Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Buckeye Cablevision, Inc.	)	MB Docket No. 14-42
Request for Waiver of Section 76.1204(a)(1)	)	
of the Commission's Rules	)	CSR-8876-Z
	)	
Implementation of Section 304 of the	)	
Telecommunications Act of 1996	)	CS Docket No. 97-80
	)	
Commercial Availability of Navigation	)	
Devices	)	

REPLY COMMENTS OF CHARTER COMMUNICATIONS, INC.
ON BUCKEYE CABLEVISION, INC.'S REQUEST FOR WAIVER

Charter Communications, Inc. ("Charter") hereby submits reply comments in response to comments addressing Buckeye Cablevision, Inc.'s ("Buckeye's") request for waiver the "integration ban" – the rule requiring cable operators to use separated security (e.g., CableCARDs) in their leased set-top boxes.[1] Buckeye proposes to deploy a hybrid QAM/IP set-top box with DTA and downloadable security. The hybrid box will enable Buckeye to migrate over time to an all-IP channel lineup and the bandwidth for faster Internet and more HD and IP services, without requiring customers to exchange set-top boxes through the transition. In its Comments, TiVo, Inc. ("TiVo") seeks to block Buckeye's transition to IP, but goes even further to attack the Commission's 2013 waiver allowing Charter to transition to downloadable security.

[1] Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules, MB Docket No. 14-42; CSR-8876-Z; CS Docket No. 97-80 (Mar. 3, 2014); *Media Bureau Seeks Comment on Buckeye's Request for Waiver of the Integration Ban of Section 76.1204(a)(1)*, Public Notice, MB Docket No. 14-42; CSR-8876-Z, DA 14-321 (rel. Mar. 7, 2014).

In 2013, the Commission granted Charter a two-year waiver to deploy set-top boxes with integrated security and downloadable chips while it built a downloadable security system.[2] The FCC has long expressed a preference for downloadable systems, and the waiver made it possible for Charter to invest its financial resources in a far more modern and efficient security technology while still supporting CableCARDs. This kind of efficiency also allowed Charter to commit to making broadband Internet access service of 100 Mbps or greater available to 200,000 additional homes and to converting 100% of its systems—including Charter's entire rural footprint—to all-digital. And by facilitating Charter's efforts, the waiver also helps expand the footprint for downloadable security beyond Cablevision, the first cable operator to deploy downloadable security.

TiVo warns that it fears losing CableCARD support through such waivers,[3] but all evidence is to the contrary. Charter's *Waiver Order* strengthened CableCARD support while creating a pathway for needed innovation. Charter has 4.7 million CableCARD-enabled boxes that Charter will continue to support. Moreover, Charter has never stopped providing or supporting CableCARDs to current or new TiVo customers. They are still cable customers. In a highly competitive market, Charter is motivated to meet these customers where they are, whether they are using TiVos with CableCARDs or using iOS or Android tablets, PCs or Macs that Charter serves using different technologies.

TiVo also asks that all waivers be stopped until the Commission selects a nationally-uniform "successor" technology to CableCARD, after which innovation may be permitted to

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[2] *See Charter Communications, Inc.'s Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, MB Docket No. 12-328, CSR-8740-Z, Memorandum Opinion and Order, DA 13-788, 28 FCC Rcd 5212 (Apr. 18, 2013) ("*Waiver Order*").

[3] *See, e.g.*, TiVo Comments at 2, 4-5, 9, 12-13.

continue.[4] The Commission should not be selecting one universal "winning" solution, nor should it halt consumer-friendly, cable innovation while it considers action. The Commission tried dictating technology in 2003, adopting the 1394 connector and the CableCARD as mandatory digital solutions for cable operators and cable devices. Despite substantial cable industry investments in building and supporting those FCC-prescribed technologies, the market did not embrace them.

Waivers are one way to provide cable operators with the latitude for innovation. For example, Cablevision's waiver enabled the company to successfully launch downloadable security. Similarly, Charter is now in the middle of its own transition to downloadable security, also relying on a FCC waiver.

The preferred pathway to innovation, of course, is to free industries from prescriptive technology mandates. Innovation has flourished, for example, with consumer choices of innovative video platforms and interfaces that are in wide use today. TiVo's Roamio is one DVR option (at $399 plus $14.99 monthly fees), but so are networked-based recordings, cloud storage, sharing over home networks using DLNA or MoCA, on-demand libraries, video streaming, video applications on tablets and smartphones, and $35 dongles serving over-the-top content. Every Smart TV, gaming station, and tablet creates its own ecosystem, with each manufacturer free to adopt its own security, operating system, media player, application environment, connectors, and content libraries. Among MVPDs, satellite providers, like DirecTV and DISH, and telco providers, like AT&T, can innovate freely because the Commission has not subjected them to the integration ban or "plug and play" technical rules. Cable networks should have the latitude for comparable innovation. Remarkably, TiVo is asking

[4] *See* TiVo Comments at 1-2, 11, 12.

the Commission to halt such progress for this (and all other) waiver applicants,[5] and even to force this waiver applicant to choose between switched digital and IP.[6] Technology mandates already handicap innovation by locking aging technology into rules and requiring innovators to seek regulatory permission before they can invent and compete. They should not be made worse by a freeze on waivers when cable operators seek to innovate.

TiVo claims that waivers do not guarantee national uniformity. But diversity of approach in technology is not something to be feared. Diversity and flexibility embrace a market-driven, innovation-inducing environment that allows multiple, competing approaches to address similar technological challenges. CableCARDs are still supported today, but relatively few retail devices are built to the FCC's prescribed CableCARD standard. By contrast, the market is thriving with non-CableCARD video devices on which consumers are enjoying MVPD programming, and the options keep expanding to meet consumer demand.[7] There could not be clearer evidence that allowing the marketplace to produce a wide variety of approaches is far more successful in creating consumer choice and technological innovation than is a uniform government-prescribed technology mandate.

TiVo cites itself and CEA extensively, but these claims and arguments have been addressed thoroughly in Charter's case and in many prior proceedings.[8] Repeating unavailing arguments does not make them true. TiVo should not be permitted to block the continued evolution of cable technology.

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[5] *See* TiVo Comments at 13-14.

[6] *See* TiVo Comments at 14.

[7] *See* Letter from Michael Powell, NCTA, to Chairman Tom Wheeler, CS Docket No. 97-80 (February 5, 2014).

[8] *See, e.g.*, Charter Communications, Inc., Opposition to Petition for Reconsideration, MB Docket No. 12-328, CSR-8740-Z (June 3, 2013); Charter Communications, Inc., Opposition to Application for Review, MB Docket No. 12-328, CSR-8740-Z (June 3, 2013).

Respectfully submitted,

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