qualify as a notice-and-comment rulemaking; rather, as the Commission's rules make clear, only the full Commission can initiate such a rulemaking. *See* 47 C.F.R. § 0.283 ("The Chief, Media Bureau, is delegated authority to perform all functions of the Bureau, described in § 0.61, provided that the following matters shall be referred to the Commission en banc for disposition: (a) Notices of proposed rulemaking and of inquiry and final orders in such proceedings, with the exception of rulemaking proceedings involving the allotment of FM and television channels"); *see also* 47 U.S.C. § 155(c)(1) (empowering the Commission to delegate certain duties); 47 C.F.R. § 0.201; *Sprint Corp. v. FCC*, 315 F.3d 369, 376 (D.C. Cir. 2003) (holding that the Common Carrier Bureau's issuance of a public notice regarding a regulatory proposal did not satisfy the APA's notice requirement because the Bureau lacked authority to issue notices of proposed rulemaking, and vacating the rule at issue).

²² *See* Programmers Comments at 2-3; *see also* NCTA Comments at 17-18 (noting the competitive harms that would result from cable-only encoding rules).

²³ 2003 *Plug-and-Play Order* ¶ 71.

Marketplace developments over the ensuing decade have only amplified those concerns. As the Programmers stated, today, when more than 40% of the current MVPD marketplace would not be covered by cable-only encoding rules, TiVo's proposal "would have the effect of creating greater inconsistency," rather than achieving the consistency that TiVo claims is essential to the viability of retail devices.²⁴ It would also result in direct harms to TiVo customers. As NCTA noted, applying encoding rules only to cable operators would "steer protected programming (such as early-release theatrical content) to non-cable operators, and away from the very cable customers that TiVo seeks to serve."²⁵

The case for new encoding rules is further undercut by the fact that encoding limits are well established and accepted in the marketplace today.²⁶ Even CEA recognizes this basic point, characterizing the current encoding limits as "uncontroversial" and providing "predictability and reliability for consumers, manufacturers, and cable operators."²⁷ Moreover, CEA, the Tech Alliance, and Public Knowledge provide no evidence that CableCARD customers are being harmed in the absence of new encoding rules.²⁸ Rather, as Verizon stated, the *vacatur* of the encoding rules "appears to have little impact on retail navigation devices."²⁹ This is unsurprising. There "are now well-defined expectations among programmers, distributors, and

²⁴ Programmers Comments at 2-3.

²⁵ NCTA Comments at 5, 17-18 (also discussing broader harms to competition, innovation, and investment as a result of cable-only encoding rules).

²⁶ TiVo Petition at 18; Tech Alliance Comments at 5-6 (stating that the encoding rules have worked fairly and predictably in the past decade); *see* CEA Comments at 6-7.

²⁷ CEA Comments at 6.

²⁸ *See id.* at 8; Tech Alliance Comments at 6; Public Knowledge Comments at 2-3.

²⁹ Verizon Comments at 8.

consumers regarding copy and output controls for existing business models,”³⁰ and, as the Programmers explained, “programmers and service providers have every incentive” to live up to consumers’ expectations regarding copy and output controls “given the potential for consumer backlash.”³¹ Of course, the Commission can monitor the marketplace, and if concerns arise, consider at that time what actions, if any, it can take.³²

These marketplace considerations make new cable-only encoding rules unnecessary and counter-productive. But even assuming there was a marketplace need for the Commission to consider reinstating the rules, contrary to the claims of CEA and the Tech Alliance, the *EchoStar* decision raises significant questions about the Commission’s authority in this area.

CEA and the Tech Alliance try to downplay the legal significance of the decision by claiming that the rules “were not vacated on account of anything pertaining either to their substance or to the Commission’s authority or procedure in adopting them,” but rather because the rules “were also applied to DBS services in circumstances where DBS parties were not included in the CE-cable negotiations or in the [2002 Memorandum of Understanding (‘MOU’)] that was forwarded to the Commission” and because Commission counsel had advised that court

³⁰ NCTA Comments at 15; *see also* Verizon Comments at 8 (noting that TiVo assumes “that MVPDs will ignore the *custom and practice* in the industry regarding encoding policies for video programming”) (emphasis added).

³¹ Programmers Comments at 2; *see also* MPAA Reply at 3 (“Accordingly, despite TiVo’s unsubstantiated assertions to the contrary, there is no evidence that consumers are harmed today by the lack of encoding rules. Programmers, service providers and consumer electronic companies have every incentive to meet their consumers’ expectations and are continually working to do so.”). NCTA also rebutted TiVo’s claims that retail CableCARD devices would be singled out for adverse treatment by programmers and MVPDs. *See* NCTA Comments at 16 (“[I]t seems highly doubtful that they would target UDCPs for discriminatory treatment given that retail CableCARD devices are a small fraction of the device marketplace.”).

³² *See* NCTA Comments at 16.

that inclusion of DBS “was considered . . . to be ‘integral’ to the CE and cable parties’ willingness to sign [the DFAST] license agreement.”³³

CEA and the Tech Alliance completely ignore the fact – recognized by the *EchoStar* court and noted by NCTA and Verizon in their respective comments³⁴ – that the Commission included DBS in the encoding rules to ensure regulatory parity and avoid marketplace imbalances between cable operators and DBS providers.³⁵ In fact, CEA itself previously acknowledged that the rules were intended to address parity concerns.³⁶ CEA and the Tech Alliance are not free now to rewrite the past as a matter of convenience to justify cable-only encoding rules.

In addition, contrary to CEA’s and the Tech Alliance’s claims, the *EchoStar* court squarely addressed the Commission’s statutory authority to adopt the encoding rules from the *2003 Plug-and-Play Order*.³⁷ As Verizon pointed out, “the Commission cannot simply ‘reinstate’ the [*2003 Plug-and-Play Order*] applying the encoding rules to cable companies only

³³ CEA Comments at 1-3; *see also* Tech Alliance at 2, 6 (claiming that the encoding rules were vacated “based on procedural concerns only applicable to satellite operators”).

³⁴ *See EchoStar*, 704 F.3d at 995-96; *see also* NCTA Comments at 17; Verizon Comments at 9.

³⁵ *2003 Plug-and-Play Order* ¶ 57 (concluding that cable-only encoding rules would leave cable operators “at a significant competitive disadvantage in obtaining access to content”); *see also id.* ¶ 71 (“Application of the encoding rules to the cable industry alone would create a permanent competitive imbalance in the MVPD programming market that could negatively impact consumers.”).

³⁶ In a joint response with NCTA to the Commission’s questions regarding the MOU, CEA stated that “[i]t is the parties’ intention that the encoding rules be applied in a manner which assures parity among video distributors.” Letter from Neal M. Goldberg, NCTA, on behalf of himself and Michael Petricone, CEA, to John P. Wong, Chief, Engineering Division, FCC, CS Docket No. 97-80, PP Docket No. 00-67, at 8 (July 10, 2003). Similarly, CEA’s reply comments in the Commission’s 2003 plug-and-play rulemaking quoted the Motion Picture Association of America’s arguments raised during Commission roundtable discussions regarding the need to treat DBS providers and cable operators equally, stating that “the *only* way to achieve the parity that they seek is through an Encoding Rule regime.” Joint Reply Comments of CEA and the Consumer Electronics Retailers Association in Response to Further Notice of Proposed Rulemaking, CS Docket No. 97-80, PP Docket No. 00-67, at 13-15 (Apr. 28, 2003) (emphasis in original).

³⁷ *See EchoStar*, 704 F.3d at 994-1000 (“We conclude the FCC lacked statutory authority to impose these [encoding] rules”); *see also* Programmers Comments at 2; Verizon Comments at 2, 5-7.

because the Court invalidated all legal bases for the encoding rules as applied to all MVPDs.”³⁸ With respect to the Commission’s direct and ancillary Section 629 authority, the *EchoStar* court concluded that Section 629 “provides no explicit textual basis for the encoding rules” and that the Commission’s “ancillary jurisdiction may be broad, but it is not unbounded.”³⁹ The court also rejected the Commission’s reliance on Section 624A as a basis for all-MVPD encoding rules,⁴⁰ and further called into question the Commission’s ability to rely on Section 624A as a jurisdictional basis for adopting encoding rules applicable to modern technologies given that Section 624A is an analog-era statute that addresses compatibility with video cassette recorders.⁴¹ The Commission must be mindful of these limitations on its jurisdiction as it evaluates TiVo’s Petition.

CEA further asserts that, in the absence of encoding rules, the Commission’s 2000 declaratory ruling regarding copy protection requirements in the DFAST license now “springs back to life,” and that new encoding rules would be far preferable to case-by-case complaints

³⁸ Verizon Comments at 6; *see also* Programmers Comments at 3 (“[W]e note that the D.C. Circuit’s decision leaves significant doubt about whether the encoding rules could be reinstated in a cable-specific manner.”); MPAA Reply at 4 (noting that *EchoStar* “at the very least raises serious questions about FCC authority to impose the [encoding] rules on cable operators”).

³⁹ *EchoStar*, 704 F.3d at 997-99. As NCTA previously discussed, the *EchoStar* court characterized the Commission’s request for wide-ranging direct and ancillary authority under Section 629 as “capacious,” “unbridled,” “omnibus,” and “effectively plenary,” and rejected this request. NCTA Comments at 14 n.52; *see also EchoStar*, 703 F.3d at 999 (“[W]e refuse to interpret ancillary authority as a proxy for omnibus powers limited only by the FCC’s creativity in linking its regulatory actions to the goal of commercial availability of navigation devices.”).

⁴⁰ *EchoStar*, 704 F.3d at 999-1000.

⁴¹ *Id.* at 999-1000 n.4 (“We set aside for now whether § 624A’s reference to ‘video cassette recorders,’ now a largely antiquated technology, is adequate to sustain the FCC’s purported interest in the ability of consumers to retain ‘the full benefits of . . . the functionality’ of their recording devices.”) (citations omitted); *see also* NCTA Comments at 14 n.52; Programmers Comments at 3 (“[T]he D.C. Circuit specifically set aside the question of whether [Section 624A’s] explicit compatibility mandate ‘between cable systems on one hand and televisions and video cassette recorders on the other’ would extend to modern technologies.”); Verizon Comments at 7.

under that 2000 precedent.⁴² As an initial matter, it is doubtful that the declaratory ruling has any relevance today given the widespread adoption of the DFAST license, which includes the copy protection requirements at issue in the 2000 ruling.⁴³ Further, as previously discussed, changes in the marketplace in the last decade and the acceptance of well-established encoding limits undercut the need for Commission intervention whether by rulemaking or case-by-case adjudications,⁴⁴ and the *EchoStar* decision calls into question the exercise of the Commission's authority in this area.⁴⁵ In sum, the 2000 ruling has been overtaken by marketplace and legal developments.

Notwithstanding these developments, if the Commission nonetheless decides to revisit this issue, it should only consider adopting new encoding rules if it believes that the rules can be applied to *all* MVPDs consistent with the *EchoStar* decision.⁴⁶

⁴² CEA Comments at 6.

⁴³ As CEA mentioned, the current DFAST license remains in force today without any suggestion of possible abandonment. *See id.* at 3. Similarly, TiVo acknowledged that the 2002-2003 concerns about whether to offer or sign the DFAST license are now attenuated. *See* TiVo Petition at 16.

⁴⁴ *See* discussion *supra* at 6-7.

⁴⁵ *See* discussion *supra* at 9-10.

⁴⁶ NCTA Comments at 19-21; *see also* Verizon Comments at 9 (“If the encoding rules are needed, then based on the Commission’s reasoning in the *Second Report and Order*, it must reconsider how to adopt rules that can be applied to all MVPD competitors.”).

CONCLUSION

For the foregoing reasons, and those set forth in NCTA's initial comments, NCTA respectfully requests that the Commission deny TiVo's Petition and refrain from commencing a rulemaking that would impose outdated regulations that are unnecessary in today's dynamic and competitive marketplace.

Respectfully submitted,

/s/ Rick Chessen

Rick Chessen
Neal M. Goldberg
National Cable & Telecommunications
Association
25 Massachusetts Avenue, N.W. – Suite 100
Washington, DC 20001-1431
(202) 222-2445

October 25, 2013