PUBLIC NOTICE

Federal Communications Commission
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DA 14-46
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MEDIA BUREAU ACTION

MEDIA BUREAU SEEKS COMMENT ON TIVO'S REQUEST FOR CLARIFICATION OR WAIVER OF THE AUDIOVISUAL OUTPUT REQUIREMENT OF SECTION 76.640(b)(4)(iii)

CS Docket No. 97-80

Comment Date: February 14, 2014
Reply Comment Date: February 28, 2014

TiVo Inc. ("TiVo") has filed a petition for clarification or waiver of Section 76.640(b)(4)(iii) of the Commission's rules.[1] Section 76.640(b)(4)(iii) requires that set-top boxes provided by cable operators include a digital interface to enable consumers to connect consumer electronics devices that they own to set-top boxes that they lease from their cable operators for whole-home viewing and recording.[2] Specifically, the rule requires cable operators to "ensure that the cable-operator-provided high definition set-top boxes, except unidirectional set-top boxes without recording functionality, shall 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."[3] TiVo asserts that the "touchstone" solution for home networking has not been published publicly, and therefore requests that the Commission extend waiver until "compliance is achievable on an industry-wide basis that includes TiVo."[4] Alternatively, TiVo requests that we clarify whether the rule is still in effect in the wake of the D.C. Circuit's decision in *Echostar Satellite, LLC v. FCC*.[5] We seek comment on TiVo's request.

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[1] 47 C.F.R. § 76.640(b)(4)(iii).

[2] *Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices*, 25 FCC Rcd 14657, 14677-9, ¶¶ 39-44 (2010).

[3] In response to a request for waiver from TiVo in 2012, the Media Bureau granted a waiver of this rule until June 2, 2014 (and until September 2, 2014 for small cable operators). *TiVo Inc.'s Request for Clarification and Waiver of the Audiovisual Output Requirement of Section 76.640(b)(4)(iii)*, 27 FCC Rcd 14875 (MB 2012).

[4] TiVo Petition at 3-4.

[5] TiVo Petition at 2, 4, nn.4 & 5 (citing *Echostar Satellite, LLC v. FCC,* 704 F.3d 992 (D.C. Cir. 2013)). In *Echostar Satellite, LLC v. FCC*, the D.C. Circuit vacated two Commission orders: *Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, Second Report and Order and Second Further Notice of Proposed Rulemaking, 18 FCC Rcd 20885 (2003) ("*Second R&O*"), and *Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation*

This proceeding will be treated as "permit but disclose" for purposes of the Commission's *ex parte* rules.[6] As a result of the permit-but-disclose status of this proceeding, *ex parte* presentations will be governed by the procedures set forth in Section 1.1206 of the Commission's rules applicable to non-restricted proceedings.[7]

Comments and oppositions are due **February 14, 2014**. Petitioner's reply is due **February 28, 2014**. All filings must be submitted in CS Docket No. 97-80. Pleadings sent via e-mail to the Commission will be considered informal and will not be part of the official record. Interested parties will have access to comments online through the Commission's Electronic Comment Filing System (ECFS), and therefore we waive the requirements of Sections 76.7(b)(1) and 76.7(c)(1) that comments and oppositions be served on interested parties.[8]

Comments may be filed using: (1) (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.[9]

Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: http://www.fcc.gov/cgb/ecfs/ or the Federal eRulemaking Portal: http://www.regulations.gov. Filers should follow the instructions provided on the website for submitting comments.

For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal service mailing address, and the applicable docket number: CS Docket No. 97-80. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message: "get form". A sample form and instructions will be sent in response.

Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. The filing hours are 8:00 a.m. to 7:00 p.m.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

Devices, Order on Reconsideration, 18 FCC Rcd 27059 (2003). The Commission adopted Section 76.640 in the *Second R&O*, but subsequently modified it in 2010. *Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, Third Report and Order and Order on Reconsideration, 25 FCC Rcd 14657, 14677-14679, ¶¶ 39-44 (2010). TiVo asks us to clarify whether the modified language in Section 76.640 is still in effect.

[6] *See* 47 C.F.R. §§ 1.1200-1.1216.

[7] 47 C.F.R. § 1.1206.

[8] 47 C.F.R. §§ 76.7(b)(1), 76.7(c)(1).

[9] *See Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322, 11326, para. 8 (April 6, 1998).

U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

One copy of each pleading must be sent to Brendan Murray, Media Bureau, Room 4-A726, 445 12th Street, S.W., Washington, D.C. 20554 or Brendan.Murray@fcc.gov.

Copies of the Waiver Request and any subsequently filed documents in this matter are also available for inspection in the Commission's Reference Information Center:

445 12th Street, S.W., Room CY-B402
Washington, D.C. 20554
(202) 418-0270

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For further information, contact Brendan Murray of the Media Bureau, (202) 418-2120. Press inquiries should be directed to Janice Wise, (202) 418-8165 or Janice.Wise@fcc.gov. TTY: (202) 418-7172 or (888) 835-5322.

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