

**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)	
)	
Compatibility Between Cable Systems and Consumer Electronics Equipment)	PP Docket No. 00-67
)	

**REPLY COMMENTS
of
THE NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION;
THE ORGANIZATION FOR THE PROMOTION AND
ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES; THE
INDEPENDENT TELEPHONE AND TELECOMMUNICATIONS ALLIANCE;
and the
WESTERN TELECOMMUNICATIONS ALLIANCE**

I. INTRODUCTION

The National Telecommunications Cooperative Association (NTCA),¹ the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO),² the Independent Telephone and Telecommunications Alliance

¹ NTCA represents more than 570 rural rate-of-return regulated telecommunications providers. All of NTCA's members are full service incumbent local exchange carriers (ILECs) and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Act.

² OPASTCO is a national trade association representing over 520 small ILECs serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve more than 3.5 million customers. All OPASTCO members are rural telephone companies as defined in 47 U.S.C. §153(37).

(ITTA),³ and the Western Telecommunications Association (WTA)⁴ (the Associations) hereby submit these reply comments in response to the Third Further Notice of Proposed Rulemaking in the above-captioned proceedings.⁵ Video services are an increasingly important part of rural and mid-sized local exchange carriers' (LECs) service offerings. Rural and mid-sized LECs are often entering the video market using digital subscriber line (DSL) and fiber to the home technologies which are also used to provide high-speed data services. Thus, video services offered by rural and mid-sized LECs play an important role in spurring additional broadband investment in rural areas.

Rural and mid-sized LECs that serve as multichannel video programming distributors (MVPDs) using broadband should not be subject to rules on bidirectional compatibility of cable television systems and consumer electronics equipment ("two-way plug and play") at this time. The proposed rules were crafted specifically for traditional cable companies, not MVPDs using broadband technologies. The application of inappropriate rules to rural and mid-sized LEC broadband MVPDs would impede broadband penetration and investment, contrary to the Commission's goals.

³ ITTA represents mid-size local exchange companies that provide a broad range of high quality wireline and wireless voice, data, Internet, and video telecommunications services to more than 14 million customers in 43 states.

⁴ WTA is a trade association that represents approximately 250 rural telephone companies operating west of the Mississippi. Most members serve fewer than 3,000 access lines overall, and fewer than 500 access lines per exchange.

⁵ *Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, CS Docket No. 97-80, *Compatibility Between Cable Systems and Consumer Electronics Equipment*, PP Docket No. 00-67, 22 FCC Rcd 12024 (2007) (Third FNPRM).

II. RURAL AND MID-SIZED LEC BROADBAND MVPDS SHOULD NOT BE SUBJECT TO CABLE-CENTRIC RULES PROPOSED IN THIS PROCEEDING AT THIS TIME

The Third FNPRM seeks comment on whether any rules adopted in this proceeding that are designed to ensure bidirectional compatibility of cable television systems and consumer electronics equipment should apply to non-cable MVPDs.⁶ Numerous commenting parties have clearly demonstrated why any rules emerging from this proceeding should not be applicable to non-cable MVPDs.⁷ Rules adopted in this proceeding would be especially inappropriate for rural and mid-sized LEC MVPDs that use broadband technologies, often incorporating Internet Protocol (IP) technology, to provide service. As AT&T correctly stated, it would be "... impracticable to extend any bidirectional standards adopted for digital cable systems to wireline video systems employing completely different technologies."⁸ Furthermore, it would be "... premature for the Commission to impose any generic set of standards on IP-based wireline video services."⁹

The Third FNPRM also seeks comment on two competing proposals from the Consumer Electronics Association (CEA)¹⁰ and the National Cable and Telecommunications Association (NCTA)¹¹ for a two-way plug and play solution. Commenting parties conclusively demonstrated that neither of the submitted proposals is appropriate for LEC broadband MVPDs. As AT&T noted:

⁶ *Ibid.*, ¶1.

⁷ *See, generally*, AT&T Inc. (AT&T); DIRECTV; EchoStar Satellite LLC (EchoStar); Microsoft Corporation (Microsoft); Qwest Communications International, Inc. (Qwest); Verizon.

⁸ AT&T., p. 6. *See also*, Microsoft, p. 9: "No single technology is appropriate for all network architectures."

⁹ AT&T, p. 8.

¹⁰ Third FNPRM, ¶9.

¹¹ *Id.*, ¶11.

IP video providers are just beginning to address a raft of technical standards questions, including audio and video encoding standards, downstream and upstream data standards, and applications standards. Standards development will also require addressing a host of different vendors for each of the critical components of IP video systems – [Digital Rights Management], client middleware, and network middleware. It is far too early to preempt marketplace resolution of these questions at this preliminary stage of development.¹²

Microsoft also correctly pointed out that neither proposal “... presents a technologically viable option for IPTV architectures.”¹³ Verizon concurred, noting that NCTA’s proposal is fundamentally flawed because “... it was designed and developed to work for one type of provider using a particular type of technology,”¹⁴ while CEA’s proposal was incompatible with IPTV and other technological platforms.¹⁵ EchoStar’s comments expanded upon this point:

“[N]either the NCTA nor CEA proposal is an appropriate starting point for such discussions as they both build from the foundation of the CableCARD infrastructure developed through years of two-party discussions. This cable infrastructure is ill-equipped to address non-cable MVPD operations, including both [Direct Broadcast Satellite] and telco IPTV services. Accordingly, application of a two-way cable-based solution to non-cable MVPDs would be inequitable and unworkable.”¹⁶

Significantly, the Alliance for Telecommunications Industry Solutions (ATIS) detailed its efforts to develop standards for IPTV environments.¹⁷ While not complete at this time, the ATIS initiative is an open process that, unlike the development of cable-specific standards, is not limited to a particular industry segment. The ATIS efforts

¹² AT&T, p. 9.

¹³ Microsoft, p. 11.

¹⁴ Verizon, p. 9.

¹⁵ *Id.*, p. 12.

¹⁶ EchoStar, p. 2. *See also*, DIRECTV, p. 3.

¹⁷ ATIS, pp. 1-7.

should be allowed to come to full fruition before bidirectional rules for rural and mid-sized LEC broadband MVPDs are considered.

As AT&T stated, the Commission should not require IPTV systems to deploy technology “... developed by and for cable systems.”¹⁸ This sentiment was echoed by Microsoft, which said that “... cable-centric rules... should not be applied to non-cable MVPDs.”¹⁹ Clearly, the Commission should not attempt to fit a square peg into a round hole. Until standards relevant to the technologies used by rural and mid-sized LEC broadband MVPDs can be developed and implemented, the Third FNPRM’s proposed rules should not be applied to these providers.

III. THE APPLICATION OF CABLE-CENTRIC RULES TO RURAL AND MID-SIZED LEC BROADBAND MVPDS WOULD HINDER FURTHER BROADBAND INVESTMENT IN RURAL AREAS

Chairman Martin has recognized that the “...ability to deploy broadband networks rapidly and the ability to offer video to consumers are linked intrinsically.”²⁰ However, there are well-grounded fears that applying rules designed for traditional cable infrastructure to broadband-based MVPDs would stifle further investment in broadband infrastructure. As Verizon pointed out, the imposition of “[c]able-centric standards for two-way plug-and-play would inhibit competition and harm innovation, to the detriment of consumers.”²¹ Rural and mid-sized LECs have found that when they bundle video services along with broadband, it leads to increased broadband penetration. This, in turn,

¹⁸ AT&T, p. 4.

¹⁹ Microsoft, p. 7.

²⁰ See Chairman Martin’s remarks to the Phoenix Center, Dec. 6, 2006, available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-268845A1.doc.

²¹ Verizon, p. 8. See also, AT&T, pp. 3-4; Microsoft, p. 7.

impels further investment in broadband infrastructure. Therefore, proposed measures that would impede rural and mid-sized LECs' ability to deploy video services via broadband technologies would also impede further investment in broadband infrastructure, and should accordingly be rejected.²²

Finally, the Third FNPRM's Initial Regulatory Flexibility Analysis (IRFA) seeks comment on whether the burden of these requirements would fall on large and small entities differently.²³ Very large providers like Verizon are reasonably concerned that if the Commission were to endorse bi-directional rules that are not technologically neutral, the embedded base of customers served by cable companies would impel consumer electronic manufacturers to focus on cable-centric devices.²⁴ If even companies the size of Verizon lack the market power to influence the equipment manufactures with regard to the video hardware they produce, then it is clear that the small, rural providers represented by the Associations would have no hope of doing so. Therefore, small providers would be even more adversely impacted than large broadband MVPDs by bidirectional rules that do not account for the technological differences between cable and non-cable technologies.²⁵

²² Section 706 of the Telecommunications Act of 1996 directs the Commission to take steps that encourage the deployment of broadband infrastructure. Certainly, the adoption of cable-centric rules for rural and mid-sized LEC broadband MVPDs would run counter to this mandate.

²³ IRFA, para. 16.

²⁴ Verizon, p. 2.

²⁵ The Associations note that the IRFA did not include small LECs in section C, which describes the small entities to which the proposals will apply and estimates their numbers (Third NPRM IRFA, ¶¶4-15). While rural LECs and their affiliates might arguably be included in other categories, this omission indicates that the impacts on the growing number of small LECs entering the broadband MVPD market may not have been sufficiently considered.

IV. CONCLUSION

The rules proposed in the Third FNPRM are based on traditional cable television technology and subsequently should not be applied to rural and mid-sized broadband MVPDs. The application of cable-centric rules to rural and mid-sized broadband MVPDs would impede further investment in broadband infrastructure in rural areas, contrary to the Commission's goals. Therefore, the Commission should not consider rules for bidirectional compatibility as contemplated in the Third FNPRM for rural and mid-sized LEC broadband MVPDs until such time as relevant technical standards exist.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

By: /s/ Daniel Mitchell
Daniel Mitchell

By: /s/ Jill Canfield
Jill Canfield

Its Attorneys

4121 Wilson Boulevard, 10th Floor
Arlington, VA 22203
703 351-2000

ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT OF SMALL TELECOMMUNICATIONS COMPANIES

By: /s/ Stuart Polikoff
Stuart Polikoff
Government Relations Director

By: /s/ Stephen Pastorkovich
Stephen Pastorkovich
Business Development Director/
Senior Policy Analyst

21 Dupont Circle, NW
Suite 700
Washington, DC 20036
202 659-5990

**THE INDEPENDENT TELEPHONE
AND TELECOMMUNICATIONS
ALLIANCE**

By: /s/ Joshua Seidemann
Joshua Seidemann
Director of Regulatory Policy

975 F Street, NW
Suite 550
Washington, DC 20004
202 552-5846

**THE WESTERN
TELECOMMUNICATIONS ALLIANCE**

By: /s/ Derrick Owens
Derrick Owens
Director of Government Affairs

317 Massachusetts Avenue, NE,
Suite 300C
Washington, DC 20002
202-548-0202

September 10, 2007

CERTIFICATE OF SERVICE

I, Stephen Pastorkovich, hereby certify that a copy of the reply comments by the National Telecommunications Cooperative Association, the Organization for the Promotion and Advancement of Small Telecommunications Companies, the Independent Telephone and Telecommunications Alliance, and the Western Telecommunications Alliance, was sent by first class United States mail, postage prepaid, or via electronic mail, on this, the 10th day of September, 2007, to those listed on the attached sheet.

By: /s/ Stephen Pastorkovich
Stephen Pastorkovich

SERVICE LIST
CS Docket No. 97-80
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Lynn R. Charytan
William R. Richardson, Jr.
Jack N. Goodman
Wilmer Cutler Pickering
Hale and Dorr LLP
1875 Pennsylvania Avenue, NW
Washington, DC 20006

Christopher M. Heimann
Gary L. Phillips
Paul K. Mancini
AT&T Inc.
1120 – 20th Street, NW
Washington, DC 20036

Thomas Goode
Deirdre Cheek
Alliance for Telecommunications
Industry Solutions
1200 G Street, N.W., Suite 500
Washington, D.C. 20005

William M. Wiltshire
Michael Nilsson
Harris, Wiltshire & Grannis LLP
1200 Eighteenth Street, NW
Washington, DC 20036

Susan Eid
Stacy R. Fuller
DIRECTV, Inc.
444 North Capitol Street, NW, Suite 728
Washington, DC 20001

Linda Kinney
Bradley Gillen
EchoStar Satellite L.L.C.
1233 20th Street N.W.
Washington, D.C. 20036

Gerard J. Waldron
Jodi M. Steiger
Covington & Burling LLP
1201 Pennsylvania Avenue, N.W.
Washington, DC 20004

Craig J. Brown
Tiffany West Smink
Qwest Communications Internatl., Inc.
607 14th Street, NW
Suite 950
Washington, DC 20005

Edward Shakin
William H. Johnson
Verizon
1515 North Court House Road
Suite 500
Arlington, VA 22201

Helgi C. Walker
Joshua S. Turner
Nicholas M. Holland
Wiley Rein LLP
1776 K Street, NW
Washington, DC 20006

Cheryl Johns
Assistant Chief Counsel for
Telecommunications
Office of Advocacy
U.S. Small Business Administration
Cheryl.Johns@sba.gov

Eric Malinen
Senior Legal Advisor
Office of Communications Business
Opportunities
Federal Communications Commission
eric.malinen@fcc.gov

Steven Broeckaert
Policy Division, Media Bureau
Federal Communications Commission
Steven.Broeckaert@fcc.gov

Brendan Murray
Policy Division, Media Bureau
Federal Communications Commission
Brendan.Murray@fcc.gov

Best Copy and Printing, Inc.
fcc@bcpiweb.com