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

The Comments on this Petition[1] filed by the NCTA,[2] Verizon,[3] and DLNA[4] all confirm and support petitioner TiVo's perception that a delay in the effective date of Section 76.640(b)(4)(iii) is necessary and appropriate. They also confirm CEA's perception in its Comments[5] that such a delay should be noncontroversial. CEA trusts that in view of these Comments, further information to be forthcoming from DLNA,[6] and consultations with stakeholders as may be necessary, the Media Bureau will choose an

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[1] *In the Matter of TiVo Inc.'s Request for Clarification and Waiver or Waiver of 47 C.F.R.* § 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*, CS Dkt. No. 97-80, Petition of TiVo Inc. for Clarification or Waiver of *47 C.F.R.* § 76.640(b)(4)(iii) (Jan. 3, 2014).
[2] *Id.*, Comments of NCTA (Feb. 14, 2014).
[3] *Id.*, Comments of Verizon (Feb. 14, 2014).
[4] *Id.*, Letter from Donna Moore, Executive Dir., DLNA to Marlene H. Dortch, Sec., FCC (Feb. 14, 2014, " DLNA Comments").
[5] *Id.*, Comments of CEA (Feb. 14, 2014).
[6] DLNA Comments at 2.

appropriate further date on which compliance should be expected, assuming that the status of the rule itself has been clarified.

The status of the rule should be clarified by the Commission by acting affirmatively on TiVo's Petition for Rulemaking[7] to reinstate the Commission's Second Report & Order.[8] As CEA pointed out in its Comments on that petition,[9] there is no true controversy about or objection to Section 76.640, as adopted in the Second R&O. Accordingly CEA believes that the clearest and most useful and efficient clarification of Section 76.640(b)(4)(iii) will be for the Commission to act now on TiVo's Petition for Rulemaking. As reliable Commission action, process, and precedent, this seems far superior to attempting to address the curious situation of a rule whose codification has been vacated but whose text was later-enacted.[10] With respect to the outcome of the Commission's action on TiVo's Petition for Rulemaking, CEA's views remain as stated in its Sept. 16, 2013 Comments in support of that Petition.

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[7] *Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices; Compatibility Between Cable Systems and Consumer Electronics Equipment*, CS Dkt. No. 97-80, PP Dkt. No. 00-67, Petition for Rulemaking (July 16, 2013) ("Petition for Rulemaking").

[8] *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) ("Second R&O").

[9] *Id.*, Comments of CEA at 15 (Sept. 16, 2013).

[10] CEA notes further that Section 76.640 was neither discussed nor implicated by the parties or the Court of Appeals in the *EchoStar* case. *EchoStar Satellite L.L.C. v. FCC*, 704 F.3d 992 (D.C. Cir. 2013).

Respectfully submitted,

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Dated: February 28, 2014