

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of )  
)  
TiVo Inc. )  
Petition for Clarification or Waiver )  
of 47 C.F.R. § 76.640(b)(4) )  
) CS Docket No. 97-80  
Implementation of Section 304 of the )  
Telecommunications Act of 1996; )  
Commercial Availability of Navigation )  
Devices )

**CEA Comments In Support of TiVo Petition For  
Clarification or Waiver Of 47 C.F.R. § 76.640(b)(4)(iii)**

The Consumer Electronics Association supports TiVo’s petition for clarification or waiver of 47 C.F.R. § 76.640(b)(4)(iii) for the reasons set out in TiVo’s Summary: Standards activity has not kept pace with the date projected by the Media Bureau for when a suitable technical standard would be available to industry; and the Media Bureau has not resolved whether 76.640(b)(4)(iii) remains an enforceable regulation or was vacated by the Court of Appeals opinion in *EchoStar*.<sup>1</sup>

In CEA’s Sept. 21, 2012 comments<sup>2</sup> on TiVo’s initial waiver application, CEA said the waiver “promotes rather than undermines the purpose of the rule,” and “the Commission needs to address the December 1, 2012 compliance date imminently and urgently to avoid proprietary implementations that would undermine the purpose of the

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<sup>1</sup> *EchoStar Satellite L.L.C. v. FCC*, 704 F.3d 992 (D.C. Cir. 2013).

<sup>2</sup> *In the Matter of TiVo Inc.’s Request for Clarification and Waiver of the Audiovisual Output Requirement of Section 76.640(b)(4)(iii); 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. 12-230, CS Dkt. No. 97-80, PP Dkt. No. 00-67, DA 12-1910, Comments of CEA.

rule and chill the innovation and consumer utility that the rule was designed to enable.”

These remain valid observations and concerns.

CEA agrees with TiVo that all parties, whatever their position on the proper status of the Second Report & Order,<sup>3</sup> need to know whether the FCC believes compliance is required, and if so by what date. Accordingly, CEA supports TiVo’s petition and believes it should be considered noncontroversial.

Respectfully submitted,

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<sup>3</sup> *Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices*, CS Dkt. No. 97-80, PP Dkt. No. 00-67, FCC 03-225, Second Report and Order and Second Further Notice of Proposed Rulemaking (rel. Oct. 9, 2003). CEA supports TiVo’s petition for reinstatement but agrees that the outcome of this petition need not depend on how the Commission resolves that matter.