

February 24, 2005

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Ex Parte Notice

Re: Implementation of Section 304 of the Telecommunications Act of 1996:
Commercial Availability of Navigation Devices, CS Dkt. No. 97-80

Dear Ms. Dortch:

On February 23, 2005, representatives of Comcast Corporation, Microsoft Corporation, and Time Warner Cable discussed the above-captioned proceeding by telephone with Chairman Michael K. Powell and his Legal Advisor, Jon Cody. Participants in the call included Brian L. Roberts, Chairman and CEO, Comcast; Craig Mundie, Senior Vice President, Chief Technical Officer, Advanced Strategies and Policy, Microsoft; and Glenn A. Britt, Chairman and CEO, Time Warner Cable.

Messrs. Britt, Mundie, and Roberts expressed to Chairman Powell their collective view that the Commission should defer the currently-scheduled July 2006 implementation of the prohibition on the deployment by cable operators of navigation devices that perform both conditional access and other functions in a single, integrated device (the "integration ban") for some period ranging from 6 to 18 months. This recommendation was made (1) to allow approximately one year for the development of a new agreement for FCC consideration related to the retail availability of fully-functional digital cable products and (2) in service of a better outcome for consumers.

The motivation for this joint call was to express the collective sense of the participating companies that there have been recent breakthroughs in the way the companies mutually view the relative importance of embracing a broad ecosystem of consumer electronics (CE) and information technology (IT) products connected to cable, an increasing sense of importance and urgency in getting the three industries to a full implementation of two-way cable-ready products available at retail, and a new sense of opportunity concerning how cable offerings can be embedded in near-future product offerings of both the IT and CE industries. The participating companies conveyed their shared commitment to a new process designed to accelerate progress in the on-going inter-industry discussions to enable and promote the retail availability of these two-way cable products. In particular, Messrs. Britt, Mundie, and Roberts committed to working together personally to supervise the efforts to reach an agreement amongst the cable, CE, IT, and other industries to ensure the availability of two-way cable products during calendar 2006. In the interim, Messrs. Britt and Roberts agreed to work with the cable industry to provide to the FCC publicly-available periodic progress reports on the effectiveness of cable system operational support for the current one-way, single-stream CableCARD products (Unidirectional Digital Cable Products, or UDCPs) and with the CE and IT industries to provide joint periodic reports and hold joint status meetings with the FCC on the progress towards the proposed bidirectional (two-way) and future conditional access agreement.

The companies further shared their belief that downloadable, software-based conditional access systems hold great promise to meet the respective needs of cable system operators, CE manufacturers, IT companies, and consumers, and a recognition that some amount of time is needed to complete the designs and confirm the reliability and efficacy of this approach. Therefore, as part of this proposed agreement, Messrs. Britt and Roberts working in conjunction with cable and other industries will deliver to the FCC a plan — including technical specifications and a specific transition schedule — to deploy a common soft conditional access system that would be simultaneously relied upon by all digital cable systems and available in all digital cable products, whether offered by cable operators or CE or IT manufacturers. The companies agreed that, in addition to completing pending approvals and supporting UDCPs in the near-term (including making multi-stream CableCARDs available for such products on an expedited basis), the attentions of all industries should be directed towards successful implementation of common goals in these areas — bidirectional products and soft conditional access solutions — and that it is important to move quickly toward a favorable “ecosystem” for these advanced cable offerings and for the retail availability of CE products and personal computers that will be used with cable. The companies also expressed an interest in exploring business arrangements and technical support for content provided to consumers through cable that would allow such content to migrate to other devices in the consumer’s environment, including mobile and other devices which are not connected to the cable system directly. Messrs. Britt and Roberts acknowledged that this may require a different model than that which has historically been associated with traditional cable set-top boxes.

The companies agreed that, in an environment in which the cable industry is moving quickly towards enabling retail bidirectional digital cable products and soft conditional access solutions to be relied on by all parties, implementing the integration ban could unnecessarily raise prices for consumers, place cable at a cost disadvantage with competing providers of multichannel video programming distribution services, and further impede the kinds of collaborative efforts between the CE, IT, and cable industries that are needed to devise more forward-looking and effective solutions to the issues that the integration ban was thought to address. Furthermore, the companies recognize that implementing the ban in July 2006 would require the cable industry to devote time, money, and other resources to removing the already-integrated conditional access functionalities from current products, and they agree that a better approach is to pursue a new path of cooperation toward a two-way solution while keeping the Commission apprised of progress in this and related areas.

The companies are all committed to a fresh approach to the inter-industry discussions whereby senior management of the companies will be directly involved so as to maintain the forward momentum that has developed in recent discussions among the companies and extend this problem-solving orientation to other interested companies. Messrs. Britt and Roberts stated that they understand and, in fact, fully support the creation of an environment in which consumers have a maximum of choices available at retail for fully-functional digital cable products they might wish to use directly with cable, and support is provided to enable the interoperation of these products with other CE and IT devices which are capable of providing the requisite protections for content delivered through the cable system. Mr. Mundie acknowledged that it is this objective, not the “disaggregation” of cable video content from navigation, that

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should be pursued. He also agreed that prohibiting cable companies from providing set-tops with integrated conditional access subsystems would not be likely to result in early retail availability of navigation devices with two-way capabilities, which are the ultimate expectation of the consumer. All three companies agree that the integration ban should be deferred so that all parties can focus on (1) immediate deployment and support for current UDCPs; (2) the technical and business negotiations to allow two-way CableCARDS to be aggressively deployed in both CE and IT products consistent with the timeframes discussed in this letter; and (3) ensuring that downloadable software-based security approaches are further developed and tested during this period. The companies believe that this approach will effectively enable the affected industries (including but not necessarily limited to the three companies represented in this call) to work together to maximize the benefits to consumers both of diverse cable offerings and innovative products available at retail for consumers to use to access those offerings.

This letter is filed pursuant to Section 1.1206(b) of the Commission's rules. Please let us know if you have any questions.

Respectfully submitted,

/s/

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Microsoft Corporation

/s/

James R. Coltharp
Chief Policy Advisor, FCC & Regulatory Policy
Comcast Corporation

/s/

Stephen N. Teplitz
Vice President & Associate General Counsel
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cc: Chairman Michael Powell
Jon Cody